

STATE OF NEW YORK

5871

2019-2020 Regular Sessions

IN ASSEMBLY

February 20, 2019

Introduced by M. of A. O'DONNELL, JAFFEE, PERRY, ZEBROWSKI, MOSLEY, TAYLOR -- read once and referred to the Committee on Codes

AN ACT to amend the criminal procedure law, in relation to granting certain individuals youthful offender status; and to repeal certain provisions of such law relating thereto

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. Paragraph (c) of subdivision 2 of section 720.10 of the criminal
10 procedure law is REPEALED.

11 § 3. Paragraph (b) of subdivision 2 of section 720.10 of the criminal
12 procedure law, as amended by chapter 416 of the laws of 1986, is amended
13 to read as follows:

14 (b) such youth has previously been convicted and sentenced for a felo-
15 ny[~~-or~~].

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

19 3. The provisions of subdivisions one and two of this section requir-
20 ing or authorizing the accusatory instrument filed against a youth to be
21 sealed, and the arraignment and all proceedings in the action to be
22 conducted in private shall not apply in connection with a pending charge
23 of committing any felony sex offense as defined in the penal law. [~~The~~
24 ~~provisions of subdivision one requiring the accusatory instrument filed~~

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

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1 ~~against a youth to be sealed shall not apply where such youth has previ-~~
2 ~~ously been adjudicated a youthful offender or convicted of a crime.]~~

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

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

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

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

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

26 § 6. This act shall take effect immediately; provided, however, that
27 section four of this act shall take effect on the thirtieth day after it
28 shall have become a law.