

7069

I N S E N A T E

March 22, 2016

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

AN ACT to amend the executive law and the criminal procedure law, in relation to the definition of designated offender

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

1 Section 1. Subdivision 7 of section 995 of the executive law, as
2 amended by chapter 19 of the laws of 2012, is amended to read as
3 follows:
4 7. "Designated offender" means a person convicted of any felony
5 defined in any chapter of the laws of the state or any misdemeanor
6 defined in the penal law except: (A) that where the person is convicted
7 under section 221.10 of the penal law, only a person convicted under
8 subdivision two of such section, or a person convicted under subdivision
9 one of such section who stands previously convicted of any crime as
10 defined in subdivision six of section 10.00 of the penal law[.]; AND
11 (B)(I) A PERSON CONVICTED OF LOITERING FOR THE PURPOSE OF ENGAGING IN
12 PROSTITUTION UNDER SUBDIVISION TWO OF SECTION 240.37 OF THE PENAL LAW,
13 (II) A PERSON CONVICTED OF PROSTITUTION UNDER SECTION 230.00 OF THE
14 PENAL LAW, OR (III) A PERSON WHOSE PARTICIPATION IN THE OFFENSE IS
15 DETERMINED BY A COURT TO HAVE BEEN A RESULT OF HAVING BEEN A VICTIM OF
16 SEX TRAFFICKING UNDER SECTION 230.34 OF THE PENAL LAW OR TRAFFICKING IN
17 PERSONS UNDER THE TRAFFICKING VICTIMS PROTECTION ACT (UNITED STATES
18 CODE, TITLE 22, CHAPTER 78).
19 S 2. Subdivision 2 of section 420.35 of the criminal procedure law, as
20 amended by chapter 426 of the laws of 2015, is amended to read as
21 follows:
22 2. Under no circumstances shall the mandatory surcharge, sex offender
23 registration fee, DNA databank fee or the crime victim assistance fee be
24 waived provided, however, that a court may waive the crime victim
25 assistance fee if such defendant is an eligible youth as defined in
26 subdivision two of section 720.10 of this chapter, and the imposition of
27 such fee would work an unreasonable hardship on the defendant, his or
28 her immediate family, or any other person who is dependent on such

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

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1 defendant for financial support. A court shall waive any mandatory
2 surcharge, DNA databank fee and crime victim assistance fee when: (i)
3 the defendant is convicted of loitering for the purpose of engaging in
4 prostitution under SUBDIVISION TWO OF section 240.37 of the penal law
5 [(provided that the defendant was not convicted of loitering for the
6 purpose of patronizing a person for prostitution)]; (ii) the defendant
7 is convicted of prostitution under section 230.00 of the penal law;
8 (iii) the defendant is convicted of a violation in the event such
9 conviction is in lieu of a plea to or conviction for loitering for the
10 purpose of engaging in prostitution under SUBDIVISION TWO OF section
11 240.37 of the penal law [(provided that the defendant was not alleged to
12 be loitering for the purpose of patronizing a person for prostitution)]
13 or prostitution under section 230.00 of the penal law; or (iv) the court
14 finds that a defendant is a victim of sex trafficking under section
15 230.34 of the penal law or a victim of trafficking in persons under the
16 trafficking victims protection act (United States Code, Title 22, Chap-
17 ter 78).
18 S 3. This act shall take effect immediately.