

STATE OF NEW YORK

7723

2025-2026 Regular Sessions

IN ASSEMBLY

April 8, 2025

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

AN ACT to amend the criminal procedure law, in relation to qualifying offenses for pre-trial detention and bail

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

1 Section 1. Subdivision 4 of section 510.10 of the criminal procedure
2 law, as amended by section 2 of part UU of chapter 56 of the laws of
3 2020, the opening paragraph as amended by section 2 of subpart A of part
4 VV of chapter 56 of the laws of 2023, paragraphs (s) and (t) as amended
5 and paragraph (u) as added by section 2 of subpart B of part UU of chap-
6 ter 56 of the laws of 2022, is amended to read as follows:

7 4. Where the principal stands charged with a qualifying offense, the
8 court, unless otherwise prohibited by law, may in its discretion release
9 the principal pending trial on the principal's own recognizance or under
10 non-monetary conditions, fix bail, or order non-monetary conditions in
11 conjunction with fixing bail, or, where the defendant is charged with a
12 qualifying offense which is a felony, the court may commit the principal
13 to the custody of the sheriff. A principal stands charged with a quali-
14 fying offense for the purposes of this subdivision when [~~he or she~~
15 ~~stands~~] they stand 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~~
18 ~~160.10 of the penal law, provided, however, that burglary in the second~~
19 ~~degree as defined in subdivision two of section 140.25 of the penal law~~
20 ~~shall be a qualifying offense only where the defendant is charged with~~
21 ~~entering the living area of the dwelling~~];

22 (b) a crime involving witness intimidation under section 215.15 of the
23 penal law;

24 (c) a crime involving witness tampering under section 215.11, 215.12
25 or 215.13 of the penal law;

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

LBD11480-01-5

(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]~~ offenses defined in sections 220.18, 220.21, 220.41, 220.43, 220.44 and 220.77 of such law shall be ~~[a]~~ qualifying ~~[offense] offenses;~~

(e) a sex trafficking offense defined in section 230.34 or 230.34-a of the penal law, or a felony sex offense defined in section 70.80 of the penal law, ~~[or a crime involving]~~ incest in the third degree as defined in section 255.25~~[, 255.26 or 255.27]~~ of such law, ~~[or]~~ a misdemeanor defined in article one hundred thirty of such law, promoting prostitution in the first degree as defined in section 230.32 of the penal law, or compelling prostitution as defined in section 230.33 of the penal law;

(f) conspiracy in the second degree as defined in section 105.15 of the penal law, where the underlying allegation of such charge is that the defendant conspired to commit a class A felony defined in article one hundred twenty-five of the penal law, criminal solicitation in the first degree as defined in section 100.13 of the penal law or criminal facilitation in the first degree as defined in section 115.08 of the penal law;

(g) money laundering in support of terrorism in the first degree as defined in section 470.24 of the penal law; money laundering in support 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 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 of the penal law; or a felony crime of terrorism as defined in article four hundred ninety of the penal law, other than the crime defined in section 490.20 of such law;

(h) criminal contempt in the second degree as defined in subdivision three of section 215.50 of the penal law, criminal contempt in the first degree as defined in subdivision (b), (c) or (d) of section 215.51 of the penal law or aggravated criminal contempt as defined in section 215.52 of the penal law, and the underlying allegation of such charge of criminal contempt in the second degree, criminal contempt in the first degree or aggravated criminal contempt is that the defendant violated a duly served order of protection where the protected party is a member of the defendant's same family or household as defined in subdivision one of section 530.11 of this title;

(i) prostitution in a school zone as defined in section 230.03 of the penal law, promoting prostitution in a school zone as defined in section 230.19 of the penal law, facilitating a sexual performance by a child with a controlled substance or alcohol as defined in section 263.30 of the penal law, use of a child in a sexual performance as defined in section 263.05 of the penal law ~~[or]~~, patronizing a person for prostitution in a school zone as defined in section 230.08 of the penal law, luring a child as defined in subdivision 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]~~, promoting a sexual performance by a child as defined in section 263.15 of the penal law, possessing an obscene sexual performance by a child as defined in section 263.11 of the penal law, or possessing a sexual performance by a child as defined in section 263.16 of the penal law;

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

(k) criminal obstruction of breathing or blood circulation as defined in section 121.11 of the penal law, strangulation in the second degree as defined in section 121.12 of the penal law or unlawful imprisonment in the first degree as defined in section 135.10 of the penal law, and is alleged to have committed the offense against a member of the defendant's same family or household as defined in subdivision one of section 530.11 of this title;

(l) aggravated vehicular assault as defined in section 120.04-a of the penal law or vehicular assault in the first degree as defined in section 120.04 of the penal law;

(m) assault in the third degree as defined in section 120.00 of the penal law or arson in the third degree as defined in section 150.10 of the penal law~~[, when such crime is charged as a hate crime as defined in section 485.05 of the penal law]~~;

(n) aggravated assault upon a person less than eleven years old as defined in section 120.12 of the penal law or criminal possession of a weapon on school grounds as defined in section 265.01-a of the penal law;

(o) grand larceny in the first degree as defined in section 155.42 of the penal law, enterprise corruption as defined in section 460.20 of the penal law, or money laundering in the first degree as defined in section 470.20 of the penal law;

(p) failure to register as a sex offender pursuant to section one hundred sixty-eight-t of the correction law or endangering the welfare of a child as defined in subdivision one of section 260.10 of the penal law, where the defendant is required to maintain registration under article six-C of the correction law and designated a level three offender pursuant to subdivision six of section one hundred sixty-eight-l of the correction law;

(q) a crime involving bail jumping under section 215.55, 215.56 or 215.57 of the penal law, or a crime involving escaping from custody under section 205.05, 205.10 or 205.15 of the penal law;

(r) any felony offense committed by the principal while serving a sentence of probation or while released to post release supervision;

(s) a felony, where the defendant qualifies for sentencing on such charge as a persistent felony offender pursuant to section 70.10 of the penal law;

(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~~ **their** 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

1 released on [~~his or her~~] their own recognizance or under appropriate
2 non-monetary conditions; [~~or~~]

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

6 (v) obstructing governmental administration in the second degree as
7 defined in section 195.05 of the penal law, killing or injuring a police
8 animal as defined in section 195.06 of the penal law, killing a police
9 work dog or police work horse as defined in section 195.06-a of the
10 penal law, obstructing governmental administration in the first degree
11 as defined in section 195.07, obstructing governmental administration by
12 means of a self-defense spray device as defined in section 195.08,
13 bribery in the first degree as defined in section 200.04 of the penal
14 law, bribe receiving in the first degree as defined in section 200.12 of
15 the penal law, bribe giving for public office as defined in section
16 200.45 of the penal law, promoting prison contraband in the second
17 degree as defined in section 205.20 of the penal law, promoting prison
18 contraband in the first degree as defined in section 205.25 of the penal
19 law, resisting arrest as defined in section 205.30 of the penal law,
20 hindering prosecution in the first degree as defined in section 205.65
21 of the penal law, tampering with a juror in the first degree as defined
22 in section 215.25 of the penal law or tampering with physical evidence
23 as defined in section 215.40 of the penal law;

24 (w) public sensibilities and the right to privacy including aggravated
25 harassment in the first degree as defined in section 240.31 of the penal
26 law or directing a laser at an aircraft in the first degree as defined
27 in section 240.77 of the penal law;

28 (x) criminal possession of a weapon in the fourth degree as defined in
29 section 265.01 of the penal law, criminal sale of a firearm to a minor
30 as defined in section 265.16 of the penal law, criminal purchase or
31 disposal of a weapon as defined in section 265.17 of the penal law, or
32 aggravated criminal possession of a weapon as defined in section 265.19
33 of the penal law;

34 (y) aggravated cruelty to animals as defined in section three hundred
35 fifty-three-a of the agriculture and markets law, overdriving, torturing
36 and injuring animals; failure to provide proper sustenance as defined in
37 section three hundred fifty-three of the agriculture and markets law, or
38 animal fighting as defined in section three hundred fifty-one of the
39 agriculture and markets law;

40 (z) a hate crime as defined in section 485.05 of the penal law;

41 (a-1) any of the following offenses where the defendant is required to
42 maintain registration under article six-C of the correction law and
43 designated a level two or level three offender pursuant to subdivision
44 six of section one hundred sixty-eight-1 of the correction law: endan-
45 gering the welfare of a child as defined in section 260.10 of the penal
46 law; public lewdness as defined in section 245.00 of the penal law;
47 exposure of a person as defined in section 245.01 of the penal law;
48 public lewdness in the first degree as defined in section 245.03 of the
49 penal law;

50 (b-1) reckless assault of a child by a child day care provider as
51 defined in section 120.01 of the penal law, stalking in the fourth
52 degree as defined in section 120.45 of the penal law, stalking in the
53 third degree as defined in section 120.50 of the penal law, stalking in
54 the second degree as defined in section 120.55 of the penal law, crimi-
55 nally negligent homicide as defined in section 125.10 of the penal law,
56 vehicular manslaughter in the second degree as defined in section 125.12

1 of the penal law, vehicular manslaughter in the first degree as defined
2 in section 125.13 of the penal law, aggravated vehicular homicide as
3 defined in section 125.14 of the penal law, manslaughter in the second
4 degree as defined in section 125.15 of the penal law, coercion in the
5 first degree as defined in section 135.65 of the penal law, burglary in
6 the third degree as defined in section 140.20 of the penal law, arson in
7 the fourth degree as defined in section 150.05 of the penal law, robbery
8 in the third degree as defined in section 160.05 of the penal law, or
9 criminal possession of a firearm as defined in section 265.01-b of the
10 penal law;

11 (c-1) an aggravated family offense as defined in section 240.75 of the
12 penal law;

13 (d-1) any felony or class A misdemeanor involving harm to an identifi-
14 able person or property, where such charge arose from conduct occurring
15 while the defendant was engaging in a riot as defined in article two
16 hundred forty of the penal law;

17 (e-1) use of a child to commit a controlled substance offense as
18 defined in section 220.28 of the penal law and criminal sale of a
19 controlled substance to a child as defined in section 220.48 of the
20 penal law; or

21 (f-1) any crime in violation of article two hundred sixty-five of the
22 penal law involving the use of a machine-gun, firearm silencer, firearm,
23 rifle, shotgun, disguised gun or assault weapon, as such terms are
24 defined in section 265.00 of the penal law.

25 § 2. Paragraph (b) of subdivision 1 of section 530.20 of the criminal
26 procedure law, as amended by section 3 of part UU of chapter 56 of the
27 laws of 2020, the opening paragraph as amended by section 6 of subpart A
28 of part VV of chapter 56 of the laws of 2023, subparagraphs (xix) and
29 (xx) as amended and subparagraph (xxi) as added by section 4 of subpart
30 C of part UU of chapter 56 of the laws of 2022, is amended to read as
31 follows:

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

42 (i) a felony enumerated in section 70.02 of the penal law[~~, other than~~
43 ~~robbery in the second degree as defined in subdivision one of section~~
44 ~~160.10 of the penal law, provided, however, that burglary in the second~~
45 ~~degree as defined in subdivision two of section 140.25 of the penal law~~
46 ~~shall be a qualifying offense only where the defendant is charged with~~
47 ~~entering the living area of the dwelling~~];

48 (ii) a crime involving witness intimidation under section 215.15 of
49 the penal law;

50 (iii) a crime involving witness tampering under section 215.11, 215.12
51 or 215.13 of the penal law;

52 (iv) a class A felony defined in the penal law, provided, that for
53 class A felonies under article two hundred twenty of such law, only
54 [~~class A-I felonies~~] offenses defined in sections 220.18, 220.21,
55 220.41, 220.43, 220.44 and 220.77 of such law shall be [~~a~~] qualifying
56 [~~offense~~] offenses;

(v) a sex trafficking offense defined in section 230.34 or 230.34-a of the penal law, or a felony sex offense defined in section 70.80 of the penal law [~~or a crime involving~~], incest in the third degree as defined in section 255.25[, 255.26 or 255.27] of such law, or a misdemeanor defined in article one hundred thirty of such law; or promoting prostitution in the first degree as defined in section 230.32 of the penal law, compelling prostitution as defined in section 230.33 of the penal law;

(vi) conspiracy in the second degree as defined in section 105.15 of the penal law, where the underlying allegation of such charge is that the defendant conspired to commit a class A felony defined in article one hundred twenty-five of the penal law, criminal solicitation in the first degree as defined in section 100.13 of the penal law or criminal facilitation in the first degree as defined in section 115.08 of the penal law;

(vii) money laundering in support of terrorism in the first degree as defined in section 470.24 of the penal law; money laundering in support 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 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 of the penal law; or a felony crime of terrorism as defined in article four hundred ninety of the penal law, other than the crime defined in section 490.20 of such law;

(viii) criminal contempt in the second degree as defined in subdivision three of section 215.50 of the penal law, criminal contempt in the first degree as defined in subdivision (b), (c) or (d) of section 215.51 of the penal law or aggravated criminal contempt as defined in section 215.52 of the penal law, and the underlying allegation of such charge of criminal contempt in the second degree, criminal contempt in the first degree or aggravated criminal contempt is that the defendant violated a duly served order of protection where the protected party is a member of the defendant's same family or household as defined in subdivision one of section 530.11 of this article;

(ix) prostitution in a school zone as defined in section 230.03 of the penal law, promoting prostitution in a school zone as defined in section 230.19 of the penal law, facilitating a sexual performance by a child with a controlled substance or alcohol as defined in section 263.30 of the penal law, use of a child in a sexual performance as defined in section 263.05 of the penal law [~~or~~], patronizing a person for prostitution in a school zone as defined in section 230.08 of the penal law, luring a child as defined in subdivision 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~~], promoting a sexual performance by a child as defined in section 263.15 of the penal law, possessing an obscene sexual performance by a child as defined in section 263.11 of the penal law, or possessing a sexual performance by a child as defined in section 263.16 of the penal law;

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

(xi) criminal obstruction of breathing or blood circulation as defined in section 121.11 of the penal law, strangulation in the second degree as defined in section 121.12 of the penal law or unlawful imprisonment in the first degree as defined in section 135.10 of the penal law, and is alleged to have committed the offense against a member of the defend-

1 ant's same family or household as defined in subdivision one of section
2 530.11 of this article;

3 (xii) aggravated vehicular assault as defined in section 120.04-a of
4 the penal law or vehicular assault in the first degree as defined in
5 section 120.04 of the penal law;

6 (xiii) assault in the third degree as defined in section 120.00 of the
7 penal law or arson in the third degree as defined in section 150.10 of
8 the penal law[~~, when such crime is charged as a hate crime as defined in~~
9 ~~section 485.05 of the penal law~~];

10 (xiv) aggravated assault upon a person less than eleven years old as
11 defined in section 120.12 of the penal law or criminal possession of a
12 weapon on school grounds as defined in section 265.01-a of the penal
13 law;

14 (xv) grand larceny in the first degree as defined in section 155.42 of
15 the penal law, enterprise corruption as defined in section 460.20 of the
16 penal law, or money laundering in the first degree as defined in section
17 470.20 of the penal law;

18 (xvi) failure to register as a sex offender pursuant to section one
19 hundred sixty-eight-t of the correction law or endangering the welfare
20 of a child as defined in subdivision one of section 260.10 of the penal
21 law, where the defendant is required to maintain registration under
22 article six-C of the correction law and designated a level three offen-
23 der pursuant to subdivision six of section one hundred sixty-eight-l of
24 the correction law;

25 (xvii) a crime involving bail jumping under section 215.55, 215.56 or
26 215.57 of the penal law, or a crime involving escaping from custody
27 under section 205.05, 205.10 or 205.15 of the penal law;

28 (xviii) any felony offense committed by the principal while serving a
29 sentence of probation or while released to post release supervision;

30 (xix) a felony, where the defendant qualifies for sentencing on such
31 charge as a persistent felony offender pursuant to section 70.10 of the
32 penal law;

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

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

1 (xxii) obstructing governmental administration in the second degree as
2 defined in section 195.05 of the penal law, killing or injuring a police
3 animal as defined in section 195.06 of the penal law, killing a police
4 work dog or police work horse as defined in section 195.06-a of the
5 penal law, obstructing governmental administration in the first degree
6 as defined in section 195.07, obstructing governmental administration by
7 means of a self-defense spray device as defined in section 195.08,
8 bribery in the first degree as defined in section 200.04 of the penal
9 law, bribe receiving in the first degree as defined in section 200.12 of
10 the penal law, bribe giving for public office as defined in section
11 200.45 of the penal law, promoting prison contraband in the second
12 degree as defined in section 205.20 of the penal law, promoting prison
13 contraband in the first degree as defined in section 205.25 of the penal
14 law, resisting arrest as defined in section 205.30 of the penal law,
15 hindering prosecution in the first degree as defined in section 205.65
16 of the penal law, tampering with a juror in the first degree as defined
17 in section 215.25 of the penal law or tampering with physical evidence
18 as defined in section 215.40 of the penal law;

19 (xxiii) public sensibilities and the right to privacy including aggra-
20 ated harassment in the first degree as defined in section 240.31 of the
21 penal law or directing a laser at an aircraft in the first degree as
22 defined in section 240.77 of the penal law;

23 (xxiv) criminal possession of a weapon in the fourth degree as defined
24 in section 265.01 of the penal law, criminal sale of a firearm to a
25 minor as defined in section 265.16 of the penal law, criminal purchase
26 or disposal of a weapon as defined in section 265.17 of the penal law,
27 or aggravated criminal possession of a weapon as defined in section
28 265.19 of the penal law;

29 (xxv) aggravated cruelty to animals as defined in section three
30 hundred fifty-three-a of the agriculture and markets law, overdriving,
31 torturing and injuring animals; failure to provide proper sustenance as
32 defined in section three hundred fifty-three of the agriculture and
33 markets law, or animal fighting as defined in section three hundred
34 fifty-one of the agriculture and markets law;

35 (xxvi) a hate crime as defined in section 485.05 of the penal law;

36 (xxvii) any of the following offenses where the defendant is required
37 to maintain registration under article six-C of the correction law and
38 designated a level two or level three offender pursuant to subdivision
39 six of section one hundred sixty-eight-1 of the correction law: endan-
40 gering the welfare of a child as defined in section 260.10 of the penal
41 law; public lewdness as defined in section 245.00 of the penal law;
42 exposure of a person as defined in section 245.01 of the penal law;
43 public lewdness in the first degree as defined in section 245.03 of the
44 penal law;

45 (xxviii) reckless assault of a child by a child day care provider as
46 defined in section 120.01 of the penal law, stalking in the fourth
47 degree as defined in section 120.45 of the penal law, stalking in the
48 third degree as defined in section 120.50 of the penal law, stalking in
49 the second degree as defined in section 120.55 of the penal law, crimi-
50 nally negligent homicide as defined in section 125.10 of the penal law,
51 vehicular manslaughter in the second degree as defined in section 125.12
52 of the penal law, vehicular manslaughter in the first degree as defined
53 in section 125.13 of the penal law, aggravated vehicular homicide as
54 defined in section 125.14 of the penal law, manslaughter in the second
55 degree as defined in section 125.15 of the penal law, coercion in the
56 first degree as defined in section 135.65 of the penal law, burglary in

the third degree as defined in section 140.20 of the penal law, arson in the fourth degree as defined in section 150.05 of the penal law, robbery in the third degree as defined in section 160.05 of the penal law, or criminal possession of a firearm as defined in section 265.01-b of the penal law;

(xxix) an aggravated family offense as defined in section 240.75 of the penal law;

(xxx) any felony or class A misdemeanor involving harm to an identifiable person or property, where such charge arose from conduct occurring while the defendant was engaging in a riot as defined in article two hundred forty of the penal law;

(xxxi) use of a child to commit a controlled substance offense as defined in section 220.28 of the penal law and criminal sale of a controlled substance to a child as defined in section 220.48 of the penal law; or

(xxxii) any crime in violation of article two hundred sixty-five of the penal law involving the use of a machine-gun, firearm silencer, firearm, rifle, shotgun, disguised gun or assault weapon, as such terms are defined in section 265.00 of the penal law.

§ 3. Subdivision 4 of section 530.40 of the criminal procedure law, as added by section 4 of part UU of chapter 56 of the laws of 2020, the opening paragraph as amended by section 8 of subpart A of part VV of chapter 56 of the laws of 2023, paragraphs (s) and (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, is amended to read as follows:

4. 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]~~ they stand 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];~~

(b) a crime involving witness intimidation under section 215.15 of the penal law;

(c) a crime involving witness tampering under section 215.11, 215.12 or 215.13 of the penal law;

(d) a class A felony defined in the penal law, provided that for class A felonies under article two hundred twenty of such law, only ~~[class A-I felonies]~~ offenses defined in sections 220.18, 220.21, 220.41, 220.43, 220.44 and 220.77 of such law shall be ~~[a]~~ qualifying ~~[offense]~~ offenses;

(e) a sex trafficking offense defined in section 230.34 or 230.34-a of the penal law, or a felony sex offense defined in section 70.80 of the penal law ~~[or a crime involving]~~, incest in the third degree as defined in section 255.25~~[, 255.26 or 255.27]~~ of such law, ~~[or]~~ a misdemeanor defined in article one hundred thirty of such law; or promoting prosti-

1 tution in the first degree as defined in section 230.32 of the penal
2 law, or compelling prostitution as defined in section 230.33 of the
3 penal law;

4 (f) conspiracy in the second degree as defined in section 105.15 of
5 the penal law, where the underlying allegation of such charge is that
6 the defendant conspired to commit a class A felony defined in article
7 one hundred twenty-five of the penal law, criminal solicitation in the
8 first degree as defined in section 100.13 of the penal law or criminal
9 facilitation in the first degree as defined in section 115.08 of the
10 penal law;

11 (g) money laundering in support of terrorism in the first degree as
12 defined in section 470.24 of the penal law; money laundering in support
13 of terrorism in the second degree as defined in section 470.23 of the
14 penal law; money laundering in support of terrorism in the third degree
15 as defined in section 470.22 of the penal law; money laundering in
16 support of terrorism in the fourth degree as defined in section 470.21
17 of the penal law; or a felony crime of terrorism as defined in article
18 four hundred ninety of the penal law, other than the crime defined in
19 section 490.20 of such law;

20 (h) criminal contempt in the second degree as defined in subdivision
21 three of section 215.50 of the penal law, criminal contempt in the first
22 degree as defined in subdivision (b), (c) or (d) of section 215.51 of
23 the penal law or aggravated criminal contempt as defined in section
24 215.52 of the penal law, and the underlying allegation of such charge of
25 criminal contempt in the second degree, criminal contempt in the first
26 degree or aggravated criminal contempt is that the defendant violated a
27 duly served order of protection where the protected party is a member of
28 the defendant's same family or household as defined in subdivision one
29 of section 530.11 of this article;

30 (i) prostitution in a school zone as defined in section 230.03 of the
31 penal law, promoting prostitution in a school zone as defined in section
32 230.19 of the penal law, facilitating a sexual performance by a child
33 with a controlled substance or alcohol as defined in section 263.30 of
34 the penal law, use of a child in a sexual performance as defined in
35 section 263.05 of the penal law [✗], patronizing a person for prostitu-
36 tion in a school zone as defined in section 230.08 of the penal law,
37 luring a child as defined in subdivision one of section 120.70 of the
38 penal law, promoting an obscene sexual performance by a child as defined
39 in section 263.10 of the penal law or promoting a sexual performance by
40 a child as defined in section 263.15 of the penal law, possessing an
41 obscene sexual performance by a child as defined in section 263.11 of
42 the penal law, or possessing a sexual performance by a child as defined
43 in section 263.16 of the penal law;

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

46 (k) criminal obstruction of breathing or blood circulation as defined
47 in section 121.11 of the penal law, strangulation in the second degree
48 as defined in section 121.12 of the penal law or unlawful imprisonment
49 in the first degree as defined in section 135.10 of the penal law, and
50 is alleged to have committed the offense against a member of the defend-
51 ant's same family or household as defined in subdivision one of section
52 530.11 of this article;

53 (l) aggravated vehicular assault as defined in section 120.04-a of the
54 penal law or vehicular assault in the first degree as defined in section
55 120.04 of the penal law;

(m) assault in the third degree as defined in section 120.00 of the penal law or arson in the third degree as defined in section 150.10 of the penal law~~[, when such crime is charged as a hate crime as defined in section 485.05 of the penal law]~~;

(n) aggravated assault upon a person less than eleven years old as defined in section 120.12 of the penal law or criminal possession of a weapon on school grounds as defined in section 265.01-a of the penal law;

(o) grand larceny in the first degree as defined in section 155.42 of the penal law, enterprise corruption as defined in section 460.20 of the penal law, or money laundering in the first degree as defined in section 470.20 of the penal law;

(p) failure to register as a sex offender pursuant to section one hundred sixty-eight-t of the correction law or endangering the welfare of a child as defined in subdivision one of section 260.10 of the penal law, where the defendant is required to maintain registration under article six-C of the correction law and designated a level three offender pursuant to subdivision six of section one hundred sixty-eight-l of the correction law;

(q) a crime involving bail jumping under section 215.55, 215.56 or 215.57 of the penal law, or a crime involving escaping from custody under section 205.05, 205.10 or 205.15 of the penal law;

(r) any felony offense committed by the principal while serving a sentence of probation or while released to post release supervision;

(s) a felony, where the defendant qualifies for sentencing on such charge as a persistent felony offender pursuant to section 70.10 of the penal law;

(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]~~ their 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]~~ their 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) obstructing governmental administration in the second degree as defined in section 195.05 of the penal law, killing or injuring a police animal as defined in section 195.06 of the penal law, killing a police work dog or police work horse as defined in section 195.06-a of the penal law, obstructing governmental administration in the first degree as defined in section 195.07, obstructing governmental administration by

1 means of a self-defense spray device as defined in section 195.08,
2 bribery in the first degree as defined in section 200.04 of the penal
3 law, bribe receiving in the first degree as defined in section 200.12 of
4 the penal law, bribe giving for public office as defined in section
5 200.45 of the penal law, promoting prison contraband in the second
6 degree as defined in section 205.20 of the penal law, promoting prison
7 contraband in the first degree as defined in section 205.25 of the penal
8 law, resisting arrest as defined in section 205.30 of the penal law,
9 hindering prosecution in the first degree as defined in section 205.65
10 of the penal law, tampering with a juror in the first degree as defined
11 in section 215.25 of the penal law or tampering with physical evidence
12 as defined in section 215.40 of the penal law;

13 (w) public sensibilities and the right to privacy including aggravated
14 harassment in the first degree as defined in section 240.31 of the penal
15 law or directing a laser at an aircraft in the first degree as defined
16 in section 240.77 of the penal law;

17 (x) criminal possession of a weapon in the fourth degree as defined in
18 section 265.01 of the penal law, criminal sale of a firearm to a minor
19 as defined in section 265.16 of the penal law, criminal purchase or
20 disposal of a weapon as defined in section 265.17 of the penal law, or
21 aggravated criminal possession of a weapon as defined in section 265.19
22 of the penal law;

23 (y) aggravated cruelty to animals as defined in section three hundred
24 fifty-three-a of the agriculture and markets law, overdriving, torturing
25 and injuring animals; failure to provide proper sustenance as defined in
26 section three hundred fifty-three of the agriculture and markets law, or
27 animal fighting as defined in section three hundred fifty-one of the
28 agriculture and markets law;

29 (z) a hate crime as defined in section 485.05 of the penal law;

30 (a-1) any of the following offenses where the defendant is required to
31 maintain registration under article six-C of the correction law and
32 designated a level two or level three offender pursuant to subdivision
33 six of section one hundred sixty-eight-1 of the correction law: endan-
34 gering the welfare of a child as defined in section 260.10 of the penal
35 law; public lewdness as defined in section 245.00 of the penal law;
36 exposure of a person as defined in section 245.01 of the penal law;
37 public lewdness in the first degree as defined in section 245.03 of the
38 penal law;

39 (b-1) reckless assault of a child by a child day care provider as
40 defined in section 120.01 of the penal law, stalking in the fourth
41 degree as defined in section 120.45 of the penal law, stalking in the
42 third degree as defined in section 120.50 of the penal law, stalking in
43 the second degree as defined in section 120.55 of the penal law, crimi-
44 nally negligent homicide as defined in section 125.10 of the penal law,
45 vehicular manslaughter in the second degree as defined in section 125.12
46 of the penal law, vehicular manslaughter in the first degree as defined
47 in section 125.13 of the penal law, aggravated vehicular homicide as
48 defined in section 125.14 of the penal law, manslaughter in the second
49 degree as defined in section 125.15 of the penal law, coercion in the
50 first degree as defined in section 135.65 of the penal law, burglary in
51 the third degree as defined in section 140.20 of the penal law, arson in
52 the fourth degree as defined in section 150.05 of the penal law, robbery
53 in the third degree as defined in section 160.05 of the penal law, or
54 criminal possession of a firearm as defined in section 265.01-b of the
55 penal law;

1 (c-1) an aggravated family offense as defined in section 240.75 of the
2 penal law;

3 (d-1) any felony or class A misdemeanor involving harm to an identifi-
4 able person or property, where such charge arose from conduct occurring
5 while the defendant was engaging in a riot as defined in article two
6 hundred forty of the penal law;

7 (e-1) use of a child to commit a controlled substance offense as
8 defined in section 220.28 of the penal law and criminal sale of a
9 controlled substance to a child as defined in section 220.48 of the
10 penal law; or

11 (f-1) any crime in violation of article two hundred sixty-five of the
12 penal law involving the use of a machine-gun, firearm silencer, firearm,
13 rifle, shotgun, disguised gun or assault weapon, as such terms are
14 defined in section 265.00 of the penal law.

15 § 4. This act shall take effect immediately.