

STATE OF NEW YORK

4427

2019-2020 Regular Sessions

IN ASSEMBLY

February 4, 2019

Introduced by M. of A. DenDEKKER -- read once and referred to the
Committee on Codes

AN ACT to amend the penal law, in relation to requiring sentences for
violent felonies committed after arraignment but prior to the imposi-
tion of sentence on a pending felony charge to run consecutive to the
sentence for the original felony

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

1 Section 1. Subdivision 2-b of section 70.25 of the penal law, as
2 amended by chapter 3 of the laws of 1995, is amended to read as follows:

3 2-b. When a person is convicted of a violent felony offense committed
4 after arraignment [~~and while released on recognizance or bail~~], but
5 committed prior to the imposition of sentence on a pending felony
6 charge, and if an indeterminate or determinate sentence of imprisonment
7 is imposed in each case, such sentences shall run consecutively.
8 Provided, however, that the court may, in the interest of justice, order
9 a sentence to run concurrently in a situation where consecutive
10 sentences are required by this subdivision if it finds either mitigating
11 circumstances that bear directly upon the manner in which the crime was
12 committed or, where the defendant was not the sole participant in the
13 crime, the defendant's participation was relatively minor although not
14 so minor as to constitute a defense to the prosecution. The defendant
15 and the district attorney shall have an opportunity to present relevant
16 information to assist the court in making this determination and the
17 court may, in its discretion, conduct a hearing with respect to any
18 issue bearing upon such determination. If the court determines that
19 consecutive sentences should not be ordered, it shall make a statement
20 on the record of the facts and circumstances upon which such determi-
21 nation is based.

22 § 2. Subdivision 2-b of section 70.25 of the penal law, as added by
23 chapter 559 of the laws of 1982, is amended to read as follows:

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

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1 2-b. When a person is convicted of a violent felony offense committed
2 after arraignment [~~and while released on recognizance or bail~~], but
3 committed prior to the imposition of sentence on a pending felony
4 charge, and if an indeterminate sentence of imprisonment is imposed in
5 each case, such sentences shall run consecutively. Provided, however,
6 that the court may, in the interest of justice, order a sentence to run
7 concurrently in a situation where consecutive sentences are required by
8 this subdivision if it finds either mitigating circumstances that bear
9 directly upon the manner in which the crime was committed or, where the
10 defendant was not the sole participant in the crime, the defendant's
11 participation was relatively minor although not so minor as to consti-
12 tute a defense to the prosecution. The defendant and the district attor-
13 ney shall have an opportunity to present relevant information to assist
14 the court in making this determination and the court may, in its
15 discretion, conduct a hearing with respect to any issue bearing upon
16 such determination. If the court determines that consecutive sentences
17 should not be ordered, it shall make a statement on the record of the
18 facts and circumstances upon which such determination is based.

19 § 3. This act shall take effect immediately; provided, however, that
20 the amendments to subdivision 2-b of section 70.25 of the penal law made
21 by section one of this act shall be subject to the expiration and rever-
22 sion of such subdivision pursuant to section 74 of chapter 3 of the laws
23 of 1995, as amended, when upon such date the provisions of section two
24 of this act shall take effect.