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:

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

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

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

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

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

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

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

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

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

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

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