

STATE OF NEW YORK

10076

IN ASSEMBLY

April 29, 2022

Introduced by M. of A. STERN -- read once and referred to the Committee on Codes

AN ACT to amend the criminal procedure law, in relation to qualifying offenses for pre-trial detention and bail

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

Section 1. Subdivision 4 of 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:

4. 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. A principal stands charged with a qualifying offense for the purposes of this subdivision when he or she stands charged with:

(a) a felony enumerated in section 70.02 of the penal law~~[, other than robbery in the second degree as defined in subdivision one of section 160.10 of the penal law, provided, however, that burglary in the second degree as defined in subdivision two of section 140.25 of the penal law shall be a qualifying offense only where the defendant is charged with entering the living area of the dwelling]~~;

(b) a crime involving witness intimidation under section 215.15 of the penal law;

(c) a crime involving witness tampering under section 215.11, 215.12 or 215.13 of the penal law;

(d) a class A felony defined in the penal law, provided that for class A felonies under article two hundred twenty of the penal law, only ~~[class A-I felonies]~~ offenses defined in sections 220.18, 220.21, 220.41, 220.43, 220.44 and 220.77 of such law shall be ~~[a]~~ qualifying ~~[offense]~~ offenses;

(e) a sex trafficking offense defined in section 230.34 or 230.34-a of the penal law, or a felony sex offense defined in section 70.80 of the

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

LBD14636-01-2

1 penal law, [~~or a crime involving~~] incest in the third degree as defined
2 in section 255.25[, ~~255.26 or 255.27~~] of such law, [~~or~~] a misdemeanor
3 defined in article one hundred thirty of such law, promoting prostitu-
4 tion in the first degree as defined in section 230.32 of the penal law,
5 or compelling prostitution as defined in section 230.33 of the penal
6 law;

7 (f) conspiracy in the second degree as defined in section 105.15 of
8 the penal law, where the underlying allegation of such charge is that
9 the defendant conspired to commit a class A felony defined in article
10 one hundred twenty-five of the penal law, criminal solicitation in the
11 first degree as defined in section 100.13 of the penal law or criminal
12 facilitation in the first degree as defined in section 115.08 of the
13 penal law;

14 (g) money laundering in support of terrorism in the first degree as
15 defined in section 470.24 of the penal law; money laundering in support
16 of terrorism in the second degree as defined in section 470.23 of the
17 penal law; money laundering in support of terrorism in the third degree
18 as defined in section 470.22 of the penal law; money laundering in
19 support of terrorism in the fourth degree as defined in section 470.21
20 of the penal law; or a felony crime of terrorism as defined in article
21 four hundred ninety of the penal law, other than the crime defined in
22 section 490.20 of such law;

23 (h) criminal contempt in the second degree as defined in subdivision
24 three of section 215.50 of the penal law, criminal contempt in the first
25 degree as defined in subdivision (b), (c) or (d) of section 215.51 of
26 the penal law or aggravated criminal contempt as defined in section
27 215.52 of the penal law, and the underlying allegation of such charge of
28 criminal contempt in the second degree, criminal contempt in the first
29 degree or aggravated criminal contempt is that the defendant violated a
30 duly served order of protection where the protected party is a member of
31 the defendant's same family or household as defined in subdivision one
32 of section 530.11 of this title;

33 (i) prostitution in a school zone as defined in section 230.03 of the
34 penal law, promoting prostitution in a school zone as defined in section
35 230.19 of the penal law, facilitating a sexual performance by a child
36 with a controlled substance or alcohol as defined in section 263.30 of
37 the penal law, use of a child in a sexual performance as defined in
38 section 263.05 of the penal law [~~or~~], patronizing a person for prostitu-
39 tion in a school zone as defined in section 230.08 of the penal law,
40 luring a child as defined in subdivision one of section 120.70 of the
41 penal law, promoting an obscene sexual performance by a child as defined
42 in section 263.10 of the penal law [~~or~~], promoting a sexual performance
43 by a child as defined in section 263.15 of the penal law, possessing an
44 obscene sexual performance by a child as defined in section 263.11 of
45 the penal law, or possessing a sexual performance by a child as defined
46 in section 263.16 of the penal law;

47 (j) any crime that is alleged to have caused the death of or serious
48 physical injury to another person;

49 (k) criminal obstruction of breathing or blood circulation as defined
50 in section 121.11 of the penal law, strangulation in the second degree
51 as defined in section 121.12 of the penal law or unlawful imprisonment
52 in the first degree as defined in section 135.10 of the penal law, and
53 is alleged to have committed the offense against a member of the defend-
54 ant's same family or household as defined in subdivision one of section
55 530.11 of this title;

1 (l) aggravated vehicular assault as defined in section 120.04-a of the
2 penal law or vehicular assault in the first degree as defined in section
3 120.04 of the penal law;

4 (m) assault in the third degree as defined in section 120.00 of the
5 penal law or arson in the third degree as defined in section 150.10 of
6 the penal law[~~, when such crime is charged as a hate crime as defined in~~
7 ~~section 485.05 of the penal law~~];

8 (n) aggravated assault upon a person less than eleven years old as
9 defined in section 120.12 of the penal law or criminal possession of a
10 weapon on school grounds as defined in section 265.01-a of the penal
11 law;

12 (o) grand larceny in the first degree as defined in section 155.42 of
13 the penal law, enterprise corruption as defined in section 460.20 of the
14 penal law, or money laundering in the first degree as defined in section
15 470.20 of the penal law;

16 (p) failure to register as a sex offender pursuant to section one
17 hundred sixty-eight-t of the correction law or endangering the welfare
18 of a child as defined in subdivision one of section 260.10 of the penal
19 law, where the defendant is required to maintain registration under
20 article six-C of the correction law and designated a level three offen-
21 der pursuant to subdivision six of section one hundred sixty-eight-l of
22 the correction law;

23 (q) a crime involving bail jumping under section 215.55, 215.56 or
24 215.57 of the penal law, or a crime involving escaping from custody
25 under section 205.05, 205.10 or 205.15 of the penal law;

26 (r) any felony offense committed by the principal while serving a
27 sentence of probation or while released to post release supervision;

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

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

40 (u) obstructing governmental administration in the second degree as
41 defined in section 195.05 of the penal law, killing or injuring a police
42 animal as defined in section 195.06 of the penal law, killing a police
43 work dog or police work horse as defined in section 195.06-a of the
44 penal law, obstructing governmental administration in the first degree
45 as defined in section 195.07, obstructing governmental administration by
46 means of a self-defense spray device as defined in section 195.08,
47 bribery in the first degree as defined in section 200.04 of the penal
48 law, bribe receiving in the first degree as defined in section 200.12 of
49 the penal law, bribe giving for public office as defined in section
50 200.45 of the penal law, promoting prison contraband in the second
51 degree as defined in section 205.20 of the penal law, promoting prison
52 contraband in the first degree as defined in section 205.25 of the penal
53 law, resisting arrest as defined in section 205.30 of the penal law,
54 hindering prosecution in the first degree as defined in section 205.65
55 of the penal law, tampering with a juror in the first degree as defined

1 in section 215.25 of the penal law or tampering with physical evidence
2 as defined in section 215.40 of the penal law;

3 (v) public sensibilities and the right to privacy including aggravated
4 harassment in the first degree as defined in section 240.31 of the penal
5 law or directing a laser at an aircraft in the first degree as defined
6 in section 240.77 of the penal law;

7 (w) criminal possession of a weapon in the fourth degree as defined in
8 section 265.01 of the penal law, criminal sale of a firearm to a minor
9 as defined in section 265.16 of the penal law, criminal purchase or
10 disposal of a weapon as defined in section 265.17 of the penal law, or
11 aggravated criminal possession of a weapon as defined in section 265.19
12 of the penal law;

13 (x) aggravated cruelty to animals as defined in section three hundred
14 fifty-three-a of the agriculture and markets law, overdriving, torturing
15 and injuring animals; failure to provide proper sustenance as defined in
16 section three hundred fifty-three of the agriculture and markets law, or
17 animal fighting as defined in section three hundred fifty-one of the
18 agriculture and markets law;

19 (y) a hate crime as defined in section 485.05 of the penal law;

20 (z) any of the following offenses where the defendant is required to
21 maintain registration under article six-C of the correction law and
22 designated a level two or level three offender pursuant to subdivision
23 six of section one hundred sixty-eight-l of the correction law: endan-
24 gering the welfare of a child as defined in section 260.10 of the penal
25 law; public lewdness as defined in section 245.00 of the penal law;
26 exposure of a person as defined in section 245.01 of the penal law;
27 public lewdness in the first degree as defined in section 245.03 of the
28 penal law;

29 (a-1) reckless assault of a child by a child day care provider as
30 defined in section 120.01 of the penal law, stalking in the fourth
31 degree as defined in section 120.45 of the penal law, stalking in the
32 third degree as defined in section 120.50 of the penal law, stalking in
33 the second degree as defined in section 120.55 of the penal law, crimi-
34 nally negligent homicide as defined in section 125.10 of the penal law,
35 vehicular manslaughter in the second degree as defined in section 125.12
36 of the penal law, vehicular manslaughter in the first degree as defined
37 in section 125.13 of the penal law, aggravated vehicular homicide as
38 defined in section 125.14 of the penal law, manslaughter in the second
39 degree as defined in section 125.15 of the penal law, coercion in the
40 first degree as defined in section 135.65 of the penal law, burglary in
41 the third degree as defined in section 140.20 of the penal law, arson in
42 the fourth degree as defined in section 150.05 of the penal law, robbery
43 in the third degree as defined in section 160.05 of the penal law, or
44 criminal possession of a firearm as defined in section 265.01-b of the
45 penal law;

46 (b-1) an aggravated family offense as defined in section 240.75 of the
47 penal law;

48 (c-1) any felony or class A misdemeanor involving harm to an identifi-
49 able person or property, where such charge arose from conduct occurring
50 while the defendant was engaging in a riot as defined in article two
51 hundred forty of the penal law;

52 (d-1) use of a child to commit a controlled substance offense as
53 defined in section 220.28 of the penal law and criminal sale of a
54 controlled substance to a child as defined in section 220.48 of the
55 penal law; or

(e-1) 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 or assault weapon, as such terms are defined in section 265.00 of the penal law.

§ 2. 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:

(b) 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:

(i) a felony enumerated in section 70.02 of the penal law~~[, other than robbery in the second degree as defined in subdivision one of section 160.10 of the penal law, provided, however, that burglary in the second degree as defined in subdivision two of section 140.25 of the penal law shall be a qualifying offense only where the defendant is charged with entering the living area of the dwelling];~~

(ii) a crime involving witness intimidation under section 215.15 of the penal law;

(iii) a crime involving witness tampering under section 215.11, 215.12 or 215.13 of the penal law;

(iv) a class A felony defined in the penal law, provided, that for class A felonies under article two hundred twenty of such law, only ~~[class A-I felonies]~~ offenses defined in sections 220.18, 220.21, 220.41, 220.43, 220.44 and 220.77 of such law shall be ~~[a]~~ qualifying ~~[offense]~~ offenses;

(v) a sex trafficking offense defined in section 230.34 or 230.34-a of the penal law, or a felony sex offense defined in section 70.80 of the penal law ~~[or a crime involving]~~, incest in the third degree as defined in section 255.25~~[, 255.26 or 255.27]~~ of such law, or a misdemeanor defined in article one hundred thirty of such law; or promoting prostitution in the first degree as defined in section 230.32 of the penal law, compelling prostitution as defined in section 230.33 of the penal law;

(vi) conspiracy in the second degree as defined in section 105.15 of the penal law, where the underlying allegation of such charge is that the defendant conspired to commit a class A felony defined in article one hundred twenty-five of the penal law, criminal solicitation in the first degree as defined in section 100.13 of the penal law or criminal facilitation in the first degree as defined in section 115.08 of the penal law;

(vii) money laundering in support of terrorism in the first degree as defined in section 470.24 of the penal law; money laundering in support of terrorism in the second degree as defined in section 470.23 of the penal law; money laundering in support of terrorism in the third degree as defined in section 470.22 of the penal law; money laundering in support of terrorism in the fourth degree as defined in section 470.21 of the penal law; or a felony crime of terrorism as defined in article four hundred ninety of the penal law, other than the crime defined in section 490.20 of such law;

(viii) criminal contempt in the second degree as defined in subdivision three of section 215.50 of the penal law, criminal contempt in the first degree as defined in subdivision (b), (c) or (d) 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;

(ix) prostitution in a school zone as defined in section 230.03 of the penal law, promoting prostitution in a school zone as defined in section 230.19 of the penal law, facilitating a sexual performance by a child with a controlled substance or alcohol as defined in section 263.30 of the penal law, use of a child in a sexual performance as defined in section 263.05 of the penal law ~~[or]~~, patronizing a person for prostitution in a school zone as defined in section 230.08 of the penal law, luring a child as defined in subdivision one of section 120.70 of the penal law, promoting an obscene sexual performance by a child as defined in section 263.10 of the penal law ~~[or]~~, promoting a sexual performance by a child as defined in section 263.15 of the penal law, possessing an obscene sexual performance by a child as defined in section 263.11 of the penal law, or possessing a sexual performance by a child as defined in section 263.16 of the penal law;

(x) any crime that is alleged to have caused the death of or serious physical injury to another person;

(xi) criminal obstruction of breathing or blood circulation as defined in section 121.11 of the penal law, strangulation in the second degree as defined in section 121.12 of the penal law or unlawful imprisonment in the first degree as defined in section 135.10 of the penal law, and is alleged to have committed the offense against a member of the defendant's same family or household as defined in subdivision one of section 530.11 of this article;

(xii) aggravated vehicular assault as defined in section 120.04-a of the penal law or vehicular assault in the first degree as defined in section 120.04 of the penal law;

(xiii) assault in the third degree as defined in section 120.00 of the penal law or arson in the third degree as defined in section 150.10 of the penal law ~~[, when such crime is charged as a hate crime as defined in section 485.05 of the penal law]~~;

(xiv) aggravated assault upon a person less than eleven years old as defined in section 120.12 of the penal law or criminal possession of a weapon on school grounds as defined in section 265.01-a of the penal law;

(xv) grand larceny in the first degree as defined in section 155.42 of the penal law, enterprise corruption as defined in section 460.20 of the penal law, or money laundering in the first degree as defined in section 470.20 of the penal law;

(xvi) failure to register as a sex offender pursuant to section one hundred sixty-eight-t of the correction law or endangering the welfare of a child as defined in subdivision one of section 260.10 of the penal law, where the defendant is required to maintain registration under article six-C of the correction law and designated a level three offender pursuant to subdivision six of section one hundred sixty-eight-l of the correction law;

1 (xvii) a crime involving bail jumping under section 215.55, 215.56 or
2 215.57 of the penal law, or a crime involving escaping from custody
3 under section 205.05, 205.10 or 205.15 of the penal law;

4 (xviii) any felony offense committed by the principal while serving a
5 sentence of probation or while released to post release supervision;

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

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

18 (xxi) obstructing governmental administration in the second degree as
19 defined in section 195.05 of the penal law, killing or injuring a police
20 animal as defined in section 195.06 of the penal law, killing a police
21 work dog or police work horse as defined in section 195.06-a of the
22 penal law, obstructing governmental administration in the first degree
23 as defined in section 195.07, obstructing governmental administration by
24 means of a self-defense spray device as defined in section 195.08,
25 bribery in the first degree as defined in section 200.04 of the penal
26 law, bribe receiving in the first degree as defined in section 200.12 of
27 the penal law, bribe giving for public office as defined in section
28 200.45 of the penal law, promoting prison contraband in the second
29 degree as defined in section 205.20 of the penal law, promoting prison
30 contraband in the first degree as defined in section 205.25 of the penal
31 law, resisting arrest as defined in section 205.30 of the penal law,
32 hindering prosecution in the first degree as defined in section 205.65
33 of the penal law, tampering with a juror in the first degree as defined
34 in section 215.25 of the penal law or tampering with physical evidence
35 as defined in section 215.40 of the penal law;

36 (xxii) public sensibilities and the right to privacy including aggra-
37 vated harassment in the first degree as defined in section 240.31 of the
38 penal law or directing a laser at an aircraft in the first degree as
39 defined in section 240.77 of the penal law;

40 (xxiii) criminal possession of a weapon in the fourth degree as
41 defined in section 265.01 of the penal law, criminal sale of a firearm
42 to a minor as defined in section 265.16 of the penal law, criminal
43 purchase or disposal of a weapon as defined in section 265.17 of the
44 penal law, or aggravated criminal possession of a weapon as defined in
45 section 265.19 of the penal law;

46 (xxiv) aggravated cruelty to animals as defined in section three
47 hundred fifty-three-a of the agriculture and markets law, overdriving,
48 torturing and injuring animals; failure to provide proper sustenance as
49 defined in section three hundred fifty-three of the agriculture and
50 markets law, or animal fighting as defined in section three hundred
51 fifty-one of the agriculture and markets law;

52 (xxv) a hate crime as defined in section 485.05 of the penal law;

53 (xxvi) any of the following offenses where the defendant is required
54 to maintain registration under article six-C of the correction law and
55 designated a level two or level three offender pursuant to subdivision
56 six of section one hundred sixty-eight-l of the correction law: endan-

1 gering the welfare of a child as defined in section 260.10 of the penal
2 law; public lewdness as defined in section 245.00 of the penal law;
3 exposure of a person as defined in section 245.01 of the penal law;
4 public lewdness in the first degree as defined in section 245.03 of the
5 penal law;

6 (xxvii) reckless assault of a child by a child day care provider as
7 defined in section 120.01 of the penal law, stalking in the fourth
8 degree as defined in section 120.45 of the penal law, stalking in the
9 third degree as defined in section 120.50 of the penal law, stalking in
10 the second degree as defined in section 120.55 of the penal law, crimi-
11 nally negligent homicide as defined in section 125.10 of the penal law,
12 vehicular manslaughter in the second degree as defined in section 125.12
13 of the penal law, vehicular manslaughter in the first degree as defined
14 in section 125.13 of the penal law, aggravated vehicular homicide as
15 defined in section 125.14 of the penal law, manslaughter in the second
16 degree as defined in section 125.15 of the penal law, coercion in the
17 first degree as defined in section 135.65 of the penal law, burglary in
18 the third degree as defined in section 140.20 of the penal law, arson in
19 the fourth degree as defined in section 150.05 of the penal law, robbery
20 in the third degree as defined in section 160.05 of the penal law, or
21 criminal possession of a firearm as defined in section 265.01-b of the
22 penal law;

23 (xxviii) an aggravated family offense as defined in section 240.75 of
24 the penal law;

25 (xxix) any felony or class A misdemeanor involving harm to an iden-
26 tifiable person or property, where such charge arose from conduct occur-
27 ring while the defendant was engaging in a riot as defined in article
28 two hundred forty of the penal law;

29 (xxx) use of a child to commit a controlled substance offense as
30 defined in section 220.28 of the penal law and criminal sale of a
31 controlled substance to a child as defined in section 220.48 of the
32 penal law; or

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

37 § 3. Subdivision 4 of section 530.40 of the criminal procedure law, as
38 added by section 4 of part UU of chapter 56 of the laws of 2020, is
39 amended to read as follows:

40 4. Where the principal stands charged with a qualifying offense, the
41 court, unless otherwise prohibited by law, may in its discretion release
42 the principal pending trial on the principal's own recognizance or under
43 non-monetary conditions, fix bail, or, where the defendant is charged
44 with a qualifying offense which is a felony, the court may commit the
45 principal to the custody of the sheriff. The court shall explain its
46 choice of release, release with conditions, bail or remand on the record
47 or in writing. A principal stands charged with a qualifying offense for
48 the purposes of this subdivision when he or she stands charged with:

49 (a) a felony enumerated in section 70.02 of the penal law~~[, other than~~
50 ~~robbery in the second degree as defined in subdivision one of section~~
51 ~~160.10 of the penal law, provided, however, that burglary in the second~~
52 ~~degree as defined in subdivision two of section 140.25 of the penal law~~
53 ~~shall be a qualifying offense only where the defendant is charged with~~
54 ~~entering the living area of the dwelling];~~

55 (b) a crime involving witness intimidation under section 215.15 of the
56 penal law;

1 (c) a crime involving witness tampering under section 215.11, 215.12
2 or 215.13 of the penal law;

3 (d) a class A felony defined in the penal law, provided that for class
4 A felonies under article two hundred twenty of such law, only [~~class A-I~~
5 ~~felonies~~] offenses defined in sections 220.18, 220.21, 220.41, 220.43,
6 220.44 and 220.77 of such law shall be [~~a~~] qualifying [~~offense~~]
7 offenses;

8 (e) a sex trafficking offense defined in section 230.34 or 230.34-a of
9 the penal law, or a felony sex offense defined in section 70.80 of the
10 penal law [~~or a crime involving~~], incest in the third degree as defined
11 in section 255.25[~~, 255.26 or 255.27~~] of such law, [~~or~~] a misdemeanor
12 defined in article one hundred thirty of such law; or promoting prosti-
13 tution in the first degree as defined in section 230.32 of the penal
14 law, or compelling prostitution as defined in section 230.33 of the
15 penal law;

16 (f) conspiracy in the second degree as defined in section 105.15 of
17 the penal law, where the underlying allegation of such charge is that
18 the defendant conspired to commit a class A felony defined in article
19 one hundred twenty-five of the penal law, criminal solicitation in the
20 first degree as defined in section 100.13 of the penal law or criminal
21 facilitation in the first degree as defined in section 115.08 of the
22 penal law;

23 (g) money laundering in support of terrorism in the first degree as
24 defined in section 470.24 of the penal law; money laundering in support
25 of terrorism in the second degree as defined in section 470.23 of the
26 penal law; money laundering in support of terrorism in the third degree
27 as defined in section 470.22 of the penal law; money laundering in
28 support of terrorism in the fourth degree as defined in section 470.21
29 of the penal law; or a felony crime of terrorism as defined in article
30 four hundred ninety of the penal law, other than the crime defined in
31 section 490.20 of such law;

32 (h) criminal contempt in the second degree as defined in subdivision
33 three of section 215.50 of the penal law, criminal contempt in the first
34 degree as defined in subdivision (b), (c) or (d) of section 215.51 of
35 the penal law or aggravated criminal contempt as defined in section
36 215.52 of the penal law, and the underlying allegation of such charge of
37 criminal contempt in the second degree, criminal contempt in the first
38 degree or aggravated criminal contempt is that the defendant violated a
39 duly served order of protection where the protected party is a member of
40 the defendant's same family or household as defined in subdivision one
41 of section 530.11 of this article;

42 (i) prostitution in a school zone as defined in section 230.03 of the
43 penal law, promoting prostitution in a school zone as defined in section
44 230.19 of the penal law, facilitating a sexual performance by a child
45 with a controlled substance or alcohol as defined in section 263.30 of
46 the penal law, use of a child in a sexual performance as defined in
47 section 263.05 of the penal law [~~or~~], patronizing a person for prostitu-
48 tion in a school zone as defined in section 230.08 of the penal law,
49 luring a child as defined in subdivision one of section 120.70 of the
50 penal law, promoting an obscene sexual performance by a child as defined
51 in section 263.10 of the penal law or promoting a sexual performance by
52 a child as defined in section 263.15 of the penal law, possessing an
53 obscene sexual performance by a child as defined in section 263.11 of
54 the penal law, or possessing a sexual performance by a child as defined
55 in section 263.16 of the penal law;

(j) any crime that is alleged to have caused the death or physical injury of another person;

(k) criminal obstruction of breathing or blood circulation as defined in section 121.11 of the penal law, strangulation in the second degree as defined in section 121.12 of the penal law or unlawful imprisonment in the first degree as defined in section 135.10 of the penal law, and is alleged to have committed the offense against a member of the defendant's same family or household as defined in subdivision one of section 530.11 of this article;

(l) aggravated vehicular assault as defined in section 120.04-a of the penal law or vehicular assault in the first degree as defined in section 120.04 of the penal law;

(m) assault in the third degree as defined in section 120.00 of the penal law or arson in the third degree as defined in section 150.10 of the penal law~~[, when such crime is charged as a hate crime as defined in section 485.05 of the penal law]~~;

(n) aggravated assault upon a person less than eleven years old as defined in section 120.12 of the penal law or criminal possession of a weapon on school grounds as defined in section 265.01-a of the penal law;

(o) grand larceny in the first degree as defined in section 155.42 of the penal law, enterprise corruption as defined in section 460.20 of the penal law, or money laundering in the first degree as defined in section 470.20 of the penal law;

(p) failure to register as a sex offender pursuant to section one hundred sixty-eight-t of the correction law or endangering the welfare of a child as defined in subdivision one of section 260.10 of the penal law, where the defendant is required to maintain registration under article six-C of the correction law and designated a level three offender pursuant to subdivision six of section one hundred sixty-eight-l of the correction law;

(q) a crime involving bail jumping under section 215.55, 215.56 or 215.57 of the penal law, or a crime involving escaping from custody under section 205.05, 205.10 or 205.15 of the penal law;

(r) any felony offense committed by the principal while serving a sentence of probation or while released to post release supervision;

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

(u) obstructing governmental administration in the second degree as defined in section 195.05 of the penal law, killing or injuring a police animal as defined in section 195.06 of the penal law, killing a police work dog or police work horse as defined in section 195.06-a of the penal law, obstructing governmental administration in the first degree as defined in section 195.07, obstructing governmental administration by means of a self-defense spray device as defined in section 195.08, bribery in the first degree as defined in section 200.04 of the penal

1 law, bribe receiving in the first degree as defined in section 200.12 of
2 the penal law, bribe giving for public office as defined in section
3 200.45 of the penal law, promoting prison contraband in the second
4 degree as defined in section 205.20 of the penal law, promoting prison
5 contraband in the first degree as defined in section 205.25 of the penal
6 law, resisting arrest as defined in section 205.30 of the penal law,
7 hindering prosecution in the first degree as defined in section 205.65
8 of the penal law, tampering with a juror in the first degree as defined
9 in section 215.25 of the penal law or tampering with physical evidence
10 as defined in section 215.40 of the penal law;

11 (v) public sensibilities and the right to privacy including aggravated
12 harassment in the first degree as defined in section 240.31 of the penal
13 law or directing a laser at an aircraft in the first degree as defined
14 in section 240.77 of the penal law;

15 (w) criminal possession of a weapon in the fourth degree as defined in
16 section 265.01 of the penal law, criminal sale of a firearm to a minor
17 as defined in section 265.16 of the penal law, criminal purchase or
18 disposal of a weapon as defined in section 265.17 of the penal law, or
19 aggravated criminal possession of a weapon as defined in section 265.19
20 of the penal law;

21 (x) aggravated cruelty to animals as defined in section three hundred
22 fifty-three-a of the agriculture and markets law, overdriving, torturing
23 and injuring animals; failure to provide proper sustenance as defined in
24 section three hundred fifty-three of the agriculture and markets law, or
25 animal fighting as defined in section three hundred fifty-one of the
26 agriculture and markets law;

27 (y) a hate crime as defined in section 485.05 of the penal law;

28 (z) any of the following offenses where the defendant is required to
29 maintain registration under article six-C of the correction law and
30 designated a level two or level three offender pursuant to subdivision
31 six of section one hundred sixty-eight-l of the correction law: endan-
32 gering the welfare of a child as defined in section 260.10 of the penal
33 law; public lewdness as defined in section 245.00 of the penal law;
34 exposure of a person as defined in section 245.01 of the penal law;
35 public lewdness in the first degree as defined in section 245.03 of the
36 penal law;

37 (a-1) reckless assault of a child by a child day care provider as
38 defined in section 120.01 of the penal law, stalking in the fourth
39 degree as defined in section 120.45 of the penal law, stalking in the
40 third degree as defined in section 120.50 of the penal law, stalking in
41 the second degree as defined in section 120.55 of the penal law, crimi-
42 nally negligent homicide as defined in section 125.10 of the penal law,
43 vehicular manslaughter in the second degree as defined in section 125.12
44 of the penal law, vehicular manslaughter in the first degree as defined
45 in section 125.13 of the penal law, aggravated vehicular homicide as
46 defined in section 125.14 of the penal law, manslaughter in the second
47 degree as defined in section 125.15 of the penal law, coercion in the
48 first degree as defined in section 135.65 of the penal law, burglary in
49 the third degree as defined in section 140.20 of the penal law, arson in
50 the fourth degree as defined in section 150.05 of the penal law, robbery
51 in the third degree as defined in section 160.05 of the penal law, or
52 criminal possession of a firearm as defined in section 265.01-b of the
53 penal law;

54 (b-1) an aggravated family offense as defined in section 240.75 of the
55 penal law;

1 (c-1) any felony or class A misdemeanor involving harm to an identifi-
2 able person or property, where such charge arose from conduct occurring
3 while the defendant was engaging in a riot as defined in article two
4 hundred forty of the penal law;

5 (d-1) use of a child to commit a controlled substance offense as
6 defined in section 220.28 of the penal law and criminal sale of a
7 controlled substance to a child as defined in section 220.48 of the
8 penal law; or

9 (e-1) any crime in violation of article two hundred sixty-five of the
10 penal law involving the use of a machine-gun, firearm silencer, firearm,
11 rifle, shotgun, disguised gun or assault weapon, as such terms are
12 defined in section 265.00 of the penal law.

13 § 4. This act shall take effect immediately.