

# STATE OF NEW YORK

8309--A

2021-2022 Regular Sessions

## IN ASSEMBLY

October 20, 2021

Introduced by M. of A. GALEF, ENGLEBRIGHT, THIELE, McDONALD, WOERNER, BUTTENSCHON, BARNWELL, STERN, SIMON, PHEFFER AMATO, GRIFFIN, WALLACE, JACOBSON, CONRAD -- Multi-Sponsored by -- M. of A. BYRNE, LAWLER, MONTESANO, MORINELLO, SALKA -- read once and referred to the Committee on Codes -- recommitted to the Committee on Codes in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the criminal procedure law, in relation to including certain violations involving the use of a firearm as qualifying offenses for the purpose of imposing bail

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

1 Section 1. Paragraphs (s) and (t) of subdivision 4 of section 510.10  
2 of the criminal procedure law, as added by section 2 of part UU of chap-  
3 ter 56 of the laws of 2020, are amended and a new paragraph (u) is added  
4 to read as follows:  
5 (s) a felony, where the defendant qualifies for sentencing on such  
6 charge as a persistent felony offender pursuant to section 70.10 of the  
7 penal law; [~~or~~]  
8 (t) any felony or class A misdemeanor involving harm to an identifi-  
9 able person or property, where such charge arose from conduct occurring  
10 while the defendant was released on his or her own recognizance or  
11 released under conditions for a separate felony or class A misdemeanor  
12 involving harm to an identifiable person or property, provided, however,  
13 that the prosecutor must show reasonable cause to believe that the  
14 defendant committed the instant crime and any underlying crime. For the  
15 purposes of this [~~subparagraph~~] paragraph, any of the underlying crimes  
16 need not be a qualifying offense as defined in this subdivision[~~-~~]; or  
17 (u) any crime in violation of article two hundred sixty-five of the  
18 penal law involving the use of a machine-gun, firearm silencer, firearm,

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

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1 rifle, shotgun, disguised gun, ghost gun or assault weapon, as such  
2 terms are defined in section 265.00 of the penal law.

3 § 2. Subparagraphs (xix) and (xx) of paragraph (b) of subdivision 1 of  
4 section 530.20 of the criminal procedure law, as amended by section 3 of  
5 part UU of chapter 56 of the laws of 2020, are amended and a new subpar-  
6 agraph (xxi) is added to read as follows:

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

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

19 (xxi) any crime in violation of article two hundred sixty-five of the  
20 penal law involving the use of a machine-gun, firearm silencer, firearm,  
21 rifle, shotgun, disguised gun, ghost gun or assault weapon, as such  
22 terms are defined in section 265.00 of the penal law.

23 § 3. Paragraphs (s) and (t) of subdivision 4 of section 530.40 of the  
24 criminal procedure law, as added by section 4 of part UU of chapter 56  
25 of the laws of 2020, are amended and a new paragraph (u) is added to  
26 read as follows:

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

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

39 (u) any crime in violation of article two hundred sixty-five of the  
40 penal law involving the use of a machine-gun, firearm silencer, firearm,  
41 rifle, shotgun, disguised gun, ghost gun or assault weapon, as such  
42 terms are defined in section 265.00 of the penal law.

43 § 4. Paragraphs (a) and (e) of subdivision 2 of section 530.60 of the  
44 criminal procedure law, as amended by section 20 of part JJJ of chapter  
45 59 of the laws of 2019, are amended to read as follows:

46 (a) Whenever in the course of a criminal action or proceeding a  
47 defendant charged with the commission of a felony is at liberty as a  
48 result of an order of recognizance, release under non-monetary condi-  
49 tions or bail issued pursuant to this article it shall be grounds for  
50 revoking such order that the court finds reasonable cause to believe the  
51 defendant committed one or more specified class A or violent felony  
52 offenses, or intimidated a victim or witness in violation of section  
53 215.15, 215.16 or 215.17 of the penal law or committed any crime in  
54 violation of article two hundred sixty-five of the penal law involving  
55 the use of a machine-gun, firearm silencer, firearm, rifle, shotgun,

1 disguised gun, ghost gun or assault weapon, as such terms are defined in  
2 section 265.00 of the penal law, while at liberty.

3 (e) Notwithstanding the provisions of paragraph (a) or (b) of this  
4 subdivision a defendant, against whom a felony complaint has been filed  
5 which charges the defendant with commission of a class A or violent  
6 felony offense, or violation of section 215.15, 215.16 or 215.17 of the  
7 penal law or violation of article two hundred sixty-five of the penal  
8 law involving the use of a machine-gun, firearm silencer, firearm,  
9 rifle, shotgun, disguised gun, ghost gun or assault weapon, as such  
10 terms are defined in section 265.00 of the penal law, committed while he  
11 was at liberty as specified therein, may be committed to the custody of  
12 the sheriff pending a revocation hearing for a period not to exceed  
13 seventy-two hours. An additional period not to exceed seventy-two hours  
14 may be granted by the court upon application of the district attorney  
15 upon a showing of good cause or where the failure to commence the hear-  
16 ing was due to the defendant's request or occurred with his consent.  
17 Such good cause must consist of some compelling fact or circumstance  
18 which precluded conducting the hearing within the initial prescribed  
19 period.

20 § 5. This act shall take effect immediately.