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 imposition 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 Assembly, do enact as follows:

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

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

§ 2. Subdivision 2-b of section 70.25 of the penal law, as added by 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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2-b. When a person is convicted of a violent felony offense committed after arraignment [~~and while released on recognizance or bail~~], but committed prior to the imposition of sentence on a pending felony charge, and if an indeterminate sentence of imprisonment is imposed in each case, such sentences shall run consecutively. Provided, however, that the court may, in the interest of justice, order a sentence to run concurrently in a situation where consecutive sentences are required by this subdivision if it finds either mitigating circumstances that bear directly upon the manner in which the crime was committed or, where the defendant was not the sole participant in the crime, the defendant's participation was relatively minor although not so minor as to constitute a defense to the prosecution. The defendant and the district attorney shall have an opportunity to present relevant information to assist the court in making this determination and the court may, in its discretion, conduct a hearing with respect to any issue bearing upon such determination. If the court determines that consecutive sentences should not be ordered, it shall make a statement on the record of the facts and circumstances upon which such determination is based.

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