STATE OF NEW YORK

3761

2021-2022 Regular Sessions

IN ASSEMBLY

January 28, 2021

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

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

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

Section 1. Subdivisions 1 and 3 of section 510.10 of the criminal procedure law, subdivision 1 as amended and subdivision 3 as added by section 2 of part JJJ of chapter 59 of the laws of 2019, are amended to read as follows:

1. When a principal, whose future court attendance at a criminal action or proceeding is or may be required, comes under the control of a court, such court shall, in accordance with this title, by a securing order release the principal on the principal's own recognizance, release the principal under non-monetary conditions, or, where authorized, fix bail or commit the principal to the custody of the sheriff. In all such cases, except where another type of securing order is shown to be required by law, the court shall release the principal pending trial on the principal's own recognizance, unless it is demonstrated and the court makes an individualized determination that**: (a)** the principal poses a risk of flight to avoid prosecution**; or (b) that the principal has been designated a sex offender under article six-C of the correction law**. If such a finding is made, the court must select the least restrictive alternative and condition or conditions that will reasonably assure the principal's return to court. The court shall explain its choice of release, release with conditions, bail or remand on the record or in writing.

3. In cases other than as described in subdivision four of this section the court shall release the principal pending trial on the principal's own recognizance, unless the court finds on the record or in

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

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writing that: (a) release on the principal's own recognizance will not reasonably assure the principal's return to court; or (b) that the principal has been designated a sex offender under article six-C of the correction law. In such instances, the court shall release the principal under non-monetary conditions, selecting the least restrictive alternative and conditions that will reasonably assure the principal's return to court; provided, however, where the principal has been designated a sex offender under article six-C of the correction law, the court may in its discretion fix bail or commit the principal to the custody of the sheriff. The court shall explain its [~~choice of alternative~~] determination and conditions on the record or in writing.

§ 2. Paragraph (a) of subdivision 1 of section 530.20 of the criminal procedure law, as added by section 16 of part JJJ of chapter 59 of the laws of 2019, is amended to read as follows:

(a) In cases other than as described in paragraph (b) of this subdivision the court shall release the principal pending trial on the principal's own recognizance, unless the court finds on the record or in writing that: (a) release on the principal's own recognizance will not reasonably assure the principal's return to court; or (b) that the principal has been designated a sex offender under article six-C of the correction law. In such instances, the court shall release the principal under non-monetary conditions, selecting the least restrictive alternative and conditions that will reasonably assure the principal's return to court; provided, however, where the principal has been designated a sex offender under article six-C of the correction law, the court may in its discretion fix bail or commit the principal to the custody of the sheriff. The court shall explain its [~~choice of alternative~~] determination and conditions on the record or in writing.

§ 3. Subdivision 3 of section 530.40 of the criminal procedure law, as amended by section 18 of part JJJ of chapter 59 of the laws of 2019, is amended to read as follows:

3. In cases other than as described in subdivision four of this section the court shall release the principal pending trial on the principal's own recognizance, unless the court finds on the record or in writing that: (a) release on the principal's own recognizance will not reasonably assure the principal's return to court; or (b) that the principal has been designated a sex offender under article six-C of the correction law. In such instances, the court shall release the principal under non-monetary conditions, selecting the least restrictive alternative and conditions that will reasonably assure the principal's return to court; however, where the principal has been designated a sex offender under article six-C of the correction law, the court may in its discretion fix bail or commit the principal to the custody of the sheriff. The court shall explain its [~~choice of alternative~~] determination and conditions on the record or in writing.

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