

STATE OF NEW YORK

4330--A

2025-2026 Regular Sessions

IN SENATE

February 4, 2025

Introduced by Sens. MYRIE, BAILEY, BRISPORT, BROUK, CLEARE, FERNANDEZ, GIANARIS, GONZALEZ, HARCKHAM, PARKER, RAMOS, RIVERA, SALAZAR, SEPULVEDA, SERRANO -- read twice and ordered printed, and when printed to be committed to the Committee on Codes -- recommitted to the Committee on Codes in accordance with Senate Rule 6, sec. 8 -- 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.

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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 [~~(c) 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.