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

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I N A S S E M B L Y

April 15, 2016

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

AN ACT to amend the penal law, in relation to reducing certain sentences of imprisonment for misdemeanors to three hundred sixty-four days

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

Section 1. Subdivisions 1 and 3 of section 70.15 of the penal law, subdivision 1 as amended by chapter 291 of the laws of 1993, are amended to read as follows:

1. Class A misdemeanor. A sentence of imprisonment for a class A misdemeanor shall be a definite sentence. When such a sentence is imposed the term shall be fixed by the court, and shall not exceed [one year] THREE HUNDRED SIXTY-FOUR DAYS; provided, however, [that a sentence of imprisonment imposed upon a conviction of criminal possession of a weapon in the fourth degree as defined in subdivision one of section 265.01 must be for a period of no less than one year when the conviction was the result of a plea of guilty entered in satisfaction of an indictment or any count thereof charging the defendant with the class D violent felony offense of criminal possession of a weapon in the third degree as defined in subdivision four of section 265.02, except] that the court may impose any other sentence authorized by law upon a person who has not been previously convicted in the five years immediately preceding the commission of the offense for a felony or a class A misdemeanor defined in this chapter, if the court having regard to the nature and circumstances of the crime and to the history and character of the defendant, finds on the record that such sentence would be unduly harsh and that the alternative sentence would be consistent with public safety and does not deprecate the seriousness of the crime.

3. Unclassified misdemeanor. A sentence of imprisonment for an unclassified misdemeanor shall be a definite sentence. When such a sentence is imposed the term shall be fixed by the court, and shall be in accordance with the sentence specified in the law or ordinance that defines the crime, BUT IT SHALL NOT EXCEED THREE HUNDRED SIXTY-FOUR DAYS.

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

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S 2. (a) Whenever the terms "that shall not exceed 365 days" or "up to one year" or "not in excess of one year" or "not to exceed one year" or any similar terms appear in any provision of law in reference to misdemeanor imprisonment, such terms are hereby changed to "not to exceed three hundred sixty-four days".

(b) The legislative bill drafting commission is hereby directed to effectuate this provision, and shall be guided by a memorandum of instruction setting forth the specific provisions of law to be amended. Such memorandum shall be transmitted to the legislative bill drafting commission within sixty days of the effective date of this provision. Such memorandum shall be issued jointly by the governor, the temporary president of the senate and the speaker of the assembly, or by the delegate of each.

S 3. (a) The amendatory provisions of this act shall apply to all persons who are sentenced before, on, or after the effective date of this act, for a crime committed before, on, or after the effective date of this act.

(b) Any person sentenced to one year of imprisonment for a misdemeanor offense prior to the effective date of this act shall have that sentence reduced to three hundred sixty-four days by operation of law.

S 4. This act shall take effect on the sixtieth day after it shall have become a law.