

STATE OF NEW YORK

3295

2025-2026 Regular Sessions

IN SENATE

January 24, 2025

Introduced by Sen. WEIK -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the criminal procedure law, in relation to ensuring repeat offenders qualify for bail and pre-trial detention

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

1 Section 1. The opening paragraph and paragraphs (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, 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:

2 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:

3 (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

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

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

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

15 (v) a misdemeanor or felony offense and the principal has been
16 convicted of one or more misdemeanor or felony offenses within the immediate
17 preceding five years.

18 § 2. The opening paragraph and subparagraphs (xx) and (xxi) of paragraph
19 (b) of subdivision 1 of section 530.20 of the criminal procedure law,
20 the opening paragraph as amended by section 6 of subpart A of part
21 VV of chapter 56 of the laws of 2023, subparagraph (xx) as amended and
22 subparagraph (xxi) as added by section 4 of subpart C of part UU of
23 chapter 56 of the laws of 2022, are amended and a new subparagraph
24 (xxii) is added to read as follows:

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

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

54 (xxi) criminal possession of a weapon in the third degree as defined
55 in subdivision three of section 265.02 of the penal law or criminal sale

1 of a firearm to a minor as defined in section 265.16 of the penal
2 law~~[-]~~; or

3 (xxii) a misdemeanor or felony offense and the principal has been
4 convicted of one or more misdemeanor or felony offenses within the imme-
5 diately preceding five years.

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

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

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

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

47 (v) a misdemeanor or felony offense and the principal has been
48 convicted of one or more misdemeanor or felony offenses within the imme-
49 diately preceding five years.

50 § 4. This act shall take effect immediately.