

# STATE OF NEW YORK

8710

## IN SENATE

March 4, 2024

Introduced by Sen. SCARCELLA-SPANTON -- read twice and ordered printed,  
and when printed to be committed to the Committee on Codes

AN ACT to amend the criminal procedure law, in relation to the court's  
consideration of the existence of extraordinary circumstances and  
significant physical injury in determining whether to remove adoles-  
cent offenders to family court

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

1 Section 1. Paragraph (d) of subdivision 1 of section 722.23 of the  
2 criminal procedure law, as added by section 1-a of part WWW of chapter  
3 59 of the laws of 2017, is amended to read as follows:

4 (d) The court shall deny the motion to prevent removal of the action  
5 in youth part unless the court makes a determination upon such motion by  
6 the district attorney that extraordinary circumstances exist that should  
7 prevent the transfer of the action to family court. For the purposes of  
8 this paragraph, the term "extraordinary circumstances" shall mean the  
9 existence of highly unusual and heinous facts, in addition to strong  
10 proof that the defendant is not amenable or would not benefit in any way  
11 from transfer of the action to family court. Factors that shall be  
12 considered by the court in determining whether extraordinary circum-  
13 stances exist shall include, but shall not be limited to, whether the  
14 defendant:

15 (i) committed a series of crimes over multiple days in close proximi-  
16 ty;

17 (ii) acted in an especially cruel and heinous manner; or  
18 (iii) led, threatened, or coerced other reluctant adolescents into  
19 participating in the crime or crimes which are the basis of the action.

20 § 2. Subdivision 2 of section 722.23 of the criminal procedure law is  
21 amended by adding a new paragraph (c-1) to read as follows:

22 (c-1) For the purposes of paragraph (c) of this subdivision, the term  
23 "significant physical injury" shall mean physical injury that involves a  
24 risk of death, significant physical pain, protracted and obvious disfig-  
25 urement, or a protracted loss or impairment of the function of a bodily  
26 member, organ, or mental or sensory faculty.

27 § 3. This act shall take effect on the first of November next succeed-  
28 ing the date upon which it shall have become a law.

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

LBD10992-01-3