

# STATE OF NEW YORK

5293--A

2025-2026 Regular Sessions

## IN ASSEMBLY

February 12, 2025

Introduced by M. of A. WALKER, BURROUGHS, SEAWRIGHT, KELLES, CRUZ, LEVENBERG, SEPTIMO, BURDICK, GALLAGHER, SIMON, TAPIA, FORREST, WRIGHT, TAYLOR, SHRESTHA, HEVESI, WEPRIN, R. CARROLL -- read once and referred to the Committee on Codes -- recommitted to the Committee on Codes in accordance with Assembly Rule 3, sec. 2 -- 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 23 of the  
5 laws of 2024, 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 was~~] they were at least sixteen years old and less  
13 than nineteen years old or a person charged with being a juvenile offen-  
14 der as 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:

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

LBD08479-05-6

1 (a) the conviction to be replaced by a youthful offender finding is  
2 for (i) a class A-I or class A-II felony, or (ii) [~~an armed felony as~~  
3 ~~defined in subdivision forty one of section 1.20, except as provided in~~  
4 ~~subdivision three, or (iii)] rape in the first degree, [~~a crime formerly~~  
5 ~~defined in section 130.50 of the penal law, or the crime of aggravated~~  
6 ~~sexual abuse, except as provided in subdivision three,~~] criminal sexual  
7 act in the first degree, or aggravated sexual abuse, except as provided  
8 in subdivision three of this section, or~~

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

11 [~~e) such youth has previously been adjudicated a youthful offender~~  
12 ~~following conviction of a felony or has been adjudicated on or after~~  
13 ~~September first, nineteen hundred seventy eight a juvenile delinquent~~  
14 ~~who committed a designated felony act as defined in the family court~~  
15 ~~act].~~

16 3. Notwithstanding the provisions of subdivision two of this section,  
17 a youth who has been convicted of [~~an armed felony offense or of~~] rape  
18 in the first degree, criminal sexual act in the first degree, or aggra-  
19 vated sexual abuse is an eligible youth if the court determines, without  
20 applying the presumption as provided in paragraph (b) of subdivision one  
21 of section 720.20 of this article, that [~~one or more of the following~~  
22 ~~factors exist:~~] the interest of justice would be served by relieving the  
23 youth from the onus of a criminal record and by not imposing an indeter-  
24 minate sentence of more than four years. In making such determination,  
25 the court shall weigh the following factors: (i) the circumstances and  
26 seriousness of the offense; (ii) any mitigating circumstances that bear  
27 [~~directly upon~~] on the manner in which the crime was committed; [~~or (ii)~~  
28 ~~where the defendant was not the sole participant in the crime, the~~  
29 ~~defendant's participation was relatively minor although not so minor as~~  
30 ~~to constitute a defense to the prosecution. Where the court determines~~  
31 ~~that the~~] (iii) the history and background of the youth, including but  
32 not limited to any adverse childhood experiences; and (iv) any other  
33 facts or circumstances that would support granting youthful offender  
34 status to promote the interest of justice by avoiding or minimizing the  
35 harms of incarceration. Whenever the court makes a determination wheth-  
36 er or not an eligible youth is a youthful offender, the court shall make  
37 a statement on the record of the reasons for its determination. When the  
38 court determines that an eligible youth is a youthful offender, [~~the~~  
39 ~~court shall make a statement on the record of the reasons for its deter-~~  
40 ~~mination,~~] a transcript of [~~which~~] such statement shall be forwarded to  
41 the state division of criminal justice services, to be kept in accord-  
42 ance with the provisions of subdivision three of section eight hundred  
43 thirty-seven-a of the executive law. At the request of the youth, the  
44 court must make a determination whether it would find that the eligible  
45 youth is a youthful offender prior to the youth entering a guilty plea.  
46 When the court determines that it would not find that the eligible youth  
47 is a youthful offender prior to the youth entering a guilty plea, the  
48 court must reconsider its decision after a conviction.

49 4. "Youthful offender finding" means a finding, substituted for the  
50 conviction of an eligible youth, pursuant to a determination that the  
51 eligible youth is a youthful offender.

52 5. "Youthful offender sentence" means the sentence imposed upon a  
53 youthful offender finding.

54 6. "Youthful offender adjudication". A youthful offender adjudication  
55 is comprised of a youthful offender finding and the youthful offender

1 sentence imposed thereon and is completed by imposition and entry of the  
2 youthful offender sentence.

3 § 2. Subdivisions 3 and 4 of section 720.15 of the criminal procedure  
4 law are REPEALED.

5 § 3. Subdivisions 1 and 3 of section 720.20 of the criminal procedure  
6 law, subdivision 1 as amended by chapter 652 of the laws of 1974 and  
7 subdivision 3 as amended by chapter 471 of the laws of 1980, are amended  
8 to read as follows:

9 1. Upon conviction of an eligible youth, the court must order a pre-  
10 sentence investigation [~~of the defendant~~]. After receipt of a written  
11 report of the investigation and at the time of pronouncing sentence the  
12 court must determine whether or not the eligible youth is a youthful  
13 offender. Such determination shall be in accordance with the following  
14 criteria:

15 (a) If [~~in the opinion of the court the interest of justice would be~~  
16 ~~served by relieving the eligible~~] the eligible youth is convicted of a  
17 misdemeanor or violation; or any offense defined in article two hundred  
18 twenty of the penal law other than a class A-I or A-II felony offense,  
19 or any class D or E felony offense except offenses defined in sections  
20 120.12, 130.66, 130.65-a, 130.05, 130.80, 130.35, 130.25, 160.15,  
21 121.12, 135.10, 120.04, 120.03, and 125.12 of the penal law, the court  
22 shall find that the eligible youth is a youthful offender.

23 (b) In all other cases, except when the youth is charged with rape in  
24 the first degree, criminal sexual act in the first degree or aggravated  
25 sexual abuse, there shall be a presumption to determine that the eligi-  
26 ble youth is a youthful offender in order to relieve such youth from the  
27 onus of a criminal record [~~and by not imposing~~, other consequences of a  
28 criminal conviction, and the imposition of an indeterminate term of  
29 imprisonment of more than four years[~~, the court may, in its discretion,~~  
30 find the eligible youth is a youthful offender, and

31 ~~(b) Where the conviction is had in a local criminal court and the~~  
32 ~~eligible youth had not prior to commencement of trial or entry of a plea~~  
33 ~~of guilty been convicted of a crime or found a youthful offender, the~~  
34 ~~court must find he is a youthful offender]. Upon motion of not less~~  
35 than seven days' notice, the prosecutor may challenge the presumption to  
36 grant youthful offender status. The court shall determine that the  
37 eligible youth is a youthful offender unless the prosecutor rebuts the  
38 presumption and establishes by clear and convincing evidence that the  
39 factors set forth in subdivision three of section 720.10 of this article  
40 require that the court determine that the eligible youth is not a youth-  
41 ful offender.

42 (c) When the youth is convicted of rape in the first degree, criminal  
43 sexual act in the first degree or aggravated sexual abuse the court  
44 shall consider the factors set forth in subdivision three of section  
45 720.10 of this article and determine whether or not the eligible youth  
46 is a youthful offender.

47 3. Upon determining [~~that an eligible youth is a~~] to grant youthful  
48 offender status, the court must direct that the conviction be [~~deemed~~]  
49 vacated and replaced by a youthful offender [~~finding~~] adjudication; and  
50 the court must sentence the [~~defendant~~] youth pursuant to section 60.02  
51 of the penal law.

52 § 4. Section 720.35 of the criminal procedure law, as added by chapter  
53 981 of the laws of 1971, subdivision 1 as amended by chapter 23 of the  
54 laws of 2021, subdivisions 2 and 4 as amended by section 87 of subpart B  
55 of part C of chapter 62 of the laws of 2011 and subdivision 3 as added  
56 by chapter 181 of the laws of 2000, is amended to read as follows:

1 § 720.35 Youthful offender adjudication; effect thereof; records.

2 1. A youthful offender or young adult adjudication is not a judgment  
3 of conviction for a crime or any other offense, and does not operate as  
4 a disqualification of any person so adjudged to hold public office or  
5 public employment or to receive any license granted by public authority  
6 but shall be deemed a conviction only for the purposes of transfer of  
7 supervision and custody pursuant to section two hundred fifty-nine-m of  
8 the executive law. A [~~defendant~~] person for whom a youthful offender  
9 adjudication was substituted, who was originally charged with prostitu-  
10 tion as defined in section 230.00 of the penal law, shall be deemed a  
11 "sexually exploited child" as defined in subdivision one of section four  
12 hundred forty-seven-a of the social services law and therefore shall not  
13 be considered an adult for purposes related to the charges in the youth-  
14 ful offender proceeding or a proceeding under section 170.80 of this  
15 chapter.

16 2. Except where specifically required or permitted by statute or upon  
17 specific authorization of the court, all official records and papers,  
18 whether on file with the court, a police agency or the division of crim-  
19 inal justice services, relating to a case involving a youth or young  
20 adult who has been adjudicated a youthful offender or granted a young  
21 adult status finding, are confidential and may not be made available to  
22 any person or public or private agency, other than the designated educa-  
23 tional official of the public or private elementary or secondary school  
24 in which the youth or young adult is enrolled as a student provided that  
25 such local educational official shall only have made available a notice  
26 of such adjudication and shall not have access to any other official  
27 records and papers, such youth or young adult or such youth's or young  
28 adult's designated agent (but only where the official records and papers  
29 sought are on file with a court and request therefor is made to that  
30 court or to a clerk thereof), an institution to which such youth or  
31 young adult has been committed, the department of corrections and commu-  
32 nity supervision and a probation department of this state that requires  
33 such official records and papers for the purpose of carrying out duties  
34 specifically authorized by law; provided, however, that information  
35 regarding an order of protection or temporary order of protection issued  
36 pursuant to section 530.12 of this chapter or a warrant issued in  
37 connection therewith may be maintained on the statewide automated order  
38 of protection and warrant registry established pursuant to section two  
39 hundred twenty-one-a of the executive law during the period that such  
40 order of protection or temporary order of protection is in full force  
41 and effect or during which such warrant may be executed. Such confiden-  
42 tial information may be made available pursuant to law only for purposes  
43 of adjudicating or enforcing such order of protection or temporary order  
44 of protection and, where provided to a designated educational official,  
45 as defined in section 380.90 of this chapter, for purposes related to  
46 the execution of the student's educational plan, where applicable,  
47 successful school adjustment and reentry into the community. Such  
48 notification shall be kept separate and apart from such student's school  
49 records and shall be accessible only by the designated educational offi-  
50 cial. Such notification shall not be part of such student's permanent  
51 school record and shall not be appended to or included in any documenta-  
52 tion regarding such student and shall be destroyed at such time as such  
53 student is no longer enrolled in the school district. At no time shall  
54 such notification be used for any purpose other than those specified in  
55 this subdivision.

1 3. If a youth or young adult who has been adjudicated a youthful  
2 offender or granted a young adult adjudication is enrolled as a student  
3 in a public or private elementary or secondary school the court that has  
4 [~~adjudicated the youth as a~~] made the youthful offender or young adult  
5 adjudication shall provide notification of such adjudication to the  
6 designated educational official of the school in which such youth or  
7 young adult is enrolled as a student. Such notification shall be used  
8 by the designated educational official only for purposes related to the  
9 execution of the student's educational plan, where applicable, success-  
10 ful school adjustment and reentry into the community. Such notification  
11 shall be kept separate and apart from such student's school records and  
12 shall be accessible only by the designated educational official. Such  
13 notification shall not be part of such student's permanent school record  
14 and shall not be appended to or included in any documentation regarding  
15 such student and shall be destroyed at such time as such student is no  
16 longer enrolled in the school district. At no time shall such notifica-  
17 tion be used for any purpose other than those specified in this subdivi-  
18 sion.

19 4. Notwithstanding subdivision two of this section, whenever a person  
20 is adjudicated a youthful offender or granted young adult adjudication  
21 and the conviction that was vacated and replaced by the youthful offen-  
22 der or young adult finding was for a sex offense as that term is defined  
23 in article ten of the mental hygiene law, all records pertaining to the  
24 youthful offender or young adult adjudication shall be included in those  
25 records and reports that may be obtained by the commissioner of mental  
26 health or the commissioner of developmental disabilities, as appropri-  
27 ate; the case review panel; and the attorney general pursuant to section  
28 10.05 of the mental hygiene law.

29 § 5. Subparagraph (i) of paragraph (b) of subdivision 3 of section  
30 220.30 of the criminal procedure law, as amended by chapter 410 of the  
31 laws of 1979, is amended to read as follows:

32 (i) A plea of guilty, whether to the entire indictment or to part of  
33 the indictment for any crime other than a class A felony, may not be  
34 accepted on the condition that it constitutes a complete disposition of  
35 one or more other indictments [~~against the defendant~~] wherein a person  
36 is charged with a class A-I felony as defined in article two hundred  
37 twenty of the penal law or the attempt to commit any such class A-I  
38 felony, except that [~~an eligible youth, as defined in subdivision two of~~  
39 ~~section 720.10, may plea to a class B felony, upon consent of the~~  
40 ~~district attorney, for purposes of adjudication as a youthful offender~~]  
41 this restriction shall not apply to an eligible youth, as defined in  
42 subdivision two of section 720.10 of this chapter, or an eligible young  
43 adult, as defined in subdivision two of section 721.10 of this chapter.

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

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

52 § 7. Subdivision 2 of section 420.35 of the criminal procedure law, as  
53 amended by chapter 23 of the laws of 2021, is amended to read as  
54 follows:

55 2. Except as provided in this subdivision or subdivision two-a of this  
56 section, under no circumstances shall the mandatory surcharge, sex

1 offender registration fee, DNA databank fee or the crime victim assist-  
 2 ance fee be waived. A court shall waive any mandatory surcharge, DNA  
 3 databank fee and crime victim assistance fee when: (i) [~~the defendant~~] a  
 4 person is convicted of prostitution under section 230.00 of the penal  
 5 law; (ii) the [~~defendant~~] person is convicted of a violation in the  
 6 event such conviction is in lieu of a plea to or conviction for prosti-  
 7 tution under section 230.00 of the penal law; (iii) the court finds that  
 8 a [~~defendant~~] person is a victim of sex trafficking under section 230.34  
 9 of the penal law or a victim of trafficking in persons under the traf-  
 10 ficking victims protection act (United States Code, Title 22, Chapter  
 11 78); [~~or~~] (iv) the court finds that the [~~defendant~~] person is a victim  
 12 of sex trafficking of a child under section 230.34-a of the penal law;  
 13 or (v) the court determines that the person is a youthful offender  
 14 pursuant to article seven hundred twenty of this chapter or the court  
 15 grants a person young adult status pursuant to article seven hundred  
 16 twenty-one of this chapter.

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

19 ARTICLE 721

20 YOUNG ADULT STATUS

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

22 721.15 Young adult status procedure; sealing of accusatory  
 23 instrument; privacy of proceedings; preliminary  
 24 instructions to jury.

25 721.20 Young adult status determination; when and how made;  
 26 procedure thereupon.

27 721.30 Young adult adjudication; post-judgment motions and  
 28 appeals.

29 721.35 Young adult adjudication; effect thereof; records.

30 § 721.10 Young adult status procedure; definition of terms.

31 As used in this article, the following terms have the following mean-  
 32 ings:

33 1. "Young adult" means a person charged with a crime alleged to have  
 34 been committed when they were at least nineteen years old and less than  
 35 twenty-six years old.

36 2. "Eligible young adult" means a person who is less than twenty-six  
 37 years old who is eligible for young adult status. Every young adult is  
 38 so eligible unless: (a) the conviction to be replaced by young adult  
 39 adjudication is for (i) a class A-I or class A-II felony, or (ii) rape  
 40 in the first degree, criminal sexual act in the first degree, or aggra-  
 41 vated sexual abuse, except as provided in subdivision three of this  
 42 section, or (b) such young adult has previously been convicted and  
 43 sentenced for a felony.

44 3. Notwithstanding the provisions of subdivision two of this section,  
 45 a young adult who has been convicted of rape in the first degree, crimi-  
 46 nal sexual act in the first degree, or aggravated sexual abuse is an  
 47 eligible youth if the court determines, without applying the presumption  
 48 provided in paragraph (b) of subdivision one of section 721.20 of this  
 49 article, that the interest of justice would be served by relieving the  
 50 young adult of the onus of a criminal record and by not imposing an  
 51 indeterminate sentence of more than four years. In making such determi-  
 52 nation, the court shall weigh the following factors:

53 (a) The circumstances and seriousness of the offense.

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

1 (c) The history and background of the young adult, including but not  
2 limited to adverse childhood experiences.

3 (d) Any other factors or circumstances that would support granting  
4 young adult status to promote the interest of justice by avoiding or  
5 minimizing the harms of incarceration.

6 Whenever the court grants or denies young adult status, it shall make  
7 a statement on the record of the reasons for its determination. When  
8 the court grants young adult status a transcript of the statement shall  
9 be forwarded to the division of criminal justice services, to be kept in  
10 accordance with the provisions of subdivision three of section eight  
11 hundred thirty-seven-a of the executive law. At the request of the young  
12 adult, the court must make a determination about young adult status  
13 prior to the young adult entering a guilty plea. When the court denies  
14 young adult status prior to the young adult entering a guilty plea, the  
15 court shall reconsider its decision after a conviction.

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

19 5. "Young adult sentence" means the sentence imposed upon a young  
20 adult finding.

21 6. "Young adult adjudication" means an adjudication comprised of a  
22 young adult finding and the young adult sentence imposed thereon and is  
23 completed by imposition and entry of the young adult sentence.

24 § 721.15 Young adult status procedure; sealing of accusatory instrument;  
25 privacy of proceedings; preliminary instructions to jury.

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

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

33 § 721.20 Young adult status determination; when and how made; procedure  
34 thereupon.

35 1. Upon conviction of an eligible young adult, the court shall order a  
36 pre-sentence investigation. After receipt of a written report of the  
37 investigation and at the time of pronouncing sentence the court shall  
38 determine whether the eligible young person will receive young adult  
39 status. Such determination shall be in accordance with the following  
40 criteria:

41 (a) If the eligible young adult has been convicted of a misdemeanor or  
42 violation or any felony defined in article two hundred twenty of the  
43 penal law other than an A-I or A-II felony offense, the court shall  
44 grant young adult status.

45 (b) In all other cases, except when the young adult is convicted of  
46 rape in the first degree, criminal sexual act in the first degree, or  
47 aggravated sexual abuse, there shall be a presumption to grant young  
48 adult status in order to relieve them of the onus of a criminal record,  
49 other consequences of a criminal conviction, and the imposition of an  
50 indeterminate term of imprisonment of more than four years. Upon motion  
51 on not less than seven days' notice, the prosecutor may challenge the  
52 presumption to grant young adult status. The court shall grant young  
53 adult status unless the prosecutor rebuts the presumption and estab-  
54 lishes by clear and convincing evidence that the factors set forth in  
55 subdivision three of section 721.10 of this article require that young  
56 adult status be denied.

1 (c) When the young adult is convicted of rape in the first degree,  
2 criminal sexual act in the first degree or aggravated sexual abuse the  
3 court shall consider the factors set forth in subdivision three of  
4 section 721.10 of this article and determine whether to grant or deny  
5 young adult status.

6 2. Where an eligible young adult is convicted of two or more crimes or  
7 offenses set forth in separate counts of an accusatory instrument or set  
8 forth in two or more accusatory instruments consolidated for trial  
9 purposes, the court shall not grant such person young adult status with  
10 respect to any such conviction pursuant to subdivision one of this  
11 section unless it grants young adult status with respect to all such  
12 convictions.

13 3. Upon determining to grant young adult status, the court shall  
14 direct that the conviction be vacated and replaced by a young adult  
15 status finding; and the court shall sentence the young adult pursuant to  
16 section 60.02 of the penal law.

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

21 § 721.30 Young adult adjudication; post-judgment motions and appeals.

22 The provisions of this chapter, governing the making and determination  
23 of post-judgment motions and the taking and determination of appeals in  
24 criminal cases, apply to post-judgment motions and appeals with respect  
25 to young adult adjudications wherever such provisions can reasonably be  
26 so applied.

27 § 721.35 Young adult adjudication; effect thereof; records.

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

34 2. Upon the imposition of a young adult adjudication, all records and  
35 papers, whether on file with the court, a police agency, or the division  
36 of criminal justice services, relating to the person who has been adju-  
37 dicated a young adult shall be sealed in the same manner as defined in  
38 section 720.35 of this article; and such records shall not be available  
39 except where specifically required by statute or upon specific authori-  
40 zation by the court.

41 § 9. The criminal procedure law is amended by adding a new section  
42 440.49 to read as follows:

43 § 440.49 Readjudication and resentencing.

44 1. A person under the age of twenty-six at the time the offense was  
45 committed who was convicted of a misdemeanor or violation who would have  
46 been an "eligible youth" pursuant to subdivision two of section 721.10  
47 of this chapter shall have their conviction automatically replaced with  
48 a young adult adjudication within six months of the effective date of  
49 this section. The division of criminal justice services shall establish  
50 procedures to ensure that such administrative process occurs automat-  
51 ically for all eligible persons prior to such six month deadline. When  
52 a conviction is automatically replaced with a young adult adjudication  
53 without court remedial action pursuant to this subdivision no resentenc-  
54 ing proceeding on such adjudication shall occur.

55 2. (a) A person in the custody of the department of corrections and  
56 community supervision, either under imprisonment or supervision, or

1 incarcerated in a local correctional facility serving a sentence for a  
2 crime that is subject to the remedial provisions of subdivision one may  
3 apply to the sentencing court at any time, on notice to the district  
4 attorney, for immediate replacement of the conviction with young adult  
5 adjudication. If the court finds the remedial provisions of subdivision  
6 one apply, it shall grant the application, vacate the conviction, enter  
7 a young adult finding, and resentence the person as a young adult offen-  
8 der.

9 (b) (i) A person serving a felony sentence that was enhanced pursuant  
10 to sections 70.04, 70.06, 70.07, 70.08, 70.10, 70.70, 70.71 or 70.80 of  
11 the penal law on the basis of a prior felony conviction that is subject  
12 to the remedial provisions of paragraph (a) of subdivision one of this  
13 section, and (ii) a person serving a sentence where the underlying  
14 conviction was elevated to a higher degree crime as a result of a prior  
15 conviction that is subject to the remedial provisions of subdivision one  
16 of this section, may apply to the sentencing court at any time, on  
17 notice to the district attorney, for young adult status on such prior  
18 conviction. If the court finds the remedial provisions of subdivision  
19 one of this section apply to the prior conviction, the court shall  
20 vacate the prior conviction and replace it with a young adult finding.  
21 When the prior and current convictions were entered in the same court,  
22 the judge who imposed the sentence currently being served, or when  
23 necessary, a randomly assigned substitute judge, shall vacate the  
24 current sentence and resentence the person under the appropriate govern-  
25 ing section of article seventy of the penal law or, when authorized,  
26 pursuant to article sixty-five of the penal law. When the court granting  
27 young adult status relief under this paragraph is not the same court  
28 that imposed the sentence currently being served, the person may move in  
29 the appropriate sentencing court for further relief pursuant to sections  
30 440.10 and 440.20 of this article. When relief is granted under the  
31 circumstances specified in subparagraph (ii) of this paragraph, the  
32 sentencing court shall also modify the underlying conviction to the  
33 appropriate lesser degree crime.

34 3. A person under the age of twenty-six at the time the offense was  
35 committed who would have been considered an "eligible youth" pursuant to  
36 subdivision two of section 720.10 of this chapter or an "eligible young  
37 adult" pursuant to subdivision two of section 721.10 of this chapter  
38 may, at any time on notice to the district attorney, apply in the  
39 sentencing court to be resentenced to young adult adjudication in  
40 accordance with article seven hundred twenty-one of this chapter. A  
41 person who is eligible for automatic young adult adjudication pursuant  
42 to subdivision one of this section may nevertheless affirmatively peti-  
43 tion the court for resentencing before expiration of the six month peri-  
44 od specified in subdivision one of this section.

45 (a) In determining whether to grant young adult status adjudication,  
46 the court shall consider the factors set forth in subdivision three of  
47 section 721.20 of this chapter and shall also consider any additional  
48 evidence presented by the person seeking resentencing, including:

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

51 (ii) the character of the petitioner, including any measures that they  
52 have taken toward rehabilitation, such as participating in treatment  
53 programs, work, or schooling, and participating in community service or  
54 other volunteer programs;

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

1 (iv) the impact of sealing the petitioner's record upon their rehabil-  
 2 itation and upon their successful and productive reentry and reinte-  
 3 gration into society; and

4 (v) the impact of collateral consequences of the conviction on the  
 5 petitioner and their family.

6 (b) The district attorney may, where applicable, challenge the  
 7 presumption to grant young adult status pursuant to paragraph (b) of  
 8 subdivision one of section 721.20 of this chapter.

9 4. Nothing in this section shall be construed to limit a person's  
 10 right to seek relief under any other provision of this article or under  
 11 subdivision five of section 720.20 of this chapter.

12 5. Subdivision one of section seven hundred seventeen and subdivision  
 13 four of section seven hundred twenty-two of the county law, and the  
 14 related provisions of article eighteen-A of such law shall apply to the  
 15 preparation and proceedings on motions pursuant to this section, includ-  
 16 ing any appeals.

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

19 6. An order denying a motion, made pursuant to section 440.49 of this  
 20 title, for a young adult adjudication.

21 § 11. Section 60.02 of the penal law, as amended by chapter 471 of  
 22 the laws of 1980 and subdivision (4) as added by chapter 402 of the laws  
 23 of 2014, is amended to read as follows:

24 § 60.02 Authorized disposition; youthful offender and young adult find-  
 25 ing.

26 When a person is to be sentenced upon a youthful offender finding, the  
 27 court must impose a sentence as follows:

28 (1) If the sentence is to be imposed upon a youthful offender or young  
 29 adult finding which has been substituted for a conviction of an offense  
 30 other than a felony, the court must impose a sentence authorized for the  
 31 offense for which the youthful offender or young adult finding was  
 32 substituted, except that [~~if the youthful offender finding was entered~~  
 33 ~~pursuant to paragraph (b) of subdivision one of section 720.20 of the~~  
 34 ~~criminal procedure law~~] where the conviction is for a misdemeanor, the  
 35 court must not impose a definite or intermittent sentence of imprison-  
 36 ment with a term of more than six months; or

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

45 [~~(4)~~] (3) Notwithstanding any other provision of law in this section,  
 46 if the sentence is to be imposed upon a youthful offender or young adult  
 47 finding which has been substituted for a conviction of prostitution or  
 48 loitering for the purposes of prostitution provided that the person does  
 49 not stand charged with loitering for the purpose of patronizing a pros-  
 50 titute, and such offense occurred when the person was sixteen or seven-  
 51 teen years of age, the court must impose a sentence authorized to be  
 52 imposed upon a person convicted of a violation as defined in subdivision  
 53 three of section 10.00 of the penal law and where the court imposes a  
 54 revocable sentence authorized for a violation may order any of the  
 55 specialized services enumerated in title eight-A of article six of the  
 56 social services law or other appropriate services made available to

1 persons in need of supervision in accordance with article seven of the  
2 family court act.

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

5 4. Exception. The provisions of this section shall not apply to a  
6 corporation, or to a youthful offender finding as defined in section  
7 720.10 of the criminal procedure law or a young adult finding as defined  
8 in section 721.10 of the criminal procedure law.

9 § 13. Subdivision 6 of section 80.05 of the penal law is amended to  
10 read as follows:

11 6. Exception. The provisions of this section shall not apply to a  
12 corporation, or to a youthful offender finding as defined in section  
13 720.10 of the criminal procedure law or a young adult finding as defined  
14 in section 721.10 of the criminal procedure law.

15 § 14. Subdivision 4 of section 340.40 of the criminal procedure law,  
16 as amended by chapter 806 of the laws of 2021, is amended to read as  
17 follows:

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

25 § 15. This act shall take effect on the first of November next  
26 succeeding the date on which it shall have become a law and shall apply  
27 to any criminal case pending on such effective date.