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I N   A S S E M B L Y

March 10, 2016

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Introduced by M. of A. SIMANOWITZ -- read once and referred to the  
Committee on Correction

AN ACT to amend the correction law and the criminal procedure law, in  
relation to the use of youthful offender adjudications in making  
recommendations for the supervision of sex offenders

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

1     Section 1. Subdivision 5 of section 168-1 of the correction law, as  
2     added by chapter 192 of the laws of 1995 and subparagraph (i) of para-  
3     graph (a) as amended by chapter 11 of the laws of 2002, is amended to  
4     read as follows:  
5     5. The board shall develop guidelines and procedures to assess the  
6     risk of a repeat offense by such sex offender and the threat posed to  
7     the public safety. Such guidelines shall be based upon, but not limited  
8     to, the following:  
9     (a) criminal history factors indicative of high risk of repeat  
10    offense, including:  
11    (i) whether the sex offender has a mental abnormality or personality  
12    disorder that makes him or her likely to engage in predatory sexually  
13    violent offenses;  
14    (ii) whether the sex offender's conduct was found to be characterized  
15    by repetitive and compulsive behavior, associated with drugs or alcohol;  
16    (iii) whether the sex offender served the maximum term;  
17    (iv) whether the sex offender committed the felony sex offense against  
18    a child;  
19    (v) the age of the sex offender at the time of the commission of the  
20    first sex offense;  
21    (b) other criminal history factors to be considered in determining  
22    risk, including:  
23    (i) the relationship between such sex offender and the victim;  
24    (ii) whether the offense involved the use of a weapon, violence or  
25    infliction of serious bodily injury;  
26    (iii) the number, date and nature of prior offenses;  
27    (C) YOUTHFUL OFFENDER ADJUDICATION RECORDS;

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

LBD14612-02-6

1 [(c)] (D) conditions of release that minimize risk [or] OF re-offense,  
2 including but not limited to whether the sex offender is under super-  
3 vision; receiving counseling, therapy or treatment; or residing in a  
4 home situation that provides guidance and supervision;

5 [(d)] (E) physical conditions that minimize risk of re-offense,  
6 including but not limited to advanced age or debilitating illness;

7 [(e)] (F) whether psychological or psychiatric profiles indicate a  
8 risk of recidivism;

9 [(f)] (G) the sex offender's response to treatment;

10 [(g)] (H) recent behavior, including behavior while confined;

11 [(h)] (I) recent threats or gestures against persons or expressions of  
12 intent to commit additional offenses; and

13 [(i)] (J) review of any victim impact statement.

14 S 2. Subdivision 1 of section 720.35 of the criminal procedure law, as  
15 amended by chapter 402 of the laws of 2014, is amended and a new subdi-  
16 vision 5 is added to read as follows:

17 1. A youthful offender adjudication is not a judgment of conviction  
18 for a crime or any other offense, and does not operate as a disquali-  
19 fication of any person so adjudged to hold public office or public  
20 employment or to receive any license granted by public authority but  
21 shall be deemed a conviction only for the purposes of transfer of super-  
22 vision and custody pursuant to section two hundred [fifty-nine-m]  
23 FIFTY-NINE-MM of the executive law. A defendant for whom a youthful  
24 offender adjudication was substituted, who was originally charged with  
25 prostitution as defined in section 230.00 of the penal law or loitering  
26 for the purposes of prostitution as defined in subdivision two of  
27 section 240.37 of the penal law provided that the person does not stand  
28 charged with loitering for the purpose of patronizing a prostitute, for  
29 an offense allegedly committed when he or she was sixteen or seventeen  
30 years of age, shall be deemed a "sexually exploited child" as defined in  
31 subdivision one of section four hundred forty-seven-a of the social  
32 services law and therefore shall not be considered an adult for purposes  
33 related to the charges in the youthful offender proceeding or a proceed-  
34 ing under section 170.80 of this chapter.

35 5. NOTWITHSTANDING SUBDIVISION TWO OF THIS SECTION, WHENEVER A PERSON  
36 IS ADJUDICATED A YOUTHFUL OFFENDER, ALL RECORDS PERTAINING TO THE YOUTH-  
37 FUL OFFENDER ADJUDICATION SHALL BE INCLUDED IN THOSE RECORDS AND REPORTS  
38 THAT MAY BE OBTAINED AND UTILIZED BY THE BOARD OF EXAMINERS OF SEX  
39 OFFENDERS IN ASSESSING AN OFFENDER'S RISK OF A REPEAT OFFENSE, AS  
40 PROVIDED BY SECTION ONE HUNDRED SIXTY-EIGHT-L OF THE CORRECTION LAW.

41 S 3. This act shall take effect immediately.