§ 170.80 Proceedings regarding certain prostitution charges; certain persons aged sixteen or seventeen.

1. Notwithstanding any other provision of law, at any time at or after arraignment on a charge of prostitution pursuant to section 230.00 of the penal law, after consultation with counsel, a knowing and voluntary plea of guilty has been entered to such charge, any judge or justice hearing any stage of such case may, upon consent of the defendant after consultation with counsel:

(a) conditionally convert such charge in accordance with subdivision three of this section and retain it as a person in need of supervision proceeding for all purposes, and shall make such proceeding fully subject to the provisions and grant any relief available under article seven of the family court act; and/or

(b) order the provision of any of the specialized services enumerated in title eight-A of article six of the social services law, as may be reasonably available.

2. In the event of a conviction by plea or verdict to such charge or charges of prostitution or loitering for the purposes of prostitution as described in subdivision one of this section, the court must find that the person is a youthful offender for the purpose of such charge and proceed in accordance with article seven hundred twenty of this chapter, provided, however, that the available sentence shall be the sentence that may be imposed for a violation as defined in subdivision three of section 10.00 of the penal law. In such case, the records of the investigation and proceedings relating to such charge shall be sealed in accordance with section 720.35 of this chapter.

3. (a) When a charge of prostitution or loitering for the purposes of prostitution has been conditionally converted to a person in need of supervision proceeding pursuant to subdivision one of this section, the defendant shall be deemed a "sexually exploited child" as defined in subdivision one of section four hundred forty-seven-a of the social services law and therefore shall not be considered an adult for purposes related to the charges in the person in need of supervision proceeding. Sections seven hundred eighty-one, seven hundred eighty-two, seven

hundred eighty-two-a, seven hundred eighty-three and seven hundred eighty-four of the family court act shall apply to any proceeding conditionally converted under this section.

(b) The court after hearing from the parties shall state the condition or conditions of such conversion, which may include the individual's participation in specialized services provided pursuant to title eight-A of article six of the social services law and other appropriate services available to persons in need of supervision in accordance with article seven of the family court act.

(c)(i) The court may, upon written application by the people at any time during the pendency of the person in need of supervision proceeding or during any disposition thereof, but in no event later than the individual's eighteenth birthday, restore the accusatory instrument if the court is satisfied by competent proof that the individual, without just cause, is not in substantial compliance with the condition or conditions of the conversion.

(ii) Notice of such an application to restore an accusatory instrument shall be served on the person and his or her counsel by the court. The notice shall include a statement setting forth a reasonable description of why the person is not in substantial compliance with the condition or conditions of the conversion and a date upon which such person shall appear before the court. The court shall afford the person the right to counsel and the right to be heard. Upon such appearance, the court must advise the person of the contents of the notice and the consequences of a finding of failure to substantially comply with the conditions of conversion. At the time of such appearance the court must ask the person whether he or she wishes to make any statement with respect to such alleged failure to substantially comply. In determining whether such person has failed to substantially comply with the terms of the conversion, the court shall conduct a hearing at which time such person may cross-examine witnesses and present evidence on his or her own behalf. Any findings the court shall make, shall be made on the court record. If the court finds that such person did not substantially comply, it may restore the accusatory instrument pursuant to subparagraph (i) of this paragraph, modify the terms of conversion in accordance with this section or otherwise continue such terms as in its discretion it deems just and proper.

(iii) If such accusatory instrument is restored pursuant to subparagraph (i) of this paragraph, the proceeding shall continue in accordance with subdivision two of this section. If the individual does not comply with services or does not return to court, the individual shall be returned in accordance with the provisions of article seven of the family court act.

4. At the conclusion of a person in need of supervision proceeding pursuant to this section, all records of the investigation and proceedings relating to such proceedings, including records created before the charge was conditionally converted, shall be sealed in accordance with section 720.35 of this chapter.