STATE OF NEW YORK

6769

2021-2022 Regular Sessions

IN ASSEMBLY

March 29, 2021

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

AN ACT to amend the criminal procedure law, in relation to the determination of youthful offender status

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

Section 1. Section 720.20 of the criminal procedure law is amended by adding a new subdivision 5 to read as follows:

5. (a) An individual who was an eligible youth who was not determined to be a youthful offender by the sentencing court may apply to the sentencing court for a new determination after at least five years have passed since the imposition of the sentence for which such individual was not determined to be a youthful offender, or, if the individual was sentenced to a period of incarceration, including a period of incarceration imposed in conjunction with a sentence of probation, the individual's latest release from incarceration, provided that such individual has not been convicted of any new crime since the imposition of such sentence.

(b) In considering whether such individual should be determined to be a youthful offender pursuant to paragraph (a) of this subdivision, the court shall consider the following factors:

(i) whether relieving the individual from the onus of a criminal record would facilitate rehabilitation and successful reentry and reintegration into society;

(ii) the manner in which the crime was committed;

(iii) the role of the individual in the crime which resulted in the conviction;

(iv) the individual's age at the time of the crime;

(v) the length of time since the crime was committed;

(vi) any mitigating circumstances at the time the crime was committed;

(vii) the individual's criminal record;

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

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(viii) the individual's attitude toward society and respect for the law; and

(ix) evidence of rehabilitation and demonstration of living a productive life including, but not limited to participation in educational and vocational programs, employment history, alcohol and substance abuse treatment, and family and community involvement.

(c) A copy of an application filed under this subdivision shall be served upon the district attorney of the county in which the individual was convicted. The district attorney shall notify the court within forty-five days if he or she objects to the application for sealing. The court may hold a hearing on the application on its own motion or on motion of the district attorney or the individual filing the application. If the district attorney does not file a timely objection, the court shall proceed forthwith.

§ 2. This act shall take effect immediately.