

STATE OF NEW YORK

8383

2023-2024 Regular Sessions

IN ASSEMBLY

December 13, 2023

Introduced by M. of A. STERN, THIELE, LAVINE, K. BROWN, E. BROWN, DeSTEFANO, GANDOLFO, BLUMENCRANZ, CHANG, DURSO, FLOOD, McDONOUGH, GRAY, SLATER, BENDETT, JENSEN -- Multi-Sponsored by -- M. of A. SHIMSKY -- read once and referred to the Committee on Codes

AN ACT to amend the criminal procedure law, in relation to authorizing bail for certain felony offenses involving the manufacture, sale, distribution, or possession with intent to sell synthetic opioids

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

Section 1. Paragraph (d) of subdivision 4 of section 510.10 of the criminal procedure law, as amended by section 2 of part UU of chapter 56 of the laws of 2020, is amended to read as follows:

(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]~~;

§ 2. Paragraphs (t) and (u) of subdivision 4 of section 510.10 of the criminal procedure law, paragraph (t) as amended and paragraph (u) as added by section 2 of subpart B of part UU of chapter 56 of the laws of 2022, are amended and a new paragraph (v) is added to read as follows:

(t) any felony or class A misdemeanor involving harm to an identifiable person or property, or any charge of criminal possession of a firearm as defined in section 265.01-b of the penal law, where such charge arose from conduct occurring while the defendant was released on his or her own recognizance, released under conditions, or had yet to be arraigned after the issuance of a desk appearance ticket for a separate felony or class A misdemeanor involving harm to an identifiable person or property, or any charge of criminal possession of a firearm as defined in section 265.01-b of the penal law, provided, however, that the prosecutor must show reasonable cause to believe that the defendant committed the instant crime and any underlying crime. For the purposes of this subparagraph, any of the underlying crimes need not be a quali-

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

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1 fying offense as defined in this subdivision. For the purposes of this
2 paragraph, "harm to an identifiable person or property" shall include
3 but not be limited to theft of or damage to property. However, based
4 upon a review of the facts alleged in the accusatory instrument, if the
5 court determines that such theft is negligible and does not appear to be
6 in furtherance of other criminal activity, the principal shall be
7 released on his or her own recognizance or under appropriate non-mone-
8 tary conditions; [~~or~~]

9 (u) criminal possession of a weapon in the third degree as defined in
10 subdivision three of section 265.02 of the penal law or criminal sale of
11 a firearm to a minor as defined in section 265.16 of the penal law[~~+~~];
12 or

13 (v) any felony offense defined in article two hundred twenty of the
14 penal law, where such offense involves the manufacture, sale, distrib-
15 ution, or possession with intent to sell synthetic opioids, including
16 but not limited to fentanyl, fentanyl analogues, nitazene, and nitazene
17 analogues.

18 § 3. Subparagraphs (xx) and (xxi) of paragraph (b) of subdivision 1 of
19 section 530.20 of the criminal procedure law, subparagraph (xx) as
20 amended and subparagraph (xxi) as added by section 4 of subpart C of
21 part UU of chapter 56 of the laws of 2022, are amended and a new subpar-
22 agraph (xxii) is added to read as follows:

23 (xx) any felony or class A misdemeanor involving harm to an identifi-
24 able person or property, or any charge of criminal possession of a
25 firearm as defined in section 265.01-b of the penal law where such
26 charge arose from conduct occurring while the defendant was released on
27 his or her own recognizance, released under conditions, or had yet to be
28 arraigned after the issuance of a desk appearance ticket for a separate
29 felony or class A misdemeanor involving harm to an identifiable person
30 or property, provided, however, that the prosecutor must show reasonable
31 cause to believe that the defendant committed the instant crime and any
32 underlying crime. For the purposes of this subparagraph, any of the
33 underlying crimes need not be a qualifying offense as defined in this
34 subdivision. For the purposes of this paragraph, "harm to an identifi-
35 able person or property" shall include but not be limited to theft of or
36 damage to property. However, based upon a review of the facts alleged in
37 the accusatory instrument, if the court determines that such theft is
38 negligible and does not appear to be in furtherance of other criminal
39 activity, the principal shall be released on his or her own recognizance
40 or under appropriate non-monetary conditions; [~~or~~]

41 (xxi) criminal possession of a weapon in the third degree as defined
42 in subdivision three of section 265.02 of the penal law or criminal sale
43 of a firearm to a minor as defined in section 265.16 of the penal
44 law[~~+~~]; or

45 (xxii) any felony offense defined in article two hundred twenty of the
46 penal law, where such offense involves the manufacture, sale, distrib-
47 ution, or possession with intent to sell synthetic opioids, including
48 but not limited to fentanyl, fentanyl analogues, nitazene, and nitazene
49 analogues.

50 § 4. Paragraphs (t) and (u) of subdivision 4 of section 530.40 of the
51 criminal procedure law, paragraph (t) as amended and paragraph (u) as
52 added by section 4 of subpart B of part UU of chapter 56 of the laws of
53 2022, are amended and a new paragraph (v) is added to read as follows:

54 (t) any felony or class A misdemeanor involving harm to an identifi-
55 able person or property, or any charge of criminal possession of a
56 firearm as defined in section 265.01-b of the penal law, where such

1 charge arose from conduct occurring while the defendant was released on
2 his or her own recognizance, released under conditions, or had yet to be
3 arraigned after the issuance of a desk appearance ticket for a separate
4 felony or class A misdemeanor involving harm to an identifiable person
5 or property, or any charge of criminal possession of a firearm as
6 defined in section 265.01-b of the penal law, provided, however, that
7 the prosecutor must show reasonable cause to believe that the defendant
8 committed the instant crime and any underlying crime. For the purposes
9 of this subparagraph, any of the underlying crimes need not be a quali-
10 fying offense as defined in this subdivision. For the purposes of this
11 paragraph, "harm to an identifiable person or property" shall include
12 but not be limited to theft of or damage to property. However, based
13 upon a review of the facts alleged in the accusatory instrument, if the
14 court determines that such theft is negligible and does not appear to be
15 in furtherance of other criminal activity, the principal shall be
16 released on his or her own recognizance or under appropriate non-mone-
17 tary conditions; [~~or~~]

18 (u) criminal possession of a weapon in the third degree as defined in
19 subdivision three of section 265.02 of the penal law or criminal sale of
20 a firearm to a minor as defined in section 265.16 of the penal law[~~-~~];
21 or

22 (v) any felony offense defined in article two hundred twenty of the
23 penal law, where such offense involves the manufacture, sale, distrib-
24 ution, or possession with intent to sell synthetic opioids, including
25 but not limited to fentanyl, fentanyl analogues, nitazene, and nitazene
26 analogues.

27 § 5. This act shall take effect immediately