STATE OF NEW YORK

4915

2023-2024 Regular Sessions

IN SENATE

February 17, 2023

Introduced by Sen. SEPULVEDA -- 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 "juvenile offender second chance act"

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

Section 1. Subdivisions 4, 5 and 6 of section 720.10 of the criminal procedure law, as renumbered by chapter 481 of the laws of 1978, are renumbered subdivisions 5, 6 and 7 respectively and two new subdivisions 4 and 8 are added to read as follows:

4. Notwithstanding the provisions of subdivision two or three of this section, a person seeking relief pursuant to subdivision two-a of section 720.20 of this article, is an eligible youth if they meet the following criteria:

(a) the person was convicted or sentenced as a juvenile offender as defined in subdivision forty-two of section 1.20 of this chapter;

(b) the person is at least twenty-six years old;

(c) the person has not been convicted or sentenced for another felony;

(d) the person has not been convicted or sentenced for more than one other misdemeanor;

(e) the person is not registered as a level three sex offender pursuant to section one hundred sixty-eight-l of the correction law; and

(f) the person is not currently under strict intensive supervisions or civil commitment pursuant to article ten of the mental hygiene law.

8. "Eligible youth petitioner" means a person eligible pursuant to subdivision four of this section, who petitions the court for a youthful offender finding.

§ 2. Section 720.20 of the criminal procedure law is amended by adding a new subdivision 2-a to read as follows:

2-a. Upon petition by an eligible youth petitioner, the court must order a finding of fact in accordance with the criteria set forth in

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

LBD03129-01-3

subdivision four of section 720.10 of this article. After receipt of evidence in support and contradiction to said criteria, the court must determine whether the person meets the criteria. If the court determines the person meets the criteria set forth in subdivision four of section 720.10 of this article, the court must find the eligible youth petitioner is a youthful offender.

§ 3. Section 720.25 of the criminal procedure law, as added by chapter 402 of the laws of 2014, is amended to read as follows:

§ 720.25 Youthful offender adjudication; certain exemptions.

Notwithstanding any inconsistent provisions of law:

1. where the court is required to find that a person is a youthful offender pursuant to section 170.80 of this chapter, the fact that such person has previously been convicted of a crime or adjudicated a youthful offender shall not prevent such person from being adjudicated a youthful offender as required by such section; [~~and~~]

2. a youthful offender adjudication pursuant to section 170.80 of this chapter shall not be considered in determining whether a person is an eligible youth, or in determining whether to find a person a youthful offender, in any subsequent youthful offender adjudication; and

3. where the court is required to find that a person is a youthful offender pursuant to sections 720.10 and 720.20 of this chapter, the person shall have a youthful offender sentence imposed if they have not completed their sentence for the conviction that is the subject of their petition, and the person shall receive all other provisions and benefits of the youthful offender adjudication wherever such provisions can reasonably be so applied.

§ 4. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.