

# STATE OF NEW YORK

1317

2023-2024 Regular Sessions

## IN ASSEMBLY

January 17, 2023

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

AN ACT to amend the penal law and the criminal procedure law, in relation to second felony drug offenders; and to repeal subdivision 4 of section 70.70 of the penal law relating thereto

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

1 Section 1. Paragraph (a) of subdivision 3 of section 70.70 of the  
2 penal law, as amended by section 23 of part AAA of chapter 56 of the  
3 laws of 2009, is amended to read as follows:

4 (a) Applicability. This subdivision shall apply to a second felony  
5 drug offender [~~whose prior felony conviction was not a violent felony~~].

6 § 2. Subdivision 4 of section 70.70 of the penal law is REPEALED.

7 § 3. Paragraph (a) of subdivision 1 of section 216.00 of the criminal  
8 procedure law, as added by section 4 of part AAA of chapter 56 of the  
9 laws of 2009, is amended to read as follows:

10 (a) within the preceding ten years, excluding any time during which  
11 the offender was incarcerated for any reason between the time of commis-  
12 sion of the previous felony and the time of commission of the present  
13 felony, has previously been convicted of [~~+(i) a violent felony offense  
14 as defined in section 70.02 of the penal law or (ii) any other offense  
15 for which a merit time allowance is not available pursuant to subpara-  
16 graph (ii) of paragraph (d) of subdivision one of section eight hundred  
17 three of the correction law, or (iii)~~] a class A felony offense [~~defined  
18 in article two hundred twenty of the penal law~~]; or

19 § 4. This act shall take effect immediately and shall apply to cases  
20 where a sentence upon a conviction is imposed on or after such effective  
21 date.

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

LBD00510-01-3