

STATE OF NEW YORK

3837

2019-2020 Regular Sessions

IN ASSEMBLY

January 31, 2019

Introduced by M. of A. DICKENS -- read once and referred to the Committee on Codes

AN ACT to amend the criminal procedure law, in relation to the "juvenile offender second chance act"

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

1 Section 1. Subdivisions 4, 5, and 6 of section 720.10 of the criminal
2 procedure law, as renumbered by chapter 481 of the laws of 1978, are
3 renumbered subdivisions 5, 6 and 7 respectively and two new subdivisions
4 4 and 8 are added to read as follows:

5 4. Notwithstanding the provisions of subdivision two or three of this
6 section, a youth seeking relief pursuant to subdivision two of section
7 720.20 of this article, is an eligible youth if they meet the following
8 criteria:

9 (a) the youth was convicted or sentenced as a juvenile offender as
10 defined in subdivision forty-two of section 1.20 of this chapter;

11 (b) the youth is at least twenty-six years old;

12 (c) the youth has not been convicted or sentenced for another felony;

13 (d) the youth has not been convicted or sentenced for more than one
14 other misdemeanor;

15 (e) the youth is not registered as a level three sex offender pursuant
16 to section one hundred sixty-eight-1 of the correction law; and

17 (f) the youth is not currently under strict intensive supervisions or
18 civil commitment pursuant to article ten of the mental hygiene law.

19 8. "Eligible youth petitioner" means a youth eligible pursuant to
20 subdivision four of this section, who petitions the court for a youthful
21 offender finding.

22 § 2. Subdivisions 2, 3 and 4 of section 720.20 of the criminal proce-
23 dure law are renumbered subdivisions 3, 4 and 5 respectively and a new
24 subdivision 2 is added 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 2. Upon petition by an eligible youth petitioner, the court must order
2 a finding of fact in accordance with the criteria set forth in subdivi-
3 sion four of section 720.10 of this article. After receipt of evidence
4 in support and contradiction to said criteria, the court must determine
5 whether the youth meets the criteria. If the court determines the youth
6 meets the criteria set forth in subdivision four of section 720.10 of
7 this article, the court must find the eligible youth petitioner is a
8 youthful offender.

9 § 3. Section 720.25 of the criminal procedure law, as added by chapter
10 402 of the laws of 2014, is amended to read as follows:

11 § 720.25 Youthful offender adjudication; certain exemptions.

12 Notwithstanding any inconsistent provisions of law:

13 1. where the court is required to find that a person is a youthful
14 offender pursuant to section 170.80 of this chapter, the fact that such
15 person has previously been convicted of a crime or adjudicated a youth-
16 ful offender shall not prevent such person from being adjudicated a
17 youthful offender as required by such section; ~~and~~

18 2. a youthful offender adjudication pursuant to section 170.80 of this
19 chapter shall not be considered in determining whether a person is an
20 eligible youth, or in determining whether to find a person a youthful
21 offender, in any subsequent youthful offender adjudication; and

22 3. where the court is required to find that a person is a youthful
23 offender pursuant to sections 720.10 and 720.20 of this chapter, the
24 person shall have a youthful offender sentence imposed if they have not
25 completed their sentence for the conviction that is the subject of their
26 petition, and the person shall receive all other provisions and benefits
27 of the youthful offender adjudication wherever such provisions can
28 reasonably be so applied.

29 § 4. This act shall take effect on the first of November next succeed-
30 ing the date on which it shall have become a law.