STATE OF NEW YORK

9949

IN ASSEMBLY

April 19, 2022

Introduced by M. of A. GRIFFIN, STERN, WOERNER, PHEFFER AMATO, THIELE -- read once and referred to the Committee on Codes

AN ACT to amend the criminal procedure law, in relation to setting bail for certain defendants with open misdemeanor charges

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. **(a)** 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**:**

(i) the principal poses a risk of flight to avoid prosecution[~~.~~]**; or**

(ii) the principal has at least three or more open misdemeanor charges that a court could have fixed bail for but determined to release the principal on his or her own recognizance.

(b) If [~~such~~] a finding is made **pursuant to subparagraph (i) of paragraph (a) of this subdivision**, the court must select the least restrictive alternative and condition or conditions that will reasonably [~~assure~~] **ensure** the principal's return to court.

If a finding is made pursuant to subparagraph (ii) of paragraph (a) of this subdivision, the court may fix bail pursuant to this title or select the least restrictive alternative and condition or conditions that will reasonably ensure the principal's return to court. The court shall explain its choice of release, release with conditions, bail or remand on the record or in writing.

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

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

(a) In cases other than as described in paragraph (b) of this subdivision the court shall release the principal pending trial on the principal's own recognizance, unless the court finds on the record or in writing that release on the principal's own recognizance will not reasonably assure the principal's return to court **or the principal has at least three or more open misdemeanor charges that a court could have fixed bail for but determined to release the principal on his or her own recognizance**. In such instances, the court shall release the principal under non-monetary conditions, selecting the least restrictive alternative and conditions that will reasonably assure the principal's return to court**, or if a finding is made that the principal has at least three or more open misdemeanor charges the court may fix bail pursuant to this title**. The court shall explain its choice of alternative and conditions on the record or in writing.

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

3. In cases other than as described in subdivision four of this section the court shall release the principal pending trial on the principal's own recognizance, unless the court finds on the record or in writing that release on the principal's own recognizance will not reasonably assure the principal's return to court **or the principal has at least three or more open misdemeanor charges that a court could have fixed bail for but determined to release the principal on his or her own recognizance**. In such instances, the court shall release the principal under non-monetary conditions, selecting the least restrictive alternative and conditions that will reasonably assure the principal's return to court**, or if a finding is made that the principal has at least three or more open misdemeanor charges the court may fix bail pursuant to this title**. The court shall explain its choice of alternative and conditions on the record or in writing.

§ 4. This act shall take effect on the sixtieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.