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:

Section 1. Paragraphs (s) and (t) of subdivision 4 of section 510.10 of the criminal procedure law, as added by section 2 of part UU of chapter 56 of the laws of 2020, are amended and a new paragraph (u) is added to read as follows:

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

(u) any crime in violation of article two hundred sixty-five of the 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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rifle, shotgun, disguised gun, ghost gun or assault weapon, as such terms are defined in section 265.00 of the penal law.

§ 2. Subparagraphs (xix) and (xx) 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, are amended and a new subparagraph (xxi) is added to read as follows:

(xix) 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~~]

(xx) 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[~~.~~]; or

(xxi) 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, ghost gun or assault weapon, as such terms are defined in section 265.00 of the penal law.

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

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

(u) 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, ghost gun or assault weapon, as such terms are defined in section 265.00 of the penal law.

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

(a) Whenever in the course of a criminal action or proceeding a defendant charged with the commission of a felony is at liberty as a result of an order of recognizance, release under non-monetary conditions or bail issued pursuant to this article it shall be grounds for revoking such order that the court finds reasonable cause to believe the defendant committed one or more specified class A or violent felony offenses, or intimidated a victim or witness in violation of section 215.15, 215.16 or 215.17 of the penal law or committed 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, ghost gun or assault weapon, as such terms are defined in section 265.00 of the penal law, while at liberty.

(e) Notwithstanding the provisions of paragraph (a) or (b) of this subdivision a defendant, against whom a felony complaint has been filed which charges the defendant with commission of a class A or violent felony offense**,** or violation of section 215.15, 215.16 or 215.17 of the penal law **or 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, ghost gun or assault weapon, as such terms are defined in section 265.00 of the penal law,** committed while he was at liberty as specified therein, may be committed to the custody of the sheriff pending a revocation hearing for a period not to exceed seventy-two hours. An additional period not to exceed seventy-two hours may be granted by the court upon application of the district attorney upon a showing of good cause or where the failure to commence the hearing was due to the defendant's request or occurred with his consent. Such good cause must consist of some compelling fact or circumstance which precluded conducting the hearing within the initial prescribed period.

§ 5. This act shall take effect immediately.