S T A T E O F N E W Y O R K

3480

2009-2010 Regular Sessions

I N S E N A T E

March 19, 2009

Introduced by Sens. VOLKER, O. JOHNSON, MORAHAN, PADAVAN, SEWARD -- 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 orders of bail or recognizance

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Paragraph (a) of subdivision 2 of section 530.20 of the criminal procedure law, as amended by chapter 531 of the laws of 1975, is amended to read as follows:

(a) A city court, a town court or a village court may not order recognizance or bail when (i) the defendant is charged with a class A felony, or (ii) it appears that the defendant has two previous felony convictions, OR (III) IT APPEARS THAT THE DEFENDANT POSES A RISK OF DANGER TO THE COMMUNITY;

S 2. Subdivision 2 of section 530.30 of the criminal procedure law, as amended by chapter 762 of the laws of 1971, is amended to read as follows:

2. Notwithstanding the provisions of subdivision one, when the defendant is charged with a felony in a local criminal court, a superior court judge may not order recognizance or bail unless and until the district attorney has had an opportunity to be heard in the matter and such judge has been furnished with a report as described in subparagraph (ii) of paragraph (b) of subdivision two of section 530.20, AND IT APPEARS THAT THE DEFENDANT POSES NO RISK OF DANGER TO THE COMMUNITY.

S 3. Section 530.40 of the criminal procedure law is amended by adding a new subdivision 5 to read as follows:

5. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISIONS ONE AND TWO, A SUPERIOR COURT MAY NOT ORDER RECOGNIZANCE OR BAIL WHEN THE DEFENDANT POSES A RISK OF DANGER TO THE COMMUNITY.

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

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S 4. Section 530.45 of the criminal procedure law is amended by adding a new subdivision 7 to read as follows:

7. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION ONE, THE COURT MAY NOT ORDER RECOGNIZANCE OR BAIL WHEN THE DEFENDANT POSES A RISK OF DANGER TO THE COMMUNITY.

S 5. Section 530.50 of the criminal procedure law, as amended by chapter 264 of the laws of 2003, is amended to read as follows:

S 530.50 Order of recognizance or bail; during pendency of appeal.

A judge who is otherwise authorized pursuant to section 460.50 or section 460.60 to issue an order of recognizance or bail pending the determination of an appeal, may do so unless the defendant received a class A felony sentence or a sentence for any class B or class C felony offense defined in article one hundred thirty of the penal law committed or attempted to be committed by a person eighteen years of age or older against a person less than eighteen years of age, OR THE DEFENDANT POSES A RISK OF DANGER TO THE COMMUNITY.

S 6. Subdivision 1 of section 530.60 of the criminal procedure law, as designated by chapter 788 of the laws of 1981, is amended to read as follows:

1. Whenever in the course of a criminal action or proceeding a defendant is at liberty as a result of an order of recognizance or bail issued pursuant to this article, and the court considers it necessary to review such order, it may, and by a bench warrant if necessary, require the defendant to appear before the court. Upon such appearance, the court, for good cause shown, may revoke the order of recognizance or bail. If the defendant is entitled to recognizance or bail as a matter of right, the court must issue another such order. If he is not, the court may either issue such an order or commit the defendant to the custody of the sheriff. UPON REVIEW UNDER THIS SUBDIVISION, THE COURT MAY NOT ORDER RECOGNIZANCE OR BAIL WHEN THE DEFENDANT POSES A RISK OF DANGER TO THE COMMUNITY.

S 7. This act shall take effect immediately.