

STATE OF NEW YORK

4129--B

2017-2018 Regular Sessions

IN SENATE

February 3, 2017

Introduced by Sens. MONTGOMERY, COMRIE -- read twice and ordered printed, and when printed to be committed to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the criminal procedure law, in relation to granting certain individuals youthful offender status

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

1 Section 1. Subdivision 1 of section 720.10 of the criminal procedure
2 law, as amended by chapter 411 of the laws of 1979, is amended to read
3 as follows:

4 1. "Youth" means a person charged with a crime alleged to have been
5 committed when he was at least sixteen years old and less than [~~nine-~~
6 ~~teen~~] twenty-two years old or a person charged with being a juvenile
7 offender as defined in subdivision forty-two of section 1.20 of this
8 chapter.

9 § 2. Subdivision 3 of section 720.15 of the criminal procedure law, as
10 amended by chapter 774 of the laws of 1985, is amended to read as
11 follows:

12 3. The provisions of subdivisions one and two of this section requir-
13 ing or authorizing the accusatory instrument filed against a youth to be
14 sealed, and the arraignment and all proceedings in the action to be
15 conducted in private shall not apply in connection with a pending charge
16 of committing any felony sex offense as defined in the penal law. [~~The~~
17 ~~provisions of subdivision one requiring the accusatory instrument filed~~
18 ~~against a youth to be sealed shall not apply where such youth has previ-~~
19 ~~ously been adjudicated a youthful offender or convicted of a crime.~~]

20 § 3. Subdivision 1 of section 720.20 of the criminal procedure law, as
21 amended by chapter 652 of the laws of 1974, is amended to read as
22 follows:

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

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1 1. Upon conviction of an eligible youth, the court must order a pre-
2 sentence investigation of the defendant. After receipt of a written
3 report of the investigation and at the time of pronouncing sentence the
4 court must determine whether or not the eligible youth is a youthful
5 offender. Such determination shall be in accordance with the following
6 criteria:

7 (a) If in the opinion of the court the interest of justice would be
8 served by relieving the eligible youth from the onus of a criminal
9 record and by not imposing an indeterminate term of imprisonment of more
10 than four years, the court may, in its discretion, find the eligible
11 youth is a youthful offender; ~~and~~

12 (b) Where the conviction is had in a local criminal court and the
13 eligible youth had not prior to commencement of trial or entry of a plea
14 of guilty been convicted of a crime or found a youthful offender, the
15 court must find he is a youthful offender; and

16 (c) There shall be a presumption to grant youthful offender status to
17 an eligible youth, unless the district attorney upon motion with not
18 less than seven days notice to such person or his or her attorney demon-
19 strates to the satisfaction of the court that the interests of justice
20 require otherwise.

21 § 4. This act shall take effect immediately; provided, however, that
22 section two of this act shall take effect on the thirtieth day after it
23 shall have become a law.