S T A T E O F N E W Y O R K

9280

I N A S S E M B L Y

February 10, 2016

Introduced by M. of A. O'DONNELL -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation to establishing the offense of aggravated promoting prison contraband

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Subdivision 5 of section 60.05 of the penal law, as amended by chapter 405 of the laws of 2010, is amended to read as follows:

5. Certain class D felonies. Except as provided in subdivision six of this section, every person convicted of the class D felonies of assault in the second degree as defined in section 120.05, strangulation in the second degree as defined in section 121.12, PROMOTING PRISON CONTRABAND IN THE FIRST DEGREE, AS DEFINED IN SUBDIVISION THREE OF SECTION 205.25, AGGRAVATED PROMOTING PRISON CONTRABAND AS DEFINED IN SECTION 220.26 or attempt to commit a class C felony as defined in section 230.30 of this chapter, must be sentenced in accordance with section 70.00 or 85.00 of this title.

S 2. Section 70.00 of the penal law is amended by adding a new subdivision 4-a to read as follows:

4-A. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION FOUR OF THIS SECTION, WHEN A PERSON, OTHER THAN A SECOND OR PERSISTENT FELONY OFFENDER, IS SENTENCED FOR A CLASS D FELONY OFFENSE OF AGGRAVATED PROMOTING PRISON CONTRABAND, AS DEFINED IN SECTION 220.26 OF THIS CHAPTER, AND THE COURT, HAVING REGARD TO THE NATURE AND CIRCUMSTANCES OF THE CRIME AND TO THE HISTORY AND CHARACTER OF THE DEFENDANT, IS OF THE OPINION THAT IT WOULD BE UNDULY HARSH TO IMPOSE AN INDETERMINATE SENTENCE, THE COURT MAY IMPOSE A DEFINITE SENTENCE OF IMPRISONMENT AND FIX A TERM OF ONE OR MORE MONTHS, UP TO ONE YEAR.

S 3. Section 205.25 of the penal law is amended to read as follows:

S 205.25 Promoting prison contraband in the first degree.

A person is guilty of promoting prison contraband in the first degree when:

1. He OR SHE knowingly and unlawfully introduces any dangerous contraband into a detention facility; or

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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2. Being a person confined in a detention facility, he OR SHE knowingly and unlawfully makes, obtains or possesses any dangerous contraband; OR

3. BEING AN EMPLOYEE OF AN INSTITUTION IN THE DEPARTMENT OF CORRECTIONAL SERVICES AND COMMUNITY SUPERVISION, AS DEFINED IN PARAGRAPH (C) OF SUBDIVISION FOUR OF SECTION TWO OF THE CORRECTION LAW, OR OF A LOCAL CORRECTIONAL FACILITY, AS DEFINED IN SUBDIVISION SIXTEEN OF SUCH SECTION, AND ACTING WITH INTENT TO OBTAIN A BENEFIT OR AID AN ESCAPE, HE OR SHE KNOWINGLY AND UNLAWFULLY INTRODUCES ANY CONTRABAND INTO A DETENTION FACILITY.

Promoting prison contraband in the first degree is a class D felony.

S 4. The penal law is amended by adding a new section 220.26 to read as follows:

S 220.26 AGGRAVATED PROMOTING PRISON CONTRABAND.

A PERSON IS GUILTY OF AGGRAVATED PROMOTING PRISON CONTRABAND WHEN, BEING AN EMPLOYEE OF AN INSTITUTION IN THE DEPARTMENT OF CORRECTIONAL SERVICES AND COMMUNITY SUPERVISION, AS DEFINED IN PARAGRAPH (C) OF SUBDIVISION FOUR OF SECTION TWO OF THE CORRECTION LAW, OR OF A LOCAL CORRECTIONAL FACILITY, AS DEFINED IN SUBDIVISION SIXTEEN OF SUCH SECTION, HE OR SHE KNOWINGLY AND UNLAWFULLY INTRODUCES ANY DANGEROUS CONTRABAND INTO A DETENTION FACILITY, WITH INTENT TO:

1. OBTAIN A BENEFIT; OR

2. AID AN ESCAPE.

AGGRAVATED PROMOTING PRISON CONTRABAND IS A CLASS D FELONY.

S 5. This act shall take effect on the sixtieth day after it shall have become a law.