

# STATE OF NEW YORK

10181

## IN ASSEMBLY

March 24, 2020

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

AN ACT to amend the criminal procedure law, in relation to expanding the list of qualifying offenses for which a court may fix bail or commit to custody of the sheriff

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

1 Section 1. Paragraphs (a), (d), (f), (h) and (i) of subdivision 4 of  
2 section 510.10 of the criminal procedure law, as added by section 2 of  
3 part JJJ of chapter 59 of the laws of 2019, are amended and three new  
4 paragraphs (j), (k) and (l) are added to read as follows:

5 (a) a felony enumerated in section 70.02 of the penal law[~~, other than~~  
6 ~~burglary in the second degree as defined in subdivision two of section~~  
7 ~~140.25 of the penal law or robbery in the second degree as defined in~~  
8 ~~subdivision one of section 160.10 of the penal law~~];

9 (d) a class A felony defined in the penal law[~~, other than in article~~  
10 ~~two hundred twenty of such law with the exception of section 220.77 of~~  
11 ~~such law~~];

12 (f) conspiracy in the second degree as defined in section 105.15 of  
13 the penal law, where the underlying allegation of such charge is that  
14 the defendant conspired to commit a class A felony [~~defined in article~~  
15 ~~one hundred twenty-five of the penal law~~];

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

26 ~~(i)~~] facilitating a sexual performance by a child with a controlled  
27 substance or alcohol as defined in section 263.30 of the penal law, use

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

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1 of a child in a sexual performance as defined in section 263.05 of the  
2 penal law or luring a child as defined in subdivision one of section  
3 120.70 of the penal law[~~✓~~];

4 (i) any felony defined in article one hundred twenty or one hundred  
5 twenty-five of the penal law;

6 (j) criminal obstruction of breathing or blood circulation as defined  
7 in section 121.11 of the penal law, strangulation in the second degree  
8 as defined in section 121.12 of the penal law or strangulation in the  
9 first degree as defined in section 121.13 of the penal law;

10 (k) a controlled substance offense as defined in article two hundred  
11 twenty of the penal law; or

12 (l) any offense against a member or members of the defendant's same  
13 family or household as defined in subdivision one of section 530.11 of  
14 this title.

15 § 2. Subparagraphs (i), (iv), (vi), (viii) and (ix) of paragraph (b)  
16 of subdivision 1 of section 530.20 of the criminal procedure law, as  
17 added by section 16 of part JJJ of chapter 59 of the laws of 2019, are  
18 amended and three new subparagraphs (x), (xi) and (xii) are added to  
19 read as follows:

20 (i) a felony enumerated in section 70.02 of the penal law[~~✓~~, other than  
21 ~~burglary in the second degree as defined in subdivision two of section~~  
22 ~~140.25 of the penal law or robbery in the second degree as defined in~~  
23 ~~subdivision one of section 160.10 of the penal law];~~

24 (iv) a class A felony defined in the penal law[~~✓~~, other than in article  
25 ~~two hundred twenty of such law with the exception of section 220.77 of~~  
26 ~~such law];~~

27 (vi) conspiracy in the second degree as defined in section 105.15 of  
28 the penal law, where the underlying allegation of such charge is that  
29 the defendant conspired to commit a class A felony [~~defined in article~~  
30 ~~one hundred twenty-five of the penal law];~~

31 (viii) [~~criminal contempt in the second degree as defined in subdivi-~~  
32 ~~sion three of section 215.50 of the penal law, criminal contempt in the~~  
33 ~~first degree as defined in subdivision (b), (c) or (d) of section 215.51~~  
34 ~~of the penal law or aggravated criminal contempt as defined in section~~  
35 ~~215.52 of the penal law, and the underlying allegation of such charge of~~  
36 ~~criminal contempt in the second degree, criminal contempt in the first~~  
37 ~~degree or aggravated criminal contempt is that the defendant violated a~~  
38 ~~duly served order of protection where the protected party is a member of~~  
39 ~~the defendant's same family or household as defined in subdivision one~~  
40 ~~of section 530.11 of this article; or~~

41 ~~(ix)~~] facilitating a sexual performance by a child with a controlled  
42 substance or alcohol as defined in section 263.30 of the penal law, use  
43 of a child in a sexual performance as defined in section 263.05 of the  
44 penal law or luring a child as defined in subdivision one of section  
45 120.70 of the penal law[~~✓~~];

46 (ix) any felony defined in article one hundred twenty or one hundred  
47 twenty-five of the penal law;

48 (x) criminal obstruction of breathing or blood circulation as defined  
49 in section 121.11 of the penal law, strangulation in the second degree  
50 as defined in section 121.12 of the penal law or strangulation in the  
51 first degree as defined in section 121.13 of the penal law;

52 (xi) a controlled substance offense as defined in article two hundred  
53 twenty of the penal law; or

54 (xii) any offense against a member or members of the defendant's same  
55 family or household as defined in subdivision one of section 530.11 of  
56 this article.

§ 3. Paragraphs (a), (d), (f), (h) and (i) of subdivision 4 of section 530.40 of the criminal procedure law, as added by section 18 of part JJJ of chapter 59 of the laws of 2019, are amended and three new paragraphs (j), (k) and (l) are added to read as follows:

(a) a felony enumerated in section 70.02 of the penal law~~[, other than burglary in the second degree as defined in subdivision two of section 140.25 of the penal law or robbery in the second degree as defined in subdivision one of section 160.10 of the penal law]~~;

(d) a class A felony defined in the penal law~~[, other than in article two hundred twenty of such law with the exception of section 220.77 of such 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]~~;

(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 article; or~~

~~(i)]~~ 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 luring a child as defined in subdivision one of section 120.70 of the penal law~~[, ]~~;

(i) any felony defined in article one hundred twenty or one hundred twenty-five of the penal law;

(j) 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 strangulation in the first degree as defined in section 121.13 of the penal law;

(k) a controlled substance offense as defined in article two hundred twenty of the penal law; or

(l) any offense against a member or members of the defendant's same family or household as defined in subdivision one of section 530.11 of this article.

§ 4. This act shall take effect on the thirtieth day after it shall have become a law.