STATE OF NEW YORK

8531

2025-2026 Regular Sessions

IN SENATE

October 17, 2025

Introduced by Sen. ROLISON -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the criminal procedure law, in relation to the removal of adolescent offenders to family court; and to amend the family court act, in relation to jurisdiction

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

Section 1. 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, subparagraph (iii) as amended by section 1 of part AA of chapter 55 of the laws of 2024, is amended to read as follows:

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

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

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

(iii) the defendant unlawfully engaged in vaginal sexual contact, oral sexual contact, anal sexual contact, or sexual contact as defined in section 130.00 of the penal law[~~.~~]**; or**

(iv) the defendant has previously been arrested for a felony that was removed to family court.

§ 2. Subdivision 5 of section 722.21 of the criminal procedure law, as amended by chapter 23 of the laws of 2024, is amended to read as follows:

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

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5. Notwithstanding subdivisions two and three of this section, at the request of the district attorney, the court shall order removal of an action against an adolescent offender charged with an offense listed in paragraph (a) of subdivision two of section 722.23 of this article, to the family court pursuant to the provisions of article seven hundred twenty-five of this title and upon consideration of the criteria specified in subdivision two of section 722.22 of this article, it is determined that to do so would be in the interests of justice. Where, however, the felony complaint charges the adolescent offender with murder in the second degree as defined in section 125.25 of the penal law, rape in the first degree as defined in paragraph (a) of subdivision one, paragraph (a) of subdivision two and paragraph (a) of subdivision three of section 130.35 of the penal law, rape in the first degree as formerly defined in subdivision one of section 130.35 of the penal law, a crime formerly defined in subdivision one of section 130.50 of the penal law, or an armed felony as defined in paragraph (a) of subdivision forty-one of section 1.20 of this chapter, **or where the defendant has previously been arrested for a felony that was removed to family court,** a determination that such action be removed to the family court shall, in addition, be based upon a finding of one or more of the following factors: (i) mitigating circumstances that bear directly upon the manner in which the crime was committed; or (ii) where the defendant was not the sole participant in the crime, the defendant's participation was relatively minor although not so minor as to constitute a defense to the prosecution; or (iii) possible deficiencies in proof of the crime.

§ 3. Paragraph (b) of subdivision 1 of section 722.22 of the criminal procedure law, as amended by chapter 23 of the laws of 2024, is amended to read as follows:

(b) with the consent of the district attorney, order removal of an action involving an indictment charging a juvenile offender with murder in the second degree as defined in section 125.25 of the penal law; rape in the first degree, as defined in paragraph (a) of subdivision one, paragraph (a) of subdivision two and paragraph (a) of subdivision three of section 130.35 of the penal law; rape in the first degree as formerly defined in subdivision one of section 130.35 of the penal law; a crime formerly defined in subdivision one of section 130.50 of the penal law; or an armed felony as defined in paragraph (a) of subdivision forty-one of section 1.20 of this chapter, **or where the defendant has previously been arrested for a felony that was removed to family court,** to the family court pursuant to the provisions of article seven hundred twenty-five of this title if the court finds one or more of the following factors: (i) mitigating circumstances that bear directly upon the manner in which the crime was committed; (ii) where the defendant was not the sole participant in the crime, the defendant's participation was relatively minor although not so minor as to constitute a defense to the prosecution; or (iii) possible deficiencies in the proof of the crime, and, after consideration of the factors set forth in subdivision two of this section, the court determined that removal of the action to the family court would be in the interests of justice.

§ 4. Paragraphs (a) and (h) 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, are amended to read as follows:

(a) Following the arraignment of a defendant charged with a crime committed when [~~he or she~~] **the defendant** was sixteen, or commencing October first, two thousand nineteen, seventeen years of age, other than any class A felony except for those defined in article two hundred twen-

ty of the penal law, a violent felony defined in section 70.02 of the penal law or a felony listed in paragraph one or two of subdivision forty-two of section 1.20 of this chapter, [~~or~~] an offense set forth in the vehicle and traffic law, **or where the defendant has previously been arrested for a felony that was removed to family court,** the court shall order the removal of the action to the family court in accordance with the applicable provisions of article seven hundred twenty-five of this title unless, within thirty calendar days of such arraignment, the district attorney makes a motion to prevent removal of the action pursuant to this subdivision. If the defendant fails to report to the probation department as directed, the thirty day time period shall be tolled until such time as [~~he or she~~] **the defendant** reports to the probation department.

(h) Nothing in this subdivision shall preclude, and a court may order, the removal of an action to family court where all parties agree or pursuant to this chapter**; provided however that the court may not order the removal of an action to family court where the defendant is charged with any class A felony except for those defined in section 70.02 of the penal law, a violent felony defined in section 70.02 of the penal law or a felony listed in paragraph one or two of subdivision forty-two of section 1.20 of this chapter, an offense set forth in the vehicle and traffic law, or where the defendant has previously been arrested for a felony that was removed to family court, unless the court finds one or more of the following factors:(i) mitigating circumstances that bear directly upon the manner in which the crime was committed; or (ii) where the defendant was not the sole participant in the crime, the defendant's participation was relatively minor although not so minor as to constitute a defense to the prosecution; or (iii) possible deficiencies in proof of the crime**.

§ 5. Subdivision 44 of section 1.20 of the criminal procedure law, as amended by section 1 of part WWW of chapter 59 of the laws of 2017, is amended to read as follows:

44. "Adolescent offender" means a person charged with a felony committed on or after October first, two thousand eighteen when [~~he or she~~] **such person** was sixteen years of age or on or after October first, two thousand nineteen, when [~~he or she~~] **such person** was seventeen years of age**, or a person charged with a misdemeanor when such person is sixteen or seventeen years of age after having been previously adjudicated as a juvenile delinquent on two separate occasions**.

§ 6. Subdivision 4 of section 302.1 of the family court act, as added by section 1 of subpart E of part UU of chapter 56 of the laws of 2022, is amended to read as follows:

4. Where a proceeding had been commenced in the youth part of a superior court for an act alleged to have been committed prior to [~~his or her~~] **the respondent's** eighteenth birthday and then had been removed to family court, the family court shall exercise jurisdiction under this article, notwithstanding the fact that the respondent may be over the age of eighteen prior to the proceeding having commenced in the family court**, unless the respondent is charged with a misdemeanor complaint or accused of misdemeanor conduct after having been previously adjudicated as a juvenile delinquent on two prior separate occasions**.

§ 7. This act shall take effect immediately.