

STATE OF NEW YORK

8938

IN SENATE

April 1, 2024

Introduced by Sens. SCARCELLA-SPANTON, MURRAY -- 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 proceedings involving adolescent offenders and the possession or use of weapons

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

1 Section 1. Section 722.10 of the criminal procedure law is amended by
2 adding a new subdivision 3 to read as follows:

3 3. Notwithstanding any other law to the contrary, judges presiding in
4 the youth part shall have access to all family court records, including
5 records related to previous juvenile delinquency proceedings brought
6 against the defendant. Any such relevant records shall be made available
7 to the parties in the action before the youth part prior to arraignment
8 in such action.

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

12 (d) The court shall deny the motion to prevent removal of the action
13 in youth part unless the court makes a determination upon such motion by
14 the district attorney that extraordinary circumstances exist that should
15 prevent the transfer of the action to family court. For the purposes of
16 this paragraph, the court may find extraordinary circumstances where the
17 defendant is accused of an offense involving the use, possession, or
18 display of a firearm, shotgun, rifle or other deadly weapon. Nothing in
19 this section shall prevent the court from finding extraordinary circum-
20 stances exist based upon a finding that the defendant has previously
21 been convicted of an offense involving the illegal use, possession, or
22 display of a firearm, shotgun, rifle or other deadly weapon or that the
23 defendant was previously adjudicated as a youthful offender, juvenile
24 offender or juvenile delinquent based upon an offense involving the
25 illegal use, possession or display of a firearm, shotgun, rifle or other
26 deadly weapon.

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

LBD10807-01-3

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

4 (c) The court shall order the action to proceed in accordance with
5 subdivision one of this section unless, after reviewing the papers and
6 hearing from the parties, the court determines in writing that the
7 district attorney proved by a preponderance of the evidence one or more
8 of the following as set forth in the accusatory instrument:

9 (i) the defendant caused significant physical injury to a person other
10 than a participant in the offense; or

11 (ii) the defendant used, possessed or displayed a firearm, shotgun,
12 rifle or deadly weapon as defined in the penal law [~~in furtherance of~~
13 ~~such offense~~]; or

14 (iii) the defendant unlawfully engaged in sexual intercourse, oral
15 sexual conduct, anal sexual conduct or sexual contact as defined in
16 section 130.00 of the penal law.

17 § 4. This act shall take effect immediately.