

STATE OF NEW YORK

8381--A

2019-2020 Regular Sessions

IN ASSEMBLY

June 15, 2019

Introduced by M. of A. O'DONNELL -- read once and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the criminal procedure law and the penal law, in relation to granting certain individuals youthful offender status; to add a new category of individuals eligible for young adult offender status and first offender status; and to repeal certain provisions of the criminal procedure law relating thereto

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

Section 1. Section 720.10 of the criminal procedure law, as added by chapter 981 of the laws of 1971, subdivision 1 as amended by chapter 411 of the laws of 1979, subdivision 2 as amended by chapter 416 of the laws of 1986, paragraph (a) of subdivision 2 as amended by chapter 316 of the laws of 2006, subdivision 3 as amended by chapter 264 of the laws of 2003, and subdivisions 4, 5 and 6 as renumbered by chapter 481 of the laws of 1978, is amended to read as follows:

§ 720.10 Youthful offender procedure; definition of terms.

As used in this article, the following terms have the following meanings:

1. [~~"Youth"~~] "Eligible youth" means a person charged with a crime alleged to have been committed when he or she was at least sixteen years old and less than nineteen 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. [~~"Eligible youth" means a youth who is eligible to be found a youthful offender. Every youth is so eligible unless:~~

~~(a) the conviction to be replaced by a youthful offender finding is for (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 subdivision three, or (iii) rape in the first degree, criminal sexual~~

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

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~~act in the first degree, or aggravated sexual abuse, except as provided in subdivision three, or~~

~~(b) such youth has previously been convicted and sentenced for a felony, or~~

~~(c) such youth has previously been adjudicated a youthful offender following conviction of a felony or has been adjudicated on or after September first, nineteen hundred seventy-eight a juvenile delinquent who committed a designated felony act as defined in the family court act.~~

~~3. Notwithstanding the provisions of subdivision two, a youth who has been convicted of an armed felony offense or of rape in the first degree, criminal sexual act in the first degree, or aggravated sexual abuse is an eligible youth if the 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. Where the court determines that the eligible youth is a youthful offender, the court shall make a statement on the record of the reasons for its determination, a transcript of which shall be forwarded to the state division of criminal justice services, to be kept in accordance with the provisions of subdivision three of section eight hundred thirty-seven-a of the executive law.~~

~~4.] "Youthful offender finding" means a finding, substituted for the conviction of an eligible youth, pursuant to a determination that the eligible youth is a youthful offender.~~

~~[5.] 3. "Youthful offender sentence" means the sentence imposed upon a youthful offender finding.~~

~~[6.] 4. "Youthful offender adjudication". A youthful offender adjudication is comprised of a youthful offender finding and the youthful offender sentence imposed thereon and is completed by imposition and entry of the youthful offender sentence.~~

§ 2. Subdivisions 3 and 4 of section 720.15 of the criminal procedure law are REPEALED.

§ 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:

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 the eligible youth is charged with a violation or a misdemeanor offense, a class D or E felony offense, a class C felony as described in subdivision one of section 160.10 of the penal law or any offense contained in article two hundred twenty of the penal law, the court shall find that he or she is a youthful offender.

(b) In all other cases, 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 the attendant collateral consequences of that permanent 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.]~~

(c) There shall be a presumption to grant youthful offender status to an eligible youth. The district attorney may challenge this presumption by filing a motion with the court, with at least seven days' notice to the eligible youth and his or her attorney, showing by clear and convincing evidence that the interests of justice require the court not to grant youthful offender status.

§ 4. Subparagraph (i) of paragraph (b) of subdivision 3 of section 220.30 of the criminal procedure law, as amended by chapter 410 of the laws of 1979, is amended to read as follows:

(i) A plea of guilty, whether to the entire indictment or to part of the indictment for any crime other than a class A felony, may not be accepted on the condition that it constitutes a complete disposition of one or more other indictments against the defendant wherein is charged a class A-I felony as defined in article two hundred twenty of the penal law or the attempt to commit any such class A-I felony, except that an eligible youth, as defined in subdivision ~~[two]~~ one of section 720.10, may plea to a class B felony, upon consent of the district attorney, for purposes of adjudication as a youthful offender.

§ 5. Subdivision 3 of section 420.30 of the criminal procedure law, as amended by section 5 of part F of chapter 56 of the laws of 2004, is amended to read as follows:

3. Restrictions. In no event shall a mandatory surcharge, sex offender registration fee, DNA databank fee or crime victim assistance fee be remitted provided, however, that a court may waive the crime victim assistance fee if such defendant is an eligible youth as defined in subdivision ~~[two]~~ one of section 720.10 of this chapter, and the imposition of such fee would work an unreasonable hardship on the defendant, his or her immediate family, or any other person who is dependent on such defendant for financial support.

§ 6. Subdivision 2 of section 420.35 of the criminal procedure law, as amended by chapter 189 of the laws of 2018, is amended to read as follows:

2. Under no circumstances shall the mandatory surcharge, sex offender registration fee, DNA databank fee or the crime victim assistance fee be waived provided, however, that a court may waive the crime victim assistance fee if such defendant is an eligible youth as defined in subdivision ~~[two]~~ one of section 720.10 of this chapter, and the imposition of such fee would work an unreasonable hardship on the defendant, his or her immediate family, or any other person who is dependent on such defendant for financial support. A court shall waive any mandatory surcharge, DNA databank fee and crime victim assistance fee when: (i) the defendant is convicted of loitering for the purpose of engaging in prostitution under section 240.37 of the penal law (provided that the defendant was not convicted of loitering for the purpose of patronizing a person for prostitution); (ii) the defendant is convicted of prostitution under section 230.00 of the penal law; (iii) the defendant is convicted of a violation in the event such conviction is in lieu of a plea to or conviction for loitering for the purpose of engaging in prostitution under section 240.37 of the penal law (provided that the defendant was not alleged to be loitering for the purpose of patronizing a person for prostitution) or prostitution under section 230.00 of the penal law; or (iv) the court finds that a defendant is a victim of sex trafficking under section 230.34 of the penal law or a victim of trafficking in persons under the trafficking victims protection act (United

1 States Code, Title 22, Chapter 78); or (v) the court finds that the
2 defendant is a victim of sex trafficking of a child under section
3 230.34-a of the penal law.

4 § 7. The criminal procedure law is amended by adding a new article 721
5 to read as follows:

6 ARTICLE 721
7 YOUNG ADULT STATUS

8 Section 721.10 Young adult status procedure; definition of terms.

9 721.15 Young adult status procedure; sealing of accusatory
10 instrument; privacy of proceedings; preliminary
11 instructions to jury.

12 721.20 Young adult status determination; when and how made;
13 procedure thereupon.

14 721.30 Young adult adjudication; post-judgment motions and
15 appeal.

16 721.35 Young adult adjudication; effect thereof; records.

17 § 721.10 Young adult status procedure; definition of terms.

18 As used in this article, the following terms have the following mean-
19 ings:

20 1. "Eligible young adult" means a person charged with a crime or
21 offense alleged to have been committed when he or she was at least nine-
22 teen years old and less than twenty-five years old.

23 2. "Young adult finding" means a finding, substituted for the
24 conviction of an eligible young adult, pursuant to a determination that
25 the eligible young adult shall be granted young adult status.

26 3. "Young adult sentence" means the sentence imposed upon a young
27 adult finding.

28 4. "Young adult adjudication" means an adjudication comprised of a
29 young adult finding and the young adult sentence imposed thereon and is
30 completed by imposition and entry of the young adult sentence.

31 § 721.15 Young adult status procedure; sealing of accusatory instrument;
32 privacy of proceedings; preliminary instructions to jury.

33 1. When an accusatory instrument against an apparently eligible young
34 adult is filed with a court, it shall be filed as a sealed instrument,
35 though only with respect to the public.

36 2. When a young adult is initially arraigned upon an accusatory
37 instrument, such arraignment and all proceedings in the action thereaft-
38 er may, in the discretion of the court and with the consent of the
39 accused, be conducted in private.

40 § 721.20 Young adult status determination; when and how made; procedure
41 thereupon.

42 Upon conviction of an eligible young adult, the court must order a
43 pre-sentence investigation of the defendant. After receipt of a written
44 report of the investigation and at the time of pronouncing sentence the
45 court must determine whether or not the eligible youth shall receive
46 young adult status. Such determination shall be in accordance with the
47 following criteria:

48 1. If the eligible young adult is charged with a violation or a misde-
49 meanor offense, the court shall find that he or she is a young adult
50 offender;

51 2. In all other cases, if in the opinion of the court the interest of
52 justice would be served by relieving the eligible young adult from the
53 onus of a criminal record and the attendant collateral consequences of
54 that permanent criminal record and by not imposing an indeterminate term

1 of imprisonment of more than ten years, the court may, in its
2 discretion, find the eligible young adult is a young adult offender; and

3 3. There shall be a presumption to grant young adult status to an
4 eligible young adult, unless the district attorney upon motion with not
5 less than seven days' notice to such person or his or her attorney
6 demonstrates to the satisfaction of the court that the interest of
7 justice require otherwise.

8 § 721.30 Young adult adjudication; post-judgment motions and appeal.

9 The provisions of this chapter, governing the making and determination
10 of post-judgment motions and the taking and determination of appeals in
11 criminal cases, apply to post judgment motions and appeals with respect
12 to young adult adjudications wherever such provisions can reasonably be
13 so applied.

14 § 721.35 Young adult adjudication; effect thereof; records.

15 1. A young adult adjudication is not a judgment of conviction for a
16 crime or any other offense, and does not operate as a disqualification
17 of any person so adjudged to hold public office or public employment or
18 to receive any license granted by public authority but shall be deemed a
19 conviction only for the purposes of transfer of supervision and custody
20 pursuant to section two hundred fifty-nine-m of the executive law.

21 2. Except where specifically required or permitted by statute or upon
22 specific authorization of the court, upon receipt of notification of a
23 young adult adjudication:

24 (a) every photograph of such young adult and photographic plate or
25 proof, and all palmprints and fingerprints taken or made of such young
26 adult pursuant to the provisions of this article in regard to the action
27 or proceeding terminated, and all duplicates and copies thereof, except
28 a digital fingerprint image where authorized pursuant to paragraph (d)
29 of this subdivision, shall forthwith be, at the discretion of the recip-
30 ient agency, either destroyed or returned to such young adult, or to the
31 attorney who represented the young adult at the time of the termination
32 of the action or proceeding, at the address given by such person or
33 attorney during the action or proceeding, by the division of criminal
34 justice services and by any police;

35 (b) any police department or law enforcement agency, including the
36 division of criminal justice services, which transmitted or otherwise
37 forwarded to any agency of the United States or of any other state or of
38 any other jurisdiction outside the state of New York copies of any such
39 photographs, photographic plates or proofs, palmprints and fingerprints,
40 shall formally request in writing that all such copies be destroyed or
41 returned to the police department or law enforcement agency which trans-
42 mitted or forwarded them, and upon such return such department or agency
43 shall, at its discretion, either destroy or return them as provided
44 under this subdivision;

45 (c) all official records and papers relating to the arrest or prose-
46 cution, including all duplicates and copies thereof, on file with the
47 division of criminal justice services, police agency, or prosecutor's
48 office shall be sealed and not made available to any person or public or
49 private agency;

50 (d) the records referred to in paragraph (b) of this subdivision shall
51 be made available to the young adult accused or to such young adult's
52 designated agent, and shall be made available to (i) a prosecutor in any
53 proceeding in which the accused has moved for an order pursuant to
54 section 170.56 or 210.46 of this chapter, or (ii) a law enforcement
55 agency upon ex parte motion in any superior court, or in any district
56 court, city court or the criminal court of the city of New York provided

1 that such court sealed the record, if such agency demonstrates to the
2 satisfaction of the court that justice requires that such records be
3 made available to it, or (iii) any state or local officer or agency with
4 responsibility for the issuance of licenses to possess guns, when the
5 accused has made application for such a license, or (iv) the New York
6 state department of corrections and community supervision when the
7 accused is under parole supervision as a result of conditional release
8 or parole release granted by the New York state board of parole and the
9 arrest which is the subject of the inquiry is one which occurred while
10 the accused was under such supervision, or (v) the probation department
11 responsible for supervision of the accused when the arrest which is the
12 subject of the inquiry is one which occurred while the accused was under
13 such supervision;

14 (e) at no time shall such notification be used for any purpose other
15 than those specified in this subdivision, provided, however, that infor-
16 mation regarding an order of protection or temporary order of protection
17 issued pursuant to section 530.12 of this part or a warrant issued in
18 connection therewith may be maintained on the statewide automated order
19 of protection and warrant registry established pursuant to section two
20 hundred twenty-one-a of the executive law during the period that such
21 order of protection or temporary order of protection is in full force
22 and effect or during which such warrant may be executed. Such confiden-
23 tial information may be made available pursuant to law only for purposes
24 of adjudicating or enforcing such order of protection or temporary order
25 of protection; and

26 (f) where fingerprints subject to the provisions of this section have
27 been received by the division of criminal justice services and have been
28 filed by the division as digital images, such images may be retained,
29 provided that a fingerprint card of the individual is on file with the
30 division which was not sealed pursuant to this section or section 160.50
31 of this chapter.

32 § 8. The criminal procedure law is amended by adding a new section
33 440.48 to read as follows:

34 § 440.48 Resentencing; youthful offender.

35 1. Any person under the age of twenty-five at the time the crime was
36 committed who was convicted of a misdemeanor or violation offense who
37 would have been considered an "eligible youth" pursuant to subdivision
38 one of section 720.10 of this chapter and an "eligible young adult"
39 pursuant to subdivision one of section 721.10 of this chapter after the
40 effective date of this section shall have their conviction automatically
41 replaced with a youthful offender adjudication or young adult offender
42 adjudication within six months of such date. The division of criminal
43 justice services shall establish standards to ensure that such process
44 occurs automatically for all persons prior to such six month deadline.

45 2. Any person under the age of twenty-five at the time the crime was
46 committed who would have been considered an "eligible youth" pursuant to
47 subdivision one of section 720.10 of this chapter and an "eligible young
48 adult" pursuant to subdivision one of section 721.10 of this chapter
49 after the effective date of this section, upon notice to the appropriate
50 district attorney, may petition to be resentenced to a youthful offender
51 adjudication or young adult offender adjudication in accordance with
52 articles seven hundred twenty and seven hundred twenty-one of this chap-
53 ter in the court which imposed such sentence. Even if a person is eligi-
54 ble for automatic youthful offender adjudication or young adult offender
55 adjudication sealing pursuant to subdivision one of this section, such

1 person may still petition the court for resentencing prior to the six
2 month period described in subdivision one of this section.

3 3. The court shall consider the factors outlined in subdivision one of
4 section 720.20 and subdivision one of section 721.20 of this chapter in
5 determining whether or not a person who would have been an eligible
6 youth may or shall be granted youthful offender status or young adult
7 offender status for the prior conviction.

8 (a) In cases where granting youthful offender status or young adult
9 offender status is discretionary and not required by paragraph (a) of
10 subdivision one of section 720.20 or paragraph (a) of subdivision one of
11 section 721.20 of this chapter, the court shall also consider any addi-
12 tional evidence presented by the person seeking resentencing, including:

13 (i) the amount of time that has elapsed since the petitioner's last
14 conviction;

15 (ii) the character of the petitioner, including any measures that he
16 or she has taken towards rehabilitation, such as participating in treat-
17 ment programs, work, or schooling, and participating in community
18 service or other volunteer programs;

19 (iii) the circumstances and seriousness of the offense for which the
20 petitioner is seeking relief;

21 (iv) the impact of sealing the petitioner's record upon his or her
22 rehabilitation and upon his or her successful and productive reentry and
23 reintegration into society; and

24 (v) the impact of collateral consequences of the conviction on the
25 defendant and his or her family.

26 (b) The district attorney may challenge the presumption to grant
27 youthful offender status pursuant to paragraph (c) of subdivision one of
28 section 720.20 and paragraph (c) of subdivision one of section 721.20 of
29 this chapter.

30 § 9. The criminal procedure law is amended by adding a new article 726
31 to read as follows:

32 ARTICLE 726

33 FIRST OFFENDER STATUS

34 Section 726.10 First offender status procedure; definition of terms.

35 726.20 First offender status determination; when and how made;
36 procedure thereupon.

37 726.30 First offender adjudication; post-judgment motions and
38 appeal.

39 726.35 First offender adjudication; effect thereof; records.

40 § 726.10 First offender status procedure; definition of terms.

41 As used in this article, the following terms shall have the following
42 meanings:

43 1. "Eligible first offender" means any person who stands charged with
44 a felony or misdemeanor offense alleged to have been committed when he
45 or she was aged twenty-five years or older unless:

46 (a) Such offender has been previously convicted and sentenced for a
47 felony, or

48 (b) Such offender has been previously adjudicated a youthful offender
49 following conviction for a felony or has been adjudicated a young adult
50 offender following a conviction for a felony.

51 2. "First offender finding" means a finding, substituted for the
52 conviction of an eligible first offender, pursuant to a determination
53 that the eligible first offender shall be granted first offender status.

54 3. "First offender sentence" means the sentence imposed upon a first
55 offender finding.

4. "First offender adjudication" means an adjudication comprised of a first offender finding and the first offender sentence imposed thereon and is completed by imposition and entry of the first offender sentence. § 726.20 First offender status determination; when and how made; procedure thereupon.

1. Upon conviction of an eligible first offender, 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 defendant shall receive first offender status. Such determination shall be in accordance with the following criteria:

(a) If the eligible first offender is charged with a violation or a misdemeanor offense, the court shall find that he or she is a first offender;

(b) In all other cases, if in the opinion of the court the interest of justice would be served by relieving the eligible offender from the onus of a criminal record and the attendant collateral consequences of that permanent criminal record, the court may, in its discretion, find the eligible offender is a first offender; and

(c) There shall be a presumption to grant first offender status to an eligible first offender, 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 interest of justice require otherwise.

2. When an authorized court determines, pursuant to subdivision one of this section, that the defendant is an eligible first offender, the following sentences may be imposed:

(a) An authorized prison sentence pursuant to article seventy of the penal law;

(b) An authorized sentence of probation, conditional discharge, or unconditional discharge pursuant to article sixty-five of the penal law; or

(c) Any other authorized disposition pursuant to article sixty of the penal law.

§ 726.30 First offender adjudication; post-judgment motions and appeal.

The provisions of this chapter, governing the making and determination of post-judgment motions and the taking and determination of appeals in criminal cases, apply to post judgment motions and appeals with respect to first offender adjudications wherever such provisions can reasonably be so applied.

§ 726.35 First offender adjudication; effect thereof; records.

1. A first offender adjudication is not a judgment of conviction for a crime or any other offense, and does not operate as a disqualification of any person so adjudged to hold public office or public employment or to receive any license granted by public authority but shall be deemed a conviction only for the purposes of transfer of supervision and custody pursuant to section two hundred fifty-nine-m of the executive law.

2. Except where specifically required or permitted by statute or upon specific authorization of the court, upon receipt of notification of a first offender adjudication:

(a) every photograph of such offender and photographic plate or proof, and all palmprints and fingerprints taken or made of such first offender pursuant to the provisions of this article in regard to the action or proceeding terminated, and all duplicates and copies thereof, except a digital fingerprint image where authorized pursuant to paragraph (e) of this subdivision, shall forthwith be, at the discretion of the recipient

1 agency, either destroyed or returned to such first offender, or to the
2 attorney who represented the first offender at the time of the termi-
3 nation of the action or proceeding, at the address given by such person
4 or attorney during the action or proceeding, by the division of criminal
5 justice services and by any police department or law enforcement agency
6 having any such photograph, photographic plate or proof, palmprints or
7 fingerprints in its possession or under its control;

8 (b) any police department or law enforcement agency, including the
9 division of criminal justice services, which transmitted or otherwise
10 forwarded to any agency of the United States or of any other state or of
11 any other jurisdiction outside the state of New York copies of any such
12 photographs, photographic plates or proofs, palmprints and fingerprints,
13 shall formally request in writing that all such copies be destroyed or
14 returned to the police department or law enforcement agency which trans-
15 mitted or forwarded them, and upon such return such department or agency
16 shall, at its discretion, either destroy or return them as provided
17 under this subdivision;

18 (c) all official records and papers relating to the arrest or prose-
19 cution, including all duplicates and copies thereof, on file with the
20 division of criminal justice services, police agency, or prosecutor's
21 office shall be sealed and not made available to any person or public or
22 private agency;

23 (d) the records referred to in paragraph (c) of this subdivision shall
24 be made available to the accused first offender or to such first
25 offender's designated agent, and shall be made available to (i) a prose-
26 cutor in any proceeding in which the accused has moved for an order
27 pursuant to section 170.56 or 210.46 of this chapter, or (ii) a law
28 enforcement agency upon ex parte motion in any superior court, or in any
29 district court, city court or the criminal court of the city of New York
30 provided that such court sealed the record, if such agency demonstrates
31 to the satisfaction of the court that justice requires that such records
32 be made available to it, or (iii) any state or local officer or agency
33 with responsibility for the issuance of licenses to possess guns, when
34 the accused has made application for such a license, or (iv) the New
35 York state department of corrections and community supervision when the
36 accused is under parole supervision as a result of conditional release
37 or parole release granted by the New York state board of parole and the
38 arrest which is the subject of the inquiry is one which occurred while
39 the accused was under such supervision, or (v) the probation department
40 responsible for supervision of the accused when the arrest which is the
41 subject of the inquiry is one which occurred while the accused was under
42 such supervision;

43 (e) at no time shall such notification be used for any purpose other
44 than those specified in this subdivision, provided, however, that infor-
45 mation regarding an order of protection or temporary order of protection
46 issued pursuant to section 530.12 of this part or a warrant issued in
47 connection therewith may be maintained on the statewide automated order
48 of protection and warrant registry established pursuant to section two
49 hundred twenty-one-a of the executive law during the period that such
50 order of protection or temporary order of protection is in full force
51 and effect or during which such warrant may be executed. Such confiden-
52 tial information may be made available pursuant to law only for purposes
53 of adjudicating or enforcing such order of protection or temporary order
54 of protection; and

55 (f) where fingerprints subject to the provisions of this section have
56 been received by the division of criminal justice services and have been

1 filed by the division as digital images, such images may be retained,
2 provided that a fingerprint card of the individual is on file with the
3 division which was not sealed pursuant to this section or section 160.50
4 of this chapter.

5 § 10. Subdivision 2 of section 60.00 of the penal law, as added by
6 chapter 481 of the laws of 1978, is amended to read as follows:

7 2. The sole provision of this article that shall apply in the case of
8 an offense committed by a juvenile offender [~~is~~] or a defendant adjudi-
9 cated a youthful offender or young adult in section 60.10 of this arti-
10 cle and no other provisions of this article shall be deemed or construed
11 to apply in any such case.

12 § 11. Subdivisions 1 and 3 of section 60.02 of the penal law, as
13 amended by chapter 471 of the laws of 1980, and subdivision 3 as amended
14 by section 1 of part Y of chapter 56 of the laws of 2008, are amended to
15 read as follows:

16 (1) If the sentence is to be imposed upon a youthful offender finding
17 which has been substituted for a conviction of an offense other than a
18 felony, the court must impose a sentence authorized for the offense for
19 which the youthful offender finding was substituted[~~, except that if the~~
20 ~~youthful offender finding was entered pursuant to paragraph (b) of~~
21 ~~subdivision one of section 720.20 of the criminal procedure law, the~~
22 ~~court must not impose a definite or intermittent sentence of imprison-~~
23 ~~ment with a term of more than six months~~]; or

24 (3) The provisions of section 60.35 of this article shall not apply to
25 a sentence imposed upon a juvenile offender conviction, a youthful
26 offender finding, or a young adult offender finding [~~and the amount of~~
27 ~~the mandatory surcharge and crime victim assistance fee which shall be~~
28 ~~levied at sentencing shall be equal to the amount specified in such~~
29 ~~section for the offense of conviction for which the youthful offender~~
30 ~~finding was substituted, provided, however that the court shall not~~
31 ~~impose the sex offender registration fee, DNA databank fee or supple-~~
32 ~~mental sex offender victim fee, as defined in subparagraphs (iv) and (v)~~
33 ~~of paragraph (a) and paragraph (b) of subdivision one of section 60.35~~
34 ~~of this article, for an offense in which the conviction was substituted~~
35 ~~with a youthful offender finding~~].

36 § 12. Subdivision 4 of section 80.00 of the penal law, as amended by
37 chapter 338 of the laws of 1989, is amended to read as follows:

38 4. Exception. The provisions of this section shall not apply to a
39 corporation, or eligible youth as defined in section 720.10 of the crim-
40 inal procedure law.

41 § 13. Subdivision 6 of section 80.05 of the penal law is amended to
42 read as follows:

43 6. Exception. The provisions of this section shall not apply to a
44 corporation, or eligible youth as defined in section 720.10 of the crim-
45 inal procedure law.

46 § 14. This act shall take effect on the first of November next
47 succeeding the date on which it shall have become a law and shall apply
48 to any criminal case pending on such effective date.