STATE OF NEW YORK

6858

2021-2022 Regular Sessions

IN SENATE

May 19, 2021

Introduced by Sen. BAILEY -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the criminal procedure law, in relation to preserving the ability to appeal a violation of a defendant's right to make a statement personally in his or her own behalf at sentencing

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

Section 1. Subdivision 1 of section 380.50 of the criminal procedure law, as amended by chapter 307 of the laws of 1992, is amended to read as follows:

1. At the time of pronouncing sentence, the court must accord the prosecutor an opportunity to make a statement with respect to any matter relevant to the question of sentence. The court must then accord counsel for the defendant an opportunity to speak on behalf of the defendant. The defendant also has the right to make a statement personally in his or her own behalf, and before pronouncing sentence the court must ask the defendant whether he or she wishes to make such a statement. ***A defendant may challenge on appeal, notwithstanding an otherwise valid waiver of appeal, a violation of the defendant's rights under this subdivision.***

§ 2. This act shall take effect immediately.

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

LBD11431-02-1