

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 Subdivision 4 of section 70.70 of the penal law is REPEALED.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.

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