STATE OF NEW YORK

5027

2019-2020 Regular Sessions

IN ASSEMBLY

February 6, 2019

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

AN ACT to amend the criminal procedure law, in relation to eligibility for conviction sealing for eligible youth

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

Section 1. Section 160.59 of the criminal procedure law is amended by adding a new subdivision 12 to read as follows:

12. (a) Notwithstanding any other law, where an eligible youth was not determined to be a youthful offender by the court pursuant to subdivision one of section 720.20 of this chapter, but was otherwise eligible to be determined to be a youthful offender pursuant to article seven hundred twenty of this chapter, such individual shall be eligible to apply for conviction sealing in accordance with this section. Notwithstanding paragraph (a) of subdivision one of this section, an "eligible offense" for such individual shall include any crime defined in the laws of this state other than (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, except as provided in paragraph (b) of this subdivision, or (iii) an offense for which registration as a sex offender is required pursuant to article six-C of the correction law.

(b) Notwithstanding the provisions of paragraph (a) of this subdivision, an eligible youth who has been convicted of an armed felony offense is eligible for conviction sealing pursuant to this section if the sentencing judge, or county or supreme court determines that one or more of the following factors exist: (i) mitigating circumstances that bear directly upon the manner in which the crime was committed; or (ii) where the defendant was not the sole participant in the crime, the defendant's participation was relatively minor although not so minor as to constitute a defense to the prosecution.

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

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(c) An eligible youth who has previously applied for conviction sealing under this section, but was denied, shall be permitted to reapply for such sealing pursuant to the provisions of this subdivision.

§ 2. This act shall take effect immediately.