

# STATE OF NEW YORK

7446

2021-2022 Regular Sessions

## IN SENATE

October 18, 2021

Introduced by Sen. SERINO -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the criminal procedure law, in relation to authorizing crimes committed by members of street gangs or a criminal enterprise to be eligible for 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 misdemeanor or felony offense and there is reasonable cause to  
18 believe the principal is associated with a criminal street gang, as  
19 defined in section 10-170 of the administrative code of the city of New  
20 York or a criminal enterprise, as defined in section 460.10 of the penal  
21 law and there is reasonable cause to believe the offense is connected to  
22 criminal street gang or criminal enterprise activity.

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

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

LBD13374-01-1

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

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

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

15 (xxi) any misdemeanor or felony offense and there is reasonable cause  
16 to believe the principal is associated with a criminal street gang, as  
17 defined in section 10-170 of the administrative code of the city of New  
18 York or a criminal enterprise, as defined in section 460.10 of the penal  
19 law and there is reasonable cause to believe the offense is connected to  
20 criminal street gang or criminal enterprise activity.

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

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

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

37 (u) any misdemeanor or felony offense and there is reasonable cause to  
38 believe the principal is associated with a criminal street gang, as  
39 defined in section 10-170 of the administrative code of the city of New  
40 York or a criminal enterprise, as defined in section 460.10 of the penal  
41 law and there is reasonable cause to believe the offense is connected to  
42 criminal street gang or criminal enterprise activity.

43 § 4. This act shall take effect immediately.