STATE OF NEW YORK

118

2021-2022 Regular Sessions

IN ASSEMBLY

(Prefiled)

January 6, 2021

Introduced by M. of A. PAULIN, GOTTFRIED, PICHARDO -- read once and referred to the Committee on Codes

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 Assembly, do enact as follows:

Section 1. Subdivision 7 of section 995 of the executive law, as amended by chapter 19 of the laws of 2012, is amended to read as follows:

7. "Designated offender" means a person convicted of any felony defined in any chapter of the laws of the state or any misdemeanor defined in the penal law except**: (a)** that where the person is convicted under section 221.10 of the penal law, only a person convicted under subdivision two of such section, or a person convicted under subdivision one of such section who stands previously convicted of any crime as defined in subdivision six of section 10.00 of the penal law[~~.~~]**; and (b)(i) a person convicted of loitering for the purpose of engaging in prostitution under subdivision two of section 240.37 of the penal law, (ii) a person convicted of prostitution under section 230.00 of the penal law, or (iii) a person whose participation in the offense is determined by a court to have been a result of having been a victim of sex trafficking under section 230.34 of the penal law, sex trafficking of a child under section 230.34-a of the penal law, or trafficking in persons under the trafficking victims protection act (United States Code, Title 22, Chapter 78).**

§ 2. Subdivision 2 of section 420.35 of the criminal procedure law, as amended by chapter 144 of the laws of 2020, is amended to read as follows:

2. Except as provided in this subdivision or subdivision two-a of this section, under no circumstances shall the mandatory surcharge, sex

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

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offender registration fee, DNA databank fee or the crime victim assistance fee be waived. A court shall waive any mandatory surcharge, DNA databank fee and crime victim assistance fee when: (i) the defendant is convicted of loitering for the purpose of engaging in prostitution under **subdivision two of** section 240.37 of the penal law [~~**(provided that the defendant was not convicted of loitering for the purpose of patronizing a person for prostitution)**~~]; (ii) the defendant is convicted of prostitution under section 230.00 of the penal law; (iii) the defendant is convicted of a violation in the event such conviction is in lieu of a plea to or conviction for loitering for the purpose of engaging in prostitution under **subdivision two of** section 240.37 of the penal law [~~**(provided that the defendant was not alleged to be loitering for the purpose of patronizing a person for prostitution)**~~] or prostitution under section 230.00 of the penal law; [~~**or**~~] (iv) the court finds that a defendant is a victim of sex trafficking under section 230.34 of the penal law or a victim of trafficking in persons under the trafficking victims protection act (United States Code, Title 22, Chapter 78); or (v) the court finds that the defendant is a victim of sex trafficking of a child under section 230.34-a of the penal law.

§ 3. This act shall take effect immediately.