S T A T E O F N E W Y O R K

4531

2009-2010 Regular Sessions

I N A S S E M B L Y

February 4, 2009

Introduced by M. of A. MAYERSOHN, SCHIMMINGER, GUNTHER -- Multi-Sponsored by -- M. of A. ALFANO, AUBRY, BARRA, COLTON, SCARBOROUGH, SWEENEY -- read once and referred to the Committee on Codes

AN ACT to amend the criminal procedure law and the penal law, in relation to youthful offenders

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The criminal procedure law is amended by adding a new section 720.40 to read as follows:

S 720.40 YOUTHFUL OFFENDER ADJUDICATION; REINSTATEMENT OF PREDICATE FELONY CONVICTION.

UPON THE FELONY CONVICTION OF A PERSON WITHIN FIVE YEARS OF HAVING BEEN ADJUDICATED A FELONY OFFENDER, THE PREVIOUS FELONY CONVICTION WHICH WAS VACATED PURSUANT TO SUBDIVISION THREE OF SECTION 720.20 OF THIS ARTICLE SHALL BE REINSTATED AS OF THE TIME OF SUCH PRIOR ADJUDICATION AND SUCH REINSTATED CONVICTION SHALL BE CONSIDERED A PREDICATE FELONY CONVICTION FOR PURPOSES OF SENTENCING PURSUANT TO SECTION 70.06 OF THE PENAL LAW.

S 2. Paragraph (b) of subdivision 1 of section 70.06 of the penal law is amended by adding a new subparagraph (vii) to read as follows:

(VII) NOTWITHSTANDING THE PROVISIONS OF SUBPARAGRAPH (IV) OF THIS PARAGRAPH TO THE CONTRARY, SENTENCE MUST HAVE BEEN IMPOSED NOT MORE THAN FIVE YEARS BEFORE COMMISSION OF THE FELONY OF WHICH THE DEFENDANT PRESENTLY STANDS CONVICTED WHERE SUCH SENTENCE INCLUDED ADJUDICATION AS A YOUTHFUL OFFENDER PURSUANT TO ARTICLE SEVEN HUNDRED TWENTY OF THE CRIMINAL PROCEDURE LAW.

S 3. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.

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

LBD04496-01-9