

STATE OF NEW YORK

9564

IN ASSEMBLY

January 24, 2020

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

AN ACT to amend the criminal procedure law, in relation to adding certain offenses committed by a family member to the list of crimes 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 (h) and (i) of subdivision 4 of section 510.10 of the criminal procedure law, as added by 2 section 2 of part JJJ of chapter 59 of the laws of 2019, are amended and 3 a new paragraph (j) is added to read as follows:

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

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

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

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

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1 (j) any of the following aggravated family offenses as defined in
2 section 240.75 of the penal law where the principal and the person
3 against whom the offense was committed were members of the same family
4 or household as defined in subdivision one of section 530.11; an offense
5 defined in section 120.00 (assault in the third degree); section 120.13
6 (menacing in the first degree); section 120.14 (menacing in the second
7 degree); section 120.15 (menacing in the third degree); section 120.20
8 (reckless endangerment in the second degree); section 120.45 (stalking
9 in the fourth degree); section 120.50 (stalking in the third degree);
10 section 120.55 (stalking in the second degree); section 121.11 (criminal
11 obstruction of breathing or blood circulation); subdivision one of
12 section 125.15 (manslaughter in the second degree); section 135.05
13 (unlawful imprisonment in the second degree); section 135.10 (unlawful
14 imprisonment in the first degree); section 135.60 (coercion in the third
15 degree); section 135.61 (coercion in the second degree); section 135.65
16 (coercion in the first degree); section 140.20 (burglary in the third
17 degree); section 140.25 (burglary in the second degree); section 145.00
18 (criminal mischief in the fourth degree); section 145.05 (criminal
19 mischief in the third degree); section 145.10 (criminal mischief in the
20 second degree); section 145.12 (criminal mischief in the first degree);
21 section 145.14 (criminal tampering in the third degree); section 240.25
22 (harassment in the first degree); subdivision one, two or four of
23 section 240.30 (aggravated harassment in the second degree); or any
24 attempt or conspiracy to commit any of the foregoing offenses.

25 § 2. The opening subparagraph and subparagraphs (viii) and (ix) of
26 paragraph (b) of subdivision 1 of section 530.20 of the criminal proce-
27 dure law, as added by section 16 of part JJJ of chapter 59 of the laws
28 of 2019, are amended and a new subparagraph (x) is added to read as
29 follows:

30 Where the principal stands charged with a qualifying offense, the
31 court, unless otherwise prohibited by law, may in its discretion release
32 the principal pending trial on the principal's own recognizance or under
33 non-monetary conditions, fix bail, or, where the defendant is charged
34 with a qualifying offense [~~which is a felony~~], the court may commit the
35 principal to the custody of the sheriff. The court shall explain its
36 choice of release, release with conditions, bail or remand on the record
37 or in writing. A principal stands charged with a qualifying offense when
38 he or she stands charged with:

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

49 (ix) facilitating a sexual performance by a child with a controlled
50 substance or alcohol as defined in section 263.30 of the penal law, use
51 of a child in a sexual performance as defined in section 263.05 of the
52 penal law or luring a child as defined in subdivision one of section
53 120.70 of the penal law[-]; or

54 (x) any of the following aggravated family offenses as defined in
55 section 240.75 of the penal law where the principal and the person
56 against whom the offense was committed were members of the same family

1 or household as defined in subdivision one of section 530.11; an offense
2 defined in section 120.00 (assault in the third degree); section 120.13
3 (menacing in the first degree); section 120.14 (menacing in the second
4 degree); section 120.15 (menacing in the third degree); section 120.20
5 (reckless endangerment in the second degree); section 120.45 (stalking
6 in the fourth degree); section 120.50 (stalking in the third degree);
7 section 120.55 (stalking in the second degree); section 121.11 (criminal
8 obstruction of breathing or blood circulation); subdivision one of
9 section 125.15 (manslaughter in the second degree); section 135.05
10 (unlawful imprisonment in the second degree); section 135.10 (unlawful
11 imprisonment in the first degree); section 135.60 (coercion in the third
12 degree); section 135.61 (coercion in the second degree); section 135.65
13 (coercion in the first degree); section 140.20 (burglary in the third
14 degree); section 140.25 (burglary in the second degree); section 145.00
15 (criminal mischief in the fourth degree); section 145.05 (criminal
16 mischief in the third degree); section 145.10 (criminal mischief in the
17 second degree); section 145.12 (criminal mischief in the first degree);
18 section 145.14 (criminal tampering in the third degree); section 240.25
19 (harassment in the first degree); subdivision one, two or four of
20 section 240.30 (aggravated harassment in the second degree); or any
21 attempt or conspiracy to commit any of the foregoing offenses.

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

26 Where the principal stands charged with a qualifying offense, the
27 court, unless otherwise prohibited by law, may in its discretion release
28 the principal pending trial on the principal's own recognizance or under
29 non-monetary conditions, fix bail, or, where the defendant is charged
30 with a qualifying offense [~~which is a felony~~], the court may commit the
31 principal to the custody of the sheriff. The court shall explain its
32 choice of release, release with conditions, bail or remand on the record
33 or in writing. A principal stands charged with a qualifying offense for
34 the purposes of this subdivision when he or she stands charged with:

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

45 (i) facilitating a sexual performance by a child with a controlled
46 substance or alcohol as defined in section 263.30 of the penal law, use
47 of a child in a sexual performance as defined in section 263.05 of the
48 penal law or luring a child as defined in subdivision one of section
49 120.70 of the penal law[~~+~~]; or

50 (j) any of the following aggravated family offenses as defined in
51 section 240.75 of the penal law where the principal and the person
52 against whom the offense was committed were members of the same family
53 or household as defined in subdivision one of section 530.11; an offense
54 defined in section 120.00 (assault in the third degree); section 120.13
55 (menacing in the first degree); section 120.14 (menacing in the second
56 degree); section 120.15 (menacing in the third degree); section 120.20

1 (reckless endangerment in the second degree); section 120.45 (stalking
2 in the fourth degree); section 120.50 (stalking in the third degree);
3 section 120.55 (stalking in the second degree); section 121.11 (criminal
4 obstruction of breathing or blood circulation); subdivision one of
5 section 125.15 (manslaughter in the second degree); section 135.05
6 (unlawful imprisonment in the second degree); section 135.10 (unlawful
7 imprisonment in the first degree); section 135.60 (coercion in the third
8 degree); section 135.61 (coercion in the second degree); section 135.65
9 (coercion in the first degree); section 140.20 (burglary in the third
10 degree); section 140.25 (burglary in the second degree); section 145.00
11 (criminal mischief in the fourth degree); section 145.05 (criminal
12 mischief in the third degree); section 145.10 (criminal mischief in the
13 second degree); section 145.12 (criminal mischief in the first degree);
14 section 145.14 (criminal tampering in the third degree); section 240.25
15 (harassment in the first degree); subdivision one, two or four of
16 section 240.30 (aggravated harassment in the second degree); or any
17 attempt or conspiracy to commit any of the foregoing offenses.

18 § 4. This act shall take effect on the first of November next succeed-
19 ing the date upon which it shall have become a law, provided, however,
20 that if part JJJ of chapter 59 of the laws of 2019 shall not have taken
21 effect on or before such date then this act shall take effect on the
22 same date and in the same manner as part JJJ of chapter 59 of the laws
23 of 2019 takes effect.