STATE OF NEW YORK

9544

IN SENATE

August 31, 2022

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 penal law, in relation to criminal contempt and escape; and to amend the criminal procedure law, in relation to arrest and securing orders for persons charged with certain contempt offenses

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

Section 1. Subdivision 7 of section 215.50 of the penal law, as amended by chapter 702 of the laws of 1972, is amended and a new subdivision 8 is added to read as follows:

7. On or along a public street or sidewalk within a radius of two hundred feet of any building established as a courthouse, he calls aloud, shouts, holds or displays placards or signs containing written or printed matter, concerning the conduct of a trial being held in such courthouse or the character of the court or jury engaged in such trial or calling for or demanding any specified action or determination by such court or jury in connection with such trial[.]**; or**

8. Violates any terms or conditions of court ordered supervision, either before or after a conviction, and such violation involves:

a. violating any curfew set by the court or supervising entity;

b. entering a location such person is prohibited from entering under the terms of the supervision;

c. absconding from court ordered supervision;

d. possessing a firearm, destructive device or dangerous weapon; or

e. tampering with or destroying electronic monitoring equipment.

§ 2. Subdivision (d) of section 215.51 of the penal law, as amended by chapter 597 of the laws of 1998, is amended and a new subdivision (e) is added to read as follows:

(d) in violation of a duly served order of protection, or such order of which the defendant has actual knowledge because he or she was present in court when such order was issued, or an order issued by a court of competent jurisdiction in this or another state, territorial or tribal jurisdiction, he or she intentionally or recklessly damages the

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

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property of a person for whose protection such order was issued in an amount exceeding two hundred fifty dollars[~~.~~]; or

(e) he or she commits the crime of criminal contempt in the second degree as defined in subdivision eight of section 215.50 of this article and has previously been convicted of the crime of aggravated criminal contempt or criminal contempt in the first or second degree within the preceding five years.

§ 3. Subdivision 3 of section 205.10 of the penal law, as added by chapter 118 of the laws of 1980, is amended and a new subdivision 4 is added to read as follows:

3. Having been adjudicated a youthful offender, which finding was substituted for the conviction of a felony, he or she escapes from custody[~~.~~]; or

4. While under court ordered supervision involving electronic monitoring, he or she absconds from supervision while still in possession of equipment for such electronic monitoring.

§ 4. Paragraph (h) subdivision 4 section 510.10 of the criminal procedure law, as amended by section 2 of part UU of chapter 56 of the laws of 2020, is amended to read as follows:

(h) criminal contempt in the second degree as defined in subdivision three or subdivision eight of section 215.50 of the penal law, criminal contempt in the first degree as defined in subdivision (b), (c) [~~or~~], (d), or (e) of section 215.51 of the penal law or aggravated criminal contempt as defined in section 215.52 of the penal law[~~, and the underlying allegation of such charge of criminal contempt in the second degree, criminal contempt in the first degree or aggravated criminal contempt is that the defendant violated a duly served order of protection where the protected party is a member of the defendant's same family or household as defined in subdivision one of section 530.11 of this title~~];

§ 5. Subparagraph (viii) 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, is amended to read as follows:

(viii) criminal contempt in the second degree as defined in subdivision three or subdivision eight of section 215.50 of the penal law, criminal contempt in the first degree as defined in subdivision (b), (c) [~~or~~], (d), or (e) of section 215.51 of the penal law or aggravated criminal contempt as defined in section 215.52 of the penal law[~~, and the underlying allegation of such charge of criminal contempt in the second degree, criminal contempt in the first degree or aggravated criminal contempt is that the defendant violated a duly served order of protection where the protected party is a member of the defendant's same family or household as defined in subdivision one of section 530.11 of this article~~];

§ 6. Paragraph (h) of subdivision 4 of section 530.40 of the criminal procedure law, as amended by section 4 of part UU of chapter 56 of the laws of 2020, is amended to read as follows:

(h) criminal contempt in the second degree as defined in subdivision three or subdivision eight of section 215.50 of the penal law, criminal contempt in the first degree as defined in subdivision (b), (c) [~~or~~], (d), or (e) of section 215.51 of the penal law or aggravated criminal contempt as defined in section 215.52 of the penal law [~~, and the underlying allegation of such charge of criminal contempt in the second degree, criminal contempt in the first degree or aggravated criminal contempt is that the defendant violated a duly served order of protection where the protected party is a member of the defendant's same~~

~~family or household as defined in subdivision one of section 530.11 of this article~~];

§ 7. Paragraph (c) of subdivision 4 of section 140.10 of the criminal procedure law, as amended by chapter 4 of the laws of 1997, is amended and a new paragraph (d) is added to read as follows:

(c) a misdemeanor constituting a family offense, as described in subdivision one of section 530.11 of this chapter and section eight hundred twelve of the family court act, has been committed by such person against such family or household member, unless the victim requests otherwise. The officer shall neither inquire as to whether the victim seeks an arrest of such person nor threaten the arrest of any person for the purpose of discouraging requests for police intervention. Notwithstanding the foregoing, when an officer has reasonable cause to believe that more than one family or household member has committed such a misdemeanor, the officer is not required to arrest each such person. In such circumstances, the officer shall attempt to identify and arrest the primary physical aggressor after considering: (i) the comparative extent of any injuries inflicted by and between the parties; (ii) whether any such person is threatening or has threatened future harm against another party or another family or household member; (iii) whether any such person has a prior history of domestic violence that the officer can reasonably ascertain; and (iv) whether any such person acted defensively to protect himself or herself from injury. The officer shall evaluate each complaint separately to determine who is the primary physical aggressor and shall not base the decision to arrest or not to arrest on the willingness of a person to testify or otherwise participate in a judicial proceeding[~~.~~]**; or**

(d) such person has committed the offense of criminal contempt in the second degree, as defined in section 215.50 of the penal law, criminal contempt in the first degree, as defined in section 215.51 of the penal law, or aggravated criminal contempt, as defined in section 215.52 of the penal law.

§ 8. This act shall take effect immediately and shall apply to all orders of protection regardless of when such orders were issued; provided, however, that the amendments to subdivision 4 of section 140.10 of the criminal procedure law, made by section seven of this act, shall not affect the repeal of such subdivision, and shall be deemed repealed therewith.