

STATE OF NEW YORK

10342

IN ASSEMBLY

April 29, 2020

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

AN ACT to amend the criminal procedure law, in relation to bail and pre-trial detention and domestic violence charges

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

1 Section 1. Section 510.10 of the criminal procedure law, as amended by
2 section 2 of part JJJ of chapter 59 of the laws of 2019 and subdivision
3 4 as amended by section 2 of part UU of chapter 56 of the laws of 2020,
4 is amended to read as follows:

5 § 510.10 Securing order; when required; alternatives available; standard
6 to be applied.

7 1. When a principal, whose future court attendance at a criminal
8 action or proceeding is or may be required, comes under the control of a
9 court, such court shall, in accordance with this title, by a securing
10 order release the principal on the principal's own recognizance, release
11 the principal under non-monetary conditions, or, where authorized, fix
12 bail or commit the principal to the custody of the sheriff. In all such
13 cases, except where another type of securing order is shown to be
14 required by law, the court shall release the principal pending trial on
15 the principal's own recognizance, unless it is demonstrated and the
16 court makes an individualized determination that the principal poses a
17 risk of flight to avoid prosecution. If such a finding is made, the
18 court must select the least restrictive alternative and condition or
19 conditions that will reasonably assure the principal's return to court.
20 The court shall explain its choice of release, release with conditions,
21 bail or remand on the record or in writing.

22 2. A principal is entitled to representation by counsel under this
23 chapter in preparing an application for release, when a securing order
24 is being considered and when a securing order is being reviewed for
25 modification, revocation or termination. If the principal is financially
26 unable to obtain counsel, counsel shall be assigned to the principal.

27 3. In cases other than as described in [~~subdivision~~] subdivisions four
28 and five of this section the court shall release the principal pending

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

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1 trial on the principal's own recognizance, unless the court finds on the
2 record or in writing that release on the principal's own recognizance
3 will not reasonably assure the principal's return to court. In such
4 instances, the court shall release the principal under non-monetary
5 conditions, selecting the least restrictive alternative and conditions
6 that will reasonably assure the principal's return to court. The court
7 shall explain its choice of alternative and conditions on the record or
8 in writing.

9 4. Where the principal stands charged with a qualifying offense, the
10 court, unless otherwise prohibited by law, may in its discretion release
11 the principal pending trial on the principal's own recognizance or under
12 non-monetary conditions, fix bail, or, where the defendant is charged
13 with a qualifying offense which is a felony, the court may commit the
14 principal to the custody of the sheriff. A principal stands charged with
15 a qualifying offense for the purposes of this subdivision when he or she
16 stands charged with:

17 (a) a felony enumerated in section 70.02 of the penal law, other than
18 robbery in the second degree as defined in subdivision one of section
19 160.10 of the penal law, provided, however, that burglary in the second
20 degree as defined in subdivision two of section 140.25 of the penal law
21 shall be a qualifying offense only where the defendant is charged with
22 entering the living area of the dwelling;

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

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

27 (d) a class A felony defined in the penal law, provided that for class
28 A felonies under article two hundred twenty of the penal law, only class
29 A-I felonies shall be a qualifying offense;

30 (e) a sex trafficking offense defined in section 230.34 or 230.34-a of
31 the penal law, or a felony sex offense defined in section 70.80 of the
32 penal law, or a crime involving incest as defined in section 255.25,
33 255.26 or 255.27 of such law, or a misdemeanor defined in article one
34 hundred thirty of such law;

35 (f) conspiracy in the second degree as defined in section 105.15 of
36 the penal law, where the underlying allegation of such charge is that
37 the defendant conspired to commit a class A felony defined in article
38 one hundred twenty-five of the penal law;

39 (g) money laundering in support of terrorism in the first degree as
40 defined in section 470.24 of the penal law; money laundering in support
41 of terrorism in the second degree as defined in section 470.23 of the
42 penal law; money laundering in support of terrorism in the third degree
43 as defined in section 470.22 of the penal law; money laundering in
44 support of terrorism in the fourth degree as defined in section 470.21
45 of the penal law; or a felony crime of terrorism as defined in article
46 four hundred ninety of the penal law, other than the crime defined in
47 section 490.20 of such law;

48 (h) ~~criminal contempt in the second degree as defined in subdivision~~
49 ~~three of section 215.50 of the penal law, criminal contempt in the first~~
50 ~~degree as defined in subdivision (b), (c) or (d) of section 215.51 of~~
51 ~~the penal law or aggravated criminal contempt as defined in section~~
52 ~~215.52 of the penal law, and the underlying allegation of such charge of~~
53 ~~criminal contempt in the second degree, criminal contempt in the first~~
54 ~~degree or aggravated criminal contempt is that the defendant violated a~~
55 ~~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)~~ 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, 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;

~~(j)~~ ~~(i)~~ any crime that is alleged to have caused the death of another person;

~~(k)~~ ~~(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 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)~~ ~~(k)~~ 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)~~ ~~(l)~~ 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)~~ ~~(m)~~ 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)~~ ~~(n)~~ 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)~~ ~~(o)~~ 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)~~ ~~(p)~~ 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)~~ ~~(q)~~ any felony offense committed by the principal while serving a sentence of probation or while released to post release supervision;

~~(s)~~ ~~(r)~~ 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; or

~~(t)~~ ~~(s)~~ 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 released on his or her own recognizance or released under conditions 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

1 purposes of this subparagraph, any of the underlying crimes need not be
2 a qualifying offense as defined in this subdivision.

3 5. Where the principal stands charged with a crime or crimes against a
4 member or members of the same family or household as that term is
5 defined in subdivision one of section 530.11 of this title, the court,
6 unless otherwise prohibited by law, may in its discretion release the
7 principal pending trial on the principal's own recognizance or under
8 non-monetary conditions, fix bail, or commit the principal to the custo-
9 dy of the sheriff.

10 6. Notwithstanding the provisions of subdivisions three [~~and~~], four
11 and five of this section, with respect to any charge for which bail or
12 remand is not ordered, and for which the court would not or could not
13 otherwise require bail or remand, a defendant may, at any time, request
14 that the court set bail in a nominal amount requested by the defendant
15 in the form specified in paragraph (a) of subdivision one of section
16 520.10 of this title; if the court is satisfied that the request is
17 voluntary, the court shall set such bail in such amount.

18 [~~6-~~] 7. When a securing order is revoked or otherwise terminated in
19 the course of an uncompleted action or proceeding but the principal's
20 future court attendance still is or may be required and the principal is
21 still under the control of a court, a new securing order must be issued.
22 When the court revokes or otherwise terminates a securing order which
23 committed the principal to the custody of the sheriff, the court shall
24 give written notification to the sheriff of such revocation or termi-
25 nation of the securing order.

26 § 2. Paragraph (g) of subdivision 1 of section 510.30 of the criminal
27 procedure law is amended by adding three new subparagraphs (iii), (iv)
28 and (v) to read as follows:

29 (iii) any history of prior acts of violence or threats of violence
30 against a witness in the pending criminal action; and

31 (iv) any order of protection issued by any court against the principal
32 for the protection of a member or members of the same family or house-
33 hold as that term is defined in subdivision one of section 530.11 of
34 this title, whether or not such order of protection is currently in
35 effect; and

36 (v) any prior arrest or conviction for a crime or violation against a
37 member or members of the same family or household as that term is
38 defined in subdivision one of section 530.11 of this title; and

39 § 3. Subdivision 1 of section 530.20 of the criminal procedure law, as
40 amended by section 16 of part JJJ of chapter 59 of the laws of 2019 and
41 paragraph (b) as amended by section 3 of part UU of chapter 56 of the
42 laws of 2020, is amended to read as follows:

43 1. (a) In cases other than as described in paragraph (b) or (c) of
44 this subdivision the court shall release the principal pending trial on
45 the principal's own recognizance, unless the court finds on the record
46 or in writing that release on the principal's own recognizance will not
47 reasonably assure the principal's return to court. In such instances,
48 the court shall release the principal under non-monetary conditions,
49 selecting the least restrictive alternative and conditions that will
50 reasonably assure the principal's return to court. The court shall
51 explain its choice of alternative and conditions on the record or in
52 writing.

53 (b) Where the principal stands charged with a qualifying offense, the
54 court, unless otherwise prohibited by law, may in its discretion release
55 the principal pending trial on the principal's own recognizance or under
56 non-monetary conditions, fix bail, or, where the defendant is charged

1 with a qualifying offense which is a felony, the court may commit the
2 principal to the custody of the sheriff. The court shall explain its
3 choice of release, release with conditions, bail or remand on the record
4 or in writing. A principal stands charged with a qualifying offense when
5 he or she stands charged with:

6 (i) a felony enumerated in section 70.02 of the penal law, other than
7 robbery in the second degree as defined in subdivision one of section
8 160.10 of the penal law, provided, however, that burglary in the second
9 degree as defined in subdivision two of section 140.25 of the penal law
10 shall be a qualifying offense only where the defendant is charged with
11 entering the living area of the dwelling;

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

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

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

19 (v) a sex trafficking offense defined in section 230.34 or 230.34-a of
20 the penal law, or a felony sex offense defined in section 70.80 of the
21 penal law or a crime involving incest as defined in section 255.25,
22 255.26 or 255.27 of such law, or a misdemeanor defined in article one
23 hundred thirty of such law;

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

28 (vii) money laundering in support of terrorism in the first degree as
29 defined in section 470.24 of the penal law; money laundering in support
30 of terrorism in the second degree as defined in section 470.23 of the
31 penal law; money laundering in support of terrorism in the third degree
32 as defined in section 470.22 of the penal law; money laundering in
33 support of terrorism in the fourth degree as defined in section 470.21
34 of the penal law; or a felony crime of terrorism as defined in article
35 four hundred ninety of the penal law, other than the crime defined in
36 section 490.20 of such law;

37 ~~(viii) [criminal contempt in the second degree as defined in subdivi-~~
38 ~~sion three of section 215.50 of the penal law, criminal contempt in the~~
39 ~~first degree as defined in subdivision (b), (c) or (d) of section 215.51~~
40 ~~of the penal law or aggravated criminal contempt as defined in section~~
41 ~~215.52 of the penal law, and the underlying allegation of such charge of~~
42 ~~criminal contempt in the second degree, criminal contempt in the first~~
43 ~~degree or aggravated criminal contempt is that the defendant violated a~~
44 ~~duly served order of protection where the protected party is a member of~~
45 ~~the defendant's same family or household as defined in subdivision one~~
46 ~~of section 530.11 of this article;~~

47 ~~(ix)]~~ facilitating a sexual performance by a child with a controlled
48 substance or alcohol as defined in section 263.30 of the penal law, use
49 of a child in a sexual performance as defined in section 263.05 of the
50 penal law or luring a child as defined in subdivision one of section
51 120.70 of the penal law, promoting an obscene sexual performance by a
52 child as defined in section 263.10 of the penal law or promoting a sexu-
53 al performance by a child as defined in section 263.15 of the penal law;

54 ~~(x)]~~ (ix) any crime that is alleged to have caused the death of
55 another person;

1 [~~(xi)~~] (x) criminal obstruction of breathing or blood circulation as
2 defined in section 121.11 of the penal law, strangulation in the second
3 degree as defined in section 121.12 of the penal law or unlawful impri-
4 sonment in the first degree as defined in section 135.10 of the penal
5 law, and is alleged to have committed the offense against a member of
6 the defendant's same family or household as defined in subdivision one
7 of section 530.11 of this article;

8 [~~(xii)~~] (xi) aggravated vehicular assault as defined in section
9 120.04-a of the penal law or vehicular assault in the first degree as
10 defined in section 120.04 of the penal law;

11 [~~(xiii)~~] (xii) assault in the third degree as defined in section
12 120.00 of the penal law or arson in the third degree as defined in
13 section 150.10 of the penal law, when such crime is charged as a hate
14 crime as defined in section 485.05 of the penal law;

15 [~~(xiv)~~] (xiii) aggravated assault upon a person less than eleven years
16 old as defined in section 120.12 of the penal law or criminal possession
17 of a weapon on school grounds as defined in section 265.01-a of the
18 penal law;

19 [~~(xv)~~] (xiv) grand larceny in the first degree as defined in section
20 155.42 of the penal law, enterprise corruption as defined in section
21 460.20 of the penal law, or money laundering in the first degree as
22 defined in section 470.20 of the penal law;

23 [~~(xvi)~~] (xv) failure to register as a sex offender pursuant to section
24 one hundred sixty-eight-t of the correction law or endangering the
25 welfare of a child as defined in subdivision one of section 260.10 of
26 the penal law, where the defendant is required to maintain registration
27 under article six-C of the correction law and designated a level three
28 offender pursuant to subdivision six of section one hundred
29 sixty-eight-l of the correction law;

30 [~~(xvii)~~] (xvi) a crime involving bail jumping under section 215.55,
31 215.56 or 215.57 of the penal law, or a crime involving escaping from
32 custody under section 205.05, 205.10 or 205.15 of the penal law;

33 [~~(xviii)~~] (xvii) any felony offense committed by the principal while
34 serving a sentence of probation or while released to post release super-
35 vision;

36 [~~(xix)~~] (xviii) a felony, where the defendant qualifies for sentencing
37 on such charge as a persistent felony offender pursuant to section 70.10
38 of the penal law; or

39 [~~(xx)~~] (xix) any felony or class A misdemeanor involving harm to an
40 identifiable person or property, where such charge arose from conduct
41 occurring while the defendant was released on his or her own recogni-
42 zance or released under conditions for a separate felony or class A
43 misdemeanor involving harm to an identifiable person or property,
44 provided, however, that the prosecutor must show reasonable cause to
45 believe that the defendant committed the instant crime and any underly-
46 ing crime. For the purposes of this subparagraph, any of the underlying
47 crimes need not be a qualifying offense as defined in this subdivision.

48 (c) Where the principal stands charged with a crime or crimes against
49 a member or members of the same family or household as that term is
50 defined in subdivision one or section 530.11 of this article, the court,
51 unless otherwise prohibited by law, may in its discretion release the
52 principal pending trial on the principal's own recognizance or under
53 non-monetary conditions, fix bail, or commit the principal to the custo-
54 dy of the sheriff.

55 (d) Notwithstanding the provisions of paragraphs (a) [~~and~~], (b) and (c)
56 of this subdivision, with respect to any charge for which bail or remand

1 is not ordered, and for which the court would not or could not otherwise
2 require bail or remand, a defendant may, at any time, request that the
3 court set bail in a nominal amount requested by the defendant in the
4 form specified in paragraph (a) of subdivision one of section 520.10 of
5 this title; if the court is satisfied that the request is voluntary, the
6 court shall set such bail in such amount.

7 § 4. Section 530.40 of the criminal procedure law, as amended by
8 section 18 of part JJJ of chapter 59 of the laws of 2019 and subdivision
9 4 as amended by section 4 of part UU of chapter 56 of the laws of 2020,
10 is amended to read as follows:

11 § 530.40 Order of recognizance, release under non-monetary conditions or
12 bail; by superior court when action is pending therein.

13 When a criminal action is pending in a superior court, such court,
14 upon application of a defendant, must or may order recognizance or bail
15 as follows:

16 1. When the defendant is charged with an offense or offenses of less
17 than felony grade only, the court must, unless otherwise provided by
18 law, order recognizance or release under non-monetary conditions in
19 accordance with this section.

20 2. When the defendant is charged with a felony, the court may, unless
21 otherwise provided by law in its discretion, order recognizance, release
22 under non-monetary conditions or, where authorized, bail. In any such
23 case in which an indictment (a) has resulted from an order of a local
24 criminal court holding the defendant for the action of the grand jury,
25 or (b) was filed at a time when a felony complaint charging the same
26 conduct was pending in a local criminal court, and in which such local
27 criminal court or a superior court judge has issued an order of recogni-
28 zance, release under non-monetary conditions or, where authorized, bail
29 which is still effective, the superior court's order may be in the form
30 of a direction continuing the effectiveness of the previous order.

31 3. In cases other than as described in [~~subdivision~~] subdivisions four
32 and five of this section the court shall release the principal pending
33 trial on the principal's own recognizance, unless the court finds on the
34 record or in writing that release on the principal's own recognizance
35 will not reasonably assure the principal's return to court. In such
36 instances, the court shall release the principal under non-monetary
37 conditions, selecting the least restrictive alternative and conditions
38 that will reasonably assure the principal's return to court. The court
39 shall explain its choice of alternative and conditions on the record or
40 in writing.

41 4. Where the principal stands charged with a qualifying offense, the
42 court, unless otherwise prohibited by law, may in its discretion release
43 the principal pending trial on the principal's own recognizance or under
44 non-monetary conditions, fix bail, or, where the defendant is charged
45 with a qualifying offense which is a felony, the court may commit the
46 principal to the custody of the sheriff. The court shall explain its
47 choice of release, release with conditions, bail or remand on the record
48 or in writing. A principal stands charged with a qualifying offense for
49 the purposes of this subdivision when he or she stands charged with:

50 (a) a felony enumerated in section 70.02 of the penal law, other than
51 robbery in the second degree as defined in subdivision one of section
52 160.10 of the penal law, provided, however, that burglary in the second
53 degree as defined in subdivision two of section 140.25 of the penal law
54 shall be a qualifying offense only where the defendant is charged with
55 entering the living area of the dwelling;

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

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

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

8 (e) a sex trafficking offense defined in section 230.34 or 230.34-a of
9 the penal law, or a felony sex offense defined in section 70.80 of the
10 penal law or a crime involving incest as defined in section 255.25,
11 255.26 or 255.27 of such law, or a misdemeanor defined in article one
12 hundred thirty of such law;

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

17 (g) money laundering in support of terrorism in the first degree as
18 defined in section 470.24 of the penal law; money laundering in support
19 of terrorism in the second degree as defined in section 470.23 of the
20 penal law; money laundering in support of terrorism in the third degree
21 as defined in section 470.22 of the penal law; money laundering in
22 support of terrorism in the fourth degree as defined in section 470.21
23 of the penal law; or a felony crime of terrorism as defined in article
24 four hundred ninety of the penal law, other than the crime defined in
25 section 490.20 of such law;

26 (h) ~~criminal contempt in the second degree as defined in subdivision~~
27 ~~three of section 215.50 of the penal law, criminal contempt in the first~~
28 ~~degree as defined in subdivision (b), (c) or (d) of section 215.51 of~~
29 ~~the penal law or aggravated criminal contempt as defined in section~~
30 ~~215.52 of the penal law, and the underlying allegation of such charge of~~
31 ~~criminal contempt in the second degree, criminal contempt in the first~~
32 ~~degree or aggravated criminal contempt is that the defendant violated a~~
33 ~~duly served order of protection where the protected party is a member of~~
34 ~~the defendant's same family or household as defined in subdivision one~~
35 ~~of section 530.11 of this article;~~

36 ~~(i)~~ facilitating a sexual performance by a child with a controlled
37 substance or alcohol as defined in section 263.30 of the penal law, use
38 of a child in a sexual performance as defined in section 263.05 of the
39 penal law or luring a child as defined in subdivision one of section
40 120.70 of the penal law, promoting an obscene sexual performance by a
41 child as defined in section 263.10 of the penal law or promoting a sexu-
42 al performance by a child as defined in section 263.15 of the penal law;

43 ~~(j)~~ ~~(i)~~ any crime that is alleged to have caused the death of another
44 person;

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

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

55 ~~(m)~~ ~~(l)~~ assault in the third degree as defined in section 120.00 of
56 the penal law or arson in the third degree as defined in section 150.10

1 of the penal law, when such crime is charged as a hate crime as defined
2 in section 485.05 of the penal law;

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

7 ~~[(o)]~~ (n) grand larceny in the first degree as defined in section
8 155.42 of the penal law, enterprise corruption as defined in section
9 460.20 of the penal law, or money laundering in the first degree as
10 defined in section 470.20 of the penal law;

11 ~~[(p)]~~ (o) failure to register as a sex offender pursuant to section
12 one hundred sixty-eight of the correction law or endangering the
13 welfare of a child as defined in subdivision one of section 260.10 of
14 the penal law, where the defendant is required to maintain registration
15 under article six-C of the correction law and designated a level three
16 offender pursuant to subdivision six of section one hundred
17 sixty-eight of the correction law;

18 ~~[(q)]~~ (p) a crime involving bail jumping under section 215.55, 215.56
19 or 215.57 of the penal law, or a crime involving escaping from custody
20 under section 205.05, 205.10 or 205.15 of the penal law;

21 ~~[(r)]~~ (q) any felony offense committed by the principal while serving
22 a sentence of probation or while released to post release supervision;

23 ~~[(s)]~~ (r) a felony, where the defendant qualifies for sentencing on
24 such charge as a persistent felony offender pursuant to section 70.10 of
25 the penal law; or

26 ~~[(t)]~~ (s) any felony or class A misdemeanor involving harm to an iden-
27 tifiable person or property, where such charge arose from conduct occur-
28 ring while the defendant was released on his or her own recognizance or
29 released under conditions for a separate felony or class A misdemeanor
30 involving harm to an identifiable person or property, provided, however,
31 that the prosecutor must show reasonable cause to believe that the
32 defendant committed the instant crime and any underlying crime. For the
33 purposes of this subparagraph, any of the underlying crimes need not be
34 a qualifying offense as defined in this subdivision.

35 5. Where the principal stands charged with a crime or crimes against a
36 member or members of the same family or household as that term is
37 defined in subdivision one of section 530.11 of this article, the court,
38 unless otherwise prohibited by law, may in its discretion release the
39 principal pending trial on the principal's own recognizance or under
40 non-monetary conditions, fix bail, or commit the principal to the custo-
41 dy of the sheriff.

42 6. Notwithstanding the provisions of subdivisions three ~~[and]~~ four,
43 and five of this section, with respect to any charge for which bail or
44 remand is not ordered, and for which the court would not or could not
45 otherwise require bail or remand, a defendant may, at any time, request
46 that the court set bail in a nominal amount requested by the defendant
47 in the form specified in paragraph (a) of subdivision one of section
48 520.10 of this title; if the court is satisfied that the request is
49 voluntary, the court shall set such bail in such amount.

50 ~~6.]~~ 7. Notwithstanding the provisions of subdivisions two, three
51 ~~[and]~~ four, and five of this section, a superior court may not order
52 recognizance, release under non-monetary conditions or, where author-
53 ized, bail, or permit a defendant to remain at liberty pursuant to an
54 existing order, after the defendant has been convicted of either: (a) a
55 class A felony or (b) any class B or class C felony as defined in arti-
56 cle one hundred thirty of the penal law committed or attempted to be

1 committed by a person eighteen years of age or older against a person
2 less than eighteen years of age. In either case the court must commit or
3 remand the defendant to the custody of the sheriff.

4 ~~[7.]~~ 8. Notwithstanding the provisions of subdivisions two, three
5 ~~[and]~~ four, and five of this section, a superior court may not order
6 recognizance, release under non-monetary conditions or, where author-
7 ized, bail when the defendant is charged with a felony unless and until
8 the district attorney has had an opportunity to be heard in the matter
9 and such court and counsel for the defendant have been furnished with a
10 report as described in subparagraph (ii) of paragraph (b) of subdivision
11 two of section 530.20 of this article.

12 § 5. This act shall take effect on the same date and in the same
13 manner as part JJJ of chapter 59 of the laws of 2019, takes effect.