

STATE OF NEW YORK

9316--A

2025-2026 Regular Sessions

IN ASSEMBLY

December 10, 2025

Introduced by M. of A. BEEPHAN, SLATER, ANGELINO -- read once and referred to the Committee on Codes -- recommitted to the Committee on Codes in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the criminal procedure law, in relation to the removal of adolescent offenders to family court; and to amend the family court act, in relation to jurisdiction

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

1 Section 1. Paragraph (c) of subdivision 2 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, subparagraph (iii) as amended by section 1 of
4 part AA of chapter 55 of the laws of 2024, is amended to read as
5 follows:

6 (c) The court shall order the action to proceed in accordance with
7 subdivision one of this section unless, after reviewing the papers and
8 hearing from the parties, the court determines in writing that the
9 district attorney proved by a preponderance of the evidence one or more
10 of the following as set forth in the accusatory instrument:

11 (i) the defendant caused significant physical injury to a person other
12 than a participant in the offense; or

13 (ii) the defendant illegally used, possessed, or displayed a firearm,
14 shotgun, rifle or deadly weapon as defined in the penal law [~~in further~~
15 ~~ance of such offense~~]; or

16 (iii) the defendant unlawfully engaged in vaginal sexual contact, oral
17 sexual contact, anal sexual contact, or sexual contact as defined in
18 section 130.00 of the penal law[~~-~~]; or

19 (iv) the defendant has previously been arrested for a felony that was
20 removed to family court.

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

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1 § 2. Subdivision 5 of section 722.21 of the criminal procedure law, as
2 amended by chapter 23 of the laws of 2024, is amended to read as
3 follows:

4 5. Notwithstanding subdivisions two and three of this section, at the
5 request of the district attorney, the court shall order removal of an
6 action against an adolescent offender charged with an offense listed in
7 paragraph (a) of subdivision two of section 722.23 of this article, to
8 the family court pursuant to the provisions of article seven hundred
9 twenty-five of this title and upon consideration of the criteria speci-
10 fied in subdivision two of section 722.22 of this article, it is deter-
11 mined that to do so would be in the interests of justice. Where, howev-
12 er, the felony complaint charges the adolescent offender with murder in
13 the second degree as defined in section 125.25 of the penal law, rape in
14 the first degree as defined in paragraph (a) of subdivision one, para-
15 graph (a) of subdivision two and paragraph (a) of subdivision three of
16 section 130.35 of the penal law, rape in the first degree as formerly
17 defined in subdivision one of section 130.35 of the penal law, a crime
18 formerly defined in subdivision one of section 130.50 of the penal law,
19 or an armed felony as defined in paragraph (a) of subdivision forty-one
20 of section 1.20 of this chapter, or where the defendant has previously
21 been arrested for a felony that was removed to family court, a determi-
22 nation that such action be removed to the family court shall, in addi-
23 tion, be based upon a finding of one or more of the following factors:
24 (i) mitigating circumstances that bear directly upon the manner in which
25 the crime was committed; or (ii) where the defendant was not the sole
26 participant in the crime, the defendant's participation was relatively
27 minor although not so minor as to constitute a defense to the prose-
28 cution; or (iii) possible deficiencies in proof of the crime.

29 § 3. Paragraph (b) of subdivision 1 of section 722.22 of the criminal
30 procedure law, as amended by chapter 23 of the laws of 2024, is amended
31 to read as follows:

32 (b) with the consent of the district attorney, order removal of an
33 action involving an indictment charging a juvenile offender with murder
34 in the second degree as defined in section 125.25 of the penal law; rape
35 in the first degree, as defined in paragraph (a) of subdivision one,
36 paragraph (a) of subdivision two and paragraph (a) of subdivision three
37 of section 130.35 of the penal law; rape in the first degree as formerly
38 defined in subdivision one of section 130.35 of the penal law; a crime
39 formerly defined in subdivision one of section 130.50 of the penal law;
40 or an armed felony as defined in paragraph (a) of subdivision forty-one
41 of section 1.20 of this chapter, or where the defendant has previously
42 been arrested for a felony that was removed to family court, to the
43 family court pursuant to the provisions of article seven hundred twen-
44 ty-five of this title if the court finds one or more of the following
45 factors: (i) mitigating circumstances that bear directly upon the manner
46 in which the crime was committed; (ii) where the defendant was not the
47 sole participant in the crime, the defendant's participation was rela-
48 tively minor although not so minor as to constitute a defense to the
49 prosecution; or (iii) possible deficiencies in the proof of the crime,
50 and, after consideration of the factors set forth in subdivision two of
51 this section, the court determined that removal of the action to the
52 family court would be in the interests of justice.

53 § 4. Paragraphs (a) and (h) of subdivision 1 of section 722.23 of the
54 criminal procedure law, as added by section 1-a of part WWW of chapter
55 59 of the laws of 2017, are amended to read as follows:

1 (a) Following the arraignment of a defendant charged with a crime
2 committed when [~~he or she~~] the defendant was sixteen, or commencing
3 October first, two thousand nineteen, seventeen years of age, other than
4 any class A felony except for those defined in article two hundred twen-
5 ty of the penal law, a violent felony defined in section 70.02 of the
6 penal law or a felony listed in paragraph one or two of subdivision
7 forty-two of section 1.20 of this chapter, [~~or~~] an offense set forth in
8 the vehicle and traffic law, or where the defendant has previously been
9 arrested for a felony that was removed to family court, the court shall
10 order the removal of the action to the family court in accordance with
11 the applicable provisions of article seven hundred twenty-five of this
12 title unless, within thirty calendar days of such arraignment, the
13 district attorney makes a motion to prevent removal of the action pursu-
14 ant to this subdivision. If the defendant fails to report to the
15 probation department as directed, the thirty day time period shall be
16 tolled until such time as [~~he or she~~] the defendant reports to the
17 probation department.

18 (h) Nothing in this subdivision shall preclude, and a court may order,
19 the removal of an action to family court where all parties agree or
20 pursuant to this chapter; provided however that the court may not order
21 the removal of an action to family court where the defendant is charged
22 with any class A felony except for those defined in article two hundred
23 twenty of the penal law, a violent felony defined in section 70.02 of
24 the penal law or a felony listed in paragraph one or two of subdivision
25 forty-two of section 1.20 of this chapter, an offense set forth in the
26 vehicle and traffic law, or where the defendant has previously been
27 arrested for a felony that was removed to family court, unless the court
28 finds one or more of the following factors:(i) mitigating circumstances
29 that bear directly upon the manner in which the crime was committed; or
30 (ii) where the defendant was not the sole participant in the crime, the
31 defendant's participation was relatively minor although not so minor as
32 to constitute a defense to the prosecution; or (iii) possible deficien-
33 cies in proof of the crime.

34 § 5. Subdivision 44 of section 1.20 of the criminal procedure law, as
35 amended by section 1 of part WWW of chapter 59 of the laws of 2017, is
36 amended to read as follows:

37 44. "Adolescent offender" means a person charged with a felony commit-
38 ted on or after October first, two thousand eighteen when [~~he or she~~]
39 such person was sixteen years of age or on or after October first, two
40 thousand nineteen, when [~~he or she~~] such person was seventeen years of
41 age, or a person charged with a misdemeanor when such person is sixteen
42 or seventeen years of age after having been previously adjudicated as a
43 juvenile delinquent on two separate occasions.

44 § 6. Subdivision 4 of section 302.1 of the family court act, as added
45 by section 1 of subpart E of part UU of chapter 56 of the laws of 2022,
46 is amended to read as follows:

47 4. Where a proceeding had been commenced in the youth part of a supe-
48 rior court for an act alleged to have been committed prior to [~~his or~~
49 ~~her~~] the respondent's eighteenth birthday and then had been removed to
50 family court, the family court shall exercise jurisdiction under this
51 article, notwithstanding the fact that the respondent may be over the
52 age of eighteen prior to the proceeding having commenced in the family
53 court, unless the respondent is charged with a misdemeanor complaint or
54 accused of misdemeanor conduct after having been previously adjudicated
55 as a juvenile delinquent on two prior separate occasions.

56 § 7. This act shall take effect immediately.