STATE OF NEW YORK

2076

2021-2022 Regular Sessions

IN ASSEMBLY

January 14, 2021

Introduced by M. of A. BARNWELL, BUTTENSCHON, ABBATE -- Multi-Sponsored by -- M. of A. ASHBY, BYRNES, DeSTEFANO, DiPIETRO, GRIFFIN, JONES, MANKTELOW, MONTESANO, REILLY, STERN, TAGUE, THIELE, WALCZYK -- read once and referred to the Committee on Codes

AN ACT to amend the criminal procedure law, in relation to detaining principals before trial

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

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

1. When a principal, whose future court attendance at a criminal action or proceeding is or may be required, comes under the control of a court, such court shall, in accordance with this title, by a securing order release the principal on the principal's own recognizance, release the principal under non-monetary conditions, or, where authorized, fix bail or commit the principal to the custody of the sheriff. In all such cases, except where another type of securing order is shown to be required by law, the court shall release the principal pending trial on the principal's own recognizance, unless it is demonstrated and the court makes an individualized determination that the principal**; (a)** poses a risk of flight to avoid prosecution**; (b) has a record of missing mandated court appearances; (c) is a danger to himself, herself and/or another person; and/or (d) has been previously convicted of a crime or has engaged in activities which the court determines requires the principal not be released pending trial on the principal's own recognizance**. If such a finding is made, the court [~~must~~] **shall** select the least restrictive alternative and condition or conditions that will reasonably assure the principal's return to court **and, at future court appearances upon hearing from the principal and the people, the court shall consider a lessening of conditions or modification of conditions**. The court shall explain its choice of release, release with conditions, bail or remand on the record [~~or in writing~~].

§ 2. This act shall take effect immediately.

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

LBD07024-01-1