

# STATE OF NEW YORK

6471--A

2023-2024 Regular Sessions

## IN SENATE

April 21, 2023

Introduced by Sens. MYRIE, BAILEY, BRESLIN, BRISPORT, BROUK, CLEARE, COMRIE, COONEY, FERNANDEZ, GIANARIS, GONZALEZ, HARCKHAM, HOYLMAN-SIGAL, JACKSON, KAVANAGH, KENNEDY, KRUEGER, MAY, PARKER, RAMOS, RIVERA, SALAZAR, SANDERS, SEPULVEDA, SERRANO -- read twice and ordered printed, and when printed to be committed to the Committee on Codes -- recommitted to the Committee on Codes in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the penal law, the criminal procedure law and the correction law, in relation to eliminating mandatory minimums; to amend the sentencing reform act of 1995, in relation to the effectiveness thereof; to amend chapter 339 of the laws of 1972, amending the correction law and the penal law relating to inmate work release, furlough and leave, in relation to the effectiveness thereof; to amend chapter 435 of the laws of 1997, amending the military law and other laws relating to various provisions, in relation to the effectiveness thereof; to amend part E of chapter 62 of the laws of 2003, amending the correction law and other laws relating to various provisions, in relation to the effectiveness thereof; and to repeal certain provisions of the penal law, the criminal procedure law and the correction law relating thereto

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

1 Section 1. Short title. This act shall be known and may be cited as  
2 the "Marvin Mayfield act".

3 § 2. Subdivision 6 of section 1.05 of the penal law, as amended by  
4 chapter 98 of the laws of 2006, is amended to read as follows:

5 6. To [~~insure the public~~ promote community safety by [~~preventing the~~  
6 ~~commission of offenses through the deterrent influence of the sentences~~  
7 ~~authorized,~~ supporting the rehabilitation of [~~those~~ individuals who  
8 have been convicted, [~~the promotion of~~ and their successful and produc-

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

LBD04611-05-4

1 tive reentry and reintegration into society[~~, and their confinement when~~  
2 ~~required in the interests of public protection~~] by imposing the minimum  
3 sentence necessary to achieve the goals of sentencing outlined above.

4 § 3. Section 380.20 of the criminal procedure law is amended to read  
5 as follows:

6 § 380.20 Sentence required.

7 1. The court must pronounce sentence in every case where a conviction  
8 is entered. If an accusatory instrument contains multiple counts and a  
9 conviction is entered on more than one count the court must pronounce  
10 sentence on each count.

11 2. When entering a sentence that includes a term of imprisonment, or  
12 within seven days thereafter, the court shall issue a written decision  
13 explaining its choice of sentence, based on individualized findings,  
14 sufficient to facilitate appellate review. A defendant may knowingly and  
15 voluntarily waive the right to a written decision.

16 § 4. Paragraph (a) of subdivision 3 of section 390.30 of the criminal  
17 procedure law, as added by chapter 14 of the laws of 1985, is amended to  
18 read as follows:

19 (a) The report of the pre-sentence investigation must contain an anal-  
20 ysis of as much of the information gathered in the investigation as the  
21 agency that conducted the investigation deems relevant to the question  
22 of sentence. The report must also include any other [~~information~~] infor-  
23 mation that the court directs to be included and the material required  
24 by paragraph (b) of this subdivision which shall be considered part of  
25 the report. The report shall include an analysis of the actual finan-  
26 cial cost of incarceration to the state and/or localities of the poten-  
27 tial sentences that may be imposed.

28 § 5. Subdivision 1 and paragraph (a) of subdivision 2 of section  
29 390.50 of the criminal procedure law, subdivision 1 as separately  
30 amended by chapters 224 and 369 of the laws of 1986 and paragraph (a) of  
31 subdivision 2 as amended by chapter 31 of the laws of 2019, are amended  
32 to read as follows:

33 1. In general. Any pre-sentence report or memorandum submitted to the  
34 court pursuant to this article and any medical, psychiatric or social  
35 agency report or other information gathered for the court by a probation  
36 department, or submitted directly to the court, in connection with the  
37 question of sentence is confidential and may not be made available by  
38 any state agency, including the state department of corrections and  
39 community supervision, to any person or public or private agency except  
40 where specifically required or permitted by statute or upon specific  
41 authorization of the court. Section one hundred forty-seven of the  
42 correction law shall not be deemed to permit such disclosure. For  
43 purposes of this section, any report, memorandum or other information  
44 forwarded to a probation department within this state from a probation  
45 agency outside this state is governed by the same rules of confidential-  
46 ity. Any person, public or private agency receiving such material must  
47 retain it under the same conditions of confidentiality as apply to the  
48 probation department that made it available.

49 (a) Not less than one court day prior to sentencing, unless such time  
50 requirement is waived by the parties, the pre-sentence report or memo-  
51 randum shall be made available by the court for examination and for  
52 copying and retention by the defendant's attorney, the defendant  
53 himself, [~~if he has no attorney,~~] and the prosecutor. The defendant  
54 shall be given an opportunity to challenge or correct any fact or  
55 conclusion in the pre-sentence report or memorandum prior to the court's  
56 pronouncement of sentence. In its discretion, the court may except from

1 disclosure a part or parts of the report or memoranda which are not  
2 relevant to a proper sentence, or a diagnostic opinion which might seri-  
3 ously disrupt a program of rehabilitation, or sources of information  
4 which have been obtained on a promise of confidentiality, or any other  
5 portion thereof, disclosure of which would not be in the interest of  
6 justice. In all cases where a part or parts of the report or memoranda  
7 are not disclosed, the court shall state for the record that a part or  
8 parts of the report or memoranda have been excepted and the reasons for  
9 its action. The action of the court excepting information from disclo-  
10 sure shall be subject to appellate review. The pre-sentence report shall  
11 be made available by the court for examination and copying in connection  
12 with any appeal in the case, including an appeal under this subdivision.  
13 Upon written request, the court shall make a copy of the presentence  
14 report, other than a part or parts of the report redacted by the court  
15 pursuant to this paragraph, available to the defendant for use before  
16 the parole board for release consideration or an appeal of a parole  
17 board determination or an application for resentencing pursuant to  
18 section 440.46 or 440.47 of this chapter. [~~In his or her written request  
19 to the court the defendant shall affirm that he or she anticipates an  
20 appearance before the parole board or intends to file an administrative  
21 appeal of a parole board determination or meets the eligibility criteria  
22 for and intends to file a motion for resentencing pursuant to 440.46 of  
23 this chapter or has received notification from the court which received  
24 his or her request to apply for resentencing pursuant to section 440.47  
25 of this chapter confirming that he or she is eligible to submit an  
26 application for resentencing pursuant to section 440.47 of this chap-  
27 ter.~~] The court shall respond to the defendant's written request within  
28 twenty days from receipt of the defendant's written request.

29 § 6. Section 70.00 of the penal law, the section heading as amended by  
30 chapter 277 of the laws of 1973, subdivision 1 as amended by chapter 7  
31 of the laws of 2007, subdivisions 2, 3 and 4 as amended by chapter 738  
32 of the laws of 2004, paragraph (a) of subdivision 3 as amended by chap-  
33 ter 107 and paragraph (b) of subdivision 3 as amended by chapter 746 of  
34 the laws of 2006, subdivision 5 as amended by section 40-a of part WWW  
35 of chapter 59 of the laws of 2017, and subdivision 6 as amended by chap-  
36 ter 1 of the laws of 1998, is amended to read as follows:

37 § 70.00 Sentence of imprisonment for felony.

38 1. Indeterminate sentence. Except as provided in subdivisions three  
39 and four [~~, five and six~~] of this section or section 70.80 of this arti-  
40 cle, [~~a~~] the term of sentence [~~of imprisonment~~] for a felony, other than  
41 a felony defined in article two hundred twenty [~~or two hundred twenty-~~  
42 ~~one~~] of this chapter, shall be fixed by the court. If a court finds that  
43 sentence of imprisonment of more than one year is the minimum term of  
44 imprisonment necessary to achieve the goals of sentencing, the court  
45 shall impose an indeterminate sentence. When such a sentence is imposed,  
46 the court shall impose a maximum term in accordance with the provisions  
47 of subdivision two of this section [~~and the minimum period of imprison-~~  
48 ~~ment shall be as provided in subdivision three of this section~~]. The  
49 minimum period shall be fixed by the court and specified in the sentence  
50 and shall be not less than one year nor more than one-third of the maxi-  
51 imum term imposed, or the court may impose a definite sentence of impri-  
52 sonment and fix a term of less than one year.

53 2. Maximum term of sentence. The maximum term of an indeterminate  
54 sentence shall be at least three years and the term shall be fixed as  
55 follows:

56 (a) For a class A felony, the term shall be life imprisonment;

1 (b) For a class B felony, the term shall be fixed by the court, and  
2 shall not exceed twenty-five years;

3 (c) For a class C felony, the term shall be fixed by the court, and  
4 shall not exceed fifteen years;

5 (d) For a class D felony, the term shall be fixed by the court, and  
6 shall not exceed seven years; and

7 (e) For a class E felony, the term shall be fixed by the court, and  
8 shall not exceed four years.

9 ~~3. [Minimum period of imprisonment. The minimum period of imprisonment  
10 under an indeterminate sentence shall be at least one year and shall be  
11 fixed as follows:~~

12 ~~(a) In the case of a class A felony, the minimum period shall be fixed  
13 by the court and specified in the sentence.~~

14 ~~(i) For a class A-I felony, such minimum period shall not be less than  
15 fifteen years nor more than twenty-five years; provided, however, that  
16 (A) where a sentence, other than a sentence of death or life imprison-  
17 ment without parole, is imposed upon a defendant convicted of murder in  
18 the first degree as defined in section 125.27 of this chapter such mini-  
19 mum period shall be not less than twenty years nor more than twenty-five  
20 years, and, (B) where a sentence is imposed upon a defendant convicted  
21 of murder in the second degree as defined in subdivision five of section  
22 125.25 of this chapter or convicted of aggravated murder as defined in  
23 section 125.26 of this chapter, the sentence shall be life imprisonment  
24 without parole, and, (C) where a sentence is imposed upon a defendant  
25 convicted of attempted murder in the first degree as defined in article  
26 one hundred ten of this chapter and subparagraph (i), (ii) or (iii) of  
27 paragraph (a) of subdivision one and paragraph (b) of subdivision one of  
28 section 125.27 of this chapter or attempted aggravated murder as defined  
29 in article one hundred ten of this chapter and section 125.26 of this  
30 chapter such minimum period shall be not less than twenty years nor more  
31 than forty years.~~

32 ~~(ii) For a class A-II felony, such minimum period shall not be less  
33 than three years nor more than eight years four months, except that for  
34 the class A-II felony of predatory sexual assault as defined in section  
35 130.95 of this chapter or the class A-II felony of predatory sexual  
36 assault against a child as defined in section 130.96 of this chapter,  
37 such minimum period shall be not less than ten years nor more than twenty-  
38 five years.~~

39 ~~(b) For any other felony, the minimum period shall be fixed by the  
40 court and specified in the sentence and shall be not less than one year  
41 nor more than one third of the maximum term imposed.~~

42 ~~4. Alternative definite sentence for class D and E felonies. When a  
43 person, other than a second or persistent felony offender, is sentenced  
44 for a class D or class E felony, and the court, having regard to the  
45 nature and circumstances of the crime and to the history and character  
46 of the defendant, is of the opinion that a sentence of imprisonment is  
47 necessary but that it would be unduly harsh to impose an indeterminate  
48 or determinate sentence, the court may impose a definite sentence of  
49 imprisonment and fix a term of one year or less.~~

50 ~~5.]~~ Life imprisonment without parole. Notwithstanding any other  
51 provision of law, a defendant sentenced to life imprisonment without  
52 parole shall not be or become eligible for parole or conditional  
53 release. For purposes of commitment and custody, other than parole and  
54 conditional release, such sentence shall be deemed to be an indetermi-  
55 nate sentence. A defendant may be sentenced to life imprisonment without  
56 parole upon conviction for the crime of murder in the first degree as

1 defined in section 125.27 of this chapter and in accordance with the  
2 procedures provided by law for imposing a sentence for such crime. A  
3 defendant who was eighteen years of age or older at the time of the  
4 commission of the crime must be sentenced to life imprisonment without  
5 parole upon conviction for the crime of terrorism as defined in section  
6 490.25 of this chapter, where the specified offense the defendant  
7 committed is a class A-I felony; the crime of criminal possession of a  
8 chemical weapon or biological weapon in the first degree as defined in  
9 section 490.45 of this chapter; or the crime of criminal use of a chemi-  
10 cal weapon or biological weapon in the first degree as defined in  
11 section 490.55 of this chapter; provided, however, that nothing in this  
12 subdivision shall preclude or prevent a sentence of death when the  
13 defendant is also convicted of the crime of murder in the first degree  
14 as defined in section 125.27 of this chapter. A defendant who was seven-  
15 teen years of age or younger at the time of the commission of the crime  
16 may be sentenced, in accordance with law, to the applicable indetermi-  
17 nate sentence with a maximum term of life imprisonment. A defendant must  
18 be sentenced to life imprisonment without parole upon conviction for the  
19 crime of murder in the second degree as defined in subdivision five of  
20 section 125.25 of this chapter or for the crime of aggravated murder as  
21 defined in subdivision one of section 125.26 of this chapter. A defend-  
22 ant may be sentenced to life imprisonment without parole upon conviction  
23 for the crime of aggravated murder as defined in subdivision two of  
24 section 125.26 of this chapter.

25 ~~[6.] 4.~~ Determinate sentence. ~~[Except as provided in subdivision four~~  
26 ~~of this section and subdivisions two and four of section 70.02, when]~~  
27 When a person is sentenced as a violent felony offender pursuant to  
28 section 70.02 ~~[or as a second violent felony offender pursuant to~~  
29 ~~section 70.04 or as a second felony offender on a conviction for a~~  
30 ~~violent felony offense pursuant to section 70.06]~~ of this article, the  
31 sentence shall be fixed by the court. If a court finds that a sentence  
32 of imprisonment of more than one year is the minimum term of imprison-  
33 ment necessary to achieve the goals of sentencing, the court must impose  
34 a determinate sentence of imprisonment in accordance with the provisions  
35 of such ~~[sections and such sentence shall include, as a part thereof, a~~  
36 ~~period of post release supervision in accordance with section 70.45]~~  
37 section.

38 § 7. Subdivision d of section 74 of chapter 3 of the laws of 1995,  
39 enacting the sentencing reform act of 1995, as amended by section 17 of  
40 part A of chapter 55 of the laws of 2023, is amended to read as follows:

41 d. Sections one-a ~~[through]~~, one-b, two, four through eight, eleven,  
42 twelve, twenty, twenty-four through twenty-eight, thirty through thir-  
43 ty-nine, forty-two and forty-four of this act shall be deemed repealed  
44 on September 1, 2025;

45 § 8. Subdivisions 2 and 4 of section 70.02 of the penal law are  
46 REPEALED and subdivision 3, as amended by chapter 765 of the laws of  
47 2005, paragraphs (b) and (c) as amended by chapter 1 of the laws of  
48 2013, is amended to read as follows:

49 ~~[3.] 2.~~ Term of sentence. The term ~~[of a determinate sentence]~~  
50 for a violent felony offense must be fixed by the court. The court may impose  
51 a definite sentence of imprisonment and fix a term of less than one  
52 year. If a court finds that a sentence of imprisonment of more than one  
53 year is the minimum term of imprisonment necessary to achieve the goals  
54 of sentencing, the court shall impose a determinate sentence as follows:

55 (a) For a class B felony, the term must be at least ~~[five years]~~ one  
56 year and must not exceed twenty-five years, provided, however, that the

1 term ~~[must be]~~: (i) ~~[at least ten years and]~~ must not exceed thirty  
2 years where the sentence is for the crime of aggravated assault upon a  
3 police officer or peace officer as defined in section 120.11 of this  
4 chapter; and (ii) ~~[at least ten years and]~~ must not exceed thirty years  
5 where the sentence is for the crime of aggravated manslaughter in the  
6 first degree as defined in section 125.22 of this chapter;

7 (b) For a class C felony, the term must be at least ~~[three and one-~~  
8 ~~half years]~~ one year and must not exceed fifteen years, provided, howev-  
9 er, that the term ~~[must be]~~: (i) ~~[at least seven years and]~~ must not  
10 exceed twenty years where the sentence is for the crime of aggravated  
11 manslaughter in the second degree as defined in section 125.21 of this  
12 chapter; (ii) ~~[at least seven years and]~~ must not exceed twenty years  
13 where the sentence is for the crime of attempted aggravated assault upon  
14 a police officer or peace officer as defined in section 120.11 of this  
15 chapter; (iii) ~~[at least three and one-half years and]~~ must not exceed  
16 twenty years where the sentence is for the crime of aggravated criminal-  
17 ly negligent homicide as defined in section 125.11 of this chapter; and  
18 (iv) ~~[at least five years and]~~ must not exceed fifteen years where the  
19 sentence is imposed for the crime of aggravated criminal possession of a  
20 weapon as defined in section 265.19 of this chapter;

21 (c) For a class D felony, the term must be at least ~~[two years]~~ one  
22 year and must not exceed seven years, provided, however, that the term  
23 ~~[must be]~~: (i) ~~[at least two years and]~~ must not exceed eight years  
24 where the sentence is for the crime of menacing a police officer or  
25 peace officer as defined in section 120.18 of this chapter; and (ii) ~~[at~~  
26 ~~least three and one-half years and]~~ must not exceed seven years where  
27 the sentence is imposed for the crime of criminal possession of a weapon  
28 in the third degree as defined in subdivision ten of section 265.02 of  
29 this chapter; and

30 (d) For a class E felony, the term must be at least one ~~[and one-half~~  
31 ~~years]~~ year and must not exceed four years.

32 § 9. Sections 60.06, 60.07, 60.11-a, 70.04, 70.06, 70.07, 70.08 and  
33 70.10 of the penal law are REPEALED.

34 § 10. Subdivisions 1 and 3 of section 70.05 of the penal law, subdivi-  
35 sion 1 as amended by chapter 615 of the laws of 1984, subdivision 3 as  
36 added by chapter 481 of the laws of 1978, paragraph (a) of subdivision 3  
37 as amended by chapter 174 of the laws of 2003 and paragraph (c) of  
38 subdivision 3 as amended by chapter 435 of the laws of 1998, are amended  
39 to read as follows:

40 1. Indeterminate sentence. A sentence of imprisonment for a felony  
41 committed by a juvenile offender shall be fixed by the court. If a court  
42 finds that a sentence of imprisonment of more than one year is the mini-  
43 imum term of imprisonment necessary to achieve the goals of sentencing,  
44 the court shall impose an indeterminate sentence. When such a sentence  
45 is imposed, the court shall impose a maximum term in accordance with the  
46 provisions of subdivision two of this section and the minimum period of  
47 imprisonment shall be as provided in subdivision three of this section.  
48 The court shall further provide that where a juvenile offender is under  
49 placement pursuant to article three of the family court act, any  
50 sentence imposed pursuant to this section which is to be served consec-  
51 utively with such placement shall be served in a facility designated  
52 pursuant to subdivision four of section 70.20 of this article prior to  
53 service of the placement in any previously designated facility.

54 3. Minimum period of imprisonment. The court may impose a definite  
55 sentence of imprisonment and fix a term of less than one year. The mini-  
56 mum period of imprisonment under an indeterminate sentence for a juve-

1 nile offender shall be not less than one year nor more than one-third of  
2 the maximum term imposed and specified in the sentence as follows:

3 (a) For the class A felony of murder in the second degree, the minimum  
4 period of imprisonment shall be fixed by the court and shall [~~be not~~  
5 ~~less than five years but shall~~] not exceed nine years provided, however,  
6 that where the sentence is for an offense specified in subdivision one  
7 or two of section 125.25 of this chapter and the defendant was fourteen  
8 or fifteen years old at the time of such offense, the minimum period of  
9 imprisonment shall [~~be not less than seven and one-half years but shall~~]  
10 not exceed fifteen years;

11 (b) For the class A felony of arson in the first degree, or for the  
12 class A felony of kidnapping in the first degree, the minimum period of  
13 imprisonment shall be fixed by the court and shall [~~be not less than~~  
14 ~~four years but shall~~] not exceed six years; and

15 (c) For a class B, C or D felony, the minimum period of imprisonment  
16 shall be fixed by the court at one-third of the maximum term imposed.

17 § 11. Paragraph (c) of subdivision 1-a of section 70.15 of the penal  
18 law, as added by section 2 of part 00 of chapter 55 of the laws of 2019,  
19 is amended to read as follows:

20 (c) Any sentence for a misdemeanor conviction imposed prior to the  
21 effective date of this subdivision that is a definite sentence of impris-  
22 onment of one year, or three hundred sixty-five days, shall, by opera-  
23 tion of law, be changed to, mean and be interpreted and applied as a  
24 sentence of three hundred sixty-four days. In addition to any other  
25 right of a person to obtain a record of a proceeding against him or her,  
26 [~~a person so sentenced prior to the effective date of this subdivision~~  
27 ~~shall be entitled to obtain, from~~] the criminal court or the clerk ther-  
28 eof, shall not issue a certificate of conviction, as described in subdivi-  
29 sion one of section 60.60 of the criminal procedure law, setting forth  
30 [~~such sentence as the sentence specified in this paragraph~~] sentences of  
31 one year. The criminal court or clerk thereof shall only issue certif-  
32 icates of conviction setting forth sentences of three hundred sixty-four  
33 days or less. The court shall implement this provision within ninety  
34 days of the effective date of the chapter of the laws of two thousand  
35 twenty-three that amended this paragraph.

36 § 12. Paragraph (a) of subdivision 1 of section 70.20 of the penal  
37 law, as amended by section 124 of subpart B of part C of chapter 62 of  
38 the laws of 2011, is amended to read as follows:

39 (a) Indeterminate or determinate sentence. Except as provided in  
40 subdivision four of this section, when an indeterminate or determinate  
41 sentence of imprisonment is imposed, the court shall commit the defend-  
42 ant to the custody of the state department of corrections and community  
43 supervision for the term of his or her sentence and until released in  
44 accordance with the law[~~, provided, however, that a defendant sentenced~~  
45 ~~pursuant to subdivision seven of section 70.06 shall be committed to the~~  
46 ~~custody of the state department of corrections and community supervision~~  
47 ~~for immediate delivery to a reception center operated by the depart-~~  
48 ~~ment~~].

49 § 13. Section 70.25 of the penal law, subdivision 1 as amended and  
50 subdivision 5 as added by chapter 372 of the laws of 1981, paragraph (a)  
51 of subdivision 1, subdivision 2-b, and paragraphs (a) and (b) of subdivi-  
52 sion 5 as amended by chapter 3 of the laws of 1995, subdivision 2 as  
53 amended by chapter 56 of the laws of 1984, subdivision 2-a as amended by  
54 chapter 495 of the laws of 2009, subdivisions 2-c and 2-d as added by  
55 chapter 795 of the laws of 1986, subdivision 2-e as added by chapter 122  
56 of the laws of 1996, subdivision 2-f as added by chapter 1 of the laws

1 of 2000, subdivision 2-g as added by chapter 394 of the laws of 2005 and  
2 subdivision 4 as added by chapter 782 of the laws of 1975, is amended to  
3 read as follows:

4 § 70.25 Concurrent and consecutive terms of imprisonment.

5 1. Except as provided in [~~subdivisions~~] subdivision two [~~, two-a and~~  
6 ~~five~~] of this section, when multiple sentences of imprisonment are  
7 imposed on a person at the same time, or when a person who is subject to  
8 any undischarged term of imprisonment imposed at a previous time by a  
9 court of this state is sentenced to an additional term of imprisonment,  
10 the sentence or sentences imposed by the court shall run either concur-  
11 rently or consecutively with respect to each other and the undischarged  
12 term or terms in such manner as the court directs at the time of  
13 sentence. If the court does not specify the manner in which a sentence  
14 imposed by it is to run, the sentence shall run as follows:

15 (a) An indeterminate or determinate sentence shall run concurrently  
16 with all other terms; and

17 (b) A definite sentence shall run concurrently with [~~any sentence~~  
18 ~~imposed at the same time and shall be consecutive to any other term~~] all  
19 other terms.

20 2. When more than one sentence of imprisonment is imposed on a person  
21 for two or more offenses committed through a single act or omission, or  
22 through an act or omission which in itself constituted one of the  
23 offenses and also was a material element of the other, the sentences,  
24 except if one or more of such sentences is for a violation of section  
25 270.20 of this chapter, must run concurrently.

26 [~~2-a. When an indeterminate or determinate sentence of imprisonment is~~  
27 ~~imposed pursuant to section 70.04, 70.06, 70.07, 70.08, 70.10, subdivi-~~  
28 ~~sion three or four of section 70.70, subdivision three or four of~~  
29 ~~section 70.71 or subdivision five of section 70.80 of this article, or~~  
30 ~~is imposed for a class A-I felony pursuant to section 70.00 of this~~  
31 ~~article, and such person is subject to an undischarged indeterminate or~~  
32 ~~determinate sentence of imprisonment imposed prior to the date on which~~  
33 ~~the present crime was committed, the court must impose a sentence to run~~  
34 ~~consecutively with respect to such undischarged sentence.~~

35 [~~2-b. When a person is convicted of a violent felony offense committed~~  
36 ~~after arraignment and while released on recognizance or bail, but~~  
37 ~~committed prior to the imposition of sentence on a pending felony~~  
38 ~~charge, and if an indeterminate or determinate sentence of imprisonment~~  
39 ~~is imposed in each case, such sentences shall run consecutively.~~  
40 ~~Provided, however, that the court may, in the interest of justice, order~~  
41 ~~a sentence to run concurrently in a situation where consecutive~~  
42 ~~sentences are required by this subdivision if it finds either mitigating~~  
43 ~~circumstances that bear directly upon the manner in which the crime was~~  
44 ~~committed or, where the defendant was not the sole participant in the~~  
45 ~~crime, the defendant's participation was relatively minor although not~~  
46 ~~so minor as to constitute a defense to the prosecution. The defendant~~  
47 ~~and the district attorney shall have an opportunity to present relevant~~  
48 ~~information to assist the court in making this determination and the~~  
49 ~~court may, in its discretion, conduct a hearing with respect to any~~  
50 ~~issue bearing upon such determination. If the court determines that~~  
51 ~~consecutive sentences should not be ordered, it shall make a statement~~  
52 ~~on the record of the facts and circumstances upon which such determi-~~  
53 ~~nation is based.~~

54 [~~2-c. When a person is convicted of bail jumping in the second degree~~  
55 ~~as defined in section 215.56 or bail jumping in the first degree as~~  
56 ~~defined in section 215.57 committed after arraignment and while released~~



~~1 on recognizance or bail in connection with a pending indictment or  
2 information charging one or more felonies, at least one of which he is  
3 subsequently convicted, and if an indeterminate sentence of imprisonment  
4 is imposed in each case, such sentences shall run consecutively.  
5 Provided, however, that the court may, in the interest of justice, order  
6 a sentence to run concurrently in a situation where consecutive  
7 sentences are required by this subdivision if it finds mitigating  
8 circumstances that bear directly upon the manner in which the crime was  
9 committed. The defendant and the district attorney shall have an oppor-  
10 tunity to present relevant information to assist the court in making  
11 this determination and the court may, in its discretion, conduct a hear-  
12 ing with respect to any issue bearing upon such determination. If the  
13 court determines that consecutive sentences should not be ordered, it  
14 shall make a statement on the record of the facts and circumstances upon  
15 which such determination is based.~~

~~16 2-d. When a person is convicted of escape in the second degree as  
17 defined in section 205.10 or escape in the first degree as defined in  
18 section 205.15 committed after issuance of a securing order, as defined  
19 in subdivision five of section 500.10 of the criminal procedure law, in  
20 connection with a pending indictment or information charging one or more  
21 felonies, at least one of which he is subsequently convicted, and if an  
22 indeterminate sentence of imprisonment is imposed in each case, such  
23 sentences shall run consecutively. Provided, however, that the court  
24 may, in the interest of justice, order a sentence to run concurrently in  
25 a situation where consecutive sentences are required by this subdivision  
26 if it finds mitigating circumstances that bear directly upon the manner  
27 in which the crime was committed. The defendant and the district attor-  
28 ney shall have an opportunity to present relevant information to assist  
29 the court in making this determination and the court may, in its  
30 discretion, conduct a hearing with respect to any issue bearing upon  
31 such determination. If the court determines that consecutive sentences  
32 should not be ordered, it shall make a statement on the record of the  
33 facts and circumstances upon which such determination is based.~~

~~34 2-e.]~~ 2-a. Whenever a person is convicted of course of sexual conduct  
35 against a child in the first degree as defined in section 130.75 or  
36 course of sexual conduct against a child in the second degree as defined  
37 in section 130.80 and any other crime under article one hundred thirty  
38 committed against the same child and within the period charged under  
39 section 130.75 or 130.80, the sentences must run concurrently.

~~40 [2-f.]~~ 2-b. Whenever a person is convicted of facilitating a sex  
41 offense with a controlled substance as defined in section 130.90 of this  
42 chapter, the sentence imposed by the court for such offense may be  
43 ordered to run consecutively to any sentence imposed upon conviction of  
44 an offense defined in article one hundred thirty of this chapter arising  
45 from the same criminal transaction.

~~46 [2-g.]~~ 2-c. Whenever a person is convicted of unlawful manufacture of  
47 methamphetamine in the third degree as defined in section 220.73 of this  
48 chapter, unlawful manufacture of methamphetamine in the second degree as  
49 defined in section 220.74 of this chapter, or unlawful manufacture of  
50 methamphetamine in the first degree as defined in section 220.75 of this  
51 chapter, or any attempt to commit any of such offenses, and such person  
52 is also convicted, with respect to such unlawful methamphetamine labora-  
53 tory, of unlawful disposal of methamphetamine laboratory material as  
54 defined in section 220.76 of this chapter, the sentences must run  
55 concurrently.

1 3. Where consecutive definite sentences of imprisonment are not  
2 prohibited by subdivision two of this section and are imposed on a  
3 person for offenses which were committed as parts of a single incident  
4 or transaction, the aggregate of the terms of such sentences shall not  
5 exceed one year.

6 4. When a person, who is subject to any undischarged term of imprison-  
7 ment imposed at a previous time by a court of another jurisdiction, is  
8 sentenced to an additional term or terms of imprisonment by a court of  
9 this state, the sentence or sentences imposed by the court of this  
10 state, subject to the provisions of subdivisions one, two and three of  
11 this section, shall run either concurrently or consecutively with  
12 respect to such undischarged term in such manner as the court directs at  
13 the time of sentence. If the court of this state does not specify the  
14 manner in which a sentence imposed by it is to run, the sentence or  
15 sentences shall run [~~consecutively~~] **concurrently**.

16 [~~5. (a) Except as provided in paragraph (c) of this subdivision, when  
17 a person is convicted of assault in the second degree, as defined in  
18 subdivision seven of section 120.05 of this chapter, any definite, inde-  
19 terminate or determinate term of imprisonment which may be imposed as a  
20 sentence upon such conviction shall run consecutively to any undisc-  
21 charged term of imprisonment to which the defendant was subject and for  
22 which he was confined at the time of the assault.~~

23 [~~(b) Except as provided in paragraph (c) of this subdivision, when a  
24 person is convicted of assault in the second degree, as defined in  
25 subdivision seven of section 120.05 of this chapter, any definite, inde-  
26 terminate or determinate term of imprisonment which may be imposed as a  
27 sentence upon such conviction shall run consecutively to any term of  
28 imprisonment which was previously imposed or which may be prospectively  
29 imposed where the person was confined within a detention facility at the  
30 time of the assault upon a charge which culminated in such sentence of  
31 imprisonment.~~

32 [~~(c) Notwithstanding the provisions of paragraphs (a) and (b) of this  
33 subdivision, a term of imprisonment imposed upon a conviction to assault  
34 in the second degree as defined in subdivision seven of section 120.05  
35 of this chapter may run concurrently to any other term of imprisonment,  
36 in the interest of justice, provided the court sets forth in the record  
37 its reasons for imposing a concurrent sentence. Nothing in this section  
38 shall require the imposition of a sentence of imprisonment where it is  
39 not otherwise required by law.]~~

40 § 14. Paragraphs (a) and (f) of subdivision 1 and the opening para-  
41 graph of subdivision 3 of section 70.30 of the penal law, paragraph (a)  
42 of subdivision 1 as amended by chapter 3 of the laws of 1995, paragraph  
43 (f) of subdivision 1 as added by chapter 481 of the laws of 1978 and as  
44 relettered by chapter 3 of the laws of 1995, and the opening paragraph  
45 of subdivision 3 as amended by chapter 1 of the laws of 1998, are  
46 amended to read as follows:

47 (a) If the sentences run concurrently, the time served under imprison-  
48 ment on any of the sentences shall be credited against the minimum **and**  
49 **maximum** periods of all the concurrent indeterminate sentences and  
50 against the terms of all the concurrent determinate sentences. The maxi-  
51 mum term or terms of the indeterminate sentences and the term or terms  
52 of the determinate sentences shall merge in and be satisfied by  
53 discharge of the term which has the longest unexpired time to run;

54 (f) The aggregate maximum term of consecutive sentences imposed upon a  
55 juvenile offender for two or more crimes, not including a class A felo-  
56 ny, committed before he has reached the age of sixteen, shall, if it

1 exceeds ten years, be deemed to be ten years. If consecutive indetermi-  
2 nate sentences imposed upon a juvenile offender include a sentence for  
3 the class A felony of arson in the first degree or for the class A felo-  
4 ny of kidnapping in the first degree, then the aggregate maximum term of  
5 such sentences shall, if it exceeds fifteen years, be deemed to be  
6 fifteen years. Where the aggregate maximum term of two or more consec-  
7 utive sentences is reduced by a calculation made pursuant to this para-  
8 graph, the aggregate minimum period of imprisonment, if it exceeds  
9 [~~one-half~~] one-third of the aggregate maximum term as so reduced, shall  
10 be deemed to be [~~one-half~~] one-third of the aggregate maximum term as so  
11 reduced.

12 The term of a definite sentence, a determinate sentence, or the maxi-  
13 mum term of an indeterminate sentence imposed on a person shall be cred-  
14 ited with and diminished by the amount of time the person spent in  
15 custody prior to the commencement of such sentence as a result of [~~the~~]  
16 any pending charge [~~that culminated in the sentence~~]. In the case of an  
17 indeterminate sentence, if the minimum period of imprisonment has been  
18 fixed by the court or by the board of parole, the credit shall also be  
19 applied against the minimum period. The credit herein provided shall be  
20 calculated from the date custody under the charge commenced to the date  
21 the sentence commences and shall not include any time that is credited  
22 against the term or maximum term of any previously imposed sentence or  
23 period of post-release supervision to which the person is subject.  
24 Provided, however, that when a person is subject to an undischarged term  
25 of imprisonment or post-release supervision following parole release,  
26 presumptive release or conditional release from an indeterminate  
27 sentence, or conditional release or maximum expiration of a determinate  
28 sentence, and is held in pretrial custody in a local correctional facil-  
29 ity on a new charge or charges that culminate in an indeterminate or  
30 determinate term of imprisonment, the time spent in pre-trial custody in  
31 a local correctional facility on such charge or charges, from the date  
32 custody commenced to the date of commencement of the subsequently  
33 imposed indeterminate or determinate sentence, shall be credited as jail  
34 time; and provided further that when jail time is credited in such  
35 manner the time spent in pre-trial custody shall not be credited to the  
36 previously imposed sentence to which the person is subject. Where the  
37 charge or charges culminate in more than one sentence, the credit shall  
38 be applied as follows:

39 § 15. Section 10 of chapter 339 of the laws of 1972, amending the  
40 correction law and the penal law relating to inmate work release,  
41 furlough and leave, as amended by section 6 of part A of chapter 55 of  
42 the laws of 2023, is amended to read as follows:

43 § 10. This act shall take effect 30 days after it shall have become a  
44 law [~~and~~]; provided that sections one through eight of this act shall  
45 remain in effect until September 1, 2025[~~7~~]; and provided further that  
46 the commissioner of correctional services shall report each January  
47 first, and July first, to the chairman of the senate crime victims,  
48 crime and correction committee, the senate codes committee, the assembly  
49 correction committee, and the assembly codes committee, the number of  
50 eligible [~~inmates~~] incarcerated individuals in each facility under the  
51 custody and control of the commissioner who have applied for partic-  
52 ipation in any program offered under the provisions of work release,  
53 furlough, or leave, and the number of such [~~inmates~~] incarcerated indi-  
54 viduals who have been approved for participation.

1 § 16. Section 70.35 of the penal law, as amended by section 127-a of  
2 subpart B of part C of chapter 62 of the laws of 2011, is amended to  
3 read as follows:

4 § 70.35 Merger of certain definite and indeterminate or determinate  
5 sentences.

6 The service of an indeterminate or determinate sentence of imprison-  
7 ment shall satisfy any definite sentence of imprisonment imposed on a  
8 person for an offense committed prior to the time the indeterminate or  
9 determinate sentence was imposed, [~~except as provided in paragraph (b)  
10 of subdivision five of section 70.25 of this article~~]. A person who is  
11 serving a definite sentence at the time an indeterminate or determinate  
12 sentence is imposed shall be delivered to the custody of the state  
13 department of corrections and community supervision to commence service  
14 of the indeterminate or determinate sentence immediately [~~unless the  
15 person is serving a definite sentence pursuant to paragraph (b) of  
16 subdivision five of section 70.25 of this article~~]. In any case where  
17 the indeterminate or determinate sentence is revoked or vacated, the  
18 person shall receive credit against the definite sentence for each day  
19 spent in the custody of the state department of corrections and communi-  
20 ty supervision.

21 § 17. Paragraph a of subdivision 6 of section 76 of chapter 435 of the  
22 laws of 1997, amending the military law and other laws relating to vari-  
23 ous provisions, as amended by section 13 of part A of chapter 55 of the  
24 laws of 2023, is amended to read as follows:

25 a. sections forty-three through [~~forty-five~~] forty-four of this act  
26 shall expire and be deemed repealed on September 1, 2025;

27 § 18. Subdivisions (f), (g) and (h) of section 15 of part E of chapter  
28 62 of the laws of 2003, amending the correction law and other laws  
29 relating to various provisions, are amended to read as follows:

30 (f) the amendments made to subdivision 2 of section 259-c of the exec-  
31 utive law made by section seven of this act shall not affect the expira-  
32 tion of such subdivision and shall be deemed to expire therewith; and

33 (g) the amendments to paragraph (a) of subdivision 2 and subparagraph  
34 (i) of paragraph (a) and paragraph (d) of subdivision 3 of section 259-i  
35 of the executive law made by section eleven of this act shall not affect  
36 the expiration of such paragraph (a) of subdivision 2, such subparagraph  
37 (i) of paragraph (a) and such paragraph (d) of subdivision 3 and shall  
38 be deemed to expire therewith[~~, and~~

39 [~~(h) paragraph (c) of subdivision 1 of section 70.40 of the penal law  
40 as added by section thirteen of this act shall expire and be deemed  
41 repealed on the same date as subdivision 6 of section 76 of chapter 435  
42 of the laws of 1997, as amended~~].

43 § 19. Subdivisions 1, 2, 2-a and 3 of section 70.45 of the penal law,  
44 subdivision 1 as amended by chapter 141 of the laws of 2008, subdivision  
45 2 as amended and subdivision 2-a as added by chapter 7 of the laws of  
46 2007, paragraphs (a), (b), (c), (d), (e) and (f) of subdivision 2 as  
47 amended by chapter 31 of the laws of 2019, and subdivision 3 as added by  
48 chapter 1 of the laws of 1998, are amended to read as follows:

49 1. In general. When a court imposes a determinate sentence it shall in  
50 each case state not only the term of imprisonment, but also an addi-  
51 tional period of post-release supervision as determined pursuant to this  
52 article. Such period shall commence as provided in subdivision five of  
53 this section and a violation of any condition of supervision occurring  
54 at any time during such period of post-release supervision shall subject  
55 the defendant to a further period of imprisonment up to the balance of  
56 the remaining period of post-release supervision, not to exceed five

1 years; provided, however, that a defendant serving a term of post-re-  
 2 lease supervision for a conviction of a felony sex offense, as defined  
 3 in section 70.80 of this article, may be subject to a further period of  
 4 imprisonment up to the balance of the remaining period of post-release  
 5 supervision. Notwithstanding any other provision of law to the contra-  
 6 ry, no person serving a period of post-release supervision shall be  
 7 confined in a correctional facility, including a residential treatment  
 8 facility as defined in subdivision six of section two of the correction  
 9 law, except following a revocation hearing as set forth in section two  
 10 hundred fifty-nine-i of the executive law. Such maximum limits shall not  
 11 preclude a longer period of further imprisonment for a violation where  
 12 the defendant is subject to indeterminate and determinate sentences.

13 2. Period of post-release supervision for other than felony sex  
 14 offenses. The period of post-release supervision for a determinate  
 15 sentence, other than a determinate sentence imposed for a felony sex  
 16 offense as defined in paragraph (a) of subdivision one of section 70.80  
 17 of this article, shall ~~[be]~~ not exceed five years except that:

18 (a) such period shall ~~[be]~~ not exceed one year whenever a determinate  
 19 sentence of imprisonment is imposed pursuant to subdivision two of  
 20 section 70.70 of this article or subdivision nine of section 60.12 of  
 21 this title upon a conviction of a class D or class E felony offense;

22 (b) such period shall be not ~~[less than one year nor]~~ more than two  
 23 years whenever a determinate sentence of imprisonment is imposed pursu-  
 24 ant to subdivision two of section 70.70 of this article or subdivision  
 25 nine of section 60.12 of this title upon a conviction of a class B or  
 26 class C felony offense;

27 (c) such period shall be not ~~[less than one year nor]~~ more than two  
 28 years whenever a determinate sentence of imprisonment is imposed pursu-  
 29 ant to ~~[subdivision three or four of section 70.70 of this article upon~~  
 30 ~~conviction of a class D or class E felony offense or]~~ subdivision ten of  
 31 section 60.12 of this title;

32 (d) such period shall be not ~~[less than one and one half years nor]~~  
 33 more than three years whenever a determinate sentence of imprisonment is  
 34 imposed pursuant to ~~[subdivision three or four of section 70.70 of this~~  
 35 ~~article upon conviction of a class B felony or class C felony offense~~  
 36 ~~or]~~ subdivision eleven of section 60.12 of this title;

37 (e) such period shall be not ~~[less than one and one half years nor]~~  
 38 more than three years whenever a determinate sentence of imprisonment is  
 39 imposed pursuant to subdivision ~~[three]~~ two of section 70.02 of this  
 40 article or subdivision two or eight of section 60.12 of this title upon  
 41 a conviction of a class D or class E violent felony offense or subdivi-  
 42 sion four, five, six, or seven of section 60.12 of this title;

43 (f) such period shall be not ~~[less than two and one half years nor]~~  
 44 more than five years whenever a determinate sentence of imprisonment is  
 45 imposed pursuant to subdivision ~~[three]~~ two of section 70.02 of this  
 46 article or subdivision two or eight of section 60.12 of this title upon  
 47 a conviction of a class B or class C violent felony offense.

48 2-a. Periods of post-release supervision for felony sex offenses. The  
 49 period of post-release supervision for a determinate sentence imposed  
 50 for a felony sex offense as defined in paragraph (a) of subdivision one  
 51 of section 70.80 of this article shall be as follows:

52 (a) not ~~[less than three years nor]~~ more than ten years whenever a  
 53 determinate sentence of imprisonment is imposed pursuant to subdivision  
 54 four of section 70.80 of this article upon a conviction of a class D or  
 55 class E felony sex offense;

1 (b) not [~~less than five years nor~~] more than fifteen years whenever a  
2 determinate sentence of imprisonment is imposed pursuant to subdivision  
3 four of section 70.80 of this article upon a conviction of a class C  
4 felony sex offense;

5 (c) not [~~less than five years nor~~] more than twenty years whenever a  
6 determinate sentence of imprisonment is imposed pursuant to subdivision  
7 four of section 70.80 of this article upon a conviction of a class B  
8 felony sex offense;

9 (d) not [~~less than three years nor~~] more than ten years whenever a  
10 determinate sentence is imposed pursuant to subdivision [~~three~~] two of  
11 section 70.02 of this article upon a conviction of a class D or class E  
12 violent felony sex offense as defined in paragraph (b) of subdivision  
13 one of section 70.80 of this article;

14 (e) not [~~less than five years nor~~] more than fifteen years whenever a  
15 determinate sentence is imposed pursuant to subdivision [~~three~~] two of  
16 section 70.02 of this article upon a conviction of a class C violent  
17 felony sex offense as defined in section 70.80 of this article;

18 (f) not [~~less than five years nor~~] more than twenty years whenever a  
19 determinate sentence is imposed pursuant to subdivision [~~three~~] two of  
20 section 70.02 of this article upon a conviction of a class B violent  
21 felony sex offense as defined in section 70.80 of this article;

22 (g) not [~~less than five years nor~~] more than fifteen years whenever a  
23 determinate sentence of imprisonment is imposed pursuant to [~~either~~  
24 ~~section 70.04, section 70.06, or subdivision five of~~] section 70.80 of  
25 this article upon a conviction of a class D or class E violent or non-  
26 violent felony sex offense as defined in section 70.80 of this article;

27 (h) not [~~less than seven years nor~~] more than twenty years whenever a  
28 determinate sentence of imprisonment is imposed pursuant to [~~either~~  
29 ~~section 70.04, section 70.06, or subdivision five of~~] section 70.80 of  
30 this article upon a conviction of a class C violent or non-violent felo-  
31 ny sex offense as defined in section 70.80 of this article; and

32 (i) such period shall be not [~~less than ten years nor~~] more than twenty-  
33 ty-five years whenever a determinate sentence of imprisonment is imposed  
34 pursuant to [~~either section 70.04, section 70.06, or subdivision five~~  
35 ~~of~~] section 70.80 of this article upon a conviction of a class B violent  
36 or non-violent felony sex offense as defined in section 70.80 of this  
37 article[~~, and~~

38 [~~(j) such period shall be not less than ten years nor more than twenty~~  
39 ~~years whenever any determinate sentence of imprisonment is imposed~~  
40 ~~pursuant to subdivision four of section 70.07 of this article].~~

41 3. Conditions of post-release supervision. The board of parole shall  
42 establish and impose conditions of post-release supervision in the same  
43 manner and to the same extent as it may establish and impose conditions  
44 in accordance with the executive law upon persons who are granted parole  
45 or conditional release[~~, provided that, notwithstanding any other~~  
46 ~~provision of law, the board of parole may impose as a condition of post-~~  
47 ~~release supervision that for a period not exceeding six months imme-~~  
48 ~~diately following release from the underlying term of imprisonment the~~  
49 ~~person be transferred to and participate in the programs of a residen-~~  
50 ~~tial treatment facility as that term is defined in subdivision six of~~  
51 ~~section two of the correction law]. Upon release from the underlying  
52 term of imprisonment, the person shall be furnished with a written  
53 statement setting forth the conditions of post-release supervision in  
54 sufficient detail to provide for the person's conduct and supervision.~~

55 § 20. Subdivisions 1 and 2 of section 70.70 of the penal law, as added  
56 by chapter 738 of the laws of 2004, paragraphs (a) and (b) of subdivi-

1 sion 1 and paragraphs (b) and (c) of subdivision 2 as amended by chapter  
2 92 of the laws of 2021, subparagraph (i) of paragraph (a) of subdivision  
3 2 as amended by section 21 and paragraph (d) of subdivision 2 as added  
4 by section 23 of part AAA of chapter 56 of the laws of 2009, are amended  
5 to read as follows:

6 1. For the purposes of this section, [~~the following terms shall mean:~~  
7 ~~(a) "Felony"~~] "felony drug offender" means a defendant who stands  
8 convicted of any felony, defined in article two hundred twenty or two  
9 hundred twenty-two of this chapter other than a class A felony.

10 [~~(b) "Second felony drug offender" means a second felony offender as~~  
11 ~~that term is defined in subdivision one of section 70.06 of this arti-~~  
12 ~~cle, who stands convicted of any felony, defined in article two hundred~~  
13 ~~twenty or two hundred twenty two of this chapter other than a class A~~  
14 ~~felony.~~

15 ~~(c) "Violent felony" shall have the same meaning as that term is~~  
16 ~~defined in subdivision one of section 70.02 of this article.]~~

17 2. [~~Except as provided in subdivision three or four of this section,~~  
18 ~~a)~~ (a) Term of sentence. The term of sentence [~~of imprisonment~~]  
19 for a felony drug offender shall be fixed by the court. The court may impose a  
20 definite sentence of imprisonment and fix a term of less than one year.  
21 If a court finds that a sentence of imprisonment of more than one year  
22 is the minimum term of imprisonment necessary to achieve the goals of  
23 sentencing, the court shall impose a determinate sentence as provided in  
24 paragraph [~~(a)~~] (b) of this subdivision.

25 [~~(a)~~] (b) Term of determinate sentence. [~~Except as provided in para-~~  
26 ~~graph (b) or (c) of this subdivision, the court shall impose a~~] A deter-  
27 minate term of imprisonment [~~upon a felony drug offender which~~] shall be  
28 imposed by the court in whole or half years, which shall include as a  
29 part thereof a period of post-release supervision in accordance with  
30 section 70.45 of this article. The terms of imprisonment authorized for  
31 such determinate sentences are as follows:

32 (i) for a class B felony, the term shall [~~be at least one year and~~  
33 ~~shall~~] not exceed nine years[, ~~except that for the class B felony of~~  
34 ~~criminal sale of a controlled substance in or near school grounds as~~  
35 ~~defined in subdivision two of section 220.44 of this chapter or on a~~  
36 ~~school bus as defined in subdivision seventeen of section 220.00 of this~~  
37 ~~chapter or criminal sale of a controlled substance to a child as defined~~  
38 ~~in section 220.48 of this chapter, the term shall be at least two years~~  
39 ~~and shall not exceed nine years];~~

40 (ii) for a class C felony, the term shall [~~be at least one year and~~  
41 ~~shall~~] not exceed five and one-half years;

42 (iii) for a class D felony, the term shall [~~be at least one year and~~  
43 ~~shall~~] not exceed two and one-half years; and

44 (iv) for a class E felony, the term shall [~~be at least one year and~~  
45 ~~shall~~] not exceed one and one-half years.

46 [~~(b) Probation. Notwithstanding any other provision of law, the court~~  
47 ~~may sentence a defendant convicted of a class B, class C, class D or~~  
48 ~~class E felony offense defined in article two hundred twenty or two~~  
49 ~~hundred twenty-two of this chapter to probation in accordance with the~~  
50 ~~provisions of sections 60.04 and 65.00 of this chapter.~~

51 ~~(c) Alternative definite sentence for class B, class C, class D, and~~  
52 ~~class E felonies. If the court, having regard to the nature and circum-~~  
53 ~~stances of the crime and to the history and character of the defendant,~~  
54 ~~is of the opinion that a sentence of imprisonment is necessary but that~~  
55 ~~it would be unduly harsh to impose a determinate sentence upon a person~~  
56 ~~convicted of a class C, class D or class E felony offense defined in~~

~~article two hundred twenty or two hundred twenty two of this chapter, or a class B felony defined in article two hundred twenty of this chapter, other than the class B felony defined in section 220.48 of this chapter, as added by a chapter of the laws of two thousand nine the court may impose a definite sentence of imprisonment and fix a term of one year or less.~~

~~(d) The court may direct that a determinate sentence imposed on a defendant convicted of a class B felony, other than the class B felony defined in section 220.48 of this chapter, pursuant to this subdivision be executed as a sentence of parole supervision in accordance with section 410.91 of the criminal procedure law.]~~

§ 21. Subdivisions 3 and 4 of section 70.70 of the penal law are REPEALED.

§ 22. Section 70.71 of the penal law, as added by chapter 738 of the laws of 2004, paragraph (a) of subdivision 2 as amended and subdivision 5 as added by section 26 of part AAA of chapter 56 of the laws of 2009, is amended to read as follows:

§ 70.71 Sentence of imprisonment for a class A felony drug offender.

1. For the purposes of this section, the following terms shall mean:

(a) "Felony drug offender" means a defendant who stands convicted of any class A felony as defined in article two hundred twenty of this chapter.

~~(b) ["Second felony drug offender" means a second felony offender as that term is defined in subdivision one of section 70.06 of this article, who stands convicted of and is to be sentenced for any class A felony as defined in article two hundred twenty of this chapter.~~

~~(c)] "Violent felony offense" shall have the same meaning as that term is defined in subdivision one of section 70.02 of this article.~~

2. Sentence of imprisonment for a first felony drug offender.

(a) Applicability. Except as provided in subdivision three~~, four or five~~ of this section, this subdivision shall apply to a person convicted of a class A felony as defined in article two hundred twenty of this chapter.

(b) Authorized sentence. The term of sentence shall be fixed by the court. The court may impose a definite sentence of imprisonment and fix a term of less than one year. If a court finds that a sentence of imprisonment is the minimum term of imprisonment necessary to achieve the goals of sentencing, the court shall impose a determinate term of imprisonment which shall be imposed by the court in whole or half years and which shall include as a part thereof a period of post-release supervision in accordance with section 70.45 of this article. The terms authorized for such determinate sentences are as follows:

(i) for a class A-I felony, the term shall ~~[be at least eight years and shall]~~ not exceed twenty years;

(ii) for a class A-II felony, the term shall ~~[be at least three years and shall]~~ not exceed ten years.

~~[(c) Lifetime probation. Notwithstanding any other provision of law, the court may sentence a defendant convicted of a class A-II felony defined in article two hundred twenty of this chapter to lifetime probation in accordance with the provisions of section 65.00 of this chapter.]~~

3. ~~[Sentence of imprisonment for a second felony drug offender.~~

~~(a) Applicability. This subdivision shall apply to a second felony drug offender whose prior felony conviction or convictions did not include one or more violent felony offenses.~~



~~(b) Authorized sentence. When the court has found pursuant to the provisions of section 400.21 of the criminal procedure law that a defendant is a second felony drug offender who stands convicted of a class A felony as defined in article two hundred twenty or two hundred twenty-one of this chapter, the court shall impose a determinate sentence of imprisonment. Such determinate sentence shall include as a part thereof a period of post release supervision in accordance with section 70.45 of this article. Such determinate sentence shall be imposed by the court in whole or half years as follows:~~

~~(i) for a class A-I felony, the term shall be at least twelve years and shall not exceed twenty four years;~~

~~(ii) for a class A-II felony, the term shall be at least six years and shall not exceed fourteen years.~~

~~(c) Lifetime probation. Notwithstanding any other provision of law, the court may sentence a defendant convicted of a class A-II felony defined in article two hundred twenty of this chapter to lifetime probation in accordance with the provisions of section 65.00 of this chapter.~~

~~4. Sentence of imprisonment for a second felony drug offender previously convicted of a violent felony offense.~~

~~(a) Applicability. This subdivision shall apply to a second felony drug offender whose prior felony conviction was a violent felony.~~

~~(b) Authorized sentence. When the court has found pursuant to the provisions of section 400.21 of the criminal procedure law that a defendant is a second felony drug offender whose prior felony conviction was a violent felony, who stands convicted of a class A felony as defined in article two hundred twenty or two hundred twenty-one of this chapter, the court shall impose a determinate sentence of imprisonment. Such determinate sentence shall include as a part thereof a period of post-release supervision in accordance with section 70.45 of this article. Such determinate sentence shall be imposed by the court in whole or half years as follows:~~

~~(i) for a class A-I felony, the term shall be at least fifteen years and shall not exceed thirty years;~~

~~(ii) for a class A-II felony, the term shall be at least eight years and shall not exceed seventeen years.~~

~~5.] Sentence of imprisonment for operating as a major trafficker.~~

~~(a) Applicability. This subdivision shall apply to a person convicted of the class A-I felony of operating as a major trafficker as defined in section 220.77 of this chapter.~~

~~(b) Authorized sentence. [~~Except as provided in paragraph (c) of this subdivision, the~~ The term of sentence shall be fixed by the court. The court may impose a definite sentence of imprisonment and fix a term of less than one year. If a court finds that a sentence of imprisonment is the minimum term of imprisonment necessary to achieve the goals of sentencing, the court shall impose an indeterminate term of imprisonment for an A-I felony, in accordance with the provisions of section 70.00 of this article.~~

~~[(c) Alternative determinate sentence. If a defendant stands convicted of violating section 220.77 of this chapter, and if the court, having regard to the nature and circumstances of the crime and the history and character of the defendant, is of the opinion that a sentence of imprisonment is necessary but that it would be unduly harsh to impose the indeterminate sentence for a class A-I felony specified under section 70.00 of this article, the court may instead impose the determinate sentence of imprisonment authorized by clause (i) of subparagraph (b) of~~

~~1 subdivision two of this section for a class A-I drug felony, in such  
2 case, the reasons for the court's opinion shall be set forth on the  
3 record.]~~

4 § 23. Section 70.80 of the penal law, as added by chapter 7 of the  
5 laws of 2007, paragraph (a) of subdivision 1 as amended by chapter 368  
6 of the laws of 2015, is amended to read as follows:

7 § 70.80 Sentences of imprisonment for conviction of a felony sex  
8 offense.

9 1. Definitions. (a) For the purposes of this section, a "felony sex  
10 offense" means a conviction of any felony defined in article one hundred  
11 thirty of this chapter, including a sexually motivated felony, or  
12 patronizing a person for prostitution in the first degree as defined in  
13 section 230.06 of this chapter, patronizing a person for prostitution in  
14 the second degree as defined in section 230.05 of this chapter, aggra-  
15 vated patronizing a minor for prostitution in the third degree as  
16 defined in section 230.11 of this chapter, aggravated patronizing a  
17 minor for prostitution in the second degree as defined in section 230.12  
18 of this chapter, aggravated patronizing a minor for prostitution in the  
19 first degree as defined in section 230.13 of this chapter, incest in the  
20 second degree as defined in section 255.26 of this chapter, or incest in  
21 the first degree as defined in section 255.27 of this chapter, or a  
22 felony attempt or conspiracy to commit any of the above.

23 (b) A felony sex offense shall be deemed a "violent felony sex  
24 offense" if it is for an offense defined as a violent felony offense in  
25 section 70.02 of this article, or for a sexually motivated felony as  
26 defined in section 130.91 of this chapter where the specified offense is  
27 a violent felony offense as defined in section 70.02 of this article.

28 (c) ~~[For the purposes of this section, a "predicate felony sex offen-  
29 der" means a person who stands convicted of any felony sex offense as  
30 defined in paragraph (a) of this subdivision, other than a class A-I  
31 felony, after having previously been subjected to one or more predicate  
32 felony convictions as defined in subdivision one of section 70.06 or  
33 subdivision one of section 70.04 of this article.]~~

34 (d) For purposes of this section, a "violent felony offense" is any  
35 felony defined in subdivision one of section 70.02 of this article, and  
36 a "non-violent felony offense" is any felony not defined therein.

37 2. In imposing a sentence within the authorized statutory range for  
38 any felony sex offense, the court may consider all relevant factors set  
39 forth in section 1.05 of this chapter, and in particular, may consider  
40 the defendant's criminal history, if any, including any history of sex  
41 offenses; any mental illness or mental abnormality from which the  
42 defendant may suffer; the defendant's ability or inability to control  
43 his sexual behavior; and, if the defendant has difficulty controlling  
44 such behavior, the extent to which that difficulty may pose a threat to  
45 society.

46 3. Except as provided by subdivision four, five, six[7] ~~or~~ seven [~~or~~  
47 ~~eight~~] of this section, or when a defendant is being sentenced for a  
48 conviction of the class A-II felonies of predatory sexual assault and  
49 predatory sexual assault against a child as defined in sections 130.95  
50 and 130.96 of this chapter, or for any class A-I sexually motivated  
51 felony for which a life sentence or a life without parole sentence  
52 ~~[must] may~~ be imposed, a sentence imposed upon a defendant convicted of  
53 a felony sex offense shall be fixed by the court. The court may impose  
54 a definite sentence of imprisonment and fix a term of less than one  
55 year. If a court finds that a sentence of imprisonment is the minimum  
56 term of imprisonment necessary to achieve the goals of sentencing, the

1 ~~court shall impose~~ a determinate sentence. The determinate sentence  
2 shall be imposed by the court in whole or half years, and shall include  
3 as a part thereof a period of post-release supervision in accordance  
4 with subdivision two-a of section 70.45 of this article. [~~Persons eligi-~~  
5 ~~ble for sentencing under section 70.07 of this article governing second~~  
6 ~~child sexual assault felonies shall be sentenced under such section and~~  
7 ~~paragraph (j) of subdivision two-a of section 70.45 of this article.~~]

8 4. [~~(a)~~] Sentences of imprisonment for felony sex offenses. Except as  
9 provided in subdivision five, six[, ] or seven[, ~~or eight~~] of this  
10 section, the term of the determinate sentence must be fixed by the court  
11 as follows:

12 [~~(i)~~] (a) for a class B felony, the term must [~~be at least five years~~  
13 ~~and must~~] not exceed twenty-five years;

14 [~~(ii)~~] (b) for a class C felony, the term must [~~be at least three and~~  
15 ~~one-half years and must~~] not exceed fifteen years;

16 [~~(iii)~~] (c) for a class D felony, the term must [~~be at least two years~~  
17 ~~and must~~] not exceed seven years; and

18 [~~(iv)~~] (d) for a class E felony, the term must [~~be at least one and~~  
19 ~~one-half years and must~~] not exceed four years.

20 [~~(b) Probation. The court may sentence a defendant convicted of a~~  
21 ~~class D or class E felony sex offense to probation in accordance with~~  
22 ~~the provisions of section 65.00 of this title.~~

23 [~~(c) Alternative definite sentences for class D and class E felony sex~~  
24 ~~offenses. If the court, having regard to the nature and circumstances of~~  
25 ~~the crime and to the history and character of the defendant, is of the~~  
26 ~~opinion that a sentence of imprisonment is necessary but that it would~~  
27 ~~be unduly harsh to impose a determinate sentence upon a person convicted~~  
28 ~~of a class D or class E felony sex offense, the court may impose a defi-~~  
29 ~~nite sentence of imprisonment and fix a term of one year or less.~~

30 5. ~~Sentence of imprisonment for a predicate felony sex offender. (a)~~  
31 ~~Applicability. This subdivision shall apply to a predicate felony sex~~  
32 ~~offender who stands convicted of a non-violent felony sex offense and~~  
33 ~~who was previously convicted of one or more felonies.~~

34 [~~(b) Non-violent predicate felony offense. When the court has found,~~  
35 ~~pursuant to the provisions of the criminal procedure law, that a person~~  
36 ~~is a predicate felony sex offender, and the person's predicate~~  
37 ~~conviction was for a non-violent felony offense, the court must impose a~~  
38 ~~determinate sentence of imprisonment, the term of which must be fixed by~~  
39 ~~the court as follows:~~

40 [~~(i) for a class B felony, the term must be at least eight years and~~  
41 ~~must not exceed twenty-five years;~~

42 [~~(ii) for a class C felony, the term must be at least five years and~~  
43 ~~must not exceed fifteen years;~~

44 [~~(iii) for a class D felony, the term must be at least three years and~~  
45 ~~must not exceed seven years;~~ and

46 [~~(iv) for a class E felony, the term must be at least two years and~~  
47 ~~must not exceed four years.~~

48 [~~(c) Violent predicate felony offense. When the court has found, pursu-~~  
49 ~~ant to the provisions of the criminal procedure law, that a person is a~~  
50 ~~predicate felony sex offender, and the person's predicate conviction was~~  
51 ~~for a violent felony offense, the court must impose a determinate~~  
52 ~~sentence of imprisonment, the term of which must be fixed by the court~~  
53 ~~as follows:~~

54 [~~(i) for a class B felony, the term must be at least nine years and~~  
55 ~~must not exceed twenty-five years;~~

1 ~~(ii) for a class C felony, the term must be at least six years and~~  
2 ~~must not exceed fifteen years;~~

3 ~~(iii) for a class D felony, the term must be at least four years and~~  
4 ~~must not exceed seven years; and~~

5 ~~(iv) for a class E felony, the term must be at least two and one-half~~  
6 ~~years and must not exceed four years.~~

7 ~~(d) A defendant who stands convicted of a non-violent felony sex~~  
8 ~~offense, other than a class A-I or class A-II felony, who is adjudicated~~  
9 ~~a persistent felony offender under section 70.10 of this article, shall~~  
10 ~~be sentenced pursuant to the provisions of section 70.10 or pursuant to~~  
11 ~~this subdivision.~~

12 ~~6.]~~ 5. Sentence of imprisonment for a violent felony sex offense.  
13 Except as provided in subdivisions six and seven [~~and eight~~] of this  
14 section, a defendant who stands convicted of a violent felony sex  
15 offense must be sentenced pursuant to the provisions of section 70.02[~~,~~  
16 ~~section 70.04, subdivision six of section 70.06, section 70.08, or~~  
17 ~~section 70.10]~~ of this article, as applicable.

18 [~~7.]~~ 6. Sentence for a class A felony sex offense. When a person  
19 stands convicted of a sexually motivated felony pursuant to section  
20 130.91 of this chapter and the specified offense is a class A felony,  
21 the court must sentence the defendant in accordance with the provisions  
22 of:

23 (a) section 60.06 of this [~~chapter~~] title and section 70.00 of this  
24 article, as applicable, if such offense is a class A-I felony; and

25 (b) section 70.00, [~~70.06 or 70.08 of this article, as applicable,~~] if  
26 such offense is a class A-II felony.

27 [~~8.]~~ 7. Whenever a juvenile offender stands convicted of a felony sex  
28 offense, he or she must be sentenced pursuant to the provisions of  
29 sections 60.10 and 70.05 of this [~~chapter~~] title.

30 [~~9.]~~ 8. Every determinate sentence for a felony sex offense, as  
31 defined in paragraph (a) of subdivision one of this section, imposed  
32 pursuant to any section of this article, shall include as a part thereof  
33 a period of post-release supervision in accordance with subdivision  
34 two-a of section 70.45 of this article.

35 § 24. Paragraph (b) of subdivision 3 of section 60.01 of the penal  
36 law, as amended by chapter 548 of the laws of 1984, is amended to read  
37 as follows:

38 (b) A fine authorized by article eighty[~~, provided, however, that when~~  
39 ~~the conviction is of a class B felony or of any felony defined in arti-~~  
40 ~~cle two hundred twenty, the sentence shall not consist solely of a fine]~~  
41 of this title; or

42 § 25. Subdivision 2 of section 60.02 of the penal law, as amended by  
43 chapter 471 of the laws of 1980, is amended to read as follows:

44 (2) If the sentence is to be imposed upon a youthful offender finding  
45 which has been substituted for a conviction for any felony, the court  
46 must impose a sentence authorized to be imposed upon a person convicted  
47 of a class E felony [~~provided, however, that the court must not impose a~~  
48 ~~sentence of conditional discharge or unconditional discharge if the~~  
49 ~~youthful offender finding was substituted for a conviction of a felony~~  
50 ~~defined in article two hundred twenty of this chapter].~~

51 § 26. Section 60.04 of the penal law, as added by chapter 738 of the  
52 laws of 2004, subdivisions 3 and 5 as amended by section 17 of part AAA  
53 of chapter 56 of the laws of 2009, subdivision 6 as amended by section  
54 120 of subpart B of part C of chapter 62 of the laws of 2011 and subdi-  
55 vision 7 as amended by chapter 322 of the laws of 2021, is amended to  
56 read as follows:

1 § 60.04 Authorized disposition; controlled substances [~~and marijuana~~  
2 ~~felony~~] offenses.

3 1. Applicability. Notwithstanding the provisions of any law, this  
4 section shall govern the dispositions authorized when a person is to be  
5 sentenced upon a conviction of a felony offense defined in article two  
6 hundred twenty [~~or two hundred twenty one~~] of this chapter [~~or when a~~  
7 ~~person is to be sentenced upon a conviction of such a felony as a multi-~~  
8 ~~ple felony offender as defined in subdivision five of this section~~].

9 2. Class A felony. Every person convicted of a class A felony must be  
10 sentenced [~~to imprisonment~~] in accordance with section 70.71 of this  
11 title[, ~~unless such person is convicted of a class A II felony and is~~  
12 ~~sentenced to probation for life in accordance with section 65.00 of this~~  
13 ~~title~~].

14 3. Class B felonies. Every person convicted of a class B felony must  
15 be sentenced [~~to imprisonment~~] in accordance with the applicable  
16 provisions of section 70.70 of this [~~chapter, a definite sentence of~~  
17 ~~imprisonment with a term of one year or less or probation in accordance~~  
18 ~~with section 65.00 of this chapter provided, however, a person convicted~~  
19 ~~of criminal sale of a controlled substance to a child as defined in~~  
20 ~~section 220.48 of this chapter must be sentenced to a determinate~~  
21 ~~sentence of imprisonment in accordance with the applicable provisions of~~  
22 ~~section 70.70 of this chapter or to a sentence of probation in accord-~~  
23 ~~ance with the opening paragraph of paragraph (b) of subdivision one of~~  
24 ~~section 65.00 of this chapter~~] title.

25 4. Alternative sentence. [~~Where a sentence of imprisonment or a~~  
26 ~~sentence of probation as an alternative to imprisonment is not required~~  
27 ~~to be imposed pursuant to subdivision two, three or five of this~~  
28 ~~section, the court may impose any other sentence authorized by section~~  
29 ~~60.01 of this article, provided that when the court imposes a sentence~~  
30 ~~of imprisonment, such sentence must be in accordance with section 70.70~~  
31 ~~of this title.~~] Where the court imposes a sentence of imprisonment in  
32 accordance with this section, the court may also impose a fine author-  
33 ized by article eighty of this title and in such case the sentence shall  
34 be both imprisonment and a fine.

35 5. [~~Multiple felony offender. Where the court imposes a sentence~~  
36 ~~pursuant to subdivision three of section 70.70 of this chapter upon a~~  
37 ~~second felony drug offender, as defined in paragraph (b) of subdivision~~  
38 ~~one of section 70.70 of this chapter, it must sentence such offender to~~  
39 ~~imprisonment in accordance with the applicable provisions of section~~  
40 ~~70.70 of this chapter, a definite sentence of imprisonment with a term~~  
41 ~~of one year or less, or probation in accordance with section 65.00 of~~  
42 ~~this chapter, provided, however, that where the court imposes a sentence~~  
43 ~~upon a class B second felony drug offender, it must sentence such offen-~~  
44 ~~der to a determinate sentence of imprisonment in accordance with the~~  
45 ~~applicable provisions of section 70.70 of this chapter or to a sentence~~  
46 ~~of probation in accordance with the opening paragraph of paragraph (b)~~  
47 ~~of subdivision one of section 65.00 of this chapter. When the court~~  
48 ~~imposes sentence on a second felony drug offender pursuant to subdivi-~~  
49 ~~sion four of section 70.70 of this chapter, it must impose a determinate~~  
50 ~~sentence of imprisonment in accordance with such subdivision.~~

51 ~~6.~~] Substance abuse treatment. When the court imposes a sentence of  
52 imprisonment which requires a commitment to the state department of  
53 corrections and community supervision [~~upon a person who stands~~  
54 ~~convicted of a controlled substance or marijuana offense~~], the court  
55 may, upon motion of the defendant in its discretion, issue an order  
56 directing that the department of corrections and community supervision

1 enroll the defendant in the comprehensive alcohol and substance abuse  
2 treatment program in an alcohol and substance abuse correctional annex  
3 as defined in subdivision eighteen of section two of the correction law,  
4 provided that the defendant will satisfy the statutory eligibility  
5 criteria for participation in such program. Notwithstanding the forego-  
6 ing provisions of this subdivision, any defendant to be enrolled in such  
7 program pursuant to this subdivision shall be governed by the same rules  
8 and regulations promulgated by the department of corrections and commu-  
9 nity supervision, including without limitation those rules and regu-  
10 lations establishing requirements for completion and those rules and  
11 regulations governing discipline and removal from the program. No such  
12 period of court ordered corrections based drug abuse treatment pursuant  
13 to this subdivision shall be required to extend beyond the defendant's  
14 conditional release date.

15 ~~[7-]~~ 6. a. Shock incarceration participation. When the court imposes a  
16 sentence of imprisonment which requires a commitment to the department  
17 of corrections and community supervision upon a person [~~who stands~~  
18 ~~convicted of a controlled substance or marihuana offense~~], upon motion  
19 of the defendant, the court may issue an order directing that the  
20 department of corrections and community supervision enroll the defendant  
21 in the shock incarceration program as defined in article twenty-six-A of  
22 the correction law, provided that the defendant is an eligible incarcer-  
23 ated individual, as described in subdivision one of section eight  
24 hundred sixty-five of the correction law. Notwithstanding the foregoing  
25 provisions of this subdivision, any defendant to be enrolled in such  
26 program pursuant to this subdivision shall be governed by the same rules  
27 and regulations promulgated by the department of corrections and commu-  
28 nity supervision, including without limitation those rules and regu-  
29 lations establishing requirements for completion and such rules and  
30 regulations governing discipline and removal from the program.

31 b. (i) In the event that an incarcerated individual designated by  
32 court order for enrollment in the shock incarceration program requires a  
33 degree of medical care or mental health care that cannot be provided at  
34 a shock incarceration facility, the department, in writing, shall notify  
35 the incarcerated individual, provide a proposal describing a proposed  
36 alternative-to-shock-incarceration program, and notify him or her that  
37 he or she may object in writing to placement in such alternative-to-  
38 shock-incarceration program. If the incarcerated individual objects in  
39 writing to placement in such alternative-to-shock-incarceration program,  
40 the department of corrections and community supervision shall notify the  
41 sentencing court, provide such proposal to the court, and arrange for  
42 the incarcerated individual's prompt appearance before the court. The  
43 court shall provide the proposal and notice of a court appearance to the  
44 people, the incarcerated individual and the appropriate defense attor-  
45 ney. After considering the proposal and any submissions by the parties,  
46 and after a reasonable opportunity for the people, the incarcerated  
47 individual and counsel to be heard, the court may modify its sentencing  
48 order accordingly, notwithstanding the provisions of section 430.10 of  
49 the criminal procedure law.

50 (ii) An incarcerated individual who successfully completes an alterna-  
51 tive-to-shock-incarceration program within the department of corrections  
52 and community supervision shall be treated in the same manner as a  
53 person who has successfully completed the shock incarceration program,  
54 as set forth in subdivision four of section eight hundred sixty-seven of  
55 the correction law.

1 § 27. Section 60.05 of the penal law, as amended by chapter 410 of the  
2 laws of 1979, the section heading and subdivisions 2, 3 and 4 as amended  
3 by chapter 738 of the laws of 2004, subdivision 1 as amended by chapter  
4 7 of the laws of 2007, subdivision 5 as amended by chapter 405 of the  
5 laws of 2010 and subdivision 8 as amended by chapter 486 of the laws of  
6 2022, is amended to read as follows:

7 § 60.05 Authorized dispositions; other class A, B, certain C and D felo-  
8 nies [~~and multiple felony offenders~~].

9 1. Applicability. Except as provided in section 60.04 of this article  
10 governing the authorized dispositions applicable to felony offenses  
11 defined in article two hundred twenty [~~or two hundred twenty one~~] of  
12 this chapter or in section 60.13 of this article governing the author-  
13 ized dispositions applicable to felony sex offenses defined in paragraph  
14 (a) of subdivision one of section 70.80 of this title, this section  
15 shall govern the dispositions authorized when a person is to be  
16 sentenced upon a conviction of a class A felony, a class B felony or a  
17 class C, class D or class E felony specified [~~herein, or when a person  
18 is to be sentenced upon a conviction of a felony as a multiple felony  
19 offender~~] in this section.

20 2. Class A felony. [~~Except as provided in subdivisions three and four  
21 of section 70.06 of this chapter, every~~] Every person convicted of a  
22 class A felony must be sentenced [~~to imprisonment~~] in accordance with  
23 section 70.00 of this title[~~, unless such person is convicted of murder  
24 in the first degree and is sentenced in accordance with section 60.06 of  
25 this article~~].

26 3. Class B felony. [~~Except as provided in subdivision six of this  
27 section, every~~] Every person convicted of a class B violent felony  
28 offense as defined in subdivision one of section 70.02 of this title,  
29 must be sentenced [~~to imprisonment~~] in accordance with such section  
30 [~~70.02~~]; and[~~, except as provided in subdivision six of this section,~~  
31 every person convicted of any other class B felony must be sentenced [~~to  
32 imprisonment~~] in accordance with section 70.00 of this title.

33 4. Certain class C felonies. [~~Except as provided in subdivision six,  
34 every~~] Every person convicted of a class C violent felony offense as  
35 defined in subdivision one of section 70.02 of this title, must be  
36 sentenced [~~to imprisonment~~] in accordance with section 70.02 of this  
37 title[~~, and, except as provided in subdivision six of this section,  
38 every person convicted of the class C felonies of: attempt to commit any  
39 of the class B felonies of bribery in the first degree as defined in  
40 section 200.04, bribe receiving in the first degree as defined in  
41 section 200.12, conspiracy in the second degree as defined in section  
42 105.15 and criminal mischief in the first degree as defined in section  
43 145.12, criminal usury in the first degree as defined in section 190.42,  
44 rewarding official misconduct in the first degree as defined in section  
45 200.22, receiving reward for official misconduct in the first degree as  
46 defined in section 200.27, attempt to promote prostitution in the first  
47 degree as defined in section 230.32, promoting prostitution in the  
48 second degree as defined in section 230.30, arson in the third degree as  
49 defined in section 150.10 of this chapter, must be sentenced to impri-  
50 sonment in accordance with section 70.00 of this title].~~

51 5. Certain class D felonies. [~~Except as provided in subdivision six of  
52 this section, every~~] Every person convicted of the class D felonies of  
53 assault in the second degree as defined in section 120.05, strangulation  
54 in the second degree as defined in section 121.12 or attempt to commit a  
55 class C felony as defined in section 230.30 of this chapter, must be  
56 sentenced in accordance with section 70.00 or 85.00 of this title.

1     6. [~~Multiple felony offender. When the court imposes sentence upon a~~  
2 ~~second violent felony offender, as defined in section 70.04, or a second~~  
3 ~~felony offender, as defined in section 70.06, the court must impose a~~  
4 ~~sentence of imprisonment in accordance with section 70.04 or 70.06, as~~  
5 ~~the case may be, unless it imposes a sentence of imprisonment in accord-~~  
6 ~~ance with section 70.08 or 70.10.~~

7     7.] Fines. Where the court imposes a sentence of imprisonment in  
8 accordance with this section, the court also may impose a fine author-  
9 ized by article eighty of this title and in such case the sentence shall  
10 be both imprisonment and a fine.

11     [~~8-~~ 7.] Shock incarceration participation. (a) When the court imposes  
12 a determinate sentence of imprisonment pursuant to subdivision [~~three~~  
13 two] of section 70.02 of this [~~chapter~~] title or subdivision six of  
14 section 70.06 of this [~~chapter upon a person who stands convicted either~~  
15 ~~of burglary in the second degree as defined in subdivision two of~~  
16 ~~section 140.25 of this chapter or robbery in the second degree as~~  
17 ~~defined in subdivision one of section 160.10 of this chapter, or an~~  
18 ~~attempt thereof~~] title, upon motion of the defendant, the court may  
19 issue an order directing that the department of corrections and communi-  
20 ty supervision enroll the defendant in the shock incarceration program  
21 as defined in article twenty-six-A of the correction law, provided that  
22 the defendant is an eligible incarcerated individual, as described in  
23 subdivision one of section eight hundred sixty-five of the correction  
24 law. Notwithstanding the foregoing provisions of this subdivision, any  
25 defendant to be enrolled in such program pursuant to this subdivision  
26 shall be governed by the same rules and regulations promulgated by the  
27 department of corrections and community supervision, including without  
28 limitation those rules and regulations establishing requirements for  
29 completion and such rules and regulations governing discipline and  
30 removal from the program.

31     (b) Paragraph b of subdivision seven of section 60.04 of this article  
32 shall apply in the event an incarcerated individual designated by court  
33 order for enrollment in the shock incarceration program requires a  
34 degree of medical care or mental health care that cannot be provided at  
35 a shock incarceration facility.

36     § 28. Paragraph (ii) of subdivision b of section 60.09 of the penal  
37 law, as added by chapter 410 of the laws of 1979, is amended to read as  
38 follows:

39     (ii) if the conviction was for a class A-II offense the court may  
40 impose a new minimum term which shall be [~~no less than three years~~  
41 ~~imprisonment and~~] no more than eight and one-third years;

42     § 29. Section 60.10 of the penal law, as amended by chapter 411 of the  
43 laws of 1979, is amended to read as follows:

44     § 60.10 Authorized disposition; juvenile offender.

45     1. When a juvenile offender is convicted of a crime, the court shall  
46 sentence the defendant [~~to imprisonment~~] in accordance with section  
47 70.05 of this title or sentence him upon a youthful offender finding in  
48 accordance with section 60.02 of this [~~chapter~~] article.

49     2. Subdivision one of this section shall apply when sentencing a juve-  
50 nile offender notwithstanding the provisions of any other law that deals  
51 with the authorized sentence for persons who are not juvenile offenders.  
52 [~~Provided, however, that the limitation prescribed by this section shall~~  
53 ~~not be deemed or construed to bar use of a conviction of a juvenile~~  
54 ~~offender, other than a juvenile offender who has been adjudicated a~~  
55 ~~youthful offender pursuant to section 720.20 of the criminal procedure~~  
56 ~~law, as a previous or predicate felony offender under section 70.04,~~



~~70.06, 70.08 or 70.10, when sentencing a person who commits a felony after he has reached the age of sixteen.]~~

§ 30. Section 60.12 of the penal law, as amended by chapter 31 of the laws of 2019, subdivision 1 as amended by section 1 of part WW of chapter 55 of the laws of 2019, is amended to read as follows:

§ 60.12 Authorized disposition; alternative sentence; domestic violence cases.

1. Notwithstanding any other provision of law, where a court is imposing sentence upon a person pursuant to section 70.00, 70.02[~~, 70.06~~] or subdivision two or three of section 70.71 of this title, [~~other than for an offense defined in section 125.26, 125.27, subdivision five of section 125.25, or article 490 of this chapter, or for an offense which would require such person to register as a sex offender pursuant to article six-C of the correction law, an attempt or conspiracy to commit any such offense,~~] and is authorized [~~or required~~] pursuant to sections 70.00, 70.02[~~, 70.06~~] or subdivision two or three of section 70.71 of this title to impose a sentence of imprisonment, the court, upon a determination following a hearing that (a) at the time of the instant offense, the defendant was a victim of domestic violence subjected to substantial physical, sexual or psychological abuse inflicted by a member of the same family or household as the defendant as such term is defined in subdivision one of section 530.11 of the criminal procedure law; (b) such abuse was a significant contributing factor to the defendant's criminal behavior; (c) having regard for the nature and circumstances of the crime and the history, character and condition of the defendant, that a sentence of imprisonment pursuant to section 70.00, 70.02[~~, 70.06~~] or subdivision two or three of section 70.71 of this title would be unduly harsh may instead impose a sentence in accordance with this section.

A court may determine that such abuse constitutes a significant contributing factor pursuant to paragraph (b) of this subdivision regardless of whether the defendant raised a defense pursuant to article thirty-five, article forty, or subdivision one of section 125.25 of this chapter.

At the hearing to determine whether the defendant should be sentenced pursuant to this section, the court shall consider oral and written arguments, take testimony from witnesses offered by either party, and consider relevant evidence to assist in making its determination. Reliable hearsay shall be admissible at such hearings.

2. Where a court would otherwise be required to impose a sentence pursuant to section 70.02 of this title, the court may impose a definite sentence of imprisonment of less than one year [~~or less~~], or probation in accordance with the provisions of section 65.00 of this title, or may fix a determinate term of imprisonment as follows:

(a) For a class B felony, the term must be at least one year and must not exceed five years;

(b) For a class C felony, the term must be at least one year and must not exceed three and one-half years;

(c) For a class D felony, the term must be at least one year and must not exceed two years; and

(d) For a class E felony, the term must be one year and must not exceed one and one-half years.

3. Where a court would otherwise be required to impose a sentence for a class A felony offense pursuant to section 70.00 of this title, the court may fix a determinate term of imprisonment of at least [~~five years~~] one year and not to exceed fifteen years, or impose a definite

1 sentence of imprisonment of less than one year, or probation in accord-  
2 ance with the provisions of section 65.00 of this title.

3 4. Where a court would otherwise be required to impose a sentence for  
4 a class A felony offense pursuant to subparagraph (i) of paragraph (b)  
5 of subdivision two of section 70.71 of this title, the court may fix a  
6 determinate term of imprisonment of at least [~~five years~~] one year and  
7 not to exceed eight years, or impose a definite sentence of imprisonment  
8 of less than one year, or probation in accordance with the provisions of  
9 section 65.00 of this title.

10 5. Where a court would otherwise be required to impose a sentence for  
11 a class A felony offense pursuant to subparagraph (i) of paragraph (b)  
12 of subdivision three of section 70.71 of this title, the court may fix a  
13 determinate term of imprisonment of at least [~~five years~~] one year and  
14 not to exceed twelve years, or impose a definite sentence of imprison-  
15 ment of less than one year, or probation in accordance with the  
16 provisions of section 65.00 of this title.

17 6. Where a court would otherwise be required to impose a sentence for  
18 a class A felony offense pursuant to subparagraph (ii) of paragraph (b)  
19 of subdivision two of section 70.71 of this title, the court may fix a  
20 determinate term of imprisonment of at least one year and not to exceed  
21 three years, or impose a definite sentence of imprisonment of less than  
22 one year, or probation in accordance with the provisions of section  
23 65.00 of this title.

24 7. Where a court would otherwise be required to impose a sentence for  
25 a class A felony offense pursuant to subparagraph (ii) of paragraph (b)  
26 of subdivision three of section 70.71 of this title, the court may fix a  
27 determinate term of imprisonment of at least [~~three years~~] one year and  
28 not to exceed six years, or impose a definite sentence of imprisonment  
29 of less than one year, or probation in accordance with the provisions of  
30 section 65.00 of this title.

31 [~~8. Where a court would otherwise be required to impose a sentence~~  
32 ~~pursuant to subdivision six of section 70.06 of this title, the court~~  
33 ~~may fix a term of imprisonment as follows:~~

34 ~~(a) For a class B felony, the term must be at least three years and~~  
35 ~~must not exceed eight years;~~

36 ~~(b) For a class C felony, the term must be at least two and one half~~  
37 ~~years and must not exceed five years;~~

38 ~~(c) For a class D felony, the term must be at least two years and must~~  
39 ~~not exceed three years;~~

40 ~~(d) For a class E felony, the term must be at least one and one half~~  
41 ~~years and must not exceed two years.~~

42 ~~9. Where a court would otherwise be required to impose a sentence for~~  
43 ~~a class B, C, D or E felony offense pursuant to section 70.00 of this~~  
44 ~~title, the court may impose a sentence in accordance with the provisions~~  
45 ~~of subdivision two of section 70.70 of this title.~~

46 ~~10. Except as provided in subdivision seven of this section, where a~~  
47 ~~court would otherwise be required to impose a sentence pursuant to~~  
48 ~~subdivision three of section 70.06 of this title, the court may impose a~~  
49 ~~sentence in accordance with the provisions of subdivision three of~~  
50 ~~section 70.70 of this title.~~

51 ~~11. Where a court would otherwise be required to impose a sentence~~  
52 ~~pursuant to subdivision three of section 70.06 of this title, where the~~  
53 ~~prior felony conviction was for a felony offense defined in section~~  
54 ~~70.02 of this title, the court may impose a sentence in accordance with~~  
55 ~~the provisions of subdivision four of section 70.70 of this title.]~~

1 § 31. Section 65.00 of the penal law, subdivisions 1 and 2 as amended  
2 by chapter 835 of the laws of 1974, the opening paragraph of paragraph  
3 (a) of subdivision 1 as amended by chapter 738 of the laws of 2004, the  
4 opening paragraph of paragraph (b) of subdivision 1 as amended by  
5 section 19 and subparagraph (ii) of paragraph (a) of subdivision 3 as  
6 amended by section 20 of part AAA of chapter 56 of the laws of 2009, the  
7 closing paragraph of subdivision 1 as amended by chapter 3 of the laws  
8 of 1995, subdivision 3 as amended by chapter 264 of the laws of 2003,  
9 subparagraph (i) of paragraph (a), subparagraph (i) of paragraph (b) and  
10 paragraph (d) of subdivision 3 as amended by chapter 556 of the laws of  
11 2013, paragraph (c) of subdivision 3 as amended by chapter 568 of the  
12 laws of 2004, the closing paragraph of subdivision 3 as amended by chap-  
13 ter 320 of the laws of 2006, subdivision 4 as amended by chapter 17 of  
14 the laws of 2014, and subdivision 5 as amended by chapter 264 of the  
15 laws of 2003 and as renumbered by chapter 556 of the laws of 2013, is  
16 amended to read as follows:

17 § 65.00 Sentence of probation.

18 1. ~~[Criteria. (a) Except as otherwise required by section 60.04 or~~  
19 ~~60.05 of this title, and except as provided by paragraph (b) hereof, the~~  
20 ~~court may sentence a person to a period of probation upon conviction of~~  
21 ~~any crime if the court, having regard to the nature and circumstances of~~  
22 ~~the crime and to the history, character and condition of the defendant,~~  
23 ~~is of the opinion that:~~

24 ~~(i) Institutional confinement for the term authorized by law of the~~  
25 ~~defendant is or may not be necessary for the protection of the public;~~

26 ~~(ii) the defendant is in need of guidance, training or other assist-~~  
27 ~~ance which, in his case, can be effectively administered through~~  
28 ~~probation supervision; and~~

29 ~~(iii) such disposition is not inconsistent with the ends of justice.~~

30 ~~(b) The court, with the concurrence of either the administrative judge~~  
31 ~~of the court or of the judicial district within which the court is situ-~~  
32 ~~ated or such administrative judge as the presiding justice of the appro-~~  
33 ~~priate appellate division shall designate, may sentence a person to a~~  
34 ~~period of probation upon conviction of a class A-II felony defined in~~  
35 ~~article two hundred twenty, the class B felony defined in section 220.48~~  
36 ~~of this chapter or any other class B felony defined in article two~~  
37 ~~hundred twenty of this chapter where the person is a second felony drug~~  
38 ~~offender as defined in paragraph (b) of subdivision one of section 70.70~~  
39 ~~of this chapter, if the prosecutor either orally on the record or in a~~  
40 ~~writing filed with the indictment recommends that the court sentence~~  
41 ~~such person to a period of probation upon the ground that such person~~  
42 ~~has or is providing material assistance in the investigation, apprehen-~~  
43 ~~sion or prosecution of any person for a felony defined in article two~~  
44 ~~hundred twenty or the attempt or the conspiracy to commit any such felo-~~  
45 ~~ny, and if the court, having regard to the nature and circumstances of~~  
46 ~~the crime and to the history, character and condition of the defendant~~  
47 ~~is of the opinion that:~~

48 ~~(i) Institutional confinement of the defendant is not necessary for~~  
49 ~~the protection of the public;~~

50 ~~(ii) The defendant is in need of guidance, training or other assist-~~  
51 ~~ance which, in his case, can be effectively administered through~~  
52 ~~probation supervision;~~

53 ~~(iii) The defendant has or is providing material assistance in the~~  
54 ~~investigation, apprehension or prosecution of a person for a felony~~  
55 ~~defined in article two hundred twenty or the attempt or conspiracy to~~  
56 ~~commit any such felony; and~~

1 ~~(iv) Such disposition is not inconsistent with the ends of justice.~~  
 2 ~~Provided, however, that the court shall not, except to the extent~~  
 3 ~~authorized by paragraph (d) of subdivision two of section 60.01 of this~~  
 4 ~~chapter, impose a sentence of probation in any case where it sentences a~~  
 5 ~~defendant for more than one crime and imposes a sentence of imprisonment~~  
 6 ~~for any one of the crimes, or where the defendant is subject to an~~  
 7 ~~undischarged indeterminate or determinate sentence of imprisonment which~~  
 8 ~~was imposed at a previous time by a court of this state and has more~~  
 9 ~~than one year to run.~~

10 ~~2.~~] Sentence. When a person is sentenced to a period of probation the  
 11 court shall, except to the extent authorized by paragraph (d) of subdivi-  
 12 sion two of section 60.01 of this chapter, impose the period author-  
 13 ized by subdivision [~~three~~] two of this section and shall specify, in  
 14 accordance with section 65.10, the conditions to be complied with. The  
 15 court may modify or enlarge the conditions or, if the defendant commits  
 16 an additional offense or violates a condition, revoke the sentence at  
 17 any time prior to the expiration or termination of the period of  
 18 probation.

19 [~~3.~~] 2. Periods of probation. Unless terminated sooner in accordance  
 20 with the criminal procedure law, the period of probation shall be as  
 21 follows:

22 (a) (i) For a felony, other than a class A-II felony defined in arti-  
 23 cle two hundred twenty of this chapter or the class B felony defined in  
 24 section 220.48 of this chapter, [~~or any other class B felony defined in~~  
 25 ~~article two hundred twenty of this chapter committed by a second felony~~  
 26 ~~drug offender,~~] or a sexual assault, the period of probation shall [~~be a~~  
 27 ~~term of three, four or~~] not exceed five years;

28 (ii) For a class A-II felony drug offender as defined in paragraph (a)  
 29 of subdivision one of section 70.71 of this chapter [~~as described in~~  
 30 ~~paragraph (b) of subdivision one of this section, or a class B felony~~  
 31 ~~committed by a second felony drug offender described in paragraph (b) of~~  
 32 ~~subdivision one of this section, the~~], any period of probation [~~shall be~~  
 33 ~~life~~] may be imposed and for a class B felony defined in section 220.48  
 34 of this chapter, the period of probation shall [~~be~~] not exceed twenty-  
 35 five years;

36 (iii) For a felony sexual assault, the period of probation shall [~~be~~]  
 37 not exceed ten years.

38 (b) (i) For a class A misdemeanor, other than a sexual assault, the  
 39 period of probation shall [~~be~~] not exceed a term of [~~two or~~] three  
 40 years;

41 (ii) For a class A misdemeanor sexual assault, the period of probation  
 42 shall [~~be~~] not exceed six years.

43 (c) For a class B misdemeanor, the period of probation shall [~~be~~] not  
 44 exceed one year, except the period of probation shall [~~be no less than~~  
 45 ~~one year and no more than~~] not exceed three years for the class B misde-  
 46 meanor of public lewdness as defined in section 245.00 of this chapter;

47 (d) For an unclassified misdemeanor, the period of probation shall  
 48 [~~be~~] not exceed a term of [~~two or~~] three years if the authorized  
 49 sentence of imprisonment is in excess of three months, otherwise the  
 50 period of probation shall [~~be~~] not exceed one year.

51 For the purposes of this section, the term "sexual assault" means an  
 52 offense defined in article one hundred thirty or two hundred sixty-  
 53 three, or in section 255.25, 255.26 or 255.27 of this chapter, or an  
 54 attempt to commit any of the foregoing offenses.

55 [~~4.~~] 3. If during the periods of probation referenced in subparagraph  
 56 (i) of paragraph (a), subparagraph (i) of paragraph (b) and paragraph

1 (d) of subdivision [~~three~~ two] of this section an alleged violation is  
2 sustained following a hearing pursuant to section 410.70 of the criminal  
3 procedure law and the court continues or modifies the sentence, the  
4 court may extend the remaining period of probation up to the maximum  
5 term authorized by this section. Provided, however, a defendant shall  
6 receive credit for the time during which he or she was supervised under  
7 the original probation sentence prior to any declaration of delinquency  
8 and for any time spent in custody pursuant to this article for an  
9 alleged violation of probation.

10 [~~5-~~ 4.] In any case where a court pursuant to its authority under  
11 subdivision four of section 60.01 of this chapter revokes probation and  
12 sentences such person to imprisonment and probation, as provided in  
13 paragraph (d) of subdivision two of section 60.01 of this chapter, the  
14 period of probation shall be the remaining period of the original  
15 probation sentence or one year whichever is greater.

16 § 32. Section 65.05 of the penal law, subdivision 1 as added by chap-  
17 ter 277 of the laws of 1973, paragraph (a) of subdivision 1 and subdivi-  
18 sion 2 as amended by chapter 742 of the laws of 1981 and subdivision 3  
19 as amended by chapter 618 of the laws of 1992, is amended to read as  
20 follows:

21 § 65.05 Sentence of conditional discharge.

22 1. [~~Criteria. (a) Except as otherwise required by section 60.05, the~~  
23 ~~court may impose a sentence of conditional discharge for an offense if~~  
24 ~~the court, having regard to the nature and circumstances of the offense~~  
25 ~~and to the history, character and condition of the defendant, is of the~~  
26 ~~opinion that neither the public interest nor the ends of justice would~~  
27 ~~be served by a sentence of imprisonment and that probation supervision~~  
28 ~~is not appropriate.~~

29 ~~(b) When a sentence of conditional discharge is imposed for a felony,~~  
30 ~~the court shall set forth in the record the reasons for its action.~~

31 2-] Sentence. Except to the extent authorized by paragraph (d) of  
32 subdivision two of section 60.01 of this [~~chapter~~ title], when the court  
33 imposes a sentence of conditional discharge the defendant shall be  
34 released with respect to the conviction for which the sentence is  
35 imposed without imprisonment or probation supervision but subject,  
36 during the period of conditional discharge, to such conditions as the  
37 court may determine. The court shall impose the period of conditional  
38 discharge authorized by subdivision [~~three~~ two] of this section and  
39 shall specify, in accordance with section 65.10 of this article, the  
40 conditions to be complied with. If a defendant is sentenced pursuant to  
41 paragraph (e) of subdivision two of section 65.10 of this [~~chapter~~  
42 article], the court shall require the administrator of the program to  
43 provide written notice to the court of any violation of program partic-  
44 ipation by the defendant. The court may modify or enlarge the conditions  
45 or, if the defendant commits an additional offense or violates a condi-  
46 tion, revoke the sentence at any time prior to the expiration or termi-  
47 nation of the period of conditional discharge.

48 [~~3-~~ 2.] Periods of conditional discharge. Unless terminated sooner in  
49 accordance with the criminal procedure law, the period of conditional  
50 discharge shall be as follows:

51 (a) [~~Three~~ Up to three] years in the case of a felony; and

52 (b) [~~One~~ Up to one] year in the case of a misdemeanor or a violation.

53 Where the court has required, as a condition of the sentence, that the  
54 defendant make restitution of the fruits of his or her offense or make  
55 reparation for the loss caused thereby and such condition has not been  
56 satisfied, the court, at any time prior to the expiration or termination

1 of the period of conditional discharge, may impose an additional period.  
2 The length of the additional period shall be fixed by the court at the  
3 time it is imposed and shall not be more than two years. All of the  
4 incidents of the original sentence, including the authority of the court  
5 to modify or enlarge the conditions, shall continue to apply during such  
6 additional period.

7 § 33. Section 65.20 of the penal law is amended to read as follows:  
8 § 65.20 Sentence of unconditional discharge.

9 ~~[1. Criteria. The court may impose a sentence of unconditional~~  
10 ~~discharge in any case where it is authorized to impose a sentence of~~  
11 ~~conditional discharge under section 65.05 if the court is of the opinion~~  
12 ~~that no proper purpose would be served by imposing any condition upon~~  
13 ~~the defendant's release.~~

14 ~~When a sentence of unconditional discharge is imposed for a felony,~~  
15 ~~the court shall set forth in the record the reasons for its action.~~

16 ~~2. Sentence.]~~ When the court imposes a sentence of unconditional  
17 discharge, the defendant shall be released with respect to the  
18 conviction for which the sentence is imposed without imprisonment, fine  
19 or probation supervision. A sentence of unconditional discharge is for  
20 all purposes a final judgment of conviction.

21 § 34. Subdivision 2 of section 85.00 of the penal law, as added by  
22 chapter 477 of the laws of 1970, paragraph (a) as amended by chapter 277  
23 of the laws of 1973, is amended to read as follows:

24 2. Authorization for use of sentence. The court may impose a sentence  
25 of intermittent imprisonment in any case where:

26 (a) ~~[the court is imposing sentence, upon a person other than a second~~  
27 ~~or persistent felony offender, for a class D or class E felony or for~~  
28 ~~any offense that is not a felony; and~~

29 ~~(b)]~~ the court is not imposing any other sentence of imprisonment upon  
30 the defendant at the same time; and

31 ~~[(e)]~~ (b) the defendant is not under any other sentence of imprison-  
32 ment with a term in excess of fifteen days imposed by any other court~~[+~~  
33 ~~and].~~

34 § 35. Subdivisions 3, 4 and 5 of section 485.10 of the penal law,  
35 subdivisions 3 and 4 as added by chapter 107 of the laws of 2000 and  
36 subdivision 5 as amended by chapter 624 of the laws of 2022, are amended  
37 to read as follows:

38 3. ~~[Notwithstanding any other provision of law, when a person is~~  
39 ~~convicted of a hate crime pursuant to this article and the specified~~  
40 ~~offense is a class B felony;~~

41 ~~(a) the maximum term of the indeterminate sentence must be at least~~  
42 ~~six years if the defendant is sentenced pursuant to section 70.00 of~~  
43 ~~this chapter;~~

44 ~~(b) the term of the determinate sentence must be at least eight years~~  
45 ~~if the defendant is sentenced pursuant to section 70.02 of this chapter;~~

46 ~~(c) the term of the determinate sentence must be at least twelve years~~  
47 ~~if the defendant is sentenced pursuant to section 70.04 of this chapter;~~

48 ~~(d) the maximum term of the indeterminate sentence must be at least~~  
49 ~~four years if the defendant is sentenced pursuant to section 70.05 of~~  
50 ~~this chapter; and~~

51 ~~(e) the maximum term of the indeterminate sentence or the term of the~~  
52 ~~determinate sentence must be at least ten years if the defendant is~~  
53 ~~sentenced pursuant to section 70.06 of this chapter.~~

54 4. ~~Notwithstanding any other provision of law, when a person is~~  
55 ~~convicted of a hate crime pursuant to this article and the specified~~

~~offense is a class A-1 felony, the minimum period of the indeterminate sentence shall be not less than twenty years.~~

5.] In addition to any of the dispositions authorized by this chapter, the court shall require as part of the sentence imposed upon a person convicted of a hate crime pursuant to this article, that the defendant complete a program, training session or counseling session directed at hate crime prevention and education, where the court determines such program, training session or counseling session is appropriate, available and was developed or authorized by the court or local agencies in cooperation with organizations serving the affected community.

§ 36. Paragraph (d) of subdivision 2 of section 490.25 of the penal law is REPEALED.

§ 37. Sections 220.35, 400.15, 400.16, 400.19, 400.20 and 400.21 of the criminal procedure law are REPEALED.

§ 38. Subdivision 6 of section 2 of the correction law, as amended by chapter 476 of the laws of 1970, is amended to read as follows:

6. "Residential treatment facility". A correctional facility consisting of a community based residence in or near a community where employment, educational and training opportunities are readily available for persons who ~~[are on parole or conditional release and for persons who]~~ are or who will soon be eligible for release on parole who intend to reside in or near that community when released.

§ 39. Subdivision 10 of section 73 of the correction law is REPEALED.

§ 40. Subdivision 1 of section 865 of the correction law, as amended by chapter 322 of the laws of 2021, is amended to read as follows:

1. "Eligible incarcerated individual" means a person sentenced to an indeterminate term of imprisonment who will become eligible for release on parole within three years or sentenced to a determinate term of imprisonment who will become eligible for conditional release within three years~~[, who has not reached the age of fifty years, who has not previously been convicted of a violent felony as defined in article seventy of the penal law, or a felony in any other jurisdiction which includes all of the essential elements of any such violent felony, upon which an indeterminate or determinate term of imprisonment was imposed and who was between the ages of sixteen and fifty years at the time of commission of the crime upon which his or her present sentence was based. Notwithstanding the foregoing, no person who is convicted of any of the following crimes shall be deemed eligible to participate in this program: (a) a violent felony offense as defined in article seventy of the penal law; provided, however, that a person who is convicted of burglary in the second degree as defined in subdivision two of section 140.25 of the penal law, or robbery in the second degree as defined in subdivision one of section 160.10 of the penal law, or an attempt thereof, is eligible to participate, (b) an A-I felony offense, (c) any homicide offense as defined in article one hundred twenty-five of the penal law, (d) any felony sex offense as defined in article one hundred thirty of the penal law and (e) any escape or absconding offense as defined in article two hundred five of the penal law].~~

§ 41. Section 220.10 of the criminal procedure law, as amended by chapter 480 of the laws of 1976, subdivision 5 as amended by chapter 410 of the laws of 1979, subparagraph (i) of paragraph (a) of subdivision 5 as amended by chapter 738 of the laws of 2004, paragraph (d) of subdivision 5 as added by chapter 233 of the laws of 1980, subparagraph (iv) of paragraph (d) of subdivision 5 as amended by chapter 189 of the laws of 2000, paragraph (e) of subdivision 5 as amended by chapter 1 of the laws of 1995, subparagraph (iii) of paragraph (g) of subdivision 5 as amended

1 by chapter 23 of the laws of 2024, the second undesignated paragraph of  
2 paragraph (g) of subdivision 5 as amended by chapter 920 of the laws of  
3 1982, the closing paragraph of paragraph (g) of subdivision 5 as amended  
4 by chapter 411 of the laws of 1979, paragraph (g-1) of subdivision 5 as  
5 added by chapter 809 of the laws of 2021, paragraph (h) of subdivision 5  
6 as amended by chapter 322 of the laws of 2021 and subdivision 6 as added  
7 by chapter 548 of the laws of 1980, is amended to read as follows:  
8 § 220.10 Plea; kinds of pleas.

9 The only kinds of pleas which may be entered to an indictment are  
10 those specified in this section:

11 1. The defendant may as a matter of right enter a plea of "not guilty"  
12 to the indictment.

13 2. [~~Except as provided in subdivision five, the~~] The defendant may as  
14 a matter of right enter a plea of "guilty" to the entire indictment.

15 3. [~~Except as provided in subdivision five, where~~] Where the indict-  
16 ment charges but one crime, the defendant may, with [~~both~~] either the  
17 permission of the court [~~and~~] in furtherance of justice in accordance  
18 with the factors outlined in subdivision one of section 210.40 of this  
19 part, or the consent of the people with the permission of the court,  
20 enter a plea of guilty of a lesser included offense.

21 4. [~~Except as provided in subdivision five, where~~] Where the indict-  
22 ment charges two or more offenses in separate counts, the defendant may,  
23 with [~~both~~] either the permission of the court [~~and~~] in furtherance of  
24 justice in accordance with the factors outlined in subdivision one of  
25 section 210.40 of this part, or the consent of the people with the  
26 permission of the court, enter a plea of:

27 (a) Guilty of one or more but not all of the offenses charged; or

28 (b) Guilty of a lesser included offense with respect to any or all of  
29 the offenses charged; or

30 (c) Guilty of any combination of offenses charged and lesser offenses  
31 included within other offenses charged.

32 5. [~~(a) (i) Where the indictment charges one of the class A felonies~~  
33 ~~defined in article two hundred twenty of the penal law or the attempt to~~  
34 ~~commit any such class A felony, then any plea of guilty entered pursuant~~  
35 ~~to subdivision three or four of this section must be or must include at~~  
36 ~~least a plea of guilty of a class B felony.~~

37 [~~(iii) Where the indictment charges one of the class B felonies defined~~  
38 ~~in article two hundred twenty of the penal law then any plea of guilty~~  
39 ~~entered pursuant to subdivision three or four must be or must include at~~  
40 ~~least a plea of guilty of a class D felony.~~

41 [~~(b) Where the indictment charges any class B felony, other than a~~  
42 ~~class B felony defined in article two hundred twenty of the penal law or~~  
43 ~~a class B violent felony offense as defined in subdivision one of~~  
44 ~~section 70.02 of the penal law, then any plea of guilty entered pursuant~~  
45 ~~to subdivision three or four must be or must include at least a plea of~~  
46 ~~guilty of a felony.~~

47 [~~(c) Where the indictment charges a felony, other than a class A felony~~  
48 ~~or class B felony defined in article two hundred twenty of the penal law~~  
49 ~~or class B or class C violent felony offense as defined in subdivision~~  
50 ~~one of section 70.02 of the penal law, and it appears that the defendant~~  
51 ~~has previously been subjected to a predicate felony conviction as~~  
52 ~~defined in penal law section 70.06 then any plea of guilty entered~~  
53 ~~pursuant to subdivision three or four must be or must include at least a~~  
54 ~~plea of guilty of a felony.~~

55 [~~(d) Where the indictment charges a class A felony, other than those~~  
56 ~~defined in article two hundred twenty of the penal law, or charges a~~



1 ~~class B or class C violent felony offense as defined in subdivision one~~  
2 ~~of section 70.02 of the penal law, then a plea of guilty entered pursu-~~  
3 ~~ant to subdivision three or four must be as follows:~~

4 ~~(i) Where the indictment charges a class A felony offense or a class B~~  
5 ~~violent felony offense which is also an armed felony offense then a plea~~  
6 ~~of guilty must include at least a plea of guilty to a class C violent~~  
7 ~~felony offense;~~

8 ~~(ii) Except as provided in subparagraph (i) of this paragraph, where~~  
9 ~~the indictment charges a class B violent felony offense or a class C~~  
10 ~~violent felony offense, then a plea of guilty must include at least a~~  
11 ~~plea of guilty to a class D violent felony offense;~~

12 ~~(iii) Where the indictment charges the class D violent felony offense~~  
13 ~~of criminal possession of a weapon in the third degree as defined in~~  
14 ~~subdivision four of section 265.02 of the penal law, and the defendant~~  
15 ~~has not been previously convicted of a class A misdemeanor defined in~~  
16 ~~the penal law in the five years preceding the commission of the offense,~~  
17 ~~then a plea of guilty must be either to the class E violent felony~~  
18 ~~offense of attempted criminal possession of a weapon in the third degree~~  
19 ~~or to the class A misdemeanor of criminal possession of a weapon in the~~  
20 ~~fourth degree as defined in subdivision one of section 265.01 of the~~  
21 ~~penal law;~~

22 ~~(iv) Where the indictment charges the class D violent felony offenses~~  
23 ~~of criminal possession of a weapon in the third degree as defined in~~  
24 ~~subdivision four of section 265.02 of the penal law and the provisions~~  
25 ~~of subparagraph (iii) of this paragraph do not apply, or subdivision~~  
26 ~~five, seven or eight of section 265.02 of the penal law, then a plea of~~  
27 ~~guilty must include at least a plea of guilty to a class E violent felo-~~  
28 ~~ny offense.~~

29 ~~(e) A defendant may not enter a plea of guilty to the crime of murder~~  
30 ~~in the first degree as defined in section 125.27 of the penal law;~~  
31 ~~provided, however, that a defendant may enter such a plea with both the~~  
32 ~~permission of the court and the consent of the people when the agreed~~  
33 ~~upon sentence is either life imprisonment without parole or a term of~~  
34 ~~imprisonment for the class A-I felony of murder in the first degree~~  
35 ~~other than a sentence of life imprisonment without parole.~~

36 ~~(f) The provisions of this subdivision shall apply irrespective of~~  
37 ~~whether the defendant is thereby precluded from entering a plea of gui-~~  
38 ~~lty of any lesser included offense.~~

39 ~~(g) Where the defendant is a juvenile offender, [the provisions of~~  
40 ~~paragraphs (a), (b), (c) and (d) of this subdivision shall not apply~~  
41 ~~and] any plea entered pursuant to subdivision three or four of this~~  
42 ~~section, must be as follows:~~

43 ~~[(i)] (a) If the indictment charges a person fourteen or fifteen years~~  
44 ~~old with the crime of murder in the second degree any plea of guilty~~  
45 ~~entered pursuant to subdivision three or four must be a plea of guilty~~  
46 ~~of a crime for which the defendant is criminally responsible;~~

47 ~~[(ii)] (b) If the indictment does not charge a crime specified in~~  
48 ~~[subparagraph (i)] paragraph (a) of this [paragraph] subdivision,~~  
49 ~~then any plea of guilty entered pursuant to subdivision three or four of this~~  
50 ~~section must be a plea of guilty of a crime for which the defendant is~~  
51 ~~criminally responsible unless a plea of guilty is accepted pursuant to~~  
52 ~~[subparagraph (iii)] paragraph (c) of this [paragraph] subdivision;~~

53 ~~[(iii)] (c) Where the indictment does not charge a crime specified in~~  
54 ~~[subparagraph (i)] paragraph (a) of this [paragraph] subdivision,~~  
55 ~~the district attorney may recommend removal of the action to the family~~  
56 ~~court. Upon making such recommendation the district attorney shall~~

1 submit a subscribed memorandum setting forth: [~~(1)~~] (i) a recommendation  
2 that the interests of justice would best be served by removal of the  
3 action to the family court; and [~~(2)~~] (ii) if the indictment charges a  
4 thirteen year old with the crime of murder in the second degree, or a  
5 fourteen or fifteen year old with the crimes of rape in the first degree  
6 as defined in subdivision one of section 130.35 of the penal law, or  
7 criminal sexual act in the first degree as defined in subdivision one of  
8 section 130.50 of the penal law, or an armed felony as defined in para-  
9 graph (a) of subdivision forty-one of section 1.20 of this chapter  
10 specific factors, one or more of which reasonably supports the recommen-  
11 dation, showing, [~~(i)~~] (1) mitigating circumstances that bear directly  
12 upon the manner in which the crime was committed, or [~~(ii)~~] (2) where  
13 the defendant was not the sole participant in the crime, that the  
14 defendant's participation was relatively minor although not so minor as  
15 to constitute a defense to the prosecution, or [~~(iii)~~] (3) possible  
16 deficiencies in proof of the crime, or [~~(iv)~~] (4) where the juvenile  
17 offender has no previous adjudications of having committed a designated  
18 felony act, as defined in subdivision eight of section 301.2 of the  
19 family court act, regardless of the age of the offender at the time of  
20 commission of the act, that the criminal act was not part of a pattern  
21 of criminal behavior and, in view of the history of the offender, is not  
22 likely to be repeated.

23 If the court is of the opinion based on specific factors set forth in  
24 the district attorney's memorandum that the interests of justice would  
25 best be served by removal of the action to the family court, a plea of  
26 guilty of a crime or act for which the defendant is not criminally  
27 responsible may be entered pursuant to subdivision three or four of this  
28 section, except that a thirteen year old charged with the crime of  
29 murder in the second degree may only plead to a designated felony act,  
30 as defined in subdivision eight of section 301.2 of the family court  
31 act.

32 Upon accepting any such plea, the court must specify upon the record  
33 the portion or portions of the district attorney's statement the court  
34 is relying upon as the basis of its opinion and that it believes the  
35 interests of justice would best be served by removal of the proceeding  
36 to the family court. Such plea shall then be deemed to be a juvenile  
37 delinquency fact determination and the court upon entry thereof must  
38 direct that the action be removed to the family court in accordance with  
39 the provisions of article seven hundred twenty-five of this chapter.

40 [~~(g-1) Where a defendant is an adolescent offender, the provisions of~~  
41 ~~paragraphs (a), (b), (c) and (d) of this subdivision shall not apply.]~~

42 5-a. Where the plea is to an offense constituting a misdemeanor, the  
43 plea shall be deemed replaced by an order of fact-finding in a juvenile  
44 delinquency proceeding, pursuant to section 346.1 of the family court  
45 act, and the action shall be removed to the family court in accordance  
46 with article seven hundred twenty-five of this chapter. Where the plea  
47 is to an offense constituting a felony, the court may remove the action  
48 to the family court in accordance with section 722.23 and article seven  
49 hundred twenty-five of this chapter.

50 [~~(h) Where the indictment charges the class E felony offense of aggra-~~  
51 ~~ated harassment of an employee by an incarcerated individual as defined~~  
52 ~~in section 240.32 of the penal law, then a plea of guilty must include~~  
53 ~~at least a plea of guilty to a class E felony.]~~

54 6. The defendant may, with both the permission of the court and the  
55 consent of the people, enter a plea of not responsible by reason of

1 mental disease or defect to the indictment in the manner prescribed in  
2 section 220.15 of this chapter.

3 § 42. Subparagraph (iii) of paragraph (g) of subdivision 5 of section  
4 220.10 of the criminal procedure law, as amended by chapter 23 of the  
5 laws of 2024, is amended to read as follows:

6 [~~(iii)~~] (c) Where the indictment does not charge a crime specified in  
7 [~~subparagraph (i)~~] paragraph (a) of this [~~paragraph~~] subdivision, the  
8 district attorney may recommend removal of the action to the family  
9 court. Upon making such recommendation the district attorney shall  
10 submit a subscribed memorandum setting forth: [~~(1)~~] (i) a recommendation  
11 that the interests of justice would best be served by removal of the  
12 action to the family court; and [~~(2)~~] (ii) if the indictment charges a  
13 thirteen year old with the crime of murder in the second degree, or a  
14 fourteen or fifteen year old with the crimes of rape in the first degree  
15 as defined in subdivision one of section 130.35 of the penal law, or  
16 criminal sexual act in the first degree as defined in subdivision one of  
17 section 130.50 of the penal law, or an armed felony as defined in para-  
18 graph (a) of subdivision forty-one of section 1.20 of this chapter  
19 specific factors, one or more of which reasonably supports the recommen-  
20 dation, showing, [~~(i)~~] (1) mitigating circumstances that bear directly  
21 upon the manner in which the crime was committed, or [~~(iii)~~] (2) where  
22 the defendant was not the sole participant in the crime, that the  
23 defendant's participation was relatively minor although not so minor as  
24 to constitute a defense to the prosecution, or [~~(iii)~~] (3) possible  
25 deficiencies in proof of the crime, or [~~(iv)~~] (4) where the juvenile  
26 offender has no previous adjudications of having committed a designated  
27 felony act, as defined in subdivision eight of section 301.2 of the  
28 family court act, regardless of the age of the offender at the time of  
29 commission of the act, that the criminal act was not part of a pattern  
30 of criminal behavior and, in view of the history of the offender, is not  
31 likely to be repeated.

32 § 43. Subdivision 3 of section 220.30 of the criminal procedure law is  
33 REPEALED.

34 § 44. Section 430.20 of the criminal procedure law is amended by  
35 adding a new subdivision 1-a to read as follows:

36 1-a. Time calculation. (a) If at the time of sentencing the defendant  
37 is at liberty, and has accrued jail time credit such that the time  
38 accrued may be equal to or exceed the amount of time the defendant would  
39 be required to serve to reach the conditional release date of a defi-  
40 nite, indeterminate, or determinate sentence, or any jail portion of a  
41 sentence of probation pursuant to the sentence or sentences to be  
42 imposed, the court shall proceed to impose sentence but shall not commit  
43 the defendant to custody, or if the defendant is in custody at the time  
44 of sentencing the court shall, upon the defendant's request, release the  
45 defendant pending further order of the court. The court shall direct the  
46 department of corrections and community supervision, sheriff, or the New  
47 York city commissioner of corrections to promptly calculate the jail  
48 time credit under section 70.30 of the penal law and determine the good  
49 time credit pursuant to section 70.40 of the penal law and sections  
50 eight hundred three and eight hundred four of the correction law and  
51 certify such credit to the sentencing court. If the credit so certified  
52 is sufficient to satisfy the conditional release date of the sentence or  
53 sentences imposed by the court, the defendant shall not be further  
54 committed to custody pursuant to such sentence or sentences, except as  
55 otherwise expressly provided by law.

1 (b) Where the defendant is otherwise subject to probation, parole,  
2 conditional release or post-release supervision under the terms of the  
3 court's sentence, the court shall direct the defendant to appear forth-  
4 with at the office of the department of corrections and community super-  
5 vision or a local probation department. The terms of such probation,  
6 parole, conditional release or post-release supervision shall be estab-  
7 lished by the court, the department of corrections and community super-  
8 vision, or the local probation department, without commitment of the  
9 defendant.

10 § 45. This act shall take effect immediately; provided, however, that  
11 if chapter 23 of the laws of 2024 shall not have taken effect on or  
12 before such date then section forty-two of this act shall take effect on  
13 the same date and in the same manner as such chapter of the laws of 2024  
14 takes effect.