

2015-2016 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2015

Introduced by M. of A. SIMANOWITZ, MILLER -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the executive law, in relation to fair treatment for crime victims and in relation to interim probation supervision of offenders who are subject to mandatory indeterminate sentence of imprisonment

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

- 1 Section 1. The executive law is amended by adding a new section 642-b
2 to read as follows:
3 S 642-B. FAIR TREATMENT OF VICTIMS IN CASES WHERE THE DISTRICT ATTOR-
4 NEY IS CONSIDERING WAIVER OF MANDATORY SENTENCE. 1. IN THE CASE OF A
5 VICTIM OF A FELONY, IF THE INDICTMENT BASED UPON THAT CRIMINAL TRANS-
6 ACTION CHARGES AN OFFENSE FOR WHICH AN INDETERMINATE SENTENCE OF IMPRI-
7 SONMENT MUST BE IMPOSED OR IF THE DEFENDANT IS A PERSON WHO BY REASON OF
8 A PRIOR FELONY CONVICTION WOULD BE SUBJECT TO AN INDETERMINATE SENTENCE
9 OF IMPRISONMENT UPON CONVICTION OF THE OFFENSE CHARGED IN THE INDICT-
10 MENT, THE RULES PROMULGATED BY THE COMMISSIONER OF THE DIVISION OF CRIM-
11 INAL JUSTICE SERVICES SHALL PROVIDE THAT THE DISTRICT ATTORNEY MUST GIVE
12 THE VICTIM NOTICE AND A STATEMENT OF REASONS IN WRITING NOT LESS THAN
13 TEN DAYS PRIOR TO TAKING ANY OF THE FOLLOWING ACTIONS:
14 (A) CONSENTING TO A PLEA OF GUILTY THAT DOES NOT INCLUDE AT LEAST A
15 PLEA OF GUILTY TO AN OFFENSE THAT REQUIRES AN INDETERMINATE SENTENCE OF
16 IMPRISONMENT;
17 (B) MOVING FOR OR CONSENTING TO DISMISSAL OF THE INDICTMENT OR OF ANY
18 COUNT THEREIN THAT CHARGES A CRIME FOR WHICH AN INDETERMINATE SENTENCE
19 OF IMPRISONMENT MUST BE IMPOSED; OR
20 (C) MOVING FOR OR CONSENTING TO AN ADJOURNMENT OF SENTENCING TO A DATE
21 LATER THAN NINETY DAYS FROM THE DATE THE PLEA OR VERDICT WAS ENTERED.

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

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1 2. ANY SUCH NOTICE SHALL ADVISE THE VICTIM OF THE TIME AND PLACE WHEN
2 THE MOTION IS TO BE MADE OR THE CONSENT IS TO BE GIVEN AND OF THE
3 VICTIM'S RIGHT TO BE PRESENT AND TO SUBMIT A WRITTEN STATEMENT TO THE
4 COURT IN OPPOSITION TO THE COURT'S APPROVAL OF THE DISMISSAL, PLEA OR
5 ADJOURNMENT.

6 3. THE RULES PROMULGATED BY THE COMMISSIONER OF THE DIVISION OF CRIMI-
7 NAL JUSTICE SERVICES SHALL REQUIRE THAT A COPY OF THE NOTICE AND STATE-
8 MENT OF REASONS BE FILED WITH THE DIVISION OF CRIMINAL JUSTICE SERVICES
9 ALONG WITH A SUMMARY OF THE FINAL DISPOSITION OF EACH COUNT CHARGED IN
10 AN INDICTMENT AGAINST THE DEFENDANT AS A RESULT OF THE CRIMINAL TRANS-
11 ACTION INVOLVING THAT VICTIM. AN ANALYSIS OF THIS MATERIAL SHALL BE SET
12 FORTH BY THE DIVISION IN ITS ANNUAL REPORT TO THE GOVERNOR AND THE
13 LEGISLATURE AND THE DOCUMENTS AS FILED WITH THE DIVISION SHALL BE MAIN-
14 TAINED FOR A PERIOD OF THREE YEARS IN A SPECIAL FILE WHICH SHALL BE
15 AVAILABLE FOR PUBLIC INSPECTION.

16 4. THE COMMISSIONER OF THE DIVISION OF CRIMINAL JUSTICE SERVICES SHALL
17 NOT ALLOCATE ANY FUNDS TO OR FOR THE USE OF A DISTRICT ATTORNEY UNLESS
18 THE COMMISSIONER IS SATISFIED, AFTER SPECIFIC INQUIRY, THAT SUCH
19 DISTRICT ATTORNEY IS IN SUBSTANTIAL COMPLIANCE WITH THE PROVISIONS OF
20 THIS SECTION.

21 S 2. Section 243 of the executive law is amended by adding a new
22 subdivision 5 to read as follows:

23 5. THE RULES ADOPTED BY THE DIRECTOR PURSUANT TO THIS SECTION SHALL
24 PROVIDE THAT PROBATION OFFICERS AND CORRECTIONAL ALTERNATIVE PROGRAMS
25 SHALL NOT ENGAGE IN SUPERVISION OF OR ADMINISTER COMMUNITY BASED ALTER-
26 NATIVE OR INTERIM PROGRAMS FOR OFFENDERS WHO HAVE PLEADED GUILTY TO OR
27 BEEN FOUND GUILTY OF A FELONY FOR WHICH AN INDETERMINATE SENTENCE OF
28 IMPRISONMENT IS REQUIRED UNDER THE PENAL LAW AND WHO ARE AWAITING IMPO-
29 SITION OF SENTENCE.

30 S 3. This act shall take effect on the one hundred twentieth day after
31 it shall have become a law, provided however, that effective immediate-
32 ly, the addition, amendment and/or repeal of any rule or regulation
33 necessary for the implementation of the foregoing sections of this act
34 on their effective date are authorized to be made on or before such
35 effective date.