

STATE OF NEW YORK

9949

IN ASSEMBLY

April 19, 2022

Introduced by M. of A. GRIFFIN, STERN, WOERNER, PHEFFER AMATO, THIELE --
read once and referred to the Committee on Codes

AN ACT to amend the criminal procedure law, in relation to setting bail
for certain defendants with open misdemeanor charges

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

1 Section 1. Subdivision 1 of section 510.10 of the criminal procedure
2 law, as amended by section 2 of part JJJ of chapter 59 of the laws of
3 2019, is amended to read as follows:

4 1. (a) When a principal, whose future court attendance at a criminal
5 action or proceeding is or may be required, comes under the control of a
6 court, such court shall, in accordance with this title, by a securing
7 order release the principal on the principal's own recognizance, release
8 the principal under non-monetary conditions, or, where authorized, fix
9 bail or commit the principal to the custody of the sheriff. In all such
10 cases, except where another type of securing order is shown to be
11 required by law, the court shall release the principal pending trial on
12 the principal's own recognizance, unless it is demonstrated and the
13 court makes an individualized determination that:

14 (i) the principal poses a risk of flight to avoid prosecution[-]; or
15 (ii) the principal has at least three or more open misdemeanor charges
16 that a court could have fixed bail for but determined to release the
17 principal on his or her own recognizance.

18 (b) If [~~such~~] a finding is made pursuant to subparagraph (i) of para-
19 graph (a) of this subdivision, the court must select the least restric-
20 tive alternative and condition or conditions that will reasonably
21 [~~assure~~] ensure the principal's return to court.

22 If a finding is made pursuant to subparagraph (ii) of paragraph (a) of
23 this subdivision, the court may fix bail pursuant to this title or
24 select the least restrictive alternative and condition or conditions
25 that will reasonably ensure the principal's return to court. The court
26 shall explain its choice of release, release with conditions, bail or
27 remand on the record or in writing.

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

LBD15016-01-2

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

4 (a) In cases other than as described in paragraph (b) of this subdivi-
5 sion the court shall release the principal pending trial on the princi-
6 pal's own recognizance, unless the court finds on the record or in writ-
7 ing that release on the principal's own recognizance will not reasonably
8 assure the principal's return to court or the principal has at least
9 three or more open misdemeanor charges that a court could have fixed
10 bail for but determined to release the principal on his or her own
11 recognizance. In such instances, the court shall release the principal
12 under non-monetary conditions, selecting the least restrictive alterna-
13 tive and conditions that will reasonably assure the principal's return
14 to court, or if a finding is made that the principal has at least three
15 or more open misdemeanor charges the court may fix bail pursuant to this
16 title. The court shall explain its choice of alternative and conditions
17 on the record or in writing.

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

21 3. In cases other than as described in subdivision four of this
22 section the court shall release the principal pending trial on the prin-
23 cipal's own recognizance, unless the court finds on the record or in
24 writing that release on the principal's own recognizance will not
25 reasonably assure the principal's return to court or the principal has
26 at least three or more open misdemeanor charges that a court could have
27 fixed bail for but determined to release the principal on his or her own
28 recognizance. In such instances, the court shall release the principal
29 under non-monetary conditions, selecting the least restrictive alterna-
30 tive and conditions that will reasonably assure the principal's return
31 to court, or if a finding is made that the principal has at least three
32 or more open misdemeanor charges the court may fix bail pursuant to this
33 title. The court shall explain its choice of alternative and conditions
34 on the record or in writing.

35 § 4. This act shall take effect on the sixtieth day after it shall
36 have become a law. Effective immediately, the addition, amendment and/or
37 repeal of any rule or regulation necessary for the implementation of
38 this act on its effective date are authorized to be made and completed
39 on or before such effective date.