STATE OF NEW YORK

6856

2021-2022 Regular Sessions

IN ASSEMBLY

April 12, 2021

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

AN ACT to amend the criminal procedure law, in relation to adding serious crimes to those offenses that qualify for bail and pre-trial detention

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

Section 1. The opening paragraph and paragraphs (a), (d), (g), (i), 1 2 (s) and (t) of subdivision 4 of section 510.10 of the criminal procedure 3 law, the opening paragraph and paragraphs (a), (d), (g) and (i) as 4 amended and paragraphs (s) and (t) as added by section 2 of part UU of chapter 56 of the laws of 2020, are amended and sixteen new paragraphs 5 б (u), (v), (w), (x), (y), (z), (aa), (bb), (cc), (dd), (ee), (ff), (gg), 7 (hh), (ii) and (jj) are added to read as follows: 8 Where the principal stands charged with a qualifying offense, the 9 court, unless otherwise prohibited by law, may in its discretion release 10 the principal pending trial on the principal's own recognizance or under 11 non-monetary conditions, fix bail, or, where the defendant is charged 12 with a qualifying offense [which is a felony], the court may commit the 13 principal to the custody of the sheriff. A principal stands charged with 14 a qualifying offense for the purposes of this subdivision when he or she 15 stands charged with: 16 (a) a felony enumerated in section 70.02 of the penal law[- other than 17 robbery in the second degree as defined in subdivision one of section 160.10 of the penal law, provided, however, that burglary in the second 18 degree as defined in subdivision two of section 140.25 of the penal law 19

20 shall be a qualifying offense only where the defendant is charged with

21 entering the living area of the dwelling];

(d) a class A felony defined in the penal law[, provided that for class A felonies under article two hundred twenty of the penal law, only class A-I felonies shall be a qualifying offense];

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

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(q) money laundering in support of terrorism in the first degree as 1 2 defined in section 470.24 of the penal law; money laundering in support 3 of terrorism in the second degree as defined in section 470.23 of the penal law; money laundering in support of terrorism in the third degree 4 5 as defined in section 470.22 of the penal law; money laundering in б support of terrorism in the fourth degree as defined in section 470.21 7 of the penal law; or a [felony crime of terrorism as defined in article 8 four hundred ninety of the penal law, other than the crime defined in section 490.20 of such law] misdemeanor or felony crime defined in arti-9 10 cle four hundred ninety of the penal law; (i) [facilitating a sexual performance by a child with a controlled 11 substance or alcohol as defined in section 263.30 of the penal law, use 12 of a child in a sexual performance as defined in section 263.05 of the 13 14 penal law] a misdemeanor or felony defined in article two hundred sixty-three of the penal law or luring a child as defined in subdivision 15 16 one of section 120.70 of the penal law, promoting an obscene sexual performance by a child as defined in section 263.10 of the penal law or 17 18 promoting a sexual performance by a child as defined in section 263.15 19 of the penal law; 20 (s) a felony, where the defendant qualifies for sentencing on such 21 charge as a persistent felony offender pursuant to section 70.10 of the 22 penal law; [or] (t) any felony or class A misdemeanor involving harm to an identifi-23 able person or property, where such charge arose from conduct occurring 24 25 while the defendant was released on his or her own recognizance or 26 released under conditions for a separate felony or class A misdemeanor 27 involving harm to an identifiable person or property, provided, however, that the prosecutor must show reasonable cause to believe that the 28 29 defendant committed the instant crime and any underlying crime. For the purposes of this subparagraph, any of the underlying crimes need not be 30 31 a qualifying offense as defined in this subdivision $[+]_{:}$ 32 (u) a felony enumerated in article two hundred twenty of the penal 33 law; (v) a hate crime defined in article four hundred eighty-five of the 34 35 <u>penal law;</u> 36 (w) manslaughter in the second degree as defined in section 125.15 of 37 the penal law; 38 (x) criminally negligent homicide as defined in section 125.10 of the 39 penal law; (y) reckless assault of a child as defined in section 120.02 of the 40 41 penal law or reckless assault of a child by a child day care provider as 42 defined in section 120.01 of the penal law; (z) burglary in the third degree as defined in section 140.20 of the 43 44 penal law and robbery in the third degree as defined in section 160.05 45 of the penal law; 46 (aa) stalking in the second degree as defined in section 120.55 of the 47 penal law, stalking in the third degree as defined in section 120.50 of the penal law or stalking in the fourth degree as defined in section 48 49 120.45 of the penal law; 50 (bb) aggravated vehicular manslaughter as defined in section 125.14 of 51 the penal law; 52 (cc) vehicular manslaughter in the first degree as defined in section 53 125.13 of the penal law or vehicular manslaughter in the second degree 54 as defined in section 125.12 of the penal law; 55 (dd) menacing in the first degree as defined in section 120.13 of the 56 penal law, menacing in the second degree as defined in section 120.14 of

1	the penal law or menacing in the third degree as defined in section
2	120.15 of the penal law;
3	(ee) coercion in the first degree as defined in section 135.65 of the
4	penal law;
5	(ff) arson in the fourth degree as defined in section 150.05 of the
б	penal law;
7	(gg) criminal possession of a firearm as defined in section 265.01-b
8	of the penal law;
9	(hh) patronizing a person for prostitution in a school zone as defined
10	in section 230.08 of the penal law;
11	(ii) aggravated harassment in the first degree as defined in section
12	240.31 of the penal law; or
13	(jj) aggravated cruelty to animals as defined in section three hundred
14	fifty-three-a of the agriculture and markets law, overriding, torturing
15	and injuring animals; failure to provide proper sustenance as defined in
16	section three hundred fifty-three of the agriculture and markets law, or
17	animal fighting as defined in section three hundred fifty-one of the
18	agriculture and markets law.
19	§ 2. The opening paragraph and subparagraphs (i), (iv), (vii), (ix),
20	(xix) and (xx) of paragraph (b) of subdivision 1 of section 530.20 of
21	the criminal procedure law, as amended by section 3 of part UU of chap-
22	ter 56 of the laws of 2020, are amended and sixteen new subparagraphs
23	(xxi), (xxii), (xxii), (xxiv), (xxv), (xxvi), (xxvii), (xxviii),
24	(xxix), (xxx), (xxxi), (xxxii), (xxxii), (xxxiv), (xxxv), and (xxxvi)
25	are added to read as follows:
26	Where the principal stands charged with a qualifying offense, the
27	court, unless otherwise prohibited by law, may in its discretion release
28	the principal pending trial on the principal's own recognizance or under
29	non-monetary conditions, fix bail, or, where the defendant is charged
30	with a qualifying offense [which is a felony], the court may commit the
31	principal to the custody of the sheriff. The court shall explain its
32	choice of release, release with conditions, bail or remand on the record
33	or in writing. A principal stands charged with a qualifying offense when
34	he or she stands charged with:
35	(i) a felony enumerated in section 70.02 of the penal law[, other than
36	robbery in the second degree as defined in subdivision one of section
37	160.10 of the penal law, provided, however, that burglary in the second
38	degree as defined in subdivision two of section 140.25 of the penal law
39	shall be a qualifying offense only where the defendant is charged with
40	entering the living area of the dwelling];
41	(iv) a class A felony defined in the penal law[, provided, that for
42	class A felonies under article two hundred twenty of such law, only
43	class A-I felonies shall be a qualifying offense];
44	(vii) money laundering in support of terrorism in the first degree as
45	defined in section 470.24 of the penal law; money laundering in support
46	of terrorism in the second degree as defined in section 470.23 of the
47	penal law; money laundering in support of terrorism in the third degree
48	as defined in section 470.22 of the penal law; money laundering in
49	support of terrorism in the fourth degree as defined in section 470.21
	of the penal law; or a [felony crime of terrorism as defined in article
51	four hundred ninety of the penal law, other than the crime defined in
52	section 490.20 of such law] misdemeanor or felony crime defined in arti-
53	cle four hundred ninety of the penal law;
54	(ix) [facilitating a sexual performance by a child with a controlled
55	substance or alcohol as defined in section 263.30 of the penal law, use
56	of a child in a sexual performance as defined in section 263.05 of the

1 penal law] a misdemeanor or felony defined in article two hundred sixty-three of the penal law or luring a child as defined in subdivision 2 one of section 120.70 of the penal law, promoting an obscene sexual 3 performance by a child as defined in section 263.10 of the penal law or 4 5 promoting a sexual performance by a child as defined in section 263.15 б of the penal law; 7 (xix) a felony, where the defendant qualifies for sentencing on such 8 charge as a persistent felony offender pursuant to section 70.10 of the 9 penal law; [or] 10 (xx) any felony or class A misdemeanor involving harm to an identifi-11 able person or property, where such charge arose from conduct occurring while the defendant was released on his or her own recognizance or 12 13 released under conditions for a separate felony or class A misdemeanor 14 involving harm to an identifiable person or property, provided, however, that the prosecutor must show reasonable cause to believe that the 15 16 defendant committed the instant crime and any underlying crime. For the 17 purposes of this subparagraph, any of the underlying crimes need not be a qualifying offense as defined in this subdivision $[-]_{:}$ 18 19 (xxi) a felony enumerated in article two hundred twenty of the penal 20 law; 21 (xxii) a hate crime defined in article four hundred eighty-five of the <u>penal law;</u> 22 (xxiii) manslaughter in the second degree as defined in section 125.15 23 24 of the penal law; 25 (xxiv) criminally negligent homicide as defined in section 125.10 of 26 the penal law; 27 (xxv) reckless assault of a child as defined in section 120.02 of the penal law, reckless assault of a child by a child day care provider as 28 29 defined in section 120.01 of the penal law; 30 (xxvi) burglary in the third degree as defined in section 140.20 of 31 the penal law and robbery in the third degree as defined in section 32 160.05 of the penal law; (xxvii) stalking in the second degree as defined in section 120.55 of 33 34 the penal law, stalking in the third degree as defined in section 120.50 of the penal law or stalking in the fourth degree as defined in section 35 36 120.45 of the penal law; 37 (xxviii) aggravated vehicular manslaughter as defined in section 38 125.14 of the penal law; (xxix) vehicular manslaughter in the first degree as defined in 39 section 125.13 of the penal law or vehicular manslaughter in the second 40 degree as defined in section 125.12 of the penal law; 41 42 (xxx) menacing in the first degree as defined in section 120.13 of the 43 penal law, menacing in the second degree as defined in section 120.14 of the penal law or menacing in the third degree as defined in section 44 120.15 of the penal law; 45 46 (xxxi) coercion in the first degree as defined in section 135.65 of 47 the penal law; 48 (xxxii) arson in the fourth degree as defined in section 150.05 of the 49 <u>penal law;</u> (xxxiii) criminal possession of a firearm as defined in section 50 51 265.01-b of the penal law; 52 (xxxiv) patronizing a person for prostitution in a school zone as 53 defined in section 230.08 of the penal law; 54 (xxxv) aggravated harassment in the first degree as defined in section

55 240.31 of the penal law; or

1	(xxxvi) aggravated cruelty to animals as defined in section three
2	hundred fifty-three-a of the agriculture and markets law, overriding,
3	torturing and injuring animals; failure to provide proper sustenance as
4	defined in section three hundred fifty-three of the agriculture and
5	markets law, or animal fighting as defined in section three hundred
6	fifty-one of the agriculture and markets law.
7	§ 3. The opening paragraph and paragraphs (a), (d), (g), (i), (s) and
8	(t) of subdivision 4 of section 530.40 of the criminal procedure law,
9	the opening paragraph and paragraphs (a), (d), (g) and (i) as amended
10	and paragraphs (s) and (t) as added by section 4 of part UU of chapter
11	56 of the laws of 2020, are amended and sixteen new paragraphs (u), (v),
12	(w), (x), (y), (z), (aa), (bb), (cc), (dd), (ee), (ff), (gg), (hh), (ii)
13	and (jj) are added to read as follows:
14	Where the principal stands charged with a qualifying offense, the
15	court, unless otherwise prohibited by law, may in its discretion release
16	the principal pending trial on the principal's own recognizance or under
17	non-monetary conditions, fix bail, or, where the defendant is charged
18	with a qualifying offense [which is a felony], the court may commit the
19	principal to the custody of the sheriff. The court shall explain its
20	choice of release, release with conditions, bail or remand on the record
21	or in writing. A principal stands charged with a qualifying offense for
22	the purposes of this subdivision when he or she stands charged with:
23	(a) a felony enumerated in section 70.02 of the penal law[, other than
24	robbery in the second degree as defined in subdivision one of section
25	160.10 of the penal law, provided, however, that burglary in the second
26	degree as defined in subdivision two of section 140.25 of the penal law
27	shall be a qualifying offense only where the defendant is charged with
28	entering the living area of the dwelling];
29	(d) a class A felony defined in the penal law[, provided that for
30	class A felonies under article two hundred twenty of such law, only
31	class A-I felonics shall be a qualifying offense];
32	(g) money laundering in support of terrorism in the first degree as
33	defined in section 470.24 of the penal law; money laundering in support
34 25	of terrorism in the second degree as defined in section 470.23 of the
35 26	penal law; money laundering in support of terrorism in the third degree as defined in section 470.22 of the penal law; money laundering in
36	as defined in section 470.22 of the penal law; money laundering in support of terrorism in the fourth degree as defined in section 470.21
37 38	of the penal law; or a [felony grime of terrorism as defined in article
30 39	four hundred ninety of the penal law, other than the grime defined in
40	section 490.20 of such law] misdemeanor or felony crime defined in arti-
41	<u>cle four hundred ninety of the penal law</u> ;
42	(i) [facilitating a sexual performance by a child with a controlled
43	substance or alcohol as defined in section 263.30 of the penal law, use
44	of a child in a sexual performance as defined in section 263.05 of the
45	penal law] misdemeanor or felony defined in article two hundred sixty-
46	three of the penal law or luring a child as defined in subdivision one
47	of section 120.70 of the penal law, promoting an obscene sexual perform-
48	ance by a child as defined in section 263.10 of the penal law or promot-
49	ing a sexual performance by a child as defined in section 263.15 of the
50	penal law;
51	(s) a felony, where the defendant qualifies for sentencing on such
52	charge as a persistent felony offender pursuant to section 70.10 of the
53	penal law; [or]
54	(t) any felony or class A misdemeanor involving harm to an identifi-
55	able person or property, where such charge arose from conduct occurring
56	while the defendant was released on his or her own recognizance or

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1 released under conditions for a separate felony or class A misdemeanor 2 involving harm to an identifiable person or property, provided, however, 3 that the prosecutor must show reasonable cause to believe that the defendant committed the instant crime and any underlying crime. For the 4 5 purposes of this subparagraph, any of the underlying crimes need not be 6 a qualifying offense as defined in this subdivision [-,]: 7 (u) a felony enumerated in article two hundred twenty of the penal 8 law; 9 (v) a hate crime defined in article four hundred eighty-five of the 10 penal law; 11 (w) manslaughter in the second degree as defined in section 125.15 of 12 the penal law; 13 (x) criminally negligent homicide as defined in section 125.10 of the 14 penal law; (y) reckless assault of a child as defined in section 120.02 of the 15 penal law, reckless assault of a child by a child day care provider as 16 defined in section 120.01 of the penal law; 17 (z) burglary in the third degree as defined in section 140.20 of the 18 19 penal law and robbery in the third degree as defined in section 160.05 20 of the penal law; 21 (aa) stalking in the second degree as defined in section 120.55 of the penal law, stalking in the third degree as defined in section 120.50 of 22 the penal law or stalking in the fourth degree as defined in section 23 24 120.45 of the penal law; 25 (bb) aggravated vehicular manslaughter as defined in section 125.14 of 26 the penal law; 27 (cc) vehicular manslaughter in the first degree as defined in section 125.13 of the penal law or vehicular manslaughter in the second degree 28 29 as defined in section 125.12 of the penal law; 30 (dd) menacing in the first degree as defined in section 120.13 of the 31 penal law, menacing in the second degree as defined in section 120.14 of 32 the penal law or menacing in the third degree as defined in section 33 120.15 of the penal law; (ee) coercion in the first degree as defined in section 135.65 of the 34 35 <u>penal law;</u> (ff) arson in the fourth degree as defined in section 150.05 of the 36 37 penal law; 38 (gg) criminal possession of a firearm as defined in section 265.01-b 39 of the penal law; (hh) patronizing a person for prostitution in a school zone as defined 40 41 in section 230.08 of the penal law; 42 (ii) aggravated harassment in the first degree as defined in section 43 240.31 of the penal law; or 44 (jj) aggravated cruelty to animals as defined in section three hundred fifty-three-a of the agriculture and markets law, overriding, torturing 45 46 and injuring animals; failure to provide proper sustenance as defined in section three hundred fifty-three of the agriculture and markets law, or 47 animal fighting as defined in section three hundred fifty-one of the 48 49 agriculture and markets law.

50 § 4. This act shall take effect immediately.