

STATE OF NEW YORK

3842

2021-2022 Regular Sessions

IN SENATE

January 31, 2021

Introduced by Sens. SERINO, GALLIVAN, AKSHAR, BORRELLO, HELMING, JORDAN, O'MARA, ORTT, TEDISCO -- read twice and ordered printed, and when printed to be committed 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 (s) and (t) of subdivision 4 of section 510.10 of the criminal procedure law, the opening
2 paragraph as amended and paragraphs (s) and (t) as added by section 2 of
3 part UU of chapter 56 of the laws of 2020, are amended and a new paragraph (u) is added to read as follows:

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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 (s) a felony, where the defendant qualifies for sentencing on such
15 charge as a persistent felony offender pursuant to section 70.10 of the
16 penal law; [~~ex~~]

17 (t) any felony or class A misdemeanor involving harm to an identifiable person or property, where such charge arose from conduct occurring
18 while the defendant was released on his or her own recognizance or
19 released under conditions for a separate felony or class A misdemeanor
20 involving harm to an identifiable person or property, provided, however,
21 that the prosecutor must show reasonable cause to believe that the
22 defendant committed the instant crime and any underlying crime. For the
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EXPLANATION--Matter in italics (underscored) is new; matter in brackets [~~-~~] is old law to be omitted.

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purposes of this ~~[subparagraph]~~ paragraph, any of the underlying crimes need not be a qualifying offense as defined in this subdivision~~[-]~~;or

(u) any of the following aggravated family offenses as defined in section 240.75 of the penal law where the principal and the person against whom the offense was committed were members of the same family or household as defined in subdivision one of section 530.11; an offense defined in section 120.00 (assault in the third degree); section 120.13 (menacing in the first degree); section 120.14 (menacing in the second degree); section 120.15 (menacing in the third degree); section 120.20 (reckless endangerment in the second degree); section 120.45 (stalking in the fourth degree); section 120.50 (stalking in the third degree); section 120.55 (stalking in the second degree); section 121.11 (criminal obstruction of breathing or blood circulation); subdivision one of section 125.15 (manslaughter in the second degree); section 135.05 (unlawful imprisonment in the second degree); section 135.10 (unlawful imprisonment in the first degree); section 135.60 (coercion in the third degree); section 135.61 (coercion in the second degree); section 135.65 (coercion in the first degree); section 140.20 (burglary in the third degree); section 140.25 (burglary in the second degree); section 145.00 (criminal mischief in the fourth degree); section 145.05 (criminal mischief in the third degree); section 145.10 (criminal mischief in the second degree); section 145.12 (criminal mischief in the first degree); section 145.14 (criminal tampering in the third degree); section 240.25 (harassment in the first degree); subdivision one, two or four of section 240.30 (aggravated harassment in the second degree) of the penal law; or any attempt or conspiracy to commit any of the foregoing offenses.

§ 2. The opening paragraph and subparagraphs (xix) and (xx) of paragraph (b) of subdivision 1 of section 530.20 of the criminal procedure law, as amended by section 3 of part UU of chapter 56 of the laws of 2020, are amended and a new subparagraph (xxi) is added to read as follows:

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

(xix) a felony, where the defendant qualifies for sentencing on such charge as a persistent felony offender pursuant to section 70.10 of the penal law; ~~[or]~~

(xx) any felony or class A misdemeanor involving harm to an identifiable person or property, where such charge arose from conduct occurring while the defendant was released on his or her own recognizance or released under conditions for a separate felony or class A misdemeanor involving harm to an identifiable person or property, provided, however, that the prosecutor must show reasonable cause to believe that the defendant committed the instant crime and any underlying crime. For the purposes of this subparagraph, any of the underlying crimes need not be a qualifying offense as defined in this subdivision~~[-]~~;or

(xxi) any of the following aggravated family offenses as defined in section 240.75 of the penal law where the principal and the person 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) of the penal
21 law; or any attempt or conspiracy to commit any of the foregoing
22 offenses.

23 § 3. The opening paragraph and paragraphs (s) and (t) of subdivision 4
24 of section 530.40 of the criminal procedure law, the opening paragraph
25 as amended and paragraphs (s) and (t) as added by section 4 of part UU
26 of chapter 56 of the laws of 2020, are amended and a new paragraph (u)
27 is added to read as follows:

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

37 (s) a felony, where the defendant qualifies for sentencing on such
38 charge as a persistent felony offender pursuant to section 70.10 of the
39 penal law; [~~or~~]

40 (t) any felony or class A misdemeanor involving harm to an identifi-
41 able person or property, where such charge arose from conduct occurring
42 while the defendant was released on his or her own recognizance or
43 released under conditions for a separate felony or class A misdemeanor
44 involving harm to an identifiable person or property, provided, however,
45 that the prosecutor must show reasonable cause to believe that the
46 defendant committed the instant crime and any underlying crime. For the
47 purposes of this subparagraph, any of the underlying crimes need not be
48 a qualifying offense as defined in this subdivision[~~+~~];

49 (u) any of the following aggravated family offenses as defined in
50 section 240.75 of the penal law where the principal and the person
51 against whom the offense was committed were members of the same family
52 or household as defined in subdivision one of section 530.11; an offense
53 defined in section 120.00 (assault in the third degree); section 120.13
54 (menacing in the first degree); section 120.14 (menacing in the second
55 degree); section 120.15 (menacing in the third degree); section 120.20
56 (reckless endangerment in the second degree); section 120.45 (stalking

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