

STATE OF NEW YORK

7066

2023-2024 Regular Sessions

IN ASSEMBLY

May 10, 2023

Introduced by M. of A. BUTTENSCHON -- read once and referred to the Committee on Codes

AN ACT to amend the criminal procedure law, in relation to the court's consideration of the existence of extraordinary circumstances and significant physical injury in determining whether to remove adolescent offenders to family court

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

1 Section 1. Paragraph (d) of subdivision 1 of section 722.23 of the
2 criminal procedure law, as added by section 1-a of part WWW of chapter
3 59 of the laws of 2017, is amended to read as follows:

4 (d) The court shall deny the motion to prevent removal of the action
5 in youth part unless the court makes a determination upon such motion by
6 the district attorney that extraordinary circumstances exist that should
7 prevent the transfer of the action to family court. For the purposes of
8 this paragraph, the term "extraordinary circumstances" shall mean the
9 existence of highly unusual and heinous facts, in addition to strong
10 proof that the defendant is not amenable or would not benefit in any way
11 from transfer of the action to family court. Factors that shall be
12 considered by the court in determining whether extraordinary circum-
13 stances exist shall include, but shall not be limited to, whether the
14 defendant:

15 (i) committed a series of crimes over multiple days in close proximi-
16 ty;

17 (ii) acted in an especially cruel and heinous manner; or

18 (iii) led, threatened, or coerced other reluctant adolescents into
19 participating in the crime or crimes which are the basis of the action.

20 § 2. Subdivision 2 of section 722.23 of the criminal procedure law is
21 amended by adding a new paragraph (c-1) to read as follows:

22 (c-1) For the purposes of paragraph (c) of this subdivision, the term
23 "significant physical injury" shall mean physical injury that involves a

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

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1 risk of death, significant physical pain, protracted and obvious disfig-
2 urement, or a protracted loss or impairment of the function of a bodily
3 member, organ, or mental or sensory faculty.

4 § 3. This act shall take effect on the first of November next succeed-
5 ing the date upon which it shall have become a law.