

STATE OF NEW YORK

4469

2019-2020 Regular Sessions

IN ASSEMBLY

February 4, 2019

Introduced by M. of A. CRESPO, JAFFEE, THIELE, PEOPLES-STOKES, RAMOS, ORTIZ, OTIS, DAVILA, CAHILL, NIOU, CARROLL, SIMON, DE LA ROSA, HUNTER, TAYLOR, PERRY, KIM, LIFTON, BRONSON, L. ROSENTHAL, DICKENS, ARROYO, HEVESI, D'URSO, JEAN-PIERRE, GALEF, PRETLOW, SIMOTAS, DINOWITZ -- Multi-Sponsored by -- M. of A. MAGNARELLI, ROZIC -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation to reducing certain sentences of imprisonment for misdemeanors to three hundred sixty-four days

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

1 Section 1. Subdivisions 1 and 3 of section 70.15 of the penal law,
2 subdivision 1 as amended by chapter 291 of the laws of 1993, are amended
3 to read as follows:
4 1. Class A misdemeanor. A sentence of imprisonment for a class A
5 misdemeanor shall be a definite sentence. When such a sentence is
6 imposed the term shall be fixed by the court, and shall not exceed [~~one~~
7 ~~year~~] three hundred sixty-four days; provided, however, that a sentence
8 of imprisonment imposed upon a conviction of criminal possession of a
9 weapon in the fourth degree as defined in subdivision one of section
10 265.01 must be for a period of no less than [~~one-year~~] three hundred
11 sixty-four days when the conviction was the result of a plea of guilty
12 entered in satisfaction of an indictment or any count thereof charging
13 the defendant with the class D violent felony offense of criminal
14 possession of a weapon in the third degree as defined in subdivision
15 four of section 265.02, except that the court may impose any other
16 sentence authorized by law upon a person who has not been previously
17 convicted in the five years immediately preceding the commission of the
18 offense for a felony or a class A misdemeanor defined in this chapter,
19 if the court having regard to the nature and circumstances of the crime
20 and to the history and character of the defendant, finds on the record
21 that such sentence would be unduly harsh and that the alternative

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

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1 sentence would be consistent with public safety and does not deprecate
2 the seriousness of the crime.

3 3. Unclassified misdemeanor. A sentence of imprisonment for an unclas-
4 sified misdemeanor shall be a definite sentence. When such a sentence is
5 imposed the term shall be fixed by the court, and shall be in accordance
6 with the sentence specified in the law or ordinance that defines the
7 crime but, in any event, it shall not exceed three hundred sixty-four
8 days.

9 § 2. Section 70.15 of the penal law is amended by adding a new subdivi-
10 sion 1-a to read as follows:

11 1-a. (a) Notwithstanding the provisions of any other law, whenever the
12 phrase "one year" or "three hundred sixty-five days" or "365 days" or
13 any similar phrase appears in any provision of this chapter or any other
14 law in reference to the definite sentence or maximum definite sentence
15 of imprisonment that is imposed, or has been imposed, or may be imposed
16 after enactment of this subdivision, for a misdemeanor conviction in
17 this state, such phrase shall mean, be interpreted and be applied as
18 three hundred sixty-four days.

19 (b) The amendatory provisions of this subdivision are ameliorative and
20 shall apply to all persons who are sentenced before, on or after the
21 effective date of this subdivision, for a crime committed before, on or
22 after the effective date of this subdivision.

23 (c) Any sentence for a misdemeanor conviction imposed prior to the
24 effective date of this subdivision that is a definite sentence of impri-
25 sonment of one year, or three hundred sixty-five days, shall, by opera-
26 tion of law, be changed to, mean and be interpreted and applied as a
27 sentence of three hundred sixty-four days. In addition to any other
28 right of a person to obtain a record of a proceeding against him or her,
29 a person so sentenced prior to the effective date of this subdivision
30 shall be entitled to obtain, from the criminal court or the clerk there-
31 of, a certificate of conviction, as described in subdivision one of
32 section 60.60 of the criminal procedure law, setting forth such sentence
33 as the sentence specified in this paragraph.

34 § 3. This act shall take effect immediately.