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:

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

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

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

(d) The court shall deny the motion to prevent removal of the action in youth part unless the court makes a determination upon such motion by the district attorney that extraordinary circumstances exist that should prevent the transfer of the action to family court. **For the purposes of this paragraph, the court may find extraordinary circumstances where the defendant is accused of an offense involving the use, possession, or display of a firearm, shotgun, rifle or other deadly weapon. Nothing in this section shall prevent the court from finding extraordinary circumstances exist based upon a finding that the defendant has previously been convicted of an offense involving the illegal use, possession, or display of a firearm, shotgun, rifle or other deadly weapon or that the defendant was previously adjudicated as a youthful offender, juvenile offender or juvenile delinquent based upon an offense involving the illegal use, possession or display of a firearm, shotgun, rifle or other deadly weapon.**

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

LBD10807-01-3

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

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

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

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

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

§ 4. This act shall take effect immediately.