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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.

1 (b) The amendatory provisions of this subdivision are ameliorative and  
2 shall apply to all persons who are sentenced before, on or after the  
3 effective date of this subdivision, for a crime committed before, on or  
4 after the effective date of this subdivision.

5 (c) Any sentence for a misdemeanor conviction imposed prior to the  
6 effective date of this subdivision that is a definite sentence of impri-  
7 sonment of one year, or three hundred sixty-five days, shall, by opera-  
8 tion of law, be changed to, mean and be interpreted and applied as a  
9 sentence of three hundred sixty-four days. In addition to any other  
10 right of a person to obtain a record of a proceeding against him or her,  
11 a person so sentenced prior to the effective date of this subdivision  
12 shall be entitled to obtain, from the criminal court or the clerk there-  
13 of, a certificate of conviction, as described in subdivision one of  
14 section 60.60 of the criminal procedure law, setting forth such sentence  
15 as the sentence specified in this paragraph.

16 (d) Any sentence for a misdemeanor conviction imposed prior to the  
17 effective date of this subdivision that is other than a definite  
18 sentence of imprisonment of one year may be set aside, upon motion of  
19 the defendant under section 440.20 of the criminal procedure law based  
20 on a showing that the judgment and sentence under the law in effect at  
21 the time of conviction imposed prior to the effective date of this  
22 subdivision is likely to result in severe collateral consequences, in  
23 order to permit the court to resentence the defendant in accordance with  
24 the amendatory provisions of this subdivision.

25 (e) Resentence by operation of law is without prejudice to an individ-  
26 ual seeking further relief pursuant to paragraph (i) of subdivision one  
27 of section 440.10 of the criminal procedure law. Nothing in this section  
28 is intended to diminish or abrogate any rights or remedies otherwise  
29 available to the individual.

30 § 3. Paragraph (i) of subdivision 1 of section 440.10 of the criminal  
31 procedure law, as amended by chapter 368 of the laws of 2015, the open-  
32 ing paragraph as amended by chapter 189 of the laws of 2018, is amended  
33 and a new paragraph (j) is added to read as follows:

34 (i) The judgment is a conviction where the arresting charge was under  
35 section 240.37 (loitering for the purpose of engaging in a prostitution  
36 offense, provided that the defendant was not alleged to be loitering for  
37 the purpose of patronizing a person for prostitution or promoting pros-  
38 titution) or 230.00 (prostitution) or 230.03 (prostitution in a school  
39 zone) of the penal law, and the defendant's participation in the offense  
40 was a result of having been a victim of sex trafficking under section  
41 230.34 of the penal law, sex trafficking of a child under section  
42 230.34-a of the penal law, labor trafficking under section 135.35 of the  
43 penal law, aggravated labor trafficking under section 135.37 of the  
44 penal law, compelling prostitution under section 230.33 of the penal  
45 law, or trafficking in persons under the Trafficking Victims Protection  
46 Act (United States Code, title 22, chapter 78); provided that

47 (i) a motion under this paragraph shall be made with due diligence,  
48 after the defendant has ceased to be a victim of such trafficking or  
49 compelling prostitution crime or has sought services for victims of such  
50 trafficking or compelling prostitution crime, subject to reasonable  
51 concerns for the safety of the defendant, family members of the defend-  
52 ant, or other victims of such trafficking or compelling prostitution  
53 crime that may be jeopardized by the bringing of such motion, or for  
54 other reasons consistent with the purpose of this paragraph; and

55 (ii) official documentation of the defendant's status as a victim of  
56 trafficking, compelling prostitution or trafficking in persons at the

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1 time of the offense from a federal, state or local government agency  
 2 shall create a presumption that the defendant's participation in the  
 3 offense was a result of having been a victim of sex trafficking, compell-  
 4 ing prostitution or trafficking in persons, but shall not be required  
 5 for granting a motion under this paragraph[-]; or

6 (j) The judgment is a conviction for a class A or unclassified misde-  
 7 meanor entered prior to the effective date of this paragraph and satis-  
 8 fies the ground prescribed in paragraph (h) of this subdivision. There  
 9 shall be a rebuttable presumption that a conviction by plea to such an  
 10 offense was not knowing, voluntary and intelligent, based on severe or  
 11 ongoing collateral consequences, including potential or actual immi-  
 12 gration consequences, and there shall be a rebuttable presumption that a  
 13 conviction by verdict constitutes cruel and unusual punishment under  
 14 section five of article one of the state constitution based on such  
 15 consequences.

16 § 4. Section 440.10 of the criminal procedure law is amended by adding  
 17 a new subdivision 9 to read as follows:

18 9. Upon granting of a motion pursuant to paragraph (j) of subdivision  
 19 one of this section, the court may either:

20 (a) With the consent of the people, vacate the judgment or modify the  
 21 judgment by reducing it to one of conviction for a lesser offense; or

22 (b) Vacate the judgment and order a new trial wherein the defendant  
 23 enters a plea to the same offense in order to permit the court to resen-  
 24 tence the defendant in accordance with the amendatory provisions of  
 25 subdivision one-a of section 70.15 of the penal law.

26 § 5. This act shall take effect immediately.

27 PART PP

28 Section 1. The opening paragraph and paragraph (a) of subdivision 1 of  
 29 section 1311 of the civil practice law and rules, the opening paragraph  
 30 as amended by chapter 655 of the laws of 1990 and paragraph (a) as added  
 31 by chapter 669 of the laws of 1984, are amended to read as follows:

32 A civil action may be commenced by the appropriate claiming authority  
 33 against a criminal defendant to recover the property which constitutes  
 34 the proceeds of a crime, the substituted proceeds of a crime, an instru-  
 35 mentality of a crime or the real property instrumentality of a crime [~~or~~  
 36 ~~to recover a money judgment in an amount equivalent in value to the~~  
 37 ~~property which constitutes the proceeds of a crime, the substituted~~  
 38 ~~proceeds of a crime, an instrumentality of a crime, or the real property~~  
 39 ~~instrumentality of a crime]. A civil action may be commenced against a~~  
 40 non-criminal defendant to recover the property which constitutes the  
 41 proceeds of a crime, the substituted proceeds of a crime, an instrumen-  
 42 tality of a crime, or the real property instrumentality of a crime  
 43 provided, however, that a judgment of forfeiture predicated upon clause  
 44 (A) of subparagraph (iv) of paragraph (b) of subdivision three [~~hereof~~  
 45 of this section] shall be limited to the amount of the proceeds of the  
 46 crime. Any action under this article must be commenced within five years  
 47 of the commission of the crime and shall be civil, remedial, and in  
 48 personam in nature and shall not be deemed to be a penalty or criminal  
 49 forfeiture for any purpose. Except as otherwise specially provided by  
 50 statute, the proceedings under this article shall be governed by this  
 51 chapter. An action under this article is not a criminal proceeding and  
 52 may not be deemed to be a previous prosecution under article forty of  
 53 the criminal procedure law.