# STATE OF NEW YORK

5446

2023-2024 Regular Sessions

# IN ASSEMBLY

March 10, 2023

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.