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:

Section 1. Paragraphs (s) and (t) of subdivision 4 of section 510.10 of the criminal procedure law, as added by section 2 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**

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

§ 2. 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

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.~~] paragraph; or

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

§ 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 subdivision (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

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

§ 4. This act shall take effect immediately.