

# STATE OF NEW YORK

1027

2021-2022 Regular Sessions

## IN ASSEMBLY

January 7, 2021

Introduced by M. of A. BUTTENSCHON, WOERNER, JONES, WALLACE, GRIFFIN,  
ABBATE, STERN -- read once and referred to the Committee on Codes

AN ACT to amend the criminal procedure law, in relation to allowing the  
courts to consider a principal's threat to public safety when deter-  
mining bail

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

1 Section 1. Subdivision 1 of section 510.10 of the criminal procedure  
2 law, as amended by section 2 of part JJJ of chapter 59 of the laws of  
3 2019, is amended to read as follows:

4 1. When a principal, whose future court attendance at a criminal  
5 action or proceeding is or may be required, comes under the control of a  
6 court, such court shall, in accordance with this title, by a securing  
7 order release the principal on the principal's own recognizance, release  
8 the principal under non-monetary conditions, or, where authorized, fix  
9 bail or commit the principal to the custody of the sheriff. In all such  
10 cases, except where another type of securing order is shown to be  
11 required by law, the court shall release the principal pending trial on  
12 the principal's own recognizance, unless it is demonstrated and the  
13 court makes an individualized determination that the principal poses a  
14 risk of flight to avoid prosecution or such principal poses a current  
15 physical danger to the safety of any crime victim, person or the commu-  
16 nity. If such a finding is made, the court must select the least  
17 restrictive alternative and condition or conditions that will reasonably  
18 assure the principal's return to court. The court shall explain its  
19 choice of release, release with conditions, bail or remand on the record  
20 or in writing.

21 § 2. Paragraph (a) of subdivision 1 of section 530.20 of the criminal  
22 procedure law, as added by section 16 of part JJJ of chapter 59 of the  
23 laws of 2019, is amended to read as follows:

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

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1 (a) In cases other than as described in paragraph (b) of this subdivi-  
2 sion the court shall release the principal pending trial on the princi-  
3 pal's own recognizance, unless the court finds on the record or in writ-  
4 ing that release on the principal's own recognizance will not reasonably  
5 assure the principal's return to court or such principal poses a current  
6 physical danger to the safety of any crime victim, person or the commu-  
7 nity. In such instances, the court shall release the principal under  
8 non-monetary conditions, selecting the least restrictive alternative and  
9 conditions that will reasonably assure the principal's return to court.  
10 The court shall explain its choice of alternative and conditions on the  
11 record or in writing.

12 § 3. Subdivision 3 of section 530.40 of the criminal procedure law, as  
13 amended by section 18 of part JJJ of chapter 59 of the laws of 2019, is  
14 amended to read as follows:

15 3. In cases other than as described in subdivision four of this  
16 section the court shall release the principal pending trial on the prin-  
17 cipal's own recognizance, unless the court finds on the record or in  
18 writing that release on the principal's own recognizance will not  
19 reasonably assure the principal's return to court or such principal  
20 poses a current physical danger to the safety of any crime victim,  
21 person or the community. In such instances, the court shall release the  
22 principal under non-monetary conditions, selecting the least restrictive  
23 alternative and conditions that will reasonably assure the principal's  
24 return to court. The court shall explain its choice of alternative and  
25 conditions on the record or in writing.

26 § 4. This act shall take effect immediately.