

STATE OF NEW YORK

7106

IN SENATE

(Prefiled)

January 8, 2020

Introduced by Sen. BOYLE -- 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 (h) and (i) of subdi-
2 vision 4 of section 510.10 of the criminal procedure law, as added by
3 section 2 of part JJJ of chapter 59 of the laws of 2019, are amended and
4 a new paragraph (j) is added to read as follows:

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

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

23 (i) facilitating a sexual performance by a child with a controlled
24 substance or alcohol as defined in section 263.30 of the penal law, use
25 of a child in a sexual performance as defined in section 263.05 of the
26 penal law or luring a child as defined in subdivision one of section
27 120.70 of the penal law[~~-~~]; or

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

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1 (j) a misdemeanor or felony offense and the principal has been
2 convicted of one or more misdemeanor or felony offenses within the imme-
3 diate preceding five years.

4 § 2. The opening paragraph and subparagraphs (viii) and (ix) of para-
5 graph (b) of subdivision 1 of section 530.20 of the criminal procedure
6 law, as added by section 16 of part JJJ of chapter 59 of the laws of
7 2019, are amended and a new subparagraph (x) is added to read as
8 follows:

9 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. The court shall explain its
15 choice of release, release with conditions, bail or remand on the record
16 or in writing. A principal stands charged with a qualifying offense when
17 he or she stands charged with:

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

28 (ix) facilitating a sexual performance by a child with a controlled
29 substance or alcohol as defined in section 263.30 of the penal law, use
30 of a child in a sexual performance as defined in section 263.05 of the
31 penal law or luring a child as defined in subdivision one of section
32 120.70 of the penal law[~~+~~]; or

33 (x) a misdemeanor or felony offense and the principal has been
34 convicted of one or more misdemeanor or felony offenses within the imme-
35 diate preceding five years.

36 § 3. The opening paragraph and paragraphs (h) and (i) of subdivision 4
37 of section 530.40 of the criminal procedure law, as added by section 18
38 of part JJJ of chapter 59 of the laws of 2019, are amended and a new
39 paragraph (j) is added to read as follows:

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

49 (h) criminal contempt in the second degree as defined in subdivision
50 three of section 215.50 of the penal law, criminal contempt in the first
51 degree as defined in subdivision (b), (c) or (d) of section 215.51 of
52 the penal law or aggravated criminal contempt as defined in section
53 215.52 of the penal law, and the underlying allegation of such charge of
54 criminal contempt in the second degree, criminal contempt in the first
55 degree or aggravated criminal contempt is that the defendant violated a
56 duly served order of protection where the protected party is a member of

1 the defendant's same family or household as defined in subdivision one
2 of section 530.11 of this article; [~~or~~]
3 (i) facilitating a sexual performance by a child with a controlled
4 substance or alcohol as defined in section 263.30 of the penal law, use
5 of a child in a sexual performance as defined in section 263.05 of the
6 penal law or luring a child as defined in subdivision one of section
7 120.70 of the penal law[~~;~~]; or
8 (j) a misdemeanor or felony offense and the principal has been
9 convicted of one or more misdemeanor or felony offenses within the imme-
10 diate preceding five years.
11 § 4. This act shall take effect on the same date and in the same
12 manner as part JJJ of chapter 59 of the laws of 2019, takes effect.