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

4945

2011-2012 Regular Sessions

I N A S S E M B L Y

February 9, 2011

Introduced by M. of A. MAYERSOHN -- Multi-Sponsored by -- M. of A. COLTON, HOOPER, MAGEE, ORTIZ -- read once and referred to the Committee on Codes

AN ACT to amend the criminal procedure law, in relation to eligibility for youthful offender treatment

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

Section 1. Subdivision 2 of section 720.10 of the criminal procedure law, as amended by chapter 416 of the laws of 1986, paragraph (a) as amended by chapter 316 of the laws of 2006, is amended to read as follows:

2. "Eligible youth" means a youth who is eligible to be found a youthful offender. Every youth is so eligible unless:

(a) the conviction to be replaced by a youthful offender finding is for (i) a class A-I or class A-II felony, or (ii) an armed felony as defined in subdivision forty-one of section 1.20 OF THIS CHAPTER, except as provided in subdivision three, or (iii) rape in the first degree, criminal sexual act in the first degree, or aggravated sexual abuse, except as provided in subdivision three OF THIS SECTION, or

(b) such youth has previously been convicted and sentenced for a felony, or

(c) such youth has previously been adjudicated a youthful offender following conviction of a felony or has been adjudicated on or after September first, nineteen hundred seventy-eight a juvenile delinquent who committed a designated felony act as defined in the family court act[.], OR

(D) SUCH YOUTH HAS PREVIOUSLY BEEN ADJUDICATED A JUVENILE DELINQUENT ON TWO OR MORE OCCASIONS FOR THE COMMISSION OF AN ACT OR ACTS WHICH WOULD CONSTITUTE A FELONY IF COMMITTED BY AN ADULT. SUCH YOUTH IS NONETHELESS AN ELIGIBLE YOUTH IF THE COURT DETERMINES THAT ONE OR MORE OF THE FOLLOWING FACTORS EXIST: (I) MITIGATING CIRCUMSTANCES THAT BEAR

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

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DIRECTLY UPON THE MANNER IN WHICH THE ACT OR ACTS WHICH WOULD CONSTITUTE A CRIME IF COMMITTED BY AN ADULT WAS COMMITTED; OR (II) WHERE THE DEFENDANT WAS NOT THE SOLE PARTICIPANT IN THE ACT OR ACTS WHICH WOULD CONSTITUTE A CRIME IF COMMITTED BY AN ADULT, THE DEFENDANT'S PARTICIPATION WAS RELATIVELY MINOR ALTHOUGH NOT SO MINOR AS TO CONSTITUTE A DEFENSE TO THE PROSECUTION.

S 2. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.