

STATE OF NEW YORK

459--A

2019-2020 Regular Sessions

IN ASSEMBLY

(Prefiled)

January 9, 2019

Introduced by M. of A. PAULIN, MOSLEY, M. G. MILLER, CROUCH, GOTTFRIED
-- read once and referred to the Committee on Codes -- committee
discharged, bill amended, ordered reprinted as amended and recommitted
to said committee

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 Assem-
bly, 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, sex trafficking
17 of a child under section 230.34-a of the penal law, or trafficking in
18 persons under the trafficking victims protection act (United States
19 Code, Title 22, Chapter 78).

20 § 2. Subdivision 2 of section 420.35 of the criminal procedure law, as
21 amended by chapter 189 of the laws of 2018, is amended to read as
22 follows:

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

LBD00613-02-9

1 2. Under no circumstances shall the mandatory surcharge, sex offender
2 registration fee, DNA databank fee or the crime victim assistance fee be
3 waived provided, however, that a court may waive the crime victim
4 assistance fee if such defendant is an eligible youth as defined in
5 subdivision two of section 720.10 of this chapter, and the imposition of
6 such fee would work an unreasonable hardship on the defendant, his or
7 her immediate family, or any other person who is dependent on such
8 defendant for financial support. A court shall waive any mandatory
9 surcharge, DNA databank fee and crime victim assistance fee when: (i)
10 the defendant is convicted of loitering for the purpose of engaging in
11 prostitution under subdivision two of section 240.37 of the penal law
12 [~~(provided that the defendant was not convicted of loitering for the~~
13 ~~purpose of patronizing a person for prostitution)~~]; (ii) the defendant
14 is convicted of prostitution under section 230.00 of the penal law;
15 (iii) the defendant is convicted of a violation in the event such
16 conviction is in lieu of a plea to or conviction for loitering for the
17 purpose of engaging in prostitution under subdivision two of section
18 240.37 of the penal law [~~(provided that the defendant was not alleged to~~
19 ~~be loitering for the purpose of patronizing a person for prostitution)~~]
20 or prostitution under section 230.00 of the penal law; [~~or~~] (iv) the
21 court finds that a defendant is a victim of sex trafficking under
22 section 230.34 of the penal law or a victim of trafficking in persons
23 under the trafficking victims protection act (United States Code, Title
24 22, Chapter 78); or (v) the court finds that the defendant is a victim
25 of sex trafficking of a child under section 230.34-a of the penal law.
26 § 3. This act shall take effect immediately.