

# STATE OF NEW YORK

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7259--A

2021-2022 Regular Sessions

## IN SENATE

June 23, 2021

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Introduced by Sens. REICHLIN-MELNICK, AKSHAR -- read twice and ordered printed, and when printed to be committed to the Committee on Rules -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the criminal procedure law, in relation to including certain violations involving the use of a firearm as qualifying offenses for the purpose of imposing bail

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

1 Section 1. Paragraphs (s) and (t) of subdivision 4 of section 510.10  
2 of the criminal procedure law, as added by section 2 of part UU of chap-  
3 ter 56 of the laws of 2020, are amended and a new paragraph (u) is added  
4 to read as follows:

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

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

17 (u) any crime in violation of article two hundred sixty-five of the  
18 penal law involving the use of a machine-gun, firearm silencer, firearm,  
19 rifle, shotgun, disguised gun, ghost gun or assault weapon, as such  
20 terms are defined in section 265.00 of the penal law.

21 § 2. Subparagraphs (xix) and (xx) of paragraph (b) of subdivision 1 of  
22 section 530.20 of the criminal procedure law, as amended by section 3 of

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

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part UU of chapter 56 of the laws of 2020, are amended and a new subparagraph (xxi) is added to read as follows:

(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]~~; or

(xxi) any crime in violation of article two hundred sixty-five of the penal law involving the use of a machine-gun, firearm silencer, firearm, rifle, shotgun, disguised gun, ghost gun or assault weapon, as such terms are defined in section 265.00 of the penal law.

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

(s) 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]~~

(t) 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]~~ paragraph, any of the underlying crimes need not be a qualifying offense as defined in this subdivision~~[or]~~; or

(u) any crime in violation of article two hundred sixty-five of the penal law involving the use of a machine-gun, firearm silencer, firearm, rifle, shotgun, disguised gun, ghost gun or assault weapon, as such terms are defined in section 265.00 of the penal law.

§ 4. Paragraphs (a) and (e) of subdivision 2 of section 530.60 of the criminal procedure law, as amended by section 20 of part JJJ of chapter 59 of the laws of 2019, are amended to read as follows:

(a) Whenever in the course of a criminal action or proceeding a defendant charged with the commission of a felony is at liberty as a result of an order of recognizance, release under non-monetary conditions or bail issued pursuant to this article it shall be grounds for revoking such order that the court finds reasonable cause to believe the defendant committed one or more specified class A or violent felony offenses, or intimidated a victim or witness in violation of section 215.15, 215.16 or 215.17 of the penal law or committed any crime in violation of article two hundred sixty-five of the penal law involving the use of a machine-gun, firearm silencer, firearm, rifle, shotgun, disguised gun, ghost gun or assault weapon, as such terms are defined in section 265.00 of the penal law, while at liberty.

(e) Notwithstanding the provisions of paragraph (a) or (b) of this subdivision a defendant, against whom a felony complaint has been filed which charges the defendant with commission of a class A or violent

1 felony offense, or violation of section 215.15, 215.16 or 215.17 of the  
2 penal law or violation of article two hundred sixty-five of the penal  
3 law involving the use of a machine-gun, firearm silencer, firearm,  
4 rifle, shotgun, disguised gun, ghost gun or assault weapon, as such  
5 terms are defined in section 265.00 of the penal law, committed while he  
6 was at liberty as specified therein, may be committed to the custody of  
7 the sheriff pending a revocation hearing for a period not to exceed  
8 seventy-two hours. An additional period not to exceed seventy-two hours  
9 may be granted by the court upon application of the district attorney  
10 upon a showing of good cause or where the failure to commence the hear-  
11 ing was due to the defendant's request or occurred with his consent.  
12 Such good cause must consist of some compelling fact or circumstance  
13 which precluded conducting the hearing within the initial prescribed  
14 period.

15 § 5. This act shall take effect immediately.