

# STATE OF NEW YORK

9030

## IN ASSEMBLY

January 10, 2020

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

AN ACT to amend the criminal procedure law, in relation to drug and domestic violence offenses qualifying for bail

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

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

14 (a) a felony enumerated in section 70.02 of the penal law[~~, other than~~  
15 ~~burglary in the second degree as defined in subdivision two of section~~  
16 ~~140.25 of the penal law or robbery in the second degree as defined in~~  
17 ~~subdivision one of section 160.10 of the penal law~~];

18 (d) a class A felony as defined in the penal law[~~, other than in arti-~~  
19 ~~cle two hundred twenty of such law with the exception of section 220.77~~  
20 ~~of such law~~];

21 (h) criminal contempt in the second degree as defined in subdivision  
22 three of section 215.50 of the penal law, criminal contempt in the first  
23 degree as defined in subdivision (b), (c) or (d) of section 215.51 of  
24 the penal law or aggravated criminal contempt as defined in section  
25 215.52 of the penal law, and the underlying allegation of such charge of  
26 criminal contempt in the second degree, criminal contempt in the first  
27 degree or aggravated criminal contempt is that the defendant violated a  
28 duly served order of protection where the protected party is a member of

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

LBD14317-01-9

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[~~-~~];

8 (j) a class B, C or D felony enumerated in article two hundred twenty  
9 of the penal law;

10 (k) a crime which resulted in death or serious physical injury; or

11 (l) an aggravated family offense as defined in section 240.75 of the  
12 penal law.

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

18 Where the principal stands charged with a qualifying offense, the  
19 court, unless otherwise prohibited by law, may in its discretion release  
20 the principal pending trial on the principal's own recognizance or under  
21 non-monetary conditions, fix bail, or, where the defendant is charged  
22 with a qualifying offense [~~which is a felony~~], the court may commit the  
23 principal to the custody of the sheriff. The court shall explain its  
24 choice of release, release with conditions, bail or remand on the record  
25 or in writing. A principal stands charged with a qualifying offense when  
26 he or she stands charged with:

27 (i) a felony enumerated in section 70.02 of the penal law[~~, other than~~  
28 ~~burglary in the second degree as defined in subdivision two of section~~  
29 ~~140.25 of the penal law or robbery in the second degree as defined in~~  
30 ~~subdivision one of section 160.10 of the penal law~~];

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

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

44 (ix) facilitating a sexual performance by a child with a controlled  
45 substance or alcohol as defined in section 263.30 of the penal law, use  
46 of a child in a sexual performance as defined in section 263.05 of the  
47 penal law or luring a child as defined in subdivision one of section  
48 120.70 of the penal law[~~-~~];

49 (x) a class B, C or D felony enumerated in article two hundred twenty  
50 of the penal law;

51 (xi) a crime which resulted in death or serious physical injury; or

52 (xii) an aggravated family offense as defined in section 240.75 of the  
53 penal law.

54 § 3. The opening paragraph and paragraphs (a), (d), (h) and (i) of  
55 subdivision 4 of section 530.40 of the criminal procedure law, as added

1 by section 18 of part JJJ of chapter 59 of the laws of 2019, are amended  
2 and three new paragraphs (j), (k) and (l) are added to read as follows:

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

12 (a) a felony enumerated in section 70.02 of the penal law[~~, other than~~  
13 ~~burglary in the second degree as defined in subdivision two of section~~  
14 ~~140.25 of the penal law or robbery in the second degree as defined in~~  
15 ~~subdivision one of section 160.10 of the penal law~~];

16 (d) a class A felony as defined in the penal law[~~, other than in arti-~~  
17 ~~cle two hundred twenty of such law with the exception of section 220.77~~  
18 ~~of such law~~];

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

29 (i) facilitating a sexual performance by a child with a controlled  
30 substance or alcohol as defined in section 263.30 of the penal law, use  
31 of a child in a sexual performance as defined in section 263.05 of the  
32 penal law or luring a child as defined in subdivision one of section  
33 120.70 of the penal law[~~-~~];

34 (j) a class B, C or D felony enumerated in article two hundred twenty  
35 of the penal law;

36 (k) a crime which resulted in death or serious physical injury; or

37 (l) an aggravated family offense as defined in section 240.75 of the  
38 penal law.

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