

Sentence options for first felony offender convicted of PL 140.20, a class D felony :

State prison: Indeterminate sentence with maximum term between 3 and 7 years, and a minimum term of at least 1 year and not more than 1/3 maximum term imposed ([PL 60.01\(3\)\(a\)](#), [70.00\(1\),\(2\)\(d\),\(3\)](#)).

Local jail time: Definite sentence of imprisonment for up to 1 year ([PL 60.01\(3\)\(a\)](#), [70.00\(4\)](#)), or Intermittent imprisonment for up to 1 year ([PL 60.01\(2\)\(a\)\(ii\)](#), [85.00\(2\),\(3\)](#), [70.00\(4\)](#)).

Split sentence: Definite sentence of up to 6 months or intermittent imprisonment of up to 4 months, plus concurrent revocable sentence set forth below ([PL 60.01\(2\)\(d\)](#), [70.00\(4\)](#), [85.00](#), [65.00\(3\)](#), [65.05\(3\)](#)).

Revocable: Term of 3, 4 or 5 years probation ([PL 60.01\(2\)\(a\)\(i\)](#), [65.00\(1\),\(3\)\(a\)\(i\)](#)) or 3 years conditional discharge ([PL 60.01\(2\)\(a\)\(i\)](#), [65.05\(1\),\(3\)\(a\)](#)).

Unconditional: Unconditional discharge available if and only if a revocable conditional discharge is available (*see above*) ([PL 65.20\(1\)](#)).

Fine: Either alone ([PL 60.01\(3\)\(b\)](#)), or in *addition* to any sentence of probation, conditional discharge, or imprisonment, a fine may be imposed not exceeding higher of \$5,000 ([PL 80.00\(1\)\(a\)](#)) or double defendant's gain from the offense (three times the gain for Article 496 felonies) ([PL 60.01\(2\)\(c\),\(3\)\(c\)](#), *see also* [60.05\(7\)](#); [80.00\(1\)\(b\)](#)).

Alternative Domestic Violence Survivors Justice Act Sentence: Domestic violence exception not excluded by nature of offense. Defendant's status potentially qualifies for alternative sentence under domestic violence exception ([PL 60.12\(1\)](#)). If court after a hearing determines that criteria set forth in [PL 60.12\(1\)\(a\)](#), (b) and (c) are satisfied, then notwithstanding any other provision of law court may impose alternative sentence of determinate sentence of between 1 and 2 1/2 years ([PL 60.12\(9\)](#), [70.70\(2\)\(a\)\(iii\)](#)), plus a period of post-release supervision of one year ([PL 70.45\(2\)\(a\)](#)). Retroactive relief may be available to eligible defendant serving sentence of eight years or more (*see* CPL [440.47](#)).

Additions: Defendant may be eligible for [shock incarceration](#) if under 50, between 16 and 50 when crime committed, sentenced to indeterminate or determinate imprisonment and eligible for conditional release within 3 years (Corr Law [865\(1\)](#)).

DNA sample required for any felony (Executive Law [995\(7\)](#), *as amended by L.2012 c.19*). DNA databank fee of \$50 ([PL 60.35\(1\)\(a\)\(v\)](#)) (*effective 5/15/03*).

Effective 6/23/06, upon conviction of any Penal Law felony, defendant required to provide DNA sample for state DNA database pursuant to Executive Law [995\(7\)\(e\)](#) [as amended by L.2006 c.2]. DNA databank fee of \$50 ([PL 60.35\(1\)\(a\)\(v\)](#) (effective 5/15/03)).

Defendant required to provide DNA sample for state DNA database pursuant to Executive Law [Article 49-B \(Executive Law 995-c\(3\)\)](#). DNA databank fee of \$50 ([PL 60.35\(1\)\(a\)\(v\)](#) (effective 5/15/03)).

[Son of Sam Law](#) does not apply to this offense.

Optional additions of restitution or order of protection ([CPL 530.13\(4\)](#), [PL 60.27](#)); mandatory surcharge and crime victim assistance fee of \$325 ([PL 60.35\(1\)\(a\)](#) as amended by L.2008 c.56 Part DD effective 7/1/08) ; no surcharge or fee if restitution has been made ([PL 60.35\(6\)](#); [People v Quinones](#), 95 NY2d 349 [2000]).

Upon defendant's conviction for this felony, court pursuant to CPL [370.25](#) must inquire as to and order the immediate surrender of all firearms, rifles and shotguns owned or possessed by defendant (PL 265.20[\[a\]\[1\]\[f\]](#), 400.05[\[6\]](#)), immediately notify local law enforcement and NYSP of such action, and direct the authority receiving such weapons to immediately notify the court of their surrender.

Where court imposes revocable sentence or any sentence other than state prison, upon application court prior to sentence shall determine fitness of an eligible offender for certificate of relief from disabilities ([Corrections Law 702\[1\]](#), as amended by L.2011 c.488). [Eligible offender](#) is a person who has been convicted of a crime or of an offense, but who has not been convicted more than once of a felony ([Corrections Law 700\[1\]\[a\]](#)).

CPL [380.55](#) permits trial court at sentencing to entertain application by indigent defendant for poor person status on appeal (L.2016 c.459 effective 11/25/16).