STATE OF NEW YORK

4472

2021-2022 Regular Sessions

IN ASSEMBLY

February 4, 2021

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

AN ACT to amend the penal law, in relation to sentencing

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

Section 1. Subdivision 2 of section 60.02 of the penal law, as amended by chapter 471 of the laws of 1980, is amended to read as follows:

(2) If the sentence is to be imposed upon a youthful offender finding which has been substituted for a conviction for any felony, the court must impose a sentence authorized to be imposed upon a person convicted of a class E felony [~~provided, however, that the court must not impose a sentence of conditional discharge or unconditional discharge if the youthful offender finding was substituted for a conviction of a felony defined in article two hundred twenty of this chapter~~], as hereinafter provided:

(a) If the youthful offender finding was substituted for a conviction of a felony defined in article two hundred twenty or two hundred twenty-one of this chapter, then the sentence shall be as authorized by section 60.04 of this article for a class E felony, and if a determinate sentence of imprisonment is imposed, the corresponding period of post-release supervision provided for that class E felony by section 70.45 of this title shall also be imposed.

(b) If the youthful offender finding was substituted for a conviction of any other felony, then the sentence shall be as authorized by section 60.01 of this article for a sentence upon a conviction of a class E felony offense; provided, however, that if the youthful offender finding was substituted for a conviction of a violent felony offense as defined in section 70.02 of this title or a felony sex offense as defined in paragraph (a) of subdivision one of section 70.80 of this title and a sentence of imprisonment in excess of one year is imposed to be served in a facility of the state department of corrections and community

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

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supervision is imposed, the sentence shall be the determinate sentence of imprisonment authorized for such class E violent felony offense or felony sex offense, and the corresponding period of post-release supervision provided for such class E felony by section 70.45 of this title.

§ 2. This act shall take effect immediately; provided, however, that this act shall apply to offenses committed on or after such effective date.