

211

2015-2016 Regular Sessions

I N S E N A T E

(PREFILED)

January 7, 2015

Introduced by Sen. MARTINS -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the penal law, in relation to terms of imprisonment and electronic monitoring of persons convicted of predatory sexual assault against a child

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

1 Section 1. Subparagraph (ii) of paragraph (a) of subdivision 3 of
2 section 70.00 of the penal law, as amended by chapter 107 of the laws of
3 2006, is amended to read as follows:
4 (ii) For a class A-II felony, such minimum period shall not be less
5 than three years nor more than eight years four months, except that for
6 the class A-II felony of predatory sexual assault as defined in section
7 130.95 of this chapter [or the class A-II felony of predatory sexual
8 assault against a child as defined in section 130.96 of this chapter],
9 such minimum period shall be not less than ten years nor more than twenty-five years, AND FOR THE CLASS A-II FELONY OF PREDATORY SEXUAL ASSAULT
10 AGAINST A CHILD AS DEFINED IN SECTION 130.96 OF THIS CHAPTER, SUCH MINIMUM PERIOD SHALL BE NOT LESS THAN TWENTY-FIVE YEARS.
11 S 2. Paragraph (a) of subdivision 4 of section 70.06 of the penal law,
12 as amended by chapter 107 of the laws of 2006, is amended to read as follows:
13 (a) The minimum period of imprisonment for a second felony offender
14 convicted of a class A-II felony must be fixed by the court at [no] NOT
15 less than six years and not to exceed twelve and one-half years and must
16 be specified in the sentence, except that for the class A-II felony of
17 predatory sexual assault as defined in section 130.95 of this chapter
18 [or the class A-II felony of predatory sexual assault against a child as
19 defined in section 130.96 of this chapter], such minimum period shall be
20 not less than ten years nor more than twenty-five years, AND FOR THE
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EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets [] is old law to be omitted.

LBD02188-01-5

1 CLASS A-II FELONY OF PREDATORY SEXUAL ASSAULT AGAINST A CHILD AS DEFINED
2 IN SECTION 130.96 OF THIS CHAPTER, SUCH MINIMUM PERIOD SHALL BE NOT LESS
3 THAN TWENTY-FIVE YEARS.

4 S 3. Subdivision 4 of section 65.10 of the penal law, as amended by
5 section 46 of part A of chapter 56 of the laws of 2010, is amended to
6 read as follows:

7 4. Electronic monitoring. (A) When imposing a sentence of probation
8 the court may, in addition to any conditions imposed pursuant to subdivi-
9 sions two and three of this section, require the defendant to submit
10 to the use of an electronic monitoring device and/or to follow a sched-
11 ule that governs the defendant's daily movement. Such condition may be
12 imposed only where the court, in its discretion, determines that requir-
13 ing the defendant to comply with such condition will advance public
14 safety, probationer control or probationer surveillance. Electronic
15 monitoring shall be used in accordance with uniform procedures developed
16 by the office of probation and correctional alternatives.

17 (B) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (A) OF THIS SUBDIVI-
18 SION, WHEN IMPOSING A SENTENCE OF PROBATION UPON A PERSON CONVICTED OF
19 PREDATORY SEXUAL ASSAULT AGAINST A CHILD AS DEFINED IN SECTION 130.96 OF
20 THIS CHAPTER, IT SHALL BE MANDATORY FOR THE DEFENDANT TO SUBMIT TO THE
21 USE OF AN ELECTRONIC MONITORING DEVICE IN ACCORDANCE WITH UNIFORM PROCE-
22 DURES DEVELOPED BY THE OFFICE OF PROBATION AND CORRECTIONAL ALTERNA-
23 TIVES.

24 S 4. This act shall take effect on the one hundred eightieth day after
25 it shall have become a law.