

STATE OF NEW YORK

6043

2025-2026 Regular Sessions

IN ASSEMBLY

February 26, 2025

Introduced by M. of A. LUNSFORD -- read once and referred to the Committee on Correction

AN ACT to amend the executive law, in relation to revoking community supervision for certain conduct

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

1 Section 1. Subdivisions 6 and 7 of section 259 of the executive law,
2 as added by chapter 427 of the laws of 2021, are amended to read as
3 follows:

4 6. "Technical violation" means any conduct that violates a condition
5 of community supervision in an important respect, other than the commis-
6 sion of a new felony or misdemeanor offense under the penal law or
7 conduct that violates a specific condition of community supervision in
8 an important respect and such conduct may result in serious harm to the
9 releasee or others.

10 7. "Non-technical violation" means: (a) the commission of a new felony
11 or misdemeanor offense; or (b) conduct that violates a specific condi-
12 tion of community supervision and such conduct may result in serious
13 harm to the releasee or others; or (c) conduct by a releasee who is
14 serving a sentence for an offense defined in article [130] one hundred
15 thirty of the penal law (sex offenses), article one hundred thirty-five
16 of the penal law (kidnapping, coercion and related offenses), article
17 two hundred sixty-five of the penal law (firearms and other dangerous
18 weapons) or section 255.26 or 255.27 of such law, and such conduct
19 violated a specific condition reasonably related to such offense and
20 efforts to protect the public from the commission of a repeat of such
21 offense including any violation of article six-C of the correction law.

22 § 2. Subparagraph (xii) of paragraph (f) of subdivision 3 of section
23 259-i of the executive law, as amended by chapter 427 of the laws of
24 2021, is amended to read as follows:

25 (xii) For each violation found, the presiding officer may (A) direct
26 that the releasee be restored to supervision; (B) as an alternative to
27 reincarceration, direct the releasee receive re-entry services in the
28 community from qualified nonprofit agencies; or (C) direct the viola-

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

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1 tor's reincarceration and for non-technical violations fix a date for
2 consideration by the board for re-release on presumptive release, or
3 parole or conditional release, as the case may be; or (D) for non-tech-
4 nical violations in the case of persons released to a period of post-re-
5 lease supervision, direct the violator's reincarceration up to the
6 balance of the remaining period of post-release supervision, not to
7 exceed five years; provided, however, that a defendant serving a term of
8 post-release supervision for a conviction of a felony sex offense
9 defined in section 70.80 of the penal law may be subject to a further
10 period of imprisonment up to the balance of the remaining period of
11 post-release supervision, shall apply for technical violations; and the
12 following limitations:

13 (1) Absconding. For absconding up to [~~seven~~ thirty days reincarcera-
14 tion may be imposed for the first violation, up to [~~fifteen~~ sixty days
15 reincarceration may be imposed for the second violation, and up to
16 [~~thirty~~ ninety days reincarceration may be imposed for the third or any
17 subsequent violation, provided, however, that no releasee shall be rein-
18 carcerated for more than seven days for absconding if such releasee
19 voluntarily presents himself to such releasee's community supervision
20 officer or area bureau office;

21 (2) Sanctions for certain technical violations. Reincarceration shall
22 not be imposed for a sustained technical violation that involves: (a)
23 violating curfew; (b) alcohol use, provided however that incarceration
24 is permissible for alcohol use if the person is subject to community
25 supervision due to a conviction for driving under the influence of alco-
26 hol; (c) drug use, provided, however incarceration is permissible for
27 drug use if the person is subject to community supervision due to a
28 conviction for driving under the influence of drugs; (d) failing to
29 notify parole officer of a change in employment or program status; (e)
30 failing to pay surcharges and fees; (f) obtaining a driver's license or
31 driving a car with a valid driver's license, provided however incarcera-
32 tion is permissible if either action is explicitly prohibited by the
33 person's conviction; (g) failing to notify community supervision officer
34 of contact with any law enforcement agency, provided however, incarcera-
35 tion is permissible if the person intended to hide illegal behavior or
36 in instances where the conduct violates a specific condition of communi-
37 ty supervision in an important respect and such conduct may result in
38 serious harm to the releasee or others; (h) failing to obey other
39 special conditions, provided however that incarceration is permissible
40 if the failure cannot be addressed in the community and all reasonable
41 community-based means to address the failure have been exhausted; and

42 (3) Sanctions for all other technical violations. For all other tech-
43 nical violations, no period of reincarceration may be imposed for the
44 first and second substantiated technical violations for which incarcera-
45 tion may be imposed; up to seven days reincarceration may be imposed for
46 the third substantiated technical violation for which incarceration may
47 be imposed; up to fifteen days reincarceration may be imposed for the
48 fourth substantiated technical violation for which incarceration may be
49 imposed; up to thirty days reincarceration may be imposed for the fifth
50 and subsequent substantiated technical violations for which incarcera-
51 tion may be imposed. Provided, however, that a period of reincarcera-
52 tion may be imposed for conduct that violates a specific condition of
53 community supervision in an important respect and that such conduct may
54 result in serious harm to the releasee or others.

55 § 3. This act shall take effect immediately.