

S. 1505--C

48

A. 2005--C

1 provided, further, that no person shall be required to divulge informa-
2 tion pertaining to any arrest or criminal accusation of such individual
3 not then pending against that individual which was followed by a termi-
4 nation of that criminal action or proceeding in favor of such individ-
5 ual, as defined in subdivision two of section 160.50 of the criminal
6 procedure law, or by an order adjourning the criminal action in contem-
7 plation of dismissal, pursuant to section 170.55 or 170.56, 210.46,
8 210.47 or 215.10 of the criminal procedure law, or by a youthful offen-
9 der adjudication, as defined in subdivision one of section 720.35 of the
10 criminal procedure law, or by a conviction for a violation sealed pursu-
11 ant to section 160.55 of the criminal procedure law, or by a conviction
12 which is sealed pursuant to section 160.58 or 160.59 of the criminal
13 procedure law. An individual required or requested to provide informa-
14 tion in violation of this subdivision may respond as if the arrest,
15 criminal accusation, or disposition of such arrest or criminal accusa-
16 tion did not occur. The provisions of this subdivision shall not apply
17 to the licensing activities of governmental bodies in relation to the
18 regulation of guns, firearms and other deadly weapons or in relation to
19 an application for employment as a police officer or peace officer as
20 those terms are defined in subdivisions thirty-three and thirty-four of
21 section 1.20 of the criminal procedure law; provided further that the
22 provisions of this subdivision shall not apply to an application for
23 employment or membership in any law enforcement agency with respect to
24 any arrest or criminal accusation which was followed by a youthful
25 offender adjudication, as defined in subdivision one of section 720.35
26 of the criminal procedure law, or by a conviction for a violation sealed
27 pursuant to section 160.55 of the criminal procedure law, or by a
28 conviction which is sealed pursuant to section 160.58 or 160.59 of the
29 criminal procedure law. For purposes of this subdivision, an action
30 which has been adjourned in contemplation of dismissal, pursuant to
31 section 170.55 or 170.56, 210.46, 210.47 or 215.10 of the criminal
32 procedure law, shall not be considered a pending action, unless the
33 order to adjourn in contemplation of dismissal is revoked and the case
34 is restored to the calendar for further prosecution.
35 § 3. This act shall take effect on the ninetieth day after it shall
36 have become a law.

37

SUBPART P

38

Intentionally omitted

39 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-
40 sion, section or part of this act shall be adjudged by any court of
41 competent jurisdiction to be invalid, such judgment shall not affect,
42 impair, or invalidate the remainder thereof, but shall be confined in
43 its operation to the clause, sentence, paragraph, subdivision, section
44 or part thereof directly involved in the controversy in which such judg-
45 ment shall have been rendered. It is hereby declared to be the intent of
46 the legislature that this act would have been enacted even if such
47 invalid provisions had not been included herein.
48 § 3. This act shall take effect immediately provided, however, that
49 the applicable effective date of Subparts A through P of this act shall
50 be as specifically set forth in the last section of such Subparts.

51

PART JJ

1 Intentionally Omitted

2 PART KK

3 Section 1. Section 60.05 of the penal law is amended by adding a new
4 subdivision 8 to read as follows:

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

24 (b) Paragraph (b) of subdivision seven of section 60.04 of this arti-
25 cle shall apply in the event an inmate designated by court order for
26 enrollment in the shock incarceration program requires a degree of
27 medical care or mental health care that cannot be provided at a shock
28 incarceration facility.

29 § 2. Subdivision 1 of section 865 of the correction law, as amended by
30 chapter 377 of the laws of 2010, is amended to read as follows:

31 1. "Eligible inmate" means a person sentenced to an indeterminate term
32 of imprisonment who will become eligible for release on parole within
33 three years or sentenced to a determinate term of imprisonment who will
34 become eligible for conditional release within three years, who has not
35 reached the age of fifty years, who has not previously been convicted of
36 a violent felony as defined in article seventy of the penal law, or a
37 felony in any other jurisdiction which includes all of the essential
38 elements of any such violent felony, upon which an indeterminate or
39 determinate term of imprisonment was imposed and who was between the
40 ages of sixteen and fifty years at the time of commission of the crime
41 upon which his or her present sentence was based. Notwithstanding the
42 foregoing, no person who is convicted of any of the following crimes
43 shall be deemed eligible to participate in this program: (a) a violent
44 felony offense as defined in article seventy of the penal law[~~7~~];
45 provided, however, that a person who is convicted of burglary in the
46 second degree as defined in subdivision two of section 140.25 of the
47 penal law, or robbery in the second degree as defined in subdivision one
48 of section 160.10 of the penal law, or an attempt thereof, is eligible
49 to participate, (b) an A-I felony offense, (c) any homicide offense as
50 defined in article one hundred twenty-five of the penal law, (d) any
51 felony sex offense as defined in article one hundred thirty of the penal
52 law and (e) any escape or absconding offense as defined in article two
53 hundred five of the penal law.

S. 1505--C

50

A. 2005--C

1 § 3. This act shall take effect on the thirtieth day after it shall
2 have become a law.

3 PART LL

4 Intentionally Omitted

5 PART MM

6 Intentionally Omitted

7 PART NN

8 Intentionally Omitted

9 PART OO

10 Section 1. Subdivisions 1 and 3 of section 70.15 of the penal law,
11 subdivision 1 as amended by chapter 291 of the laws of 1993, are amended
12 to read as follows:

13 1. Class A misdemeanor. A sentence of imprisonment for a class A
14 misdemeanor shall be a definite sentence. When such a sentence is
15 imposed the term shall be fixed by the court, and shall not exceed [~~one~~
16 ~~year; provided, however, that a sentence of imprisonment imposed upon a~~
17 ~~conviction of criminal possession of a weapon in the fourth degree as~~
18 ~~defined in subdivision one of section 265.01 must be for a period of no~~
19 ~~less than one year when the conviction was the result of a plea of guilt~~
20 ~~ty entered in satisfaction of an indictment or any count thereof charg-~~
21 ~~ing the defendant with the class D violent felony offense of criminal~~
22 ~~possession of a weapon in the third degree as defined in subdivision~~
23 ~~four of section 265.02, except that the court may impose any other~~
24 ~~sentence authorized by law upon a person who has not been previously~~
25 ~~convicted in the five years immediately preceding the commission of the~~
26 ~~offense for a felony or a class A misdemeanor defined in this chapter,~~
27 ~~if the court having regard to the nature and circumstances of the crime~~
28 ~~and to the history and character of the defendant, finds on the record~~
29 ~~that such sentence would be unduly harsh and that the alternative~~
30 ~~sentence would be consistent with public safety and does not deprecate~~
31 ~~the seriousness of the crime] three hundred sixty-four days.~~

32 3. Unclassified misdemeanor. A sentence of imprisonment for an unclas-
33 sified misdemeanor shall be a definite sentence. When such a sentence is
34 imposed the term shall be fixed by the court, and shall be in accordance
35 with the sentence specified in the law or ordinance that defines the
36 crime but, in any event, it shall not exceed three hundred sixty-four
37 days.

38 § 2. Section 70.15 of the penal law is amended by adding a new subdi-
39 vision 1-a to read as follows:

40 1-a. (a) Notwithstanding the provisions of any other law, whenever the
41 phrase "one year" or "three hundred sixty-five days" or "365 days" or
42 any similar phrase appears in any provision of this chapter or any other
43 law in reference to the definite sentence or maximum definite sentence
44 of imprisonment that is imposed, or has been imposed, or may be imposed
45 after enactment of this subdivision, for a misdemeanor conviction in
46 this state, such phrase shall mean, be interpreted and be applied as
47 three hundred sixty-four days.