

5168

2015-2016 Regular Sessions

I N S E N A T E

May 6, 2015

Introduced by Sen. NOZZOLIO -- (at request of the Office of Court Administration) -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the penal law and the criminal procedure law, in relation to sentencing; and to repeal certain provisions of the criminal procedure law relating thereto

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

1 Section 1. Subdivision 2 of section 60.02 of the penal law, as amended
2 by chapter 471 of the laws of 1980, is amended to read as follows:
3 (2) If the sentence is to be imposed upon a youthful offender finding
4 which has been substituted for a conviction for any felony, the court
5 must impose a sentence authorized to be imposed upon a person convicted
6 of a class E felony [provided, however, that the court must not impose a
7 sentence of conditional discharge or unconditional discharge if the
8 youthful offender finding was substituted for a conviction of a felony
9 defined in article two hundred twenty of this chapter], AS HEREINAFTER
10 PROVIDED:
11 (A) IF THE YOUTHFUL OFFENDER FINDING WAS SUBSTITUTED FOR A FELONY
12 DEFINED IN ARTICLE TWO HUNDRED TWENTY OR TWO HUNDRED TWENTY-ONE OF THIS
13 CHAPTER, THEN THE SENTENCE SHALL BE AS AUTHORIZED BY SECTION 60.04 OF
14 THIS ARTICLE FOR A CLASS E FELONY, AND IF A DETERMINATE SENTENCE OF
15 IMPRISONMENT IS IMPOSED, THE CORRESPONDING PERIOD OF POST-RELEASE SUPER-
16 VISION PROVIDED FOR THAT CLASS E FELONY BY SECTION 70.45 OF THIS TITLE
17 SHALL ALSO BE IMPOSED. IN ADDITION TO SUCH AUTHORIZED SENTENCES, IF THE
18 DEFENDANT MEETS THE REQUIREMENTS OF SUBDIVISION TWO OF SECTION 60.14 OF
19 THIS ARTICLE, A COURT MAY IMPOSE THE PAROLE SUPERVISION SENTENCE AUTHOR-
20 IZED BY THAT SECTION.
21 (B) IF THE YOUTHFUL OFFENDER FINDING WAS SUBSTITUTED FOR ANY OTHER
22 FELONY, THEN THE SENTENCE SHALL BE AS AUTHORIZED BY SECTION 60.01 OF
23 THIS ARTICLE FOR A SENTENCE UPON A CONVICTION OF A CLASS E FELONY

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

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1 OFFENSE; PROVIDED, HOWEVER, THAT IF THE YOUTHFUL OFFENDER FINDING WAS
2 SUBSTITUTED FOR A VIOLENT FELONY OFFENSE AS DEFINED IN SECTION 70.02 OF
3 THIS TITLE OR A FELONY SEX OFFENSE AS DEFINED IN PARAGRAPH (A) OF SUBDI-
4 VISION ONE OF SECTION 70.80 OF THIS TITLE AND, IN EITHER CASE, A
5 SENTENCE OF IMPRISONMENT IN EXCESS OF ONE YEAR IS IMPOSED TO BE SERVED
6 IN A FACILITY OF THE STATE DEPARTMENT OF CORRECTIONS AND COMMUNITY
7 SUPERVISION IS IMPOSED, THE SENTENCE SHALL BE THE DETERMINATE SENTENCE
8 OF IMPRISONMENT AUTHORIZED FOR A CLASS E VIOLENT FELONY OFFENSE OR Felo-
9 NY SEX OFFENSE, AS THE CASE MAY BE, AND THE CORRESPONDING PERIOD OF
10 POST-RELEASE SUPERVISION PROVIDED FOR THAT CLASS E FELONY BY SECTION
11 70.45 OF THIS TITLE.

12 S 2. Section 410.91 of the criminal procedure law is REPEALED.

13 S 3. The penal law is amended by adding a new section 60.14 to read as
14 follows:

15 S 60.14 SENTENCE OF PAROLE SUPERVISION.

16 1. DEFINITIONS.

17 (A) AN "ELIGIBLE DEFENDANT" IS A PERSON WHO:

18 (I) STANDS CONVICTED OF EITHER (1) A CLASS B FELONY DEFINED IN ARTICLE
19 TWO HUNDRED TWENTY OF THIS CHAPTER OTHER THAN THE FELONY DEFINED IN
20 SECTION 220.48 OF THIS CHAPTER AND IS SENTENCED TO A DETERMINATE
21 SENTENCE OF IMPRISONMENT PURSUANT TO SUBDIVISION TWO OF SECTION 70.70 OF
22 THIS TITLE; OR (2) A CLASS C, D, OR E FELONY DEFINED IN ARTICLE TWO
23 HUNDRED TWENTY OR TWO HUNDRED TWENTY-ONE OF THIS CHAPTER AND IS
24 SENTENCED TO A DETERMINATE SENTENCE OF IMPRISONMENT PURSUANT TO SUBDIVI-
25 SION THREE OF SECTION 70.70 OF THIS TITLE; OR (3) A NON-DRUG SPECIFIED
26 FELONY OR FELONIES AND IS SENTENCED TO AN INDETERMINATE SENTENCE OF
27 IMPRISONMENT PURSUANT TO SECTION 70.06 OF THIS TITLE; AND

28 (II) STANDS CONVICTED OF NO OTHER FELONY OFFENSE; AND

29 (III) HAS NOT PREVIOUSLY BEEN CONVICTED OF A CLASS A FELONY, A CLASS B
30 FELONY OTHER THAN A CLASS B FELONY DEFINED IN ARTICLE TWO HUNDRED TWENTY
31 OF THIS CHAPTER, OR A VIOLENT FELONY OFFENSE AS DEFINED IN SECTION 70.02
32 OF THIS TITLE; AND

33 (IV) IS NOT UNDER THE JURISDICTION OF OR AWAITING DELIVERY TO THE
34 STATE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION.

35 (B) A "NON-DRUG SPECIFIED FELONY" IS A CLASS D OR E FELONY DEFINED BY
36 ANY OF THE FOLLOWING PROVISIONS OF THIS CHAPTER: BURGLARY IN THE THIRD
37 DEGREE AS DEFINED IN SECTION 140.20, CRIMINAL MISCHIEF IN THE THIRD
38 DEGREE AS DEFINED IN SECTION 145.05, CRIMINAL MISCHIEF IN THE SECOND
39 DEGREE AS DEFINED IN SECTION 145.10, GRAND LARCENY IN THE FOURTH DEGREE
40 AS DEFINED IN SUBDIVISION ONE, TWO, THREE, FOUR, FIVE, SIX, EIGHT, NINE
41 OR TEN OF SECTION 155.30, GRAND LARCENY IN THE THIRD DEGREE AS DEFINED
42 IN SECTION 155.35 (EXCEPT WHERE THE PROPERTY CONSISTS OF ONE OR MORE
43 FIREARMS, RIFLES OR SHOTGUNS), UNAUTHORIZED USE OF A VEHICLE IN THE
44 SECOND DEGREE AS DEFINED IN SECTION 165.06, CRIMINAL POSSESSION OF
45 STOLEN PROPERTY IN THE FOURTH DEGREE AS DEFINED IN SUBDIVISION ONE, TWO,
46 THREE, FIVE OR SIX OF SECTION 165.45, CRIMINAL POSSESSION OF STOLEN
47 PROPERTY IN THE THIRD DEGREE AS DEFINED IN SECTION 165.50 (EXCEPT WHERE
48 THE PROPERTY CONSISTS OF ONE OR MORE FIREARMS, RIFLES OR SHOTGUNS),
49 FORGERY IN THE SECOND DEGREE AS DEFINED IN SECTION 170.10, CRIMINAL
50 POSSESSION OF A FORGED INSTRUMENT IN THE SECOND DEGREE AS DEFINED IN
51 SECTION 170.25, UNLAWFULLY USING SLUGS IN THE FIRST DEGREE AS DEFINED IN
52 SECTION 170.60, OR AN ATTEMPT TO COMMIT ANY OF THE AFOREMENTIONED
53 OFFENSES IF SUCH ATTEMPT CONSTITUTES A FELONY OFFENSE.

54 (C) FOR THE PURPOSES OF THIS SECTION, THE TERM "PAROLE" SHALL INCLUDE
55 POST-RELEASE SUPERVISION AND THE TERM "PAROLEE" SHALL INCLUDE A PERSON
56 ON POST-RELEASE SUPERVISION.

1 2. A COURT MAY DIRECT THAT A DETERMINATE OR INDETERMINATE SENTENCE OF
2 IMPRISONMENT BE EXECUTED AS A SENTENCE OF PAROLE SUPERVISION IF THE
3 COURT FINDS (A) THAT THE DEFENDANT IS AN ELIGIBLE DEFENDANT; (B) THAT
4 THE DEFENDANT HAS A HISTORY OF CONTROLLED SUBSTANCE DEPENDENCE THAT IS A
5 SIGNIFICANT CONTRIBUTING FACTOR TO SUCH DEFENDANT'S CRIMINAL CONDUCT;
6 (C) THAT SUCH DEFENDANT'S CONTROLLED SUBSTANCE DEPENDENCE COULD BE
7 APPROPRIATELY ADDRESSED BY A SENTENCE OF PAROLE SUPERVISION; AND (D)
8 THAT IMPOSITION OF SUCH A SENTENCE WOULD NOT HAVE AN ADVERSE EFFECT ON
9 PUBLIC SAFETY OR PUBLIC CONFIDENCE IN THE INTEGRITY OF THE CRIMINAL
10 JUSTICE SYSTEM. IF THE COURT DIRECTS THAT A SENTENCE OF IMPRISONMENT BE
11 EXECUTED AS A SENTENCE OF PAROLE SUPERVISION, IT SHALL REMAND THE
12 DEFENDANT FOR IMMEDIATE DELIVERY TO A RECEPTION CENTER OPERATED BY THE
13 STATE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION, IN ACCORDANCE
14 WITH SECTION 430.20 OF THE CRIMINAL PROCEDURE LAW AND SECTION SIX
15 HUNDRED ONE OF THE CORRECTION LAW, FOR A PERIOD NOT TO EXCEED TEN DAYS.
16 AN INDIVIDUAL WHO RECEIVES SUCH A SENTENCE SHALL BE PLACED UNDER THE
17 IMMEDIATE SUPERVISION OF THE DEPARTMENT OF CORRECTIONS AND COMMUNITY
18 SUPERVISION AND MUST COMPLY WITH THE CONDITIONS OF PAROLE, WHICH SHALL
19 INCLUDE AN INITIAL PLACEMENT IN A DRUG TREATMENT CAMPUS FOR A PERIOD OF
20 NINETY DAYS AT WHICH TIME THE DEFENDANT SHALL BE RELEASED THEREFROM.

21 3. UPON DELIVERY OF THE DEFENDANT TO THE RECEPTION CENTER, HE OR SHE
22 SHALL BE GIVEN A COPY OF THE CONDITIONS OF PAROLE BY A REPRESENTATIVE OF
23 THE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION AND SHALL
24 ACKNOWLEDGE RECEIPT OF A COPY OF THE CONDITIONS IN WRITING. THE CONDI-
25 TIONS SHALL BE ESTABLISHED IN ACCORDANCE WITH ARTICLE TWELVE-B OF THE
26 EXECUTIVE LAW AND THE RULES AND REGULATIONS OF THE BOARD OF PAROLE.
27 THEREAFTER, AND WHILE THE PAROLEE IS PARTICIPATING IN THE INTENSIVE DRUG
28 TREATMENT PROGRAM PROVIDED AT THE DRUG TREATMENT CAMPUS, THE DEPARTMENT
29 OF CORRECTIONS AND COMMUNITY SUPERVISION SHALL ASSESS THE PAROLEE'S
30 SPECIAL NEEDS AND SHALL DEVELOP AN INTENSIVE PROGRAM OF PAROLE SUPER-
31 VISION THAT WILL ADDRESS THE PAROLEE'S SUBSTANCE ABUSE HISTORY AND WHICH
32 SHALL INCLUDE PERIODIC URINALYSIS TESTING. UNLESS INAPPROPRIATE, SUCH
33 PROGRAM SHALL INCLUDE THE PROVISION OF TREATMENT SERVICES BY A COMMUNI-
34 TY-BASED SUBSTANCE ABUSE SERVICE PROVIDER WHICH HAS A CONTRACT WITH THE
35 DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION.

36 4. UPON COMPLETION OF THE DRUG TREATMENT PROGRAM AT THE DRUG TREATMENT
37 CAMPUS, A PAROLEE WILL BE FURNISHED WITH MONEY, CLOTHING AND TRANSPORTA-
38 TION IN A MANNER CONSISTENT WITH SECTION ONE HUNDRED TWENTY-FIVE OF THE
39 CORRECTION LAW TO PERMIT THE PAROLEE'S TRAVEL FROM THE DRUG TREATMENT
40 CAMPUS TO THE COUNTY IN WHICH THE PAROLEE'S SUPERVISION WILL CONTINUE.

41 5. IF THE PAROLE OFFICER HAVING CHARGE OF A PERSON SENTENCED TO PAROLE
42 SUPERVISION PURSUANT TO THIS SECTION HAS REASONABLE CAUSE TO BELIEVE
43 THAT SUCH PERSON HAS VIOLATED THE CONDITIONS OF HIS OR HER PAROLE, THE
44 PROCEDURES OF SUBDIVISION THREE OF SECTION TWO HUNDRED FIFTY-NINE-I OF
45 THE EXECUTIVE LAW SHALL APPLY TO THE ISSUANCE OF A WARRANT AND THE
46 CONDUCT OF FURTHER PROCEEDINGS; PROVIDED, HOWEVER, THAT A PAROLE
47 VIOLATION WARRANT ISSUED FOR A VIOLATION COMMITTED WHILE THE PAROLEE IS
48 BEING SUPERVISED AT A DRUG TREATMENT CAMPUS SHALL CONSTITUTE AUTHORITY
49 FOR THE IMMEDIATE PLACEMENT OF THE PAROLEE INTO A CORRECTIONAL FACILITY
50 OPERATED BY THE STATE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPER-
51 VISION, WHICH TO THE EXTENT PRACTICABLE SHALL BE REASONABLY PROXIMATE TO
52 THE PLACE AT WHICH THE VIOLATION OCCURRED, TO HOLD IN TEMPORARY
53 DETENTION PENDING COMPLETION OF THE PROCEDURES REQUIRED BY SUBDIVISION
54 THREE OF SECTION TWO HUNDRED FIFTY-NINE-I OF THE EXECUTIVE LAW.

1 S 4. Subdivision 7 of section 70.06 of the penal law, as amended by
2 section 123 of subpart B of part C of chapter 62 of the laws of 2011, is
3 amended to read as follows:

4 7. [Notwithstanding any other provision of law, in the case of a
5 person sentenced for a specified offense or offenses as defined in
6 subdivision five of section 410.91 of the criminal procedure law, who
7 stands convicted of no other felony offense, who has not previously been
8 convicted of either a violent felony offense as defined in section 70.02
9 of this article, a class A felony offense or a class B felony offense,
10 and is not under the jurisdiction of or awaiting delivery to the depart-
11 ment of corrections and community supervision, the] AS AUTHORIZED BY AND
12 IN ACCORDANCE WITH SECTION 60.14 OF THIS TITLE, A court may direct that
13 [such] AN INDETERMINATE sentence OF IMPRISONMENT IMPOSED PURSUANT TO
14 THIS SECTION UPON A PERSON CONVICTED OF A CLASS D OR CLASS E FELONY be
15 executed as a parole supervision sentence [as defined in and pursuant to
16 the procedures prescribed in section 410.91 of the criminal procedure
17 law].

18 S 5. Paragraph (d) of subdivision 2 of section 70.70 of the penal law,
19 as added by section 23 of part AAA of chapter 56 of the laws of 2009, is
20 amended to read as follows:

21 (d) [The] SENTENCE OF PAROLE SUPERVISION. AS AUTHORIZED BY AND IN
22 ACCORDANCE WITH SECTION 60.14 OF THIS TITLE, A court may direct that a
23 determinate sentence imposed PURSUANT TO THIS SECTION on a defendant
24 convicted of a class B felony, other than the class B felony defined in
25 section 220.48 of this chapter[, pursuant to this subdivision], be
26 executed as a sentence of parole supervision [in accordance with section
27 410.91 of the criminal procedure law].

28 S 6. Paragraph (d) of subdivision 3 of section 70.70 of the penal law,
29 as amended by section 127-k of subpart B of part C of chapter 62 of the
30 laws of 2011, is amended to read as follows:

31 (d) Sentence of parole supervision. [In the case of a person sentenced
32 for a specified offense or offenses as defined in subdivision five of
33 section 410.91 of the criminal procedure law, who stands convicted of no
34 other felony offense, who has not previously been convicted of either a
35 violent felony offense as defined in section 70.02 of this article, a
36 class A felony offense or a class B felony offense, and is not under the
37 jurisdiction of or awaiting delivery to the department of corrections
38 and community supervision, the] AS AUTHORIZED BY AND IN ACCORDANCE WITH
39 SECTION 60.14 OF THIS TITLE, A court may direct that a determinate
40 sentence imposed pursuant to this subdivision [shall] UPON A PERSON
41 CONVICTED OF A CLASS C, CLASS D, OR CLASS E FELONY be executed as a
42 parole supervision sentence [as defined in and pursuant to the proce-
43 dures prescribed in section 410.91 of the criminal procedure law].

44 S 7. Subdivision 4 of section 70.00 of the penal law, as amended by
45 chapter 738 of the laws of 2004, is amended to read as follows:

46 4. Alternative definite sentence for CERTAIN CLASS C FELONIES AND FOR
47 class D and E felonies. When a person, other than a second or persistent
48 felony offender, is sentenced for a CLASS C FELONY OTHER THAN A CLASS C
49 VIOLENT FELONY OFFENSE DEFINED BY PARAGRAPH (B) OF SUBDIVISION ONE OF
50 SECTION 70.02 OF THIS ARTICLE OR A CLASS C FELONY LISTED IN SUBDIVISION
51 FOUR OF SECTION 60.05 OF THIS TITLE, A class D FELONY or A class E felo-
52 ny, and the court, having regard to the nature and circumstances of the
53 crime and to the history and character of the defendant, is of the opin-
54 ion that a sentence of imprisonment is necessary but that it would be
55 unduly harsh to impose an indeterminate or determinate sentence, the

1 court may impose a definite sentence of imprisonment and fix a term of
2 one year or less.

3 S 8. Paragraph (c) of subdivision 3 of section 70.02 of the penal
4 law, as amended by chapter 1 of the laws of 2013, is amended to read as
5 follows:

6 (c) For a class D felony, the term must be at least [two] ONE AND
7 ONE-HALF years and must not exceed seven years, provided, however, that
8 the term must be: (i) at least two years and must not exceed eight years
9 where the sentence is for the crime of menacing a police officer or
10 peace officer as defined in section 120.18 of this chapter; and (ii) at
11 least three and one-half years and must not exceed seven years where the
12 sentence is imposed for the crime of criminal possession of a weapon in
13 the third degree as defined in subdivision ten of section 265.02 of this
14 chapter;

15 S 9. Subdivision 3 of section 70.08 of the penal law, as amended by
16 section 7 of chapter 107 of the laws of 2006, is amended by adding a new
17 paragraph (d) to read as follows:

18 (D) FOR A CLASS E FELONY THE MINIMUM PERIOD MUST BE AT LEAST THREE
19 YEARS AND MUST NOT EXCEED TWENTY-FIVE YEARS.

20 S 10. Subdivision 3 of section 70.08 of the penal law, as amended by
21 section 8 of chapter 107 of the laws of 2006, is amended by adding a new
22 paragraph (d) to read as follows:

23 (D) FOR A CLASS E FELONY THE MINIMUM PERIOD MUST BE AT LEAST THREE
24 YEARS AND MUST NOT EXCEED TWENTY-FIVE YEARS.

25 S 11. Subdivision 2 of section 70.10 of the penal law, as amended by
26 chapter 7 of the laws of 2007, is amended to read as follows:

27 2. Authorized sentence. When the court has found, pursuant to the
28 provisions of the criminal procedure law, that a person is a persistent
29 felony offender, and when it is of the opinion that the history and
30 character of the defendant and the nature and circumstances of his OR
31 HER criminal conduct indicate that extended incarceration and life-time
32 supervision will best serve the public interest, the court, in lieu of
33 imposing the sentence of imprisonment authorized by section 70.00,
34 70.02, 70.04, 70.06 or subdivision five of section 70.80 OF THIS ARTICLE
35 for the crime of which such person presently stands convicted, may
36 impose [the sentence of imprisonment authorized by that section for a
37 class A-I felony] AN INDETERMINATE SENTENCE OF IMPRISONMENT. THE MAXIMUM
38 TERM OF THE INDETERMINATE SENTENCE OF IMPRISONMENT SHALL BE LIFE IMPRI-
39 SONMENT, AND THE MINIMUM PERIOD OF IMPRISONMENT OF THE INDETERMINATE
40 SENTENCE SHALL BE FIXED BY THE COURT AT NOT LESS THAN FIFTEEN YEARS NOR
41 MORE THAN TWENTY-FIVE YEARS. In such event the reasons for the court's
42 opinion shall be set forth in the record.

43 S 12. Subdivision 4 of section 485.10 of the penal law, as added by
44 chapter 107 of the laws of 2000, is amended to read as follows:

45 4. Notwithstanding any other provision of law, when a person is
46 convicted of a hate crime [pursuant to this article] and the specified
47 offense is a class A-1 felony, THE SENTENCE SHALL BE AS AUTHORIZED FOR
48 THAT CLASS A-1 FELONY; PROVIDED, HOWEVER, IF THE AUTHORIZED SENTENCE IS
49 OR INCLUDES AN INDETERMINATE SENTENCE OF IMPRISONMENT, OTHER THAN A
50 SENTENCE OF LIFE IMPRISONMENT WITHOUT PAROLE, the minimum period of the
51 indeterminate sentence shall be not less than twenty years.

52 S 13. Subparagraph (ii) of paragraph (d) of subdivision 5 of section
53 220.10 of the criminal procedure law, as added by chapter 233 of the
54 laws of 1980, is amended to read as follows:

55 (ii) Except as provided in subparagraph (i) of this paragraph, where
56 the indictment charges a class B violent felony offense or a class C

1 violent felony offense, then a plea of guilty must include at least a
2 plea of guilty to a class D violent felony offense; EXCEPT, IF THE CLASS
3 B VIOLENT FELONY OFFENSE WAS MANSLAUGHTER IN THE FIRST DEGREE AS DEFINED
4 IN SECTION 125.20 OF THE PENAL LAW, THEN THE PLEA OF GUILTY MAY BE TO
5 THE CLASS C FELONY OF MANSLAUGHTER IN THE SECOND DEGREE AS DEFINED IN
6 SECTION 125.15 OF THE PENAL LAW IN LIEU OF A PLEA OF GUILTY TO A CLASS D
7 VIOLENT FELONY OFFENSE;

8 S 14. Subparagraph (iv) of paragraph (b) of subdivision 3 of section
9 220.30 of the criminal procedure law, as added by chapter 233 of the
10 laws of 1980, is amended to read as follows:

11 (iv) Except as provided in subparagraph (iii) of this paragraph, a
12 plea of guilty, whether to the entire indictment or part of the indict-
13 ment, for any crime other than a class A felony or a class B, C, or D
14 violent felony offense as defined in subdivision one of section 70.02 of
15 the penal law, may not be accepted on the condition that it constitutes
16 a complete disposition of one or more other indictments against the
17 defendant wherein is charged a class B or class C violent felony offense
18 as defined in subdivision one of section 70.02 of the penal law; EXCEPT,
19 IF THE CLASS B VIOLENT FELONY OFFENSE WAS MANSLAUGHTER IN THE FIRST
20 DEGREE AS DEFINED IN SECTION 125.20 OF THE PENAL LAW, THEN THE PLEA OF
21 GUILTY MAY BE TO THE CLASS C FELONY OF MANSLAUGHTER IN THE SECOND DEGREE
22 AS DEFINED IN SECTION 125.15 OF THE PENAL LAW IN LIEU OF A PLEA OF GUIL-
23 TY TO A CLASS C OR D VIOLENT FELONY OFFENSE,

24 S 15. Paragraph (a) of subdivision 4 of section 70.20 of the penal
25 law, as amended by section 124 of subpart B of part C of chapter 62 of
26 the laws of 2011, is amended to read as follows:

27 (a) Notwithstanding any other provision of law to the contrary, a
28 juvenile offender, or a juvenile offender who is adjudicated a youthful
29 offender and given an indeterminate, DETERMINATE or a definite sentence,
30 shall be committed to the custody of the commissioner of the office of
31 children and family services who shall arrange for the confinement of
32 such offender in secure facilities of the office. The release or trans-
33 fer of such offenders from the office of children and family services
34 shall be governed by section five hundred eight of the executive law.

35 S 16. This act shall take effect immediately; provided, however, that
36 this act shall apply to offenses committed on or after such effective
37 date; and provided further, that the amendments to subdivision 7 of
38 section 70.06 of the penal law made by section four of this act shall
39 not affect the repeal of such subdivision and shall be deemed repealed
40 therewith; and provided further, that the amendments to subdivision 3 of
41 section 70.08 of the penal law made by section nine of this act shall be
42 subject to the expiration and reversion of such subdivision pursuant to
43 subdivision d of section 74 of chapter 3 of the laws of 1995, as
44 amended, when upon such date the provisions of section ten of this act
45 shall take effect.