STATE OF NEW YORK

5817

2025-2026 Regular Sessions

IN ASSEMBLY

February 20, 2025

Introduced by M. of A. BUTTENSCHON -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation to enhancing sentences for certain offenses involving weapons on or near school grounds; to amend the family court act and the criminal procedure law, in relation to the availability of certain records; to amend the retirement and social security law, in relation to annual earnings limitations for certain retired police officers; to amend the criminal procedure law, in relation to adding a defendant's identifiable ties to the community, state and/or county to consider whether to fix a securing order; to amend the civil practice law and rules and the criminal procedure law, in relation to allowing courts to hold a pre-trial community safety and well-being hearing; 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 adolescent offenders to family court; to amend the criminal procedure law, in relation to adolescent offenders authorized to be removed to family court; and to amend the penal law, in relation to modifying the crime of criminal solicitation in the third degree

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

Section 1. The penal law is amended by adding a new section 70.11 to read as follows:

§ 70.11 Sentences of imprisonment for weapons offenses on or near school grounds; aggravating factors.

Matters occurring while on or within five thousand feet of school grounds, as defined in subdivision fourteen of section 220.00 of this chapter, shall result in the following enhancement of such sentence:

(a) For offenses committed under section 265.01 of this chapter, the sentence shall reflect a class E felony;

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

LBD09881-01-5

(b) For offenses committed under section 265.01-a of this chapter, the sentence shall reflect a class D felony;

(c) For offenses committed under section 265.01-b of this chapter, the sentence shall reflect a class D felony;

(d) For offenses committed under section 265.01-c of this chapter, the sentence shall reflect a class E felony;

(e) For offenses committed under section 265.01-d of this chapter, the sentence shall reflect a class D felony;

(f) For offenses committed under section 265.01-e of this chapter, the sentence shall reflect a class D felony;

(g) For offenses committed under section 265.02 of this chapter, the sentence shall reflect a class C felony;

(h) For offenses committed under section 265.03 of this chapter, the sentence shall reflect a class B felony;

(i) For offenses committed under section 265.04 of this chapter, the sentence shall reflect a class A felony;

(j) For offenses committed under section 265.06 of this chapter, the sentence shall reflect a misdemeanor;

(k) For offenses committed under section 265.07 of this chapter, the sentence shall reflect a class D felony;

(l) For offenses committed under section 265.08 of this chapter, the sentence shall reflect a class B felony;

(m) For offenses committed under section 265.09 of this chapter, the sentence shall reflect a class A felony;

(n) (1) For offenses committed under subdivision one, two, or three of section 265.10 of this chapter relating to the manufacture, transport, shipping, or disposing of a machine-gun, assault weapon, large capacity ammunition feeding device or disguised gun, or the transporting, shipping or disposing of a firearm silencer, the sentence shall reflect a class C felony;

(2) For offenses committed under subdivision one, two, or three of section 265.10 of this chapter relating to a rapid-fire modification device, the sentence shall reflect a class D felony;

(3) For offenses committed under subdivision three of section 265.10 of this chapter relating to knowingly buying, receiving, disposing of or concealing a machine-gun, firearm, large capacity feeding device, rifle or shotgun which has been defaced for the purpose of concealment or prevention of the detection of a crime or misrepresenting such machine-gun, firearm, large capacity ammunition feeding device, rifle or shotgun, the sentence shall reflect a class C felony;

(4) For offenses committed under subdivision four of section 265.10 of this chapter, the sentence shall reflect a class E felony and a class C felony if they have previously been convicted of any crime;

(5) For offenses committed under subdivision five or seven of section 265.10 of this chapter, the sentence shall reflect a class E felony;

(6) For offenses committed under subdivision six of section 265.10 of this chapter, the sentence shall reflect a class C felony;

(7) For offenses committed under subdivision eight of section 265.10 of this chapter, the sentence shall reflect a class C felony;

(o) For offenses committed under section 265.11 of this chapter, the sentence shall reflect a class C felony;

(p) For offenses committed under section 265.12 of this chapter, the sentence shall reflect a class B felony;

(q) For offenses committed under section 265.13 of this chapter, the sentence shall reflect a class B felony;

(r) For offenses committed under section 265.14 of this chapter, the sentence shall reflect a class A felony;

(s) For offenses committed under section 265.16 of this chapter, the sentence shall reflect a class B felony;

(t) For offenses committed under section 265.17 of this chapter, the sentence shall reflect a class C felony;

(u) For offenses committed under section 265.19 of this chapter, the sentence shall reflect a class B felony;

(v) For offenses committed under section 265.25 of this chapter, the sentence shall reflect a class E felony;

(w) For offenses committed under section 265.26 of this chapter, the sentence shall reflect a class E felony;

(x) (1) For offenses committed under subdivision one or three of section 265.35 of this chapter, the sentence shall reflect a class E felony;

(2) For offenses committed under subdivision two of section 265.35 of this chapter where the safety of a person is endangered, the sentence shall reflect a class C felony and for every other case the sentence shall reflect a class D felony;

(y) For offenses committed under section 265.37 of this chapter, the sentence shall reflect a class A misdemeanor for a first offense and a class E felony for a second or subsequent offense;

(z) For offenses committed under section 265.38 of this chapter, the sentence shall reflect a class E felony;

(aa) For offenses committed under section 265.45 of this chapter, the sentence shall reflect a class E felony;

(bb) For offenses committed under section 265.50 of this chapter relating to the criminal manufacture, sale, or transport of an undetectable firearm, rifle or shotgun, the sentence shall reflect a class C felony;

(cc) For offenses committed under section 265.50 of this chapter relating to failure to safely store rifles, shotguns and firearms in the second degree, the sentence shall reflect a misdemeanor;

(dd) For offenses committed under section 265.55 of this chapter, the sentence shall reflect a class D felony;

(ee) For offenses committed under section 265.60 of this chapter, the sentence shall reflect a class D felony;

(ff) For offenses committed under section 265.61 of this chapter, the sentence shall reflect a class C felony;

(gg) For offenses committed under section 265.63 of this chapter, the sentence shall reflect a class D felony;

(hh) For offenses committed under section 265.64 of this chapter, the sentence shall reflect a class C felony;

(ii) For offenses committed under section 265.65 of this chapter, the sentence shall reflect a class D felony; and

(jj) For offenses committed under section 265.66 of this chapter, the sentence shall reflect a class D felony.

§ 2. Subdivision 3 of section 380.1 of the family court act, as amended by chapter 181 of the laws of 2000, is amended to read as follows:

3. Except where specifically required by statute, no person shall be required to divulge information pertaining to the arrest of the respondent or any subsequent proceeding under this article; provided, however, whenever a person adjudicated a juvenile delinquent [~~has been placed with the office of children and family services pursuant to section 353.3 of this article, and~~] is [~~thereafter~~] enrolled as a student in a

public or private elementary or secondary school, the court that has adjudicated such person shall provide notification of such adjudication **and provide records related to such adjudication necessary to ascertain the nature of the conduct leading to the adjudication including but not limited to delinquency petitions, orders of the family court pursuant to sections 352.1 and 352.2 of this article and probations reports,** to the designated educational official of the school in which such person is enrolled as a student. Such notification shall be used by the designated educational official only for purposes related to the execution of the student's educational plan, where applicable, successful school adjustment**, developing a safety plan to ensure such student does not create a risk for the community,** and reentry into the community. Such notification shall be kept separate and apart from such student's school records and shall be accessible only by the designated educational official. Such notification shall not be part of such student's permanent school record and shall not be appended to or included in any documentation regarding such student and shall be destroyed at such time as such student is no longer enrolled in the school district. At no time shall such notification be used for any purpose other than those specified in this subdivision. **An order by the family court to seal records pursuant to section 375.2 or expunge records pursuant to section 375.3 of this article shall not impact the obligation of the family court to provide such notification and records.**

§ 3. Section 381.3 of the family court act is amended by adding a new subdivision 4 to read as follows:

4. Notwithstanding any other provision of law, police records relating to the arrest and disposition of any person under this article shall be accessible by law enforcement and the designated educational official of any public or private elementary or secondary school where such person is enrolled.

§ 4. Subdivisions 2 and 3 of section 720.35 of the criminal procedure law, subdivision 2 as amended by section 87 of subpart B of part C of chapter 62 of the laws of 2011 and subdivision 3 as added by chapter 181 of the laws of 2000, are amended to read as follows:

2. Except where specifically required or permitted by statute or upon specific authorization of the court, all official records and papers, whether on file with the court, a police agency or the division of criminal justice services, relating to a case involving a youth who has been adjudicated a youthful offender, are confidential and may not be made available to any person or public or private agency, other than the designated educational official of the public or private elementary or secondary school in which the youth is enrolled as a student [~~**provided that such local educational official shall only have made available a notice of such adjudication and shall not have access to any other official records and papers**~~], such youth or such youth's designated agent (but only where the official records and papers sought are on file with a court and request therefor is made to that court or to a clerk thereof), **law enforcement for the purpose of investigating and prosecuting crimes subsequently committed by the youthful offender,** an institution to which such youth has been committed, the department of corrections and community supervision and a probation department of this state that requires such official records and papers for the purpose of carrying out duties specifically authorized by law; provided, however, that information regarding an order of protection or temporary order of protection issued pursuant to section 530.12 of this [~~**chapter**~~] **part** or a warrant issued in connection therewith may be maintained on the state-

wide automated order of protection and warrant registry established pursuant to section two hundred twenty-one-a of the executive law during the period that such order of protection or temporary order of protection is in full force and effect or during which such warrant may be executed. Such confidential information may be made available pursuant to law only for purposes of adjudicating or enforcing such order of protection or temporary order of protection and, where provided to a designated educational official, as defined in section 380.90 of this chapter, for purposes related to the execution of the student's educational plan, where applicable, successful school adjustment**, developing a safety plan to ensure such student does not create a safety risk for the community,** and reentry into the community. Such notification shall be kept separate and apart from such student's school records and shall be accessible only by the designated educational official. Such notification shall not be part of such student's permanent school record and shall not be appended to or included in any documentation regarding such student and shall be destroyed at such time as such student is no longer enrolled in the school district. At no time shall such notification be used for any purpose other than those specified in this subdivision.

3. If a youth who has been adjudicated a youthful offender is enrolled as a student in a public or private elementary or secondary school the court that has adjudicated the youth as a youthful offender shall provide notification of such adjudication **and provide records related to such adjudication necessary to ascertain the nature of the conduct leading to the conviction and adjudication of the youth, including but not limited to accusatory instruments, certificates of disposition, and probation reports,** to the designated educational official of the school in which such youth is enrolled as a student. Such notification shall be used by the designated educational official only for purposes related to the execution of the student's educational plan, where applicable, successful school adjustment**, developing a safety plan to ensure such student does not create a risk for the community,** and reentry into the community. Such notification shall be kept separate and apart from such student's school records and shall be accessible only by the designated educational official. Such notification shall not be part of such student's permanent school record and shall not be appended to or included in any documentation regarding such student and shall be destroyed at such time as such student is no longer enrolled in the school district. At no time shall such notification be used for any purpose other than those specified in this subdivision.

§ 5. Section 720.15 of the criminal procedure law is amended by adding a new subdivision 5 to read as follows:

5. Notwithstanding any other provision of law, where an eligible youth is charged with an offense defined in article two hundred sixty-five of the penal law where allegations involve the use, possession or sale of a firearm, the arresting agency is authorized to release to the public identifying information including the name and booking photograph of the youth.

§ 6. Section 212 of the retirement and social security law is amended by adding a new subdivision 4 to read as follows:

4. Notwithstanding the provisions of subdivisions one and two of this section, such annual earnings limitations for a retired police officer employed by a school district or a board of cooperative educational services, in either the classified or unclassified service as a school resource officer, school safety officer, school security officer or any other substantially similar position or office that is designed to

provide safety and/or security on school grounds, provided that such retired police officer is duly qualified, competent and physically fit for performance of the duties of the position in which such retired police officer is to be employed as determined by the school district or board of cooperative educational services and is properly certified where such certification is required, shall be fifty thousand dollars for the year two thousand twenty-six and thereafter.

§ 7. Paragraphs (i) and (j) of subdivision 1 of section 510.10 of the criminal procedure law, as added by section 1 of subpart C of part UU of chapter 56 of the laws of 2022, are amended and a new paragraph (k) is added to read as follows:

(i) Whether the charge is alleged to have caused serious harm to an individual or group of individuals; [~~and~~]

(j) If the principal is a defendant, in the case of an application for a securing order pending appeal, the merit or lack of merit of the appeal[~~.~~]; and

(k) If the principal is a defendant, whether the principal has two or more identifiable ties to the community, state, and/or county, including, but not limited to:

(i) residence;

(ii) employment;

(iii) enrollment with an educational institution;

(iv) immediate family.

§ 8. Subdivision 2 of section 6342 of the civil practice law and rules, as added by chapter 19 of the laws of 2019, is amended to read as follows:

2. (a) In determining whether grounds for a temporary extreme risk protection order exist, the court shall consider any relevant factors including, but not limited to, the following acts of the respondent:

[~~(a)~~] (i) a threat or act of violence or use of physical force directed toward self, the petitioner, or another person;

[~~(b)~~] (ii) a violation or alleged violation of an order of protection;

[~~(c)~~] (iii) any pending charge or conviction for an offense involving the use of a weapon;

[~~(d)~~] (iv) the reckless use, display or brandishing of a firearm, rifle or shotgun;

[~~(e)~~] (v) any history of a violation of an extreme risk protection order;

[~~(f)~~] (vi) evidence of recent or ongoing abuse of controlled substances or alcohol; or

[~~(g)~~] (vii) evidence of recent acquisition of a firearm, rifle, shotgun or other deadly weapon or dangerous instrument, or any ammunition therefor.

(b) In considering the factors under this subdivision, the court shall consider:

(i) the time that has elapsed since the occurrence of such act or acts [~~and~~];

(ii) the age of the person at the time of the occurrence of such act or acts; and

(iii) the community safety and well-being of all residents of the state.

(c) The court shall use any mental health evaluations the respondent has undergone when making a consideration regarding the community safety and well-being of all residents of the state.

(d) For the purposes of this subdivision, "recent" means within the six months prior to the date the petition was filed.

§ 9. The criminal procedure law is amended by adding a new section 510.55 to read as follows:

§ 510.55 Pretrial detention; community safety and well-being hearing.

1. When a principal, whose future court attendance at a criminal action or proceeding is or may be required, comes under the control of a court, the people may make a motion seeking pretrial detention due to the mental health of the principal. The people may seek the pretrial detention of a principal:

(a) charged with a felony that involves the use, attempted use or threatened use of physical force against the person of another or any other felony that, by its nature, involves a substantial risk that physical force against the person of another may result;

(b) charged with a misdemeanor or felony which has as an element the violation of a court order;

(c) charged with a misdemeanor or felony where the victim was subjected to physical, sexual or psychological abuse inflicted by a member of the same family or household, as such term is defined in subdivision one of section 530.11 of this title, as the applicant;

(d) charged with an offense for which a minimum term of three years or more is prescribed;

(e) charged with intimidating a victim or witness in the first degree as defined in section 215.17 of the penal law, intimidating a victim or witness in the second degree as defined in section 215.16 of the penal law, or intimidating a victim or witness in the third degree as defined in section 215.15 of the penal law;

(f) charged with a third or subsequent violation of section eleven hundred ninety-two of the vehicle and traffic law within ten years;

(g) charged with a felony which has as an element the use, attempted use or threatened use of physical force or a deadly weapon against the person of another;

(h) charged with burglary in the first degree as defined in section 140.30 of the penal law, burglary in the second degree as defined in section 140.25 of the penal law, or burglary in the third degree as defined in section 140.20 of the penal law, grand larceny in the second degree as defined in section 155.40 of the penal law, or grand larceny in the fourth degree as defined in section 155.30 of the penal law;

(i) charged under article one hundred fifty of the penal law;

(j) charged with kidnapping in the first degree as defined in section 135.25 of the penal law or kidnapping in the second degree as defined in section 135.20 of the penal law;

(k) charged with a crime which involved the use of explosives;

(l) otherwise involves conduct that presents a serious risk of physical injury to another for which a term of imprisonment was served and arrested and charged with a second or subsequent offense under article two hundred sixty-five of the penal law; or

(m) charged with a felony under article twenty-six of the agriculture and markets law.

2. (a) Upon the appearance of the principal charged with an offense listed in subdivision one of this section before a supreme court or district court judge and upon the motion of the people, the judge shall hold a hearing pursuant to subdivision four of this section and shall issue an order that, pending trial, the individual shall either be released on such individual's own recognizance, released on conditions of release as set forth by the judge, or detained under subdivision three of this section. The individual shall be released unless the judge determines that releasing the principal on such principal's own recogni-

zance will endanger the community safety and well-being of any other person in the state but does not find by clear and convincing evidence that no conditions of release will reasonably ensure the community safety and well-being of any other person in the state, the judge shall order the pretrial release of the principal:

(i) subject to the condition that the person not commit a federal, state or local crime during the period of release; and

(ii) subject to the least restrictive further condition, or combination of conditions, that such judge determines will reasonably ensure the community safety and well-being of any other person in the state that the principal:

(A) remain in the custody of a designated person, who agrees to assume supervision and to report any violation of a release condition to the court, if the designated person is reasonably able to ensure the judicial officer that the person will appear as required and will not pose a danger to the safety of any other person or the community;

(B) maintain employment, or, if unemployed, actively seek employment;

(C) maintain or commence an educational program;

(D) abide by specified restrictions on personal associations, living accommodations or travel;

(E) avoid all contact with an alleged victim of the crime and with any potential witness or witnesses who may testify concerning the offense;

(F) report on a regular basis to a designated law enforcement agency, pretrial service agency, or other agency;

(G) comply with a specified curfew;

(H) refrain from possessing a firearm, destructive device, or other dangerous weapon;

(I) refrain from excessive use of alcohol, or any use of a narcotic drug or other controlled substance, without a prescription by a licensed medical practitioner;

(J) undergo available medical, psychological, or psychiatric treatment, including treatment for drug or alcohol dependency and remain in a specified institution if required for that purpose;

(K) return to custody for specified hours following release for employment, schooling, or other limited purposes;

(L) satisfy any other condition that is reasonably necessary to ensure the appearance of the person as required and to ensure the safety and well-being of any other person and the community; and

(M) participates in a community corrections program under the department of corrections and community supervision, provided, however, that the principal shall not participate in such program without such principal's consent to such participation.

(b) The judge shall not impose a financial condition that results in the pretrial detention of the person under this section.

(c) The judge may at any time amend the order to impose additional or different conditions of release.

3. There shall be a rebuttable presumption of release on recognizance for every principal brought before the court. If, after a hearing pursuant to the provisions of subdivision four of this section, the district or supreme court judge finds by clear and convincing evidence that no conditions of release will reasonably ensure the community safety and well-being of any other person in the state, said judge shall order the detention of the principal prior to trial. A principal detained under this subdivision shall be brought to a trial as soon as reasonably possible, but in absence of extraordinary circumstances, such principal shall not be detained for a period exceeding one hundred twenty days by

the district court or for a period exceeding one hundred eighty days by the supreme court.

4. (a) When a principal is held under arrest for an offense listed in subdivision one of this section and upon a motion by the people, the judge shall hold a hearing to determine whether conditions of release will reasonably ensure the community safety and well-being of any other person in the state. A principal shall be offered the appropriate mental health services while being held under arrest for an offense listed in subdivision one of this section.

(b) The hearing shall be held immediately upon the principal's first appearance before the court unless such principal or the people seek a continuance. Except for good cause, a continuance on motion of the principal shall not exceed seven days and a continuance on motion of the people shall not exceed three business days. During a continuance, the principal shall be detained upon a showing that there existed probable cause to arrest the principal or that without detention the principal would result in serious harm to such principal or others, as defined in paragraph one or two of subdivision (a) of section 9.39 of the mental hygiene law. At the hearing, such principal shall have the right to be represented by counsel, and, if financially unable to retain adequate representation, to have counsel appointed. The principal shall be afforded an opportunity to testify, to present witnesses, to cross-examine witnesses who appear at the hearing, and to present information. Prior to the summons of an alleged victim, or a member of the alleged victim's family, to appear as a witness at the hearing, the principal shall demonstrate to the court a good faith basis for the principal's reasonable belief that the testimony from the witness will be material and relevant to support a conclusion that there are conditions of release that will reasonably ensure the community safety and well-being of any other person in the state. The rules concerning admissibility of evidence in criminal trials shall not apply to the presentation and consideration of information at the hearing and the judge shall consider hearsay contained in a police report, the statement of an alleged victim or witness, and shall have access to any mental health evaluation the principal has undergone prior to hearing. The facts the judge uses to support findings pursuant to subdivision three of this section, that no conditions will reasonably ensure the community safety and well-being of any other person in the state, shall be supported by clear and convincing evidence. In a detention order issued pursuant to the provisions of subdivision three of this section the judge shall: (i) include written findings of fact and a written statement of the reasons for the detention; (ii) direct that the principal be committed to custody or confinement in a corrections facility separate, to the extent practicable, from principals awaiting or serving sentence or being held in custody pending appeal or a community treatment center; and (iii) direct that the principal be afforded reasonable opportunity for private consultation with such principal's counsel. The principal may be detained pending completion of the hearing. The hearing may be reopened by the judge, at any time before trial, or upon a motion of the people or the principal detained if the judge finds that: (A) information exists that was not known at the time of the hearing or that there has been a change in circumstances; and (B) that such information or change in circumstances has a material bearing on the issue of whether there are conditions of release that will reasonably ensure the community safety and well-being of any other person in the state.

5. In the judge's determination as to whether there are conditions of release that will reasonably ensure the community safety and well-being of any other person in the state, said judge shall, on the basis of any information which such judge can reasonably obtain, take into account the nature and seriousness of the danger posed to any other person or the community that would result by the principal's release, the nature and circumstances of the offense charged, the potential penalty the principal faces, the principal's family ties, employment record, history of mental illness, and reputation, the risk that the principal will obstruct or attempt to obstruct the judge or threaten, injure or intimidate or attempt to threaten, injure or intimidate a prospective witness or juror, the principal's record of convictions, if any, any illegal drug distribution or present drug dependency, and whether the principal is released pending adjudication of a prior charge.

6. Nothing in this section shall be construed as modifying or limiting the presumption of innocence.

7. (a) A principal aggrieved by the denial of a district court judge to release such principal on such principal's own recognizance with or without surety or condition may petition the supreme court for a review of the order of the recognizance and the judge of the district court shall thereupon immediately notify such principal of such principal's right to file a petition for review in the supreme court. When a petition for review is filed in the district court or with the detaining authority subsequent to the petitioner's district court appearance, the clerk of the district court or the detaining authority, as the case may be, shall immediately notify by telephone, the clerk and probation officer of the district court, the district attorney for the district in which the district court is located, the prosecuting officer, the petitioner's counsel, if any, and the clerk of courts of the county to which the petition is to be transmitted. The clerk of the district court, upon the filing of a petition for review, either in the district court or with the detaining authority, shall forthwith transmit the petition for review, a copy of the complaint and the record of the court, including the appearance of the attorney, if any is entered, and a summary of the court's reasons for denying the release of the principal on such principal's own recognizance with or without surety or condition to the supreme court for the county in which the district court is located, if a judge thereof is then sitting, or to the supreme court of the nearest county in which a judge is then sitting. The probation officer of the district court shall transmit forthwith to the probation officer of the supreme court, copies of all records of the probation office of said district court pertaining to the petitioner, including the petitioner's record of prior convictions, if any, as currently verified by inquiry of the commissioner. The district court or the detaining authority, as the case may be, shall cause any petitioner in its custody to be brought before said supreme court within two business days of the petition having been filed. The district court is authorized to order any officer authorized to execute criminal process to transfer the petitioner and any papers herein above described from the district court or the detaining authority to the supreme court, and to coordinate the transfer of the petitioner and the papers by such officer. The petition for review shall constitute authority in the person or officer having custody of the petitioner to transport the petitioner to said supreme court without the issuance of any writ or other legal process; provided, however, that any district or supreme

court is authorized to issue a writ of habeas corpus for the appearance forthwith of the petitioner before the supreme court.

(b) The supreme court shall hear the petition for review as speedily as practicable and in any event within five business days of the filing of the petition. The supreme court judge hearing the review may consider the record below which the people and the principal may supplement. The judge of the supreme court may, after a hearing on the petition for review, order that the petitioner be released on such petitioner's own recognizance without surety or condition, or, in such judge's discretion, to reasonably ensure the effective administration of justice, make any other order of bail or recognizance or remand the petitioner in accordance with the terms of the process by which such petitioner was ordered committed by the district court.

8. If after a hearing under subdivision four of this section detention under subdivision three of this section is ordered or pretrial release subject to conditions under subdivision two of this section is ordered, then: (a) the clerk shall immediately notify the principal's probation officer of the order; and (b) the order of detention under subdivision three of this section or order of pretrial release subject to conditions under subdivision two of this section shall be recorded in the principal's criminal record.

§ 10. 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 term "extraordinary circumstances" shall mean the existence of highly unusual and heinous facts, in addition to strong proof that the defendant is not amenable or would not benefit in any way from transfer of the action to family court. Factors that shall be considered by the court in determining whether extraordinary circumstances exist shall include, but shall not be limited to, whether the defendant:

(i) committed a series of crimes over multiple days in close proximity;

(ii) acted in an especially cruel and heinous manner; or

(iii) led, threatened, or coerced other reluctant adolescents into participating in the crime or crimes which are the basis of the action.

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

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

§ 12. Subparagraph (ii) of 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:

(ii) the defendant [~~displayed~~] was illegally in possession of a loaded firearm[~~, shotgun, rifle or deadly weapon~~] as defined in the penal law [~~in furtherance of such offense~~]; or

§ 13. Section 100.08 of the penal law, as added by chapter 422 of the laws of 1978, is amended to read as follows:

§ 100.08 Criminal solicitation in the third degree.

A person is guilty of criminal solicitation in the third degree when[~~,~~]**:**

1. being over eighteen years of age, with **the** intent that another person under sixteen years of age engage in conduct that would constitute a felony, [~~he~~] **such person** solicits, requests, commands, importunes or otherwise attempts to cause such other person to engage in such conduct[~~.~~]**; or**

2. being over eighteen years of age, with the intent that another person under eighteen years of age engage in conduct that would constitute a crime under article two hundred sixty-five of this chapter, such person intentionally provides a loaded firearm to such other person in order to protect the actor from criminal prosecution.

Criminal solicitation in the third degree is a class E felony.

§ 14. This act shall take effect on the first of November next succeeding the date on which it shall have become a law and shall apply to all criminal cases where the defendant was arraigned on or after such effective date.