STATE OF NEW YORK

4976

2025-2026 Regular Sessions

IN ASSEMBLY

February 10, 2025

Introduced by M. of A. BUTTENSCHON, JONES, McMAHON, STERN -- read once and referred to the Committee on Codes

AN ACT to amend the criminal procedure law, in relation to drug and domestic violence offenses qualifying for bail

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), (j), (t) and (u) of subdivision 4 of section 510.10 of the criminal procedure law, the opening paragraph as amended by section 2 of subpart A of part VV of chapter 56 of the laws of 2023, paragraphs (a) and (d) as amended and paragraph (j) as added by section 2 of part UU of chapter 56 of the laws of 2020, and 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 two new paragraphs (v) and (w) are added to read as follows:

Where the principal stands charged with a qualifying offense, the court, unless otherwise prohibited by law, may in its discretion release the principal pending trial on the principal's own recognizance or under non-monetary conditions, fix bail, or order non-monetary conditions in conjunction with fixing bail, or, where the defendant is charged with a qualifying offense [~~which is a felony~~], the court may commit the principal to the custody of the sheriff. A principal stands charged with a qualifying offense for the purposes of this subdivision when [~~he or she~~] **such principal** stands charged with:

(a) a felony enumerated in section 70.02 of the penal law[~~, other than 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 degree as defined in subdivision two of section 140.25 of the penal law shall be a qualifying offense only where the defendant is charged with entering the living area of the dwelling~~];

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

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(d) a class A felony as 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~~];

(j) any crime that is alleged to have caused the death or serious physical injury of another person;

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

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

(v) a class B, C or D felony enumerated in article two hundred twenty of the penal law; or

(w) an aggravated family offense as defined in section 240.75 of the penal law.

§ 2. The opening paragraph and subparagraphs (i), (iv), (x), (xx) and (xxi) of paragraph (b) of subdivision 1 of section 530.20 of the criminal procedure law, the opening paragraph as amended by section 6 of subpart A of part VV of chapter 56 of the laws of 2023, subparagraphs (i), (iv) and (x) as amended by section 3 of part UU of chapter 56 of the laws of 2020, and subparagraph (xx) as amended and subparagraph (xxi) as added by section 4 of subpart C of part UU of chapter 56 of the laws of 2022, are amended and two new subparagraphs and (xxii) and (xxiii) are added to read as follows:

Where the principal stands charged with a qualifying offense, the court, unless otherwise prohibited by law, may in its discretion release the principal pending trial on the principal's own recognizance or under non-monetary conditions, fix bail, order non-monetary conditions in conjunction with fixing bail, or, where the defendant is charged with a qualifying offense [~~which is a felony~~], the court may commit the principal to the custody of the sheriff. The court shall explain its choice of securing order on the record or in writing. A principal stands charged with a qualifying offense when [~~he or she~~] such principal stands charged with:

(i) a felony enumerated in section 70.02 of the penal law[~~, other than 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 degree as defined in subdivision two of section 140.25 of the penal law~~

~~shall be a qualifying offense only where the defendant is charged with entering the living area of the dwelling~~];

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

(x) any crime that is alleged to have caused the death **or serious physical injury** of another person;

(xx) 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~~] **such defendant's** 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, 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 qualifying offense as defined in this subdivision. For the purposes of this paragraph, "harm to an identifiable person or property" shall include but not be limited to theft of or damage to property. However, based upon a review of the facts alleged in the accusatory instrument, if the court determines that such theft is negligible and does not appear to be in furtherance of other criminal activity, the principal shall be released on [~~his or her~~] **such principal's** own recognizance or under appropriate non-monetary conditions; [~~or~~]

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

(xxii) a class B, C or D felony enumerated in article two hundred twenty of the penal law; or

(xxiii) an aggravated family offense as defined in section 240.75 of the penal law.

§ 3. The opening paragraph and paragraphs (a), (d), (j), (t) and (u) of subdivision 4 of section 530.40 of the criminal procedure law, the opening paragraph as amended by section 8 of subpart A of part VV of chapter 56 of the laws of 2023, paragraphs (a) and (d) as amended and paragraph (j) as added by section 4 of part UU of chapter 56 of the laws of 2020, and paragraph (t) as amended and paragraph (u) as added by section 4 of subpart B of part UU of chapter 56 of the laws of 2022, are amended and two new paragraphs (v) and (w) are added to read as follows:

Where the principal stands charged with a qualifying offense, the court, unless otherwise prohibited by law, may in its discretion, and in accordance with section 510.10 of this title, release the principal pending trial on the principal's own recognizance or under non-monetary conditions, fix bail, or order non-monetary conditions in conjunction with fixing bail, or, where the defendant is charged with a qualifying offense [~~which is a felony~~], the court may commit the principal to the custody of the sheriff. The court shall explain the basis for its determination and its choice of securing order on the record or in writing. A principal stands charged with a qualifying offense for the purposes of this subdivision when [~~he or she~~] **such principal** stands charged with:

(a) a felony enumerated in section 70.02 of the penal law[~~, other than 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~~

~~degree as defined in subdivision two of section 140.25 of the penal law shall be a qualifying offense only where the defendant is charged with entering the living area of the dwelling~~];

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

(j) any crime that is alleged to have caused the death **or serious physical injury** of another person;

(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~~] **such defendant's** 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 qualifying offense as defined in this subdivision. For the purposes of this paragraph, "harm to an identifiable person or property" shall include but not be limited to theft of or damage to property. However, based upon a review of the facts alleged in the accusatory instrument, if the court determines that such theft is negligible and does not appear to be in furtherance of other criminal activity, the principal shall be released on [~~his or her~~] **such principal's** own recognizance or under appropriate non-monetary conditions; [~~or~~]

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

(v) a class B, C or D felony enumerated in article two hundred twenty of the penal law; or

(w) an aggravated family offense as defined in section 240.75 of the penal law.

§ 4. This act shall take effect immediately.