

STATE OF NEW YORK

2782

2017-2018 Regular Sessions

IN ASSEMBLY

January 23, 2017

Introduced by M. of A. WOERNER, MONTESANO, BLAKE, HOOPER, COOK, RAIA,
CROUCH -- Multi-Sponsored by -- M. of A. GALEF, MAGEE, McKEVITT,
THIELE -- read once and referred to the Committee on Codes

AN ACT to amend the criminal procedure law, in relation to enabling the
victim of a misdemeanor to make a statement at the sentencing of the
defendant; and providing for the repeal of such provisions upon expi-
ration thereof

The People of the State of New York, represented in Senate and Assem-
bly, do enact as follows:

- 1 Section 1. This act shall be known and may be cited as "Emma's Law".
2 § 2. Paragraphs (a) and (b) of subdivision 2 of section 380.50 of the
3 criminal procedure law, paragraph (a) as amended by chapter 499 of the
4 laws of 1993, subparagraph 2 of paragraph (a) as separately amended by
5 chapters 173 and 198 of the laws of 1996, and paragraph (b) as added by
6 chapter 307 of the laws of 1992, are amended to read as follows:
7 (a) For purposes of this section "victim" shall mean:
8 (1) the victim as indicated in the accusatory instrument or as indi-
9 cated in the pre-sentence investigation conducted pursuant to section
10 390.20 of this title; or
11 (2) if such victim is unable or unwilling to express himself or
12 herself before the court or a person so mentally or physically disabled
13 as to make it impracticable to appear in court in person or the victim
14 is deceased, a member of the family of such victim, or the legal guardi-
15 an or representative of the legal guardian of the victim where such
16 guardian or representative has personal knowledge of and a relationship
17 with the victim, unless the court finds that it would be inappropriate
18 for such person to make a statement on behalf of the victim.
19 (b) If the defendant is being sentenced for a felony or a misdemeanor,
20 the court, if requested at least ten days prior to the sentencing date,
21 shall accord the victim the right to make a statement with regard to any
22 matter relevant to the question of sentence. The court shall notify the

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

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1 defendant no less than seven days prior to sentencing of the victim's
2 intent to make a statement at sentencing. If the defendant does not
3 receive timely notice pursuant to this subdivision, the defendant may
4 request a reasonable adjournment.

5 § 3. The opening paragraph of subdivision 2 of section 390.20 of the
6 criminal procedure law, as amended by chapter 413 of the laws of 1991,
7 is amended to read as follows:

8 Requirement for misdemeanors. Where a person is convicted of a misde-
9 meanor a pre-sentence report is not required, but the court may not
10 pronounce any of the following sentences unless it has ordered a pre-
11 sentence investigation of the defendant and has received a written
12 report thereof or a pre-sentence investigation of the defendant has been
13 requested by either the prosecutor or the defendant and the court has
14 received a written report thereof:

15 § 4. This act shall take effect immediately and shall expire and be
16 deemed repealed 2 years after such effective date.