

A QUICK GUIDE TO ROCKEFELLER DRUG LAW REFORM 2009

UNDERSTANDING THE NEW LEGISLATION

New York State Association
of
Criminal Defense Lawyers

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ROCKEFELLER DRUG LAW REFORM BILL

- Signed by Governor on April 7, 2009
- Formerly known as A156-B Budget, S56-B Budget
- Now known as L 2009, ch 56
- Where found – www.communityalternatives.org
 - Click – “New 2009 Sentencing Chart for Drug Offenses...”
 - Click – “Tools for Attorneys”
- Parts effective April 7, 2009, June 6, 2009, October 7, 2009, November 1, 2009



NEW SENTENCING OPTIONS

- Minimum determinate sentence lowered on B prior non-violent (lowered to 2 years) and minimum on C prior non-violent (lowered to 1 ½). All others remain the same.
- Eligibility for probation expanded and some terms of probation reduced
- Expanded eligibility for alternative definite sentence (local time)
- Eligibility for Willard sentence of parole supervision expanded
- Eligibility for Shock expanded
- Judicially ordered Shock authorized
- Judicial diversion authorized

2009 Rockefeller Drug Law Reform Sentencing Chart⁶

Class Felony	Determinate Sentence Term	Post-Release Supervision	Probation Permitted	Alternative Definite Sentence Permitted	Y.O. Permitted	Parole Supervision Sentence	Shock Permitted ⁴	Judicially Ordered Shock	CASAT Sentence Permitted	Judicial Diversion ^{5, 8}
A-I First Offense	8 - 20	5	No	No	No	No	No	No	Yes	No
A-I Major Trafficker	15/25-Life ⁹	5 ⁹	No	No	No	No	No	No	Yes	No
A-I Prior Non-Violent	12 - 24	5	No	No	No	No	No	No	Yes	No
A-I Prior Violent	15 - 30	5	No	No	No	No	No	No	Yes	No
A-II First Offense	3 - 10	5	Yes/life ¹	No	No	No	Yes	Yes ³	Yes	No
A-II Prior Non-Violent	6 - 14	5	Yes/life ¹	No	No	No	Yes	Yes ³	Yes	No
A-II Prior Violent	8 - 17	5	No	No	No	No	Yes	Yes ³	Yes	No
B First Offense	1 - 9	1 - 2	Yes/5	Yes 1 yr. or less	Yes	Yes²	Yes	Yes ³	Yes	Yes ⁵
B Sale Near School	2 - 9	1 - 2	Yes/5	Yes 1 yr. or less	Yes	Yes²	Yes	Yes ³	Yes	Yes ⁵
B Sale to a Child	2 - 9	1 - 2	Yes/25 ¹	No	NA	No	Yes	Yes ³	Yes	Yes ⁵
B Prior Non-Violent	2 - 12	1 ½ - 3	Yes/life ¹	No	No	No	Yes	Yes ³	Yes ⁷	Yes ⁵
B Prior Violent	6 - 15	1 ½ - 3	No	No	No	No	No	No	Yes ⁷	No
C First Offense	1 - 5 ½	1 - 2	Yes/5	Yes 1 yr. or less	Yes	No	Yes	Yes ³	Yes	Yes ⁵
C Prior Non-Violent	1 ½ - 8	1 ½ - 3	Yes/5	Yes 1 yr. or less	No	Yes²	Yes	Yes ³	Yes	Yes ⁵
C Prior Violent	3 ½ - 9	1 ½ - 3	No	No	No	No	Yes	Yes ³	Yes	No
D First Offense	1 - 2 ½	1	Yes/5	Yes 1 yr. or less	Yes	No	Yes	Yes ³	Yes	Yes ⁵
D Prior Non-Violent	1 ½ - 4	1 - 2	Yes/5	Yes 1 yr. or less	No	Yes ²	Yes	Yes ³	Yes	Yes ⁵
D Prior Violent	2 ½ - 4 ½	1 - 2	No	No	No	No	Yes	Yes ³	Yes	No
E First Offense	1 - 1 ½	1	Yes/5	Yes 1 yr. or less	Yes	No	Yes	Yes ³	Yes	Yes ⁵
E Prior Non-Violent	1 ½ - 2	1 - 2	Yes/5	Yes 1 yr. or less	No	Yes ²	Yes	Yes ³	Yes	Yes ⁵
E Prior Violent	2 - 2 ½	1 - 2	No	No	No	No	Yes	Yes ³	Yes	No

¹ Requires recommendation of DA, material assistance in prosecution of drug offense, and court approval. (Penal Law §65.00(1)(b)).

² Excluded if convicted of another felony offense, prior violent felony, a class A or B non-drug or subject to an undischarged term. CPL §410.91 (2).

³ No prior state prison. Less than 50 yrs old. Must be within 3 years to parole or conditional release. Excludes crimes listed in (Corr.L. §865(1)). For terms of more than 3 years must wait for rolling admissions.

⁴ Same as ft. note 3. For terms of more than 3 years must wait for rolling admission. (Corr.L. §865(2)).

⁵ See CPL §216.00(1)(a) for exclusions, but D.A. may consent to include exclusions.

⁶ Effective 4/7/09.

⁷ Must serve 9 months jail or prison time to be eligible.

⁸ Judicial Diversion effective 10/7/09. Applies to crimes committed prior to Act not yet sentenced.

⁹ Alternative determinate sentence possible (8-20).

Denotes Change

Center for Community Alternatives

JUDICIAL DIVERSION

- New CPL Article 216
- Effective: October 7, 2009
- Who is eligible?
 - All Class B, C, D, E drug and marijuana felonies (indicted or superior court information)
 - All Willard-eligible felonies (property crimes)
 - All first and second felony offenders (limited to prior non-violent)

JUDICIAL DIVERSION

- Who is excluded?
 - Anyone who, within the preceding 10 years, excluding time incarcerated, has been convicted of:
 - i. Violent felony
 - ii. Any offense for which merit time allowance is not available
 - iii. A Class A drug offense
 - A person previously adjudicated a second or persistent violent felony offender
 - A person who is currently charged with a violent felony or merit time ineligible crime, for which state prison is mandatory, while such charges are pending
- Excluded person may become eligible upon prosecutor's consent



JUDICIAL DIVERSION - ELIGIBLE

- Practice note – a person charged with a Willard eligible felony whose prior violent conviction falls outside the 10 year “look back” is still eligible for judicial diversion, even though excluded from Willard (which excludes for a prior violent felony occurring at any time)

JUDICIAL DIVERSION

■ Procedure

- Defendant may request the court to order an alcohol and substance abuse evaluation at any time prior to plea of guilty or trial
- Defendant may decline further participation at any time
- Defendant must sign releases authorizing disclosure of the assessment to defense counsel, prosecutor, probation, the court etc. in compliance with federal and state laws, rules or regulating (HIPPA, 42 CFR Part 2)

JUDICIAL DIVERSION

■ Procedure

- “Alcohol and substance abuse evaluation” means:

A written assessment and report by a court approved entity or licensed health care professional experienced in alcohol and substance abuse treatment or OASAS credentialed counselor



JUDICIAL DIVERSION

- Report shall include:
 - An evaluation as to whether defendant has a history of alcohol or substance abuse or dependence, including “co-occurring mental disorder or mental illness and the relationship between abuse or dependence” and mental condition
 - A recommendation whether it could be effectively addressed by diversion
 - A recommendation as to the treatment modality, level of care and length of proposed treatment



JUDICIAL DIVERSION

■ Procedure

- Court provides copy of evaluation report to defendant and prosecutor
- Hearing – either party may request a hearing on issue of whether defendant should be offered alcohol or substance abuse treatment
- Court may hear evidence regarding prior Y.O. in preceding 10 years for a violent felony offense or an offense for which merit time allowance is not available

JUDICIAL DIVERSION

■ Procedure

- Court must make finding of fact with respect to whether:
 - i. The defendant is statutorily eligible for diversion;
 - ii. The defendant has a history of alcohol or substance abuse or dependence;
 - iii. Which is a contributing factor to the defendant's criminal behavior;
 - iv. The defendant's participation in judicial diversion could effectively address such abuse or dependence; and
 - v. Institutional confinement of the defendant is or may not be necessary for the protection of the public

JUDICIAL DIVERSION

■ Procedure

- Court enters order granting judicial diversion
- Prior to order defendant required to enter plea of guilty
- Exception to guilty plea:
 - Consent of prosecutor or the court
 - or
 - Finding of “exceptional circumstances” due to severe collateral consequences



JUDICIAL DIVERSION

■ Procedure

- Defendant must agree to abide by release conditions
- Court shall issue a securing order providing for bail or ROR



JUDICIAL DIVERSION

- Agreement between the court and defendant may provide terms for disposition upon successful completion including but not limited to:
 - a. Interim probation – upon successful completion of term allow withdrawal of guilty plea and dismiss indictment (or SCI)
 - b. Interim probation – upon successful completion of term, allow withdrawal of guilty plea and allow plea to misdemeanor plus probation or any other agreed upon sentence
 - c. Withdraw guilty plea and dismiss indictment (or SCI)

JUDICIAL DIVERISON

- For violation of program conditions the court may:
 - Modify conditions, or
 - Reconsider ROR or bail, or
 - Terminate participation, and
 - Proceed with sentencing in accordance with agreement
- Sentence Options when Terminated
 - Any sentence authorized by the plea agreement, or
 - Any lesser sentence authorized by Penal Law '70.70 (2)(b) or (c) – i.e., probation or definite sentence

WILLARD SENTENCE OF PAROLE SUPERVISION

- Amends CPL '410.91(2) and (5) and repeals (4)
- Effective: April 7, 2009
- D.A. consent eliminated for Willard sentences
- Willard is an appropriate sentence upon finding the defendant, “has a history of controlled substance dependence that is a significant contributing factor to such defendant's criminal conduct”

WILLARD SENTENCE OF PAROLE SUPERVISION

- CPL '410.9 (5) sets out the “specified offenses” for which a person is eligible for Willard
- Includes numerous property crimes, including newly added Burglary in the Third Degree
- Drug offenses are included in the definition of “specified offense” including newly added first time class B felony drug offenses and class C felony drug offenses added to the D and E drug offenses under the old law

WILLARD SENTENCE OF PAROLE SUPERVISION

- Be familiar with the “specified offense”
- “Specified offenses” in CPL '410.91(5) are applicable to eligibility for:
 - Willard
 - Judicial Diversion
 - Conditional Sealing

WILLARD SENTENCE OF PAROLE SUPERVISION

- “Specified offense” property crimes:
 - Criminal mischief in the second and third degrees
 - Grand larceny in the fourth degree (P.L. 155.30 except subdivisions 7 and 11)
 - Grand larceny in the third degree (except firearms)
 - Unauthorized use of a vehicle in the second degree

WILLARD SENTENCE OF PAROLE SUPERVISION

- Criminal possession of a stolen property in the third and fourth degrees (except firearms)
- Forgery in the second degree
- Criminal possession of forged instrument in the second degree
- Unlawfully using slugs in the first degree
- Burglary in the third degree – (NEW)

WILLARD SENTENCE OF PAROLE SUPERVISION

- “Specified offense” drug crimes:
 - Class B (first felony offenders) (New)
 - Class C (New), D, and E

WILLARD SENTENCE OF PAROLE SUPERVISION

■ Who is eligible?

□ “Specified offense” property crimes

- Only second felony offender (prior non-violent)

□ “Specified offense” drug crimes

- Class B first offenders only
- Class C, D, E second felony offenders (prior non-violent)

WILLARD SENTENCE OF PAROLE SUPERVISION

- Understanding the limited eligibility
- Confusing text – CPL '410.91(2)
- A defendant is an “eligible defendant” for purposes of a sentence of parole supervision when such defendant is a ~~[second]~~ felony offender convicted of a specified offense

WILLARD SENTENCE OF PAROLE SUPERVISION

- Willard: You can't get there on CPL '410.91(2) alone
- §410.91(5) – specified offense means – “a Class B offense defined in article 220 where a sentence is imposed pursuant to paragraph (a) of subdivision 2 of section 70.70 of the penal law – i.e., subd. 2 is for FIRST OFFENDERS
- Or any class C, class D or class E controlled substance or marijuana felony offense defined in article 220 or 221
- Other sentencing statutes must expressly authorize the Willard sentence

WILLARD SENTENCE OF PAROLE SUPERVISION

- Penal Law '70.70 (2)(d) – Provides that for a first felony drug offender:

The court may direct that a determinate sentence imposed on a defendant convicted of a class B felony, [other than sale to a child – P.L. '220.48]....be executed as a sentence of parole supervision in accordance with section 410.91



WILLARD SENTENCE OF PAROLE SUPERVISION

- Penal Law §70.70 provides no other basis for a Willard sentence for a first felony drug offender;
- While Penal Law §70.06(7) authorizes Willard for second felony offenders (prior non-violent);
- And §70.70(3)(d) authorizes Willard for second felony drug offenders (prior non-violent)

WILLARD SENTENCE OF PAROLE SUPERVISION

■ Summary of Exclusions

- Class B CSCS to a Child
- Second felony offenders with prior violent felony
- Currently stands convicted of a non-specified offense
- Ever convicted of a violent felony
- Ever convicted of an A or B felony other than a class B drug felony
- Subject to an undischarged term of imprisonment

■ Ineligible

- All first offenders except first Class B drug offenders

SHOCK (PART L)

- Correction Law '865(1) and (2) amended
- Effective: April 7, 2009
- Eligibility
 - Age raised to 50 years
 - No prior state time
 - Eligible for release on parole or conditional release within 3 years
 - Correction Law '865(1) amended to remove exclusion of anyone sentenced to a determinate sentence of 3 ½ years or more
 - First or second non-violent felony offenders



SHOCK (PART L)

- Excluded from eligibility
 - No current conviction for sex, homicide, A-I, violent or escape (SHAVE)
 - No second felony Class B drug offender with prior violent.

SHOCK

- Rolling admissions to SHOCK (New)
 - DOCS may select SHOCK participants at a reception center, or at a general confinement facility when the otherwise eligible inmate is within 3 years of release parole or conditional release
 - Previously select one time only - at reception

JUDICIALLY ORDERED SHOCK (PART AAA)

- Judicial order directing shock enrollment
- Penal Law '60.04(7)(New subdivision)
- Effective: April 7, 2009
- Only applicable to drug offenders
- On defendant's motion, the court may order DOCS to place an otherwise eligible defendant directly in the SHOCK incarceration program
- SHOCK to "promptly commence"
- DOCS may determine that inmate "has a medical or mental health condition that will render the inmate unable to successfully complete" the program



JUDICIALLY ORDERED SHOCK

- DOCS must offer an alternative-to-shock program (completion of a-t-s will lead to release on the same terms as SHOCK)
- Defendant may object to alternative program
- After a hearing, court authorized to modify sentence
- Rolling admissions is applicable

CONDITIONAL SEALING (CPL '160.58)

■ Who is eligible?

- Person convicted of any drug, marijuana or Willard-eligible offense
- Must complete judicial diversion, DTAP, or similar judicially sanctioned substance abuse program
- Eligible after completion of sentence
- Sealing order comes from sentencing court
- On motion from defendant or the court *sua sponte*
- Sealing available for up to 3 prior drug or marijuana misdemeanor convictions
- Notice & hearing rights for D.A.

CONDITIONAL SEALING (CPL '160.58)

- Sealing undone when charged with new crime – permanently undone if subsequently convicted
 - Re-sealed if new charge results in a CPL'160.50 or '160.55 sealing
- Despite sealing, records available to law enforcement, “qualified agencies” with rap sheet access, for gun licensing purposes, and police agency employment checks
- Effective: June 6, 2009

RESENTENCING OF SOME CLASS B DRUG OFFENDERS

New **CPL § 440.46**

Effective date of October 7, 2009.

Eligibility:

- In DOCS custody for a class B felony drug offense committed prior to 1/13/2005;
- Serving an indeterminate sentence with a maximum term greater than 3 years

RESENTENCING OF SOME CLASS B DRUG OFFENDERS

Exclusions:

Those serving time for or who have a predicate felony conviction for an “exclusion offense.” An “exclusion offense” is:

Any second violent felony offense or persistent violent felony offense (PL 70.04, 70.08);

or

RESENTENCING OF SOME CLASS B DRUG OFFENDERS

Exclusions, Cont.:

A “crime for which the person was previously convicted *within the preceding ten years*” that is a VFO or Merit Time excludable offense (Correction Law 803(1)(d)(ii)), not counting in the 10 year period “any time during which the offender was incarcerated for any reason *between the time of the commission of the previous felony and the time of the commission of the present felony.*”

Measure this 10 year period *from date of motion for resentencing* and exclude *only* that time for which the person was incarcerated *prior to* commission of current offense.

RESENTENCING OF SOME CLASS B DRUG OFFENDERS

Motion for Resentencing Can Include:

- 1) Class B indeterminate drug offense sentence; and
- 2) Any Class C, D, or E drug offenses which were imposed at the same time as Class B offense sentence or which are part of the same order of commitment

RESENTENCING OF SOME CLASS B DRUG OFFENDERS

Procedure:

Generally the same as that for A-I resentencing, as authorized in L. 2004, Ch. 738, § 23:

- Motion goes to original sentencing judge; if judge no longer on bench, randomly assigned
- Notice to D.A.
- Court cannot order new PSR and cannot “entertain any matter challenging the underlying basis of the conviction”

RESENTENCING OF SOME CLASS B DRUG OFFENDERS

Procedure, Cont.:

- Court may consider any fact or circumstance relevant to new sentence, including the person's institutional record
- Court *shall* consider, as part of institutional record, the person's: 1) disciplinary history; and 2) participation in or willingness to participate in treatment or other programming while incarcerated. (If willing to, fact that person could not participate in treatment not to be a negative). CPL §440.46(3)

RESENTENCING OF SOME CLASS B DRUG OFFENDERS

Procedure, Con't:

- Nothing prohibits defense counsel from submitting resentencing memorandum
- Court may conduct a hearing
- Court “*shall*” grant the motion unless “*substantial justice*” dictates otherwise
- Prior to resentencing, the Court must inform defendant (by order) what determinate sentence it would impose upon conviction as authorized by Penal Law §70.70



RESENTENCING OF SOME CLASS B DRUG OFFENDERS

Procedure, Cont.:

Defendant may:

- Appeal from order specifying and informing the defendant of the term of the determinate sentence the court would impose
- Proceed with resentencing and appeal
- Appeal from an order denying resentencing
- Withdraw motion

RESENTENCING OF SOME CLASS B DRUG OFFENDERS

Appeal to Court of Appeals

2009 legislation amends CPL § 450.90(1), to give Court of Appeals authority to hear Class B drug re-sentencing appeals.

Compare People. Bautista, 7 N.Y.3d 838 (2006) (2005 DLRA did not give Court of Appeals authority to hear A-II re-sentencing appeals)

LIMITED CREDIT TIME ALLOWANCE (Part L)

- New concept – Correction Law '803-b
 - Six months credit time allowance
 - Credit time applied towards conditional release date, or
 - Credit time applied towards parole eligibility date for people serving life
 - If credit time allowance moves CR date in front of PE date, limited credit will apply to make PE coincide with advanced CR date

LIMITED CREDIT TIME ALLOWANCE

■ Who is ineligible?

- Convicted of Murder 1, attempt or conspiracy
- Convicted of sex offense, attempt or conspiracy
- DOCS withholds any good behavior allowance

■ Who is eligible?

- A-I non-drug offense, or
- Homicide, or
- Violent felony, and
- If earned full amount of good behavior allowance

LIMITED CREDIT TIME ALLOWANCE

- Earned by person who “successfully” completes one or more significant programmatic accomplishments
 - Participates in 2 years of college programming
 - Obtains a masters of professional studies degree
 - Successfully participates as inmate program associate for at least 2 years
 - Receives apprenticeship program certification from DOL
 - Successfully works as hospice aide for at least 2 years



LIMITED CREDIT TIME ALLOWANCE

- Disqualified if:
 - Serious disciplinary infraction
 - Negative institutional record
 - Judicial determination that person filed frivolous litigation
- Effective: April 7, 2009

INTERIM PROBATION CREDIT

- CPL section 390.30(6)(Part O of Budget Bill)
 - Effective: June 6, 2009
 - If defendant satisfactorily completes a term of interim probation (now up to 2 years), he or she shall receive credit for the time served [on interim probation] toward any probation sentence that is subsequently imposed in that case
 - Applies retroactively to any person on probation on the effective date



INTERIM PROBATION ONE YEAR EXTENSION

- CPL section 390.30(6)

- Effective: April 7, 2009 (this is a separate amendment (Part AAA))
- If a defendant consents, the court may extend the period for an additional one year where the defendant is still participating in a substance abuse treatment program in connection with a drug court



TWO NEW CRIMES ADDED

CRIMINAL SALE OF A CONTROLLED SUBSTANCE TO A CHILD

■ Penal Law '220.48 (New)

- A person is guilty of criminal sale of a controlled substance to a child when, being over twenty one years old, he or she knowingly and unlawfully sells a controlled substance in violation of section 220.34 or section 220.39 of this article to a person less than seventeen years old.
- Class B felony – determinate sentence range 2 to 9 years (plus 1 – 2 years PRS), SHOCK permissible if otherwise eligible, Judicial Diversion an option, no Willard option
- Effective: November 1, 2009

OPERATING AS A MAJOR TRAFFICKER

- Penal Law '220.77

A person is guilty of operating as a major trafficker when:

1. Such person acts as a director of a controlled substance organization during any period of twelve months or less, during which period such controlled substance organization sells one or more controlled substances, and the proceeds collected or due from such sale or sales have a total aggregate value of \$75,000 or more; or
2. As a profiteer, such person knowingly and unlawfully sells, on one or more occasion within six months or less, a narcotic drug, and the proceeds collected or due from such sale or sales have a total aggregate value of \$75,000 or more; or

OPERATING AS A MAJOR TRAFFICKER (CONT.)

3. As a profiteer, such person knowingly and unlawfully possesses, on one or more occasions within six months or less, a narcotic drug with intent to sell the same, and such narcotic drugs have a total aggregate value of \$75,000 or more
- Class A-I felony – punishable by 15/25 – life or alternative 8-20 year determinate sentence (plus 5 years PRS)

OPERATING AS A MAJOR TRAFFICKER

■ Definitions

- “Controlled substance organization” means 4 or more persons sharing a common purpose to engage in conduct that constitutes or advances the commission of a felony under Article 220
- “Director” means principal administrator, organizer, or leader of a controlled substance organization (or one of several such persons)
- “Profiteer” (a) a director of a controlled substance organization (b) member who has managerial responsibility over one or more other members; or (c) arranges, devises or plans one or more transactions constituting a felony under Article 220 so as to obtain profits or expected profits

OPERATING AS A MAJOR TRAFFICKER (CONT.)

- A person is not a profiteer if he or she is acting only as an employee,
- Or he or she is acting as an accommodation to a friend or relative;
- Or if he or she is acting only under the direction and control of others and exercises no substantial, independent role in arranging or directing the transaction in question.
- Effective: November 1, 2009

MEDICAL PAROLE FOR TERMINALLY ILL INMATES (PART J OF BUDGET BILL)

- Executive Law 259-(r)(1)(a) amended
- Medical parole expanded to cognitive deficits
- Inmate is “suffering from a terminal condition, disease or syndrome” and “physically or cognitively incapable of presenting any danger to society”
- Expanded to people serving murder 2, manslaughter 1, sex offenses where half the minimum or determinate sentence has been served
- Effective: April 7, 2009



MERIT TERMINATION OF SENTENCE AND DISCHARGE FROM SUPERVISION

- Executive Law '259-j subd. (1), (3) and (4) amended
- Expands types of post-incarceration supervision for which merit termination is applicable
- Was previously limited to presumptive release, parole and conditional release
- Expands to include people on post-release supervision and Class A drug offenders on conditional release or post-release supervision

MERIT TERMINATION OF SENTENCE AND DISCHARGE FROM SUPERVISION

- Time periods remain the same
 - Subd. (3) Discretionary:
 - After 2 years for a Class A drug offense
 - After 1 year for all others
 - Subd. (4) Discretionary:
 - After 3 consecutive years of unrevoked supervision for a non-drug offense (including life sentences)
 - Subd. (3-a) Mandatory:
 - Class A drug offenses (indeterminate): after 3 consecutive years of unrevoked parole
 - All other drug offenses (indeterminate): After 2 consecutive years of unrevoked parole

CASAT

- Remains the same with one exception
- For any second felony offender drug offense for a Class B felony:
 - Must serve at least nine months (jail and prison) before transfer into the “treatment correctional annex.” (previously was 18 months)
- Reminder – Judicial CASAT Order only for drug offenses.

NEW PAROLE RELEASE FACTOR

- Executive Law '259-i(2)(c)(A) amended to add a sixth factor that the Parole Board is required to consider for drug offenders serving old indeterminate sentences
- New Factor (vi)
 - “the length of the determinate sentence to which the inmate would be subject had he or she received a determinate sentence”

UNLAWFUL DISCRIMINATORY PRACTICE

- Executive Law '296(16) amended
- The amendment adds to the list of prohibited inquiries or actions that an employer may not take regarding arrest or sealed information
 - A conviction which is sealed pursuant to CPL'160.58(conditional sealing)
- Prohibits any person from being required to divulge:
 - Arrest sealed by CPL'160.50
 - Conviction sealed by CPL'160.55
 - Arrest resulting in Y.O.
 - Conviction sealed by CPL '160.58



LOCAL CONDITIONAL RELEASE COMMISSIONS

- Correction Law amended by adding new Article 12
- NYC and every county may adopt a local law to establish local conditional release commission
- Act contains provisions for operations of local conditional release
- For definite sentences