

# STATE OF NEW YORK

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3761

2021-2022 Regular Sessions

## IN ASSEMBLY

January 28, 2021

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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:

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

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

22 3. In cases other than as described in subdivision four of this  
23 section the court shall release the principal pending trial on the prin-  
24 cipal'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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1 writing that: (a) release on the principal's own recognizance will not  
2 reasonably assure the principal's return to court; or (b) that the prin-  
3 cipal has been designated a sex offender under article six-C of the  
4 correction law. In such instances, the court shall release the principal  
5 under non-monetary conditions, selecting the least restrictive alterna-  
6 tive and conditions that will reasonably assure the principal's return  
7 to court; provided, however, where the principal has been designated a  
8 sex offender under article six-C of the correction law, the court may in  
9 its discretion fix bail or commit the principal to the custody of the  
10 sheriff. The court shall explain its [~~choice of alternative~~] determi-  
11 nation and conditions on the record or in writing.

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

15 (a) In cases other than as described in paragraph (b) of this subdivi-  
16 sion the court shall release the principal pending trial on the princi-  
17 pal's own recognizance, unless the court finds on the record or in writ-  
18 ing that: (a) release on the principal's own recognizance will not  
19 reasonably assure the principal's return to court; or (b) that the prin-  
20 cipal has been designated a sex offender under article six-C of the  
21 correction law. In such instances, the court shall release the principal  
22 under non-monetary conditions, selecting the least restrictive alterna-  
23 tive and conditions that will reasonably assure the principal's return  
24 to court; provided, however, where the principal has been designated a  
25 sex offender under article six-C of the correction law, the court may in  
26 its discretion fix bail or commit the principal to the custody of the  
27 sheriff. The court shall explain its [~~choice of alternative~~] determi-  
28 nation and conditions on the record or in writing.

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

32 3. In cases other than as described in subdivision four of this  
33 section the court shall release the principal pending trial on the prin-  
34 cipal's own recognizance, unless the court finds on the record or in  
35 writing that: (a) release on the principal's own recognizance will not  
36 reasonably assure the principal's return to court; or (b) that the prin-  
37 cipal has been designated a sex offender under article six-C of the  
38 correction law. In such instances, the court shall release the principal  
39 under non-monetary conditions, selecting the least restrictive alterna-  
40 tive and conditions that will reasonably assure the principal's return  
41 to court; however, where the principal has been designated a sex offen-  
42 der under article six-C of the correction law, the court may in its  
43 discretion fix bail or commit the principal to the custody of the sher-  
44 iff. The court shall explain its [~~choice of alternative~~] determination  
45 and conditions on the record or in writing.

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