

STATE OF NEW YORK

5749--A

2021-2022 Regular Sessions

IN SENATE

March 17, 2021

Introduced by Sen. MYRIE -- read twice and ordered printed, and when printed to be committed 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 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:

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

8 § 720.10 Youthful offender procedure; definition of terms.

9 As used in this article, the following terms have the following mean-
10 ings:

11 1. "Youth" means a person charged with a crime alleged to have been
12 committed when he or she was at least sixteen years old and less than
13 nineteen years old or a person charged with being a juvenile offender as
14 defined in subdivision forty-two of section 1.20 of this chapter.

15 2. "Eligible youth" means a youth who is eligible to be found a youth-
16 ful offender. Every youth is so eligible unless:

17 (a) the conviction to be replaced by a youthful offender finding is
18 for (i) a class A-I or class A-II felony, or (ii) [~~an armed felony as~~
19 ~~defined in subdivision forty-one of section 1.20, except as provided in~~
20 ~~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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1 act in the first degree, or aggravated sexual abuse, except as provided
2 in subdivision three, or

3 (b) such youth has previously been convicted and sentenced for a felo-
4 ny[~~, or~~

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

10 3. Notwithstanding the provisions of subdivision two of this section,
11 a youth who has been convicted of [~~an armed felony offense or of~~] rape
12 in the first degree, criminal sexual act in the first degree, or aggra-
13 vated sexual abuse is an eligible youth if the court determines that
14 [~~one or more of the following factors exist.~~] the interest of justice
15 would be served by relieving the youth from the onus of a criminal
16 record and by not imposing an indeterminate sentence of more than four
17 years. In making such determination, the court shall weigh the follow-
18 ing factors: (i) the circumstances and seriousness of the offense with
19 due regard to the extent of the harm caused by it; (ii) any mitigating
20 circumstances that bear [~~directly upon~~] on the manner in which the crime
21 was committed; [~~or (ii)~~] (iii) where the [~~defendant~~] youth was not the
22 sole participant in the crime, the [~~defendant's participation was rela-~~
23 ~~tively minor although not so minor as to constitute a defense to the~~
24 ~~prosecution~~] level and extent of his or her direct involvement in the
25 criminal activity; (iv) the history and background of the youth; and (v)
26 prospects for rehabilitation of the youth or opportunities for inter-
27 ventions that would assist the youth in leading a law-abiding life.
28 Where the court determines that the eligible youth is a youthful offen-
29 der, the court shall make a statement on the record of the reasons for
30 its determination, a transcript of which shall be forwarded to the state
31 division of criminal justice services, to be kept in accordance with the
32 provisions of subdivision three of section eight hundred thirty-seven-a
33 of the executive law.

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

37 5. "Youthful offender sentence" means the sentence imposed upon a
38 youthful offender finding.

39 6. "Youthful offender adjudication". A youthful offender adjudication
40 is comprised of a youthful offender finding and the youthful offender
41 sentence imposed thereon and is completed by imposition and entry of the
42 youthful offender sentence.

43 § 2. Subdivision 3 of section 720.15 of the criminal procedure law is
44 REPEALED.

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

48 1. Upon conviction of an eligible youth, the court must order a pre-
49 sentence investigation of the defendant. After receipt of a written
50 report of the investigation and at the time of pronouncing sentence the
51 court must determine whether or not the eligible youth is a youthful
52 offender. Such determination shall be in accordance with the following
53 criteria:

54 (a) If [~~in the opinion of the court the interest of justice would be~~
55 ~~served by relieving the eligible~~] the eligible youth is charged with a
56 misdemeanor offense, a class D or E felony offense, a class C felony as

1 described in subdivision one of section 160.10 of the penal law or any
2 offense contained in article two hundred twenty of the penal law other
3 than a class A-I or A-II felony offense, the court shall find that he or
4 she is a youthful offender.

5 (b) In all other cases, except when the youth is charged with rape in
6 the first degree, and aggravated sexual abuse, there shall be a presump-
7 tion to grant youthful offender status to an eligible youth in order to
8 relieve such youth from the onus of a criminal record [~~and by not impos-~~
9 ing], other consequences of a criminal conviction, and the imposition of
10 an indeterminate term of imprisonment of more than four years[~~, the~~
11 court may, in its discretion, find the eligible youth is a youthful
12 offender, and

13 ~~(b) Where the conviction is had in a local criminal court and the~~
14 ~~eligible youth had not prior to commencement of trial or entry of a plea~~
15 ~~of guilty been convicted of a crime or found a youthful offender, the~~
16 ~~court must find he is a youthful offender]. Upon motion of not less~~
17 than seven days' notice, the prosecutor may challenge the presumption to
18 grant youthful offender status. The court shall grant youthful offender
19 status unless the prosecutor rebuts the presumption and establishes by
20 clear and convincing evidence that the criteria set forth in subdivision
21 two of section 720.10 of this article require that youthful offender
22 status be denied.

23 § 4. Section 720.35 of the criminal procedure law, as added by chapter
24 981 of the laws of 1971, subdivision 1 as amended by chapter 23 of the
25 laws of 2021, subdivisions 2 and 4 as amended by section 87 of subpart B
26 of part C of chapter 62 of the laws of 2011 and subdivision 3 as amended
27 by chapter 181 of the laws of 2000, is amended to read as follows:

28 § 720.35 Youthful offender adjudication; effect thereof; records.

29 1. A youthful offender or young adult adjudication is not a judgment
30 of conviction for a crime or any other offense, and does not operate as
31 a disqualification of any person so adjudged to hold public office or
32 public employment or to receive any license granted by public authority
33 but shall be deemed a conviction only for the purposes of transfer of
34 supervision and custody pursuant to section two hundred fifty-nine-m of
35 the executive law. A defendant for whom a youthful offender adjudication
36 was substituted, who was originally charged with prostitution as defined
37 in section 230.00 of the penal law, shall be deemed a "sexually
38 exploited child" as defined in subdivision one of section four hundred
39 forty-seven-a of the social services law and therefore shall not be
40 considered an adult for purposes related to the charges in the youthful
41 offender proceeding or a proceeding under section 170.80 of this chap-
42 ter.

43 2. Except where specifically required or permitted by statute or upon
44 specific authorization of the court, all official records and papers,
45 whether on file with the court, a police agency or the division of crim-
46 inal justice services, relating to a case involving a youth or young
47 adult who has been adjudicated a youthful offender or granted a young
48 adult status finding, are confidential and may not be made available to
49 any person or public or private agency, other than the designated educa-
50 tional official of the public or private elementary or secondary school
51 in which the youth or young adult is enrolled as a student provided that
52 such local educational official shall only have made available a notice
53 of such adjudication and shall not have access to any other official
54 records and papers, such youth or young adult or such youth's or young
55 adult's designated agent (but only where the official records and papers
56 sought are on file with a court and request therefor is made to that

1 court or to a clerk thereof), an institution to which such youth or
2 young adult has been committed, the department of corrections and commu-
3 nity supervision and a probation department of this state that requires
4 such official records and papers for the purpose of carrying out duties
5 specifically authorized by law; provided, however, that information
6 regarding an order of protection or temporary order of protection issued
7 pursuant to section 530.12 of this chapter or a warrant issued in
8 connection therewith may be maintained on the statewide automated order
9 of protection and warrant registry established pursuant to section two
10 hundred twenty-one-a of the executive law during the period that such
11 order of protection or temporary order of protection is in full force
12 and effect or during which such warrant may be executed. Such confiden-
13 tial information may be made available pursuant to law only for purposes
14 of adjudicating or enforcing such order of protection or temporary order
15 of protection and, where provided to a designated educational official,
16 as defined in section 380.90 of this chapter, for purposes related to
17 the execution of the student's educational plan, where applicable,
18 successful school adjustment and reentry into the community. Such
19 notification shall be kept separate and apart from such student's school
20 records and shall be accessible only by the designated educational offi-
21 cial. Such notification shall not be part of such student's permanent
22 school record and shall not be appended to or included in any documenta-
23 tion regarding such student and shall be destroyed at such time as such
24 student is no longer enrolled in the school district. At no time shall
25 such notification be used for any purpose other than those specified in
26 this subdivision.

27 3. If a youth or young adult who has been adjudicated a youthful
28 offender or granted a young adult status finding is enrolled as a
29 student in a public or private elementary or secondary school the court
30 that has [~~adjudicated the youth as a~~] made the youthful offender or
31 young adult adjudication shall provide notification of such adjudication
32 to the designated educational official of the school in which such youth
33 or young adult is enrolled as a student. Such notification shall be
34 used by the designated educational official only for purposes related to
35 the execution of the student's educational plan, where applicable,
36 successful school adjustment and reentry into the community. Such
37 notification shall be kept separate and apart from such student's school
38 records and shall be accessible only by the designated educational offi-
39 cial. Such notification shall not be part of such student's permanent
40 school record and shall not be appended to or included in any documenta-
41 tion regarding such student and shall be destroyed at such time as such
42 student is no longer enrolled in the school district. At no time shall
43 such notification be used for any purpose other than those specified in
44 this subdivision.

45 4. Notwithstanding subdivision two of this section, whenever a person
46 is adjudicated a youthful offender or granted young adult status and the
47 conviction that was vacated and replaced by the youthful offender or
48 young adult status finding was for a sex offense as that term is defined
49 in article ten of the mental hygiene law, all records pertaining to the
50 youthful offender or young adult adjudication shall be included in those
51 records and reports that may be obtained by the commissioner of mental
52 health or the commissioner of developmental disabilities, as appropri-
53 ate; the case review panel; and the attorney general pursuant to section
54 10.05 of the mental hygiene law.

1 § 5. Subparagraph (i) of paragraph (b) of subdivision 3 of section
2 220.30 of the criminal procedure law, as amended by chapter 410 of the
3 laws of 1979, is amended to read as follows:

4 (i) A plea of guilty, whether to the entire indictment or to part of
5 the indictment for any crime other than a class A felony, may not be
6 accepted on the condition that it constitutes a complete disposition of
7 one or more other indictments against the defendant wherein is charged a
8 class A-I felony as defined in article two hundred twenty of the penal
9 law or the attempt to commit any such class A-I felony, except that [~~an
10 eligible youth, as defined in subdivision two of section 720.10, may
11 plea to a class B felony, upon consent of the district attorney, for
12 purposes of adjudication as a youthful offender~~] this restriction shall
13 not apply to an eligible youth, as defined in subdivision two of section
14 720.10 of this chapter, or an eligible young adult, as defined in subdi-
15 vision two of section 721.10 of this chapter.

16 § 6. Subdivision 3 of section 420.30 of the criminal procedure law, as
17 amended by chapter 144 of the laws of 2020, is amended to read as
18 follows:

19 3. Restrictions. Except as provided for in subdivision two-a of
20 section 420.35 of this article, in no event shall a mandatory surcharge,
21 sex offender registration fee, DNA databank fee or crime victim assist-
22 ance fee be remitted. In no event shall such fees be imposed for a
23 juvenile offender, a youthful offender or a young adult status finding.

24 § 7. Subdivision 2 of section 420.35 of the criminal procedure law, as
25 amended by chapter 23 of the laws of 2021, is amended as follows:

26 2. Except as provided in this subdivision or subdivision two-a of this
27 section, under no circumstances shall the mandatory surcharge, sex
28 offender registration fee, DNA databank fee or the crime victim assist-
29 ance fee be waived. A court shall waive any mandatory surcharge, DNA
30 databank fee and crime victim assistance fee when: (i) the defendant is
31 convicted of prostitution under section 230.00 of the penal law; (ii)
32 the defendant is convicted of a violation in the event such conviction
33 is in lieu of a plea to or conviction for prostitution under section
34 230.00 of the penal law; (iii) the court finds that a defendant is a
35 victim of sex trafficking under section 230.34 of the penal law or a
36 victim of trafficking in persons under the trafficking victims
37 protection act (United States Code, Title 22, Chapter 78); [~~ex~~] (iv) the
38 court finds that the defendant is a victim of sex trafficking of a child
39 under section 230.34-a of the penal law; or (v) the court determines
40 that the defendant is a youthful offender pursuant to section 720.00 of
41 this chapter or the court grants the defendant young adult status pursu-
42 ant to section 721.00 of this chapter.

43 § 8. The criminal procedure law is amended by adding a new article 721
44 to read as follows:

45 ARTICLE 721

46 YOUNG ADULT STATUS

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

48 721.15 Young adult status procedure; sealing of accusatory
49 instrument; privacy of proceedings; preliminary
50 instructions to jury.

51 721.20 Young adult status determination; when and how made;
52 procedure thereupon.

53 721.30 Young adult adjudication; post-judgment motions and
54 appeal.

55 721.35 Young adult adjudication; effect thereof; records.

56 § 721.10 Young adult status procedure; definition of terms.

1 As used in this article, the following terms have the following mean-
2 ings:

3 1. "Young adult" means a person charged with a crime alleged to have
4 been committed when he or she was at least nineteen years old and less
5 than twenty-six years old.

6 2. "Eligible young adult" means a person who is at least nineteen
7 years old and less than twenty-six years old who is eligible for young
8 adult status. Every young adult is so eligible unless: (a) the
9 conviction to be replaced by young adult adjudication is for (i) a class
10 A-I or class A-II felony, or (ii) rape in the first degree, criminal
11 sexual act in the first degree, or aggravated sexual abuse, except as
12 provided in subdivision three of this section, or (b) such young adult
13 has previously been convicted and sentenced for a felony.

14 3. Notwithstanding the provisions of subdivision two of this section,
15 a young adult who has been convicted of rape in the first degree, crimi-
16 nal sexual act in the first degree, or aggravated sexual abuse is an
17 eligible youth if the court determines, without applying the presumption
18 defined in paragraph (b) of subdivision one of section 721.20 of this
19 article, that the interest of justice would be served by relieving the
20 young adult from the onus of a criminal record and by not imposing an
21 indeterminate sentence of more than four years. In making such determi-
22 nation, the court shall weigh the following factors:

23 (a) The circumstances and seriousness of the offense with due regard
24 to the extent of the harm caused by it.

25 (b) Any mitigating circumstances that bear on the manner in which the
26 crime was committed.

27 (c) Where the young adult was not the sole participant in the crime,
28 the level and extent of his or her direct involvement in the criminal
29 activity.

30 (d) The history and background of the young adult.

31 (e) Prospects for rehabilitation of the young adult or opportunities
32 for interventions that would assist the young adult in leading a law-a-
33 biding life.

34 Where the court makes a young adult status finding, the court shall
35 make a statement on the record of the reasons for its determination, a
36 transcript of which shall be forwarded to the state division of criminal
37 justice services, to be kept in accordance with the provisions of subdi-
38 vision three of section eight hundred thirty-seven-a of the executive
39 law.

40 4. "Young adult finding" means a finding, substituted for the
41 conviction of an eligible young adult, pursuant to a determination that
42 the eligible young adult shall be granted young adult status.

43 5. "Young adult sentence" means the sentence imposed upon a young
44 adult finding.

45 6. "Young adult adjudication" means an adjudication comprised of a
46 young adult finding and the young adult sentence imposed thereon and is
47 completed by imposition and entry of the young adult sentence.

48 § 721.15 Young adult status procedure; sealing of accusatory instrument;
49 privacy of proceedings; preliminary instructions to jury.

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

53 2. When an eligible young adult is initially arraigned upon an accusa-
54 tory instrument, such arraignment and all proceedings in the action
55 thereafter may, in the discretion of the court and with the consent of
56 the accused, be conducted in private.

1 § 721.20 Young adult status determination; when and how made; procedure
2 thereupon.

3 1. Upon conviction of an eligible young adult, the court shall order a
4 pre-sentence investigation of the defendant. After receipt of a written
5 report of the investigation and at the time of pronouncing sentence the
6 court shall determine whether or not the eligible youth will receive
7 young adult status. Such determination shall be in accordance with the
8 following criteria:

9 (a) If the eligible young adult is charged with a misdemeanor offense,
10 the court shall grant him or her young adult status;

11 (b) In all other cases, except rape in the first degree, criminal
12 sexual act in the first degree, and aggravated sexual abuse, there shall
13 be a presumption to grant eligible young adult status to an eligible
14 young adult in order to relieve such young adult from the onus of a
15 criminal record, other consequences of a criminal conviction, and the
16 imposition of an indeterminate term of imprisonment of more than four
17 years. Upon motion on not less than seven days' notice, the prosecutor
18 may challenge the presumption to grant young adult status. The court
19 shall grant young adult status unless the prosecutor rebuts the presump-
20 tion and establishes by clear and convincing evidence that the criteria
21 set forth in subdivision two of section 721.10 of this article require
22 that young adult status be denied.

23 2. Where an eligible young adult is convicted of two or more crimes or
24 offenses set forth in separate counts of an accusatory instrument or set
25 forth in two or more accusatory instruments consolidated for trial
26 purposes, the court shall not grant him or her young adult status with
27 respect to any such conviction pursuant to subdivision one of this
28 section unless it grants young adult status with respect to all such
29 convictions.

30 3. Upon determining to grant young adult status, the court shall
31 direct that the conviction be deemed vacated and replaced by a young
32 adult status finding; and the court shall sentence the young adult
33 pursuant to section 60.02 of the penal law.

34 4. Upon determining that an eligible young adult shall not be granted
35 young adult status, the court shall order the accusatory instrument
36 unsealed and continue the action to judgment pursuant to the ordinary
37 rules governing criminal prosecutions.

38 § 721.30 Young adult adjudication; post-judgment motions and appeal.

39 The provisions of this chapter, governing the making and determination
40 of post-judgment motions and the taking and determination of appeals in
41 criminal cases, apply to post judgment motions and appeals with respect
42 to young adult adjudications wherever such provisions can reasonably be
43 so applied.

44 § 721.35 Young adult adjudication; effect thereof; records.

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

51 2. Upon receipt of notification of a young adult adjudication, such
52 adjudication and all records thereof shall be sealed in the same manner
53 as defined in section 720.35 of this title; and such records shall not
54 be available except where specifically required by statute or upon
55 specific authorization by the court.

1 § 9. The criminal procedure law is amended by adding a new section
2 440.49 to read as follows:

3 § 440.49 Resentencing; youthful offender.

4 1. Any person under the age of twenty-six at the time the crime was
5 committed who was convicted of a misdemeanor or violation offense who
6 would have been considered an "eligible youth" pursuant to subdivision
7 two of section 720.10 of this chapter and an "eligible young adult"
8 pursuant to subdivision two of section 721.10 of this chapter after the
9 effective date of this section shall have their conviction automatically
10 replaced with a youthful offender adjudication or young adult offender
11 adjudication within six months of the statute's effective date. The
12 division of criminal justice services shall establish standards to
13 ensure that such process occurs automatically for all persons prior to
14 such six month deadline.

15 2. Any person under the age of twenty-six at the time the crime was
16 committed who would have been considered an "eligible youth" pursuant to
17 subdivision two of section 720.10 of this chapter and an "eligible young
18 adult" pursuant to subdivision two of section 721.10 of this chapter
19 after the effective date of this section, upon notice to the appropriate
20 district attorney, may petition to be resentenced to a youthful offender
21 adjudication or young adult offender adjudication in accordance with
22 articles seven hundred twenty and seven hundred twenty-one of this chap-
23 ter in the court which imposed such sentence. Even if a person is eligi-
24 ble for automatic youthful offender adjudication or young adult offender
25 adjudication sealing pursuant to subdivision one of this section, such
26 person may still petition the court for resentencing prior to the six
27 month period described in subdivision one of this section.

28 3. The court shall consider the factors outlined in subdivision two of
29 section 720.20 and subdivision two of section 721.20 of this chapter in
30 determining whether or not a person who would have been an eligible
31 youth may or shall be granted youthful offender status or young adult
32 offender status for the prior conviction.

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

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

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

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

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

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

51 (b) The district attorney may challenge the presumption to grant
52 youthful offender status pursuant to paragraph (b) of subdivision one of
53 section 720.20 and paragraph (b) of subdivision one of section 721.20 of
54 this chapter.

55 4. Subdivision one of section seven hundred seventeen and subdivision
56 four of section seven hundred twenty-two of the county law, and the

1 related provisions of article eighteen-A of such law shall apply to the
2 preparation and proceedings on motions pursuant to this section, includ-
3 ing any appeals.

4 § 10. Section 450.10 of the criminal procedure law is amended by
5 adding a new subdivision 6 to read as follows:

6 6. An order denying a motion, made pursuant to section 440.49 of this
7 title, for granting youthful offender or young adult status.

8 § 11. Subdivision 2 of section 60.00 of the penal law, as added by
9 chapter 481 of the laws of 1978, is amended and a new subdivision 3 is
10 added to read as follows:

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

16 3. The sole provisions of this article that may apply in the case of
17 an offense committed by a defendant adjudicated a youthful offender or
18 young adult status are sections 60.02 and 60.10-a of this article and no
19 other provisions of this article shall be deemed or construed to apply
20 in any such case.

21 § 12. Subdivisions 1 and 2 of section 60.02 of the penal law, as
22 amended by chapter 471 of the laws of 1980, are amended and a new subdi-
23 vision 3 is added to read as follows:

24 (1) If the sentence is to be imposed upon a youthful offender or young
25 adult status finding which has been substituted for a conviction of an
26 offense other than a felony, the court must impose a sentence authorized
27 for the offense for which the youthful offender or young adult finding
28 was substituted[~~, except that if the youthful offender finding was~~
29 ~~entered pursuant to paragraph (b) of subdivision one of section 720.20~~
30 ~~of the criminal procedure law,~~ where the conviction is for a misdemea-
31 nor the court must not impose a definite or intermittent sentence of
32 imprisonment with a term of more than six months; or

33 (2) If the sentence is to be imposed upon a youthful offender finding
34 which has been substituted for a conviction for any felony, the court
35 must impose a sentence authorized to be imposed upon a person convicted
36 of a class E felony [~~provided, however, that the court must not impose a~~
37 ~~sentence of conditional discharge or unconditional discharge if the~~
38 ~~youthful offender finding was substituted for a conviction of a felony~~
39 ~~defined in article two hundred twenty of this chapter~~].

40 3. If the sentence is to be imposed upon a young adult status finding
41 which has been substituted for a conviction for any felony, the court
42 shall impose a sentence authorized to be imposed upon a person convicted
43 of a class E felony.

44 § 13. Subdivision 4 of section 80.00 of the penal law, as amended by
45 chapter 338 of the laws of 1989, is amended to read as follows:

46 4. Exception. The provisions of this section shall not apply to a
47 corporation, or to a youthful offender finding as defined in section
48 720.10 of the criminal procedure law or young adult status finding as
49 defined in section 721.10 of the criminal procedure law.

50 § 14. Subdivision 6 of section 80.05 of the penal law is amended to
51 read as follows:

52 6. Exception. The provisions of this section shall not apply to a
53 corporation, or to a youthful offender finding as defined in section
54 720.10 of the criminal procedure law or young adult status finding as
55 defined in section 721.10 of the criminal procedure law.

1 § 15. Subdivision 7 of section 340.40 of the criminal procedure law,
2 as added by chapter 981 of the laws of 1971, is amended to read as
3 follows:

4 7. Notwithstanding any other provision of law, [~~in any local criminal~~
5 ~~court~~] the trial of a person who is an eligible youth within the meaning
6 of the youthful offender procedure set forth in article seven hundred
7 twenty [~~and who has not prior to commencement of the trial been~~
8 ~~convicted of a crime or adjudicated a youthful offender must be~~] of this
9 chapter shall be a jury trial or, where the eligible youth has waived a
10 jury trial pursuant to section 320.10 of this part, a single judge
11 trial.

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