STATE OF NEW YORK

6402

2019-2020 Regular Sessions

IN SENATE

June 7, 2019

Introduced by Sen. MONTGOMERY -- (at request of the Office of Court Administration) -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the penal law and the criminal procedure law, in relation to pleas of guilty and removal of adolescent offender proceedings to the family court

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

Section 1. Subparagraph (ii) of paragraph (d) of subdivision 3 of section 30.00 of the penal law, as amended by section 38 of part WWW of chapter 59 of the laws of 2017, is amended to read as follows:

(ii) results from reduction or dismissal in satisfaction of a charge for a felony offense, in accordance with a plea of guilty pursuant to subdivision four of section 220.10 of the criminal procedure law**, unless the proceeding is removed to the family court pursuant to paragraph (g-1) of subdivision five of section 220.10 of the criminal procedure law**; or

§ 2. Subdivision 5 of section 220.10 of the criminal procedure law is amended by adding a new paragraph (g-1) to read as follows:

(g-1) Where a defendant is an adolescent offender, the provisions of paragraphs (a), (b), (c) and (d) of this subdivision shall not apply. Where the plea is to an offense constituting a misdemeanor, the plea shall be deemed replaced by an order of fact-finding in a juvenile delinquency proceeding, pursuant to section 346.1 of the family court act, and the action shall be removed to the family court in accordance with article seven hundred twenty-five of this chapter. Where the plea is to an offense constituting a felony, the court may remove the action to the family court in accordance with section 722.23 and article seven hundred twenty-five of this chapter.

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

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§ 3. Subdivision 7 of section 725.05 of the criminal procedure law, as amended by chapter 223 of the laws of 1990, is amended to read as follows:

7. Whether or not a securing order has been made, the order of removal must specify a date certain within ten days from the date of the order of removal for the defendant's appearance in the family court and where the defendant is in detention or in the custody of the sheriff that date must be not later than the next day the family court is in session. **Unless the defendant is in detention or is in the custody of the sheriff or unless the order of removal specifies a juvenile or adolescent offense for which the defendant is not eligible for consideration for adjustment under subdivision thirteen of section 308.1 of the family court act, the order of removal shall direct the defendant to appear at the family court intake office of the county department of probation for adjustment consideration; provided, however, that pursuant to subdivision three of section 308.1 of the family court act, the fact that the defendant is in detention or is in the custody of the sheriff shall not preclude the probation service from adjusting the case if the defendant is otherwise eligible for adjustment.**

§ 4. Subdivision 1 of section 725.10 of the criminal procedure law, as amended by chapter 920 of the laws of 1982, is amended to read as follows:

1. [~~When~~] **Unless the defendant is an adolescent offender who has been directed to appear at the family court intake office of the county department of probation for adjustment consideration in accordance with subdivision seven of section 725.05 of this article, when** an order of removal is filed with the family court~~,~~ a proceeding pursuant to article three of the family court act must be originated. The family court thereupon must assume jurisdiction and proceed to render such judgment as the circumstances require, in the manner and to the extent provided by law.

§ 5. This act shall take effect immediately.