STATE OF NEW YORK

2027

2021-2022 Regular Sessions

IN SENATE

January 16, 2021

Introduced by Sens. AKSHAR, BORRELLO, BOYLE, HELMING, JORDAN, O'MARA, ORTT, RITCHIE, TEDISCO -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the criminal procedure law, in relation to adding serious crimes to those offenses that qualify for bail and pre-trial detention

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

Section 1. The opening paragraph and paragraphs (a), (d), (g), (i), (s) and (t) of subdivision 4 of section 510.10 of the criminal procedure law, the opening paragraph and paragraphs (a), (d), (g) and (i) as amended and paragraphs (s) and (t) as added by section 2 of part UU of chapter 56 of the laws of 2020, are amended and sixteen new paragraphs (u), (v), (w), (x), (y), (z), (aa), (bb), (cc), (dd), (ee), (ff), (gg), (hh), (ii) and (jj) are added to read as follows:

8 Where the principal stands charged with a qualifying offense, the 9 court, unless otherwise prohibited by law, may in its discretion release 10 the principal pending trial on the principal's own recognizance or under 11 non-monetary conditions, fix bail, or, where the defendant is charged 12 with a qualifying offense [which is a felony], the court may commit the 13 principal to the custody of the sheriff. A principal stands charged with 14 a qualifying offense for the purposes of this subdivision when he or she 15 stands charged with:

(a) a felony enumerated in section 70.02 of the penal law[, other than
robbery in the second degree as defined in subdivision one of section
160.10 of the penal law, provided, however, that burglary in the second
degree as defined in subdivision two of section 140.25 of the penal law
shall be a qualifying offense only where the defendant is charged with

21 entering the living area of the dwelling];

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

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(d) a class A felony defined in the penal law[- provided that for 1 2 class A felonics under article two hundred twenty of the penal law, only class A-I felonies shall be a qualifying offense]; 3 4 (g) money laundering in support of terrorism in the first degree as 5 defined in section 470.24 of the penal law; money laundering in support б of terrorism in the second degree as defined in section 470.23 of the 7 penal law; money laundering in support of terrorism in the third degree 8 as defined in section 470.22 of the penal law; money laundering in 9 support of terrorism in the fourth degree as defined in section 470.21 the penal law; or a [felony grime of terrorism as defined in article 10 of four hundred ninety of the penal law, other than the crime defined in 11 section 490.20 of such law] misdemeanor or felony crime defined in arti-12 13 cle four hundred ninety of the penal law; 14 (i) [facilitating a sexual performance by a child with a controlled substance or alcohol as defined in section 263.30 of the penal law, use 15 16 of a child in a sexual performance as defined in section 263.05 of the 17 penal law] a misdemeanor or felony defined in article two hundred sixty-three of the penal law or luring a child as defined in subdivision 18 19 one of section 120.70 of the penal law, promoting an obscene sexual 20 performance by a child as defined in section 263.10 of the penal law or 21 promoting a sexual performance by a child as defined in section 263.15 22 of the penal law; 23 (s) a felony, where the defendant qualifies for sentencing on such 24 charge as a persistent felony offender pursuant to section 70.10 of the 25 penal law; [or] 26 (t) any felony or class A misdemeanor involving harm to an identifi-27 able person or property, where such charge arose from conduct occurring while the defendant was released on his or her own recognizance or 28 29 released under conditions for a separate felony or class A misdemeanor involving harm to an identifiable person or property, provided, however, 30 31 that the prosecutor must show reasonable cause to believe that the 32 defendant committed the instant crime and any underlying crime. For the purposes of this subparagraph, any of the underlying crimes need not be 33 34 a qualifying offense as defined in this subdivision [-]: 35 (u) a felony enumerated in article two hundred twenty of the penal 36 law; 37 (v) a hate crime defined in article four hundred eighty-five of the 38 penal law; 39 (w) manslaughter in the second degree as defined in section 125.15 of 40 the penal law; 41 (x) criminally negligent homicide as defined in section 125.10 of the 42 penal law; 43 (y) reckless assault of a child as defined in section 120.02 of the 44 penal law or reckless assault of a child by a child day care provider as 45 defined in section 120.01 of the penal law; 46 (z) burglary in the third degree as defined in section 140.20 of the 47 penal law and robbery in the third degree as defined in section 160.05 48 of the penal law; 49 (aa) stalking in the second degree as defined in section 120.55 of the 50 penal law, stalking in the third degree as defined in section 120.50 of 51 the penal law or stalking in the fourth degree as defined in section 52 120.45 of the penal law; 53 (bb) aggravated vehicular manslaughter as defined in section 125.14 of 54 the penal law;

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1	(cc) vehicular manslaughter in the first degree as defined in section
2	125.13 of the penal law or vehicular manslaughter in the second degree
3	as defined in section 125.12 of the penal law;
4	(dd) menacing in the first degree as defined in section 120.13 of the
5	penal law, menacing in the second degree as defined in section 120.14 of
б	the penal law or menacing in the third degree as defined in section
7	120.15 of the penal law;
8	(ee) coercion in the first degree as defined in section 135.65 of the
9	penal law;
10	(ff) arson in the fourth degree as defined in section 150.05 of the
11	penal law;
12	(gg) criminal possession of a firearm as defined in section 265.01-b
13	of the penal law;
14	(hh) patronizing a person for prostitution in a school zone as defined
15	in section 230.08 of the penal law;
16	(ii) aggravated harassment in the first degree as defined in section
17	240.31 of the penal law; or
18	(jj) aggravated cruelty to animals as defined in section three hundred
19	fifty-three-a of the agriculture and markets law, overriding, torturing
20	and injuring animals; failure to provide proper sustenance as defined in
21	section three hundred fifty-three of the agriculture and markets law, or
22	animal fighting as defined in section three hundred fifty-one of the
23	agriculture and markets law.
24	§ 2. The opening paragraph and subparagraphs (i), (iv), (vii), (ix),
25	(xix) and (xx) of paragraph (b) of subdivision 1 of section 530.20 of
26	the criminal procedure law, as amended by section 3 of part UU of chap-
27	ter 56 of the laws of 2020, are amended and sixteen new subparagraphs
28	(xxi), (xxii), (xxii), (xxiv), (xxv), (xxvi), (xxvii), (xxviii),
29	(xxix), (xxx), (xxxi), (xxxii), (xxxii), (xxxiv), (xxxv), and (xxxvi)
30	are added to read as follows:
31	Where the principal stands charged with a qualifying offense, the
32	court, unless otherwise prohibited by law, may in its discretion release
33	the principal pending trial on the principal's own recognizance or under
34	non-monetary conditions, fix bail, or, where the defendant is charged
35	with a qualifying offense [which is a felony], the court may commit the
36	principal to the custody of the sheriff. The court shall explain its
37	choice of release, release with conditions, bail or remand on the record
38	or in writing. A principal stands charged with a qualifying offense when
39	he or she stands charged with:
40 4 1	(i) a felony enumerated in section 70.02 of the penal law[$\frac{1}{2}$ other than
41	robbery in the second degree as defined in subdivision one of section
42	160.10 of the penal law, provided, however, that burglary in the second degree as defined in subdivision two of section 140.25 of the penal law
43 44	
44	shall be a qualifying offense only where the defendant is charged with entering the living area of the dwelling];
45 4 C	
46	(iv) a class A felony defined in the penal law[, provided, that for class A felonies under article two hundred twenty of such law, only
47 48	class A feronies shall be a qualifying offense];
±0 19	
±9 50	(vii) money laundering in support of terrorism in the first degree as defined in section 470.24 of the penal law; money laundering in support
50 51	of terrorism in the second degree as defined in section 470.23 of the
51 52	-
5⊿ 53	penal law; money laundering in support of terrorism in the third degree as defined in section 470.22 of the penal law; money laundering in
53 54	support of terrorism in the fourth degree as defined in section 470.22
54 55	of the penal law; or a [felony crime of terrorism as defined in article
55 56	four hundred ninety of the penal law, other than the crime defined in
0.0	tour numerou nineer of the penar lawy other than the erise utilities in

1	section 490.20 of such law] misdemeanor or felony crime defined in arti-
2	<u>cle four hundred ninety of the penal law;</u>
3	(ix) [facilitating a sexual performance by a child with a controlled
4	substance or alcohol as defined in section 263.30 of the penal law, use
5	of a child in a sexual performance as defined in section 263.05 of the
6	penal law] a misdemeanor or felony defined in article two hundred
7	sixty-three of the penal law or luring a child as defined in subdivision
8	one of section 120.70 of the penal law, promoting an obscene sexual
9	performance by a child as defined in section 263.10 of the penal law or
10	promoting a sexual performance by a child as defined in section 263.15
11	of the penal law;
12	(xix) a felony, where the defendant qualifies for sentencing on such
13	charge as a persistent felony offender pursuant to section 70.10 of the
14	penal law; [or]
15	(xx) any felony or class A misdemeanor involving harm to an identifi-
16	able person or property, where such charge arose from conduct occurring
17	while the defendant was released on his or her own recognizance or
18	released under conditions for a separate felony or class A misdemeanor
19	involving harm to an identifiable person or property, provided, however,
20	that the prosecutor must show reasonable cause to believe that the
21	defendant committed the instant crime and any underlying crime. For the
22	purposes of this subparagraph, any of the underlying crimes need not be
23	a qualifying offense as defined in this subdivision [-]:
24	(xxi) a felony enumerated in article two hundred twenty of the penal
25	law;
26	(xxii) a hate crime defined in article four hundred eighty-five of the
27	penal law;
28	(xxiii) manslaughter in the second degree as defined in section 125.15
29	of the penal law;
30	(xxiv) criminally negligent homicide as defined in section 125.10 of
31	the penal law;
32	(xxv) reckless assault of a child as defined in section 120.02 of the
33	penal law, reckless assault of a child by a child day care provider as
34	defined in section 120.01 of the penal law;
35	(xxvi) burglary in the third degree as defined in section 140.20 of
36	the penal law and robbery in the third degree as defined in section
37	160.05 of the penal law;
38	(xxvii) stalking in the second degree as defined in section 120.55 of
39	the penal law, stalking in the third degree as defined in section 120.50
40	of the penal law or stalking in the fourth degree as defined in section
41	120.45 of the penal law;
42	(xxviii) aggravated vehicular manslaughter as defined in section
43	125.14 of the penal law;
44	(xxix) vehicular manslaughter in the first degree as defined in
45	section 125.13 of the penal law or vehicular manslaughter in the second
46	degree as defined in section 125.12 of the penal law;
47	(xxx) menacing in the first degree as defined in section 120.13 of the
48	penal law, menacing in the second degree as defined in section 120.14 of
49	the penal law or menacing in the third degree as defined in section
50	120.15 of the penal law;
51	(xxxi) coercion in the first degree as defined in section 135.65 of
52	the penal law;
53	(xxxii) arson in the fourth degree as defined in section 150.05 of the
54	penal law;
55	(xxxiii) criminal possession of a firearm as defined in section
56	<u>265.01-b of the penal law;</u>

1	(xxxiv) patronizing a person for prostitution in a school zone as
2	defined in section 230.08 of the penal law;
3	(xxxv) aggravated harassment in the first degree as defined in section
4	240.31 of the penal law; or
5	(xxxvi) aggravated cruelty to animals as defined in section three
б	hundred fifty-three-a of the agriculture and markets law, overriding,
7	torturing and injuring animals; failure to provide proper sustenance as
8	defined in section three hundred fifty-three of the agriculture and
9	markets law, or animal fighting as defined in section three hundred
10	fifty-one of the agriculture and markets law.
11	§ 3. The opening paragraph and paragraphs (a), (d), (g), (i), (s) and
12	(t) of subdivision 4 of section 530.40 of the criminal procedure law,
13	the opening paragraph and paragraphs (a), (d), (g) and (i) as amended
14	and paragraphs (s) and (t) as added by section 4 of part UU of chapter
15	56 of the laws of 2020, are amended and sixteen new paragraphs (u), (v),
16	(w), (x), (y), (z), (aa), (bb), (cc), (dd), (ee), (ff), (gg), (hh), (ii)
17	and (jj) are added to read as follows:
18	Where the principal stands charged with a qualifying offense, the
19	court, unless otherwise prohibited by law, may in its discretion release
20	the principal pending trial on the principal's own recognizance or under
21	non-monetary conditions, fix bail, or, where the defendant is charged
22	with a qualifying offense [which is a felony], the court may commit the
23	principal to the custody of the sheriff. The court shall explain its
24	choice of release, release with conditions, bail or remand on the record
25	or in writing. A principal stands charged with a qualifying offense for
26	the purposes of this subdivision when he or she stands charged with:
27	(a) a felony enumerated in section 70.02 of the penal law $[\frac{1}{7}$ other than
28	robbery in the second degree as defined in subdivision one of section
29	160.10 of the penal law, provided, however, that burglary in the second
30	degree as defined in subdivision two of section 140.25 of the penal law
31	shall be a qualifying offense only where the defendant is charged with
32	entering the living area of the dwelling];
33	(d) a class A felony defined in the penal law[, provided that for
34	class A felonies under article two hundred twenty of such law, only
35	class A-I felonics shall be a qualifying offense];
36	(g) money laundering in support of terrorism in the first degree as
37	defined in section 470.24 of the penal law; money laundering in support
38	of terrorism in the second degree as defined in section 470.23 of the
39	penal law; money laundering in support of terrorism in the third degree
40	
41	as defined in section 470.22 of the penal law; money laundering in
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	support of terrorism in the fourth degree as defined in section 470.21
42 43	support of terrorism in the fourth degree as defined in section 470.21 of the penal law; or a [felony crime of terrorism as defined in article
42 43	support of terrorism in the fourth degree as defined in section 470.21
42	support of terrorism in the fourth degree as defined in section 470.21 of the penal law; or a [felony crime of terrorism as defined in article four hundred ninety of the penal law, other than the crime defined in
42 43 44	support of terrorism in the fourth degree as defined in section 470.21 of the penal law; or a [felony crime of terrorism as defined in article four hundred ninety of the penal law, other than the grime defined in section 490.20 of such law] misdemeanor or felony crime defined in arti- cle four hundred ninety of the penal law;
42 43 44 45 46	support of terrorism in the fourth degree as defined in section 470.21 of the penal law; or a [felony crime of terrorism as defined in article four hundred ninety of the penal law, other than the grime defined in section 490.20 of such law] misdemeanor or felony crime defined in arti- cle four hundred ninety of the penal law; (i) [facilitating a sexual performance by a child with a controlled
42 43 44 45	support of terrorism in the fourth degree as defined in section 470.21 of the penal law; or a [felony crime of terrorism as defined in article four hundred ninety of the penal law, other than the grime defined in section 490.20 of such law] misdemeanor or felony crime defined in arti- cle four hundred ninety of the penal law;
42 43 44 45 46 47	support of terrorism in the fourth degree as defined in section 470.21 of the penal law; or a [felony crime of terrorism as defined in article four hundred ninety of the penal law, other than the crime defined in section 490.20 of such law] misdemeanor or felony crime defined in arti- cle four hundred ninety of the penal law; (i) [facilitating a sexual performance by a child with a controlled substance or alcohol as defined in section 263.30 of the penal law, use of a child in a sexual performance as defined in section 263.05 of the
42 43 44 45 46 47 48	support of terrorism in the fourth degree as defined in section 470.21 of the penal law; or a [felony crime of terrorism as defined in article four hundred ninety of the penal law, other than the crime defined in section 490.20 of such law] misdemeanor or felony crime defined in arti- cle four hundred ninety of the penal law; (i) [facilitating a sexual performance by a child with a controlled substance or alcohol as defined in section 263.30 of the penal law, use of a child in a sexual performance as defined in section 263.05 of the penal law] misdemeanor or felony defined in article two hundred sixty-
42 43 44 45 46 47 48 49	support of terrorism in the fourth degree as defined in section 470.21 of the penal law; or a [felony crime of terrorism as defined in article four hundred ninety of the penal law, other than the grime defined in section 490.20 of such law] misdemeanor or felony crime defined in arti- cle four hundred ninety of the penal law; (i) [facilitating a sexual performance by a child with a controlled substance or alcohol as defined in section 263.30 of the penal law, use of a child in a sexual performance as defined in section 263.05 of the penal law] misdemeanor or felony defined in article two hundred sixty- three of the penal law or luring a child as defined in subdivision one
42 43 44 45 46 47 48 49 50 51	<pre>support of terrorism in the fourth degree as defined in section 470.21 of the penal law; or a [felony crime of terrorism as defined in article four hundred ninety of the penal law, other than the grime defined in section 490.20 of such law] misdemeanor or felony crime defined in article cle four hundred ninety of the penal law; (i) [facilitating a sexual performance by a child with a controlled substance or alcohol as defined in section 263.30 of the penal law, use of a child in a sexual performance as defined in section 263.05 of the penal law] misdemeanor or felony defined in article two hundred sixty- three of the penal law or luring a child as defined in subdivision one of section 120.70 of the penal law, promoting an obscene sexual perform-</pre>
42 43 44 45 46 47 48 49 50 51 52	support of terrorism in the fourth degree as defined in section 470.21 of the penal law; or a [felony crime of terrorism as defined in article four hundred ninety of the penal law, other than the grime defined in section 490.20 of such law] misdemeanor or felony crime defined in arti- cle four hundred ninety of the penal law; (i) [facilitating a sexual performance by a child with a controlled substance or alcohol as defined in section 263.30 of the penal law, use of a child in a sexual performance as defined in section 263.05 of the penal law] misdemeanor or felony defined in article two hundred sixty- three of the penal law or luring a child as defined in subdivision one of section 120.70 of the penal law, promoting an obscene sexual perform- ance by a child as defined in section 263.10 of the penal law or promot-
42 43 44 45 46 47 48 49 50 51	<pre>support of terrorism in the fourth degree as defined in section 470.21 of the penal law; or a [felony crime of terrorism as defined in article four hundred ninety of the penal law, other than the grime defined in section 490.20 of such law] misdemeanor or felony crime defined in article cle four hundred ninety of the penal law; (i) [facilitating a sexual performance by a child with a controlled substance or alcohol as defined in section 263.30 of the penal law, use of a child in a sexual performance as defined in section 263.05 of the penal law] misdemeanor or felony defined in article two hundred sixty- three of the penal law or luring a child as defined in subdivision one of section 120.70 of the penal law, promoting an obscene sexual perform-</pre>

1 (s) a felony, where the defendant qualifies for sentencing on such 2 charge as a persistent felony offender pursuant to section 70.10 of the 3 penal law; [or] (t) any felony or class A misdemeanor involving harm to an identifi-4 5 able person or property, where such charge arose from conduct occurring б while the defendant was released on his or her own recognizance or 7 released under conditions for a separate felony or class A misdemeanor involving harm to an identifiable person or property, provided, however, 8 9 that the prosecutor must show reasonable cause to believe that the 10 defendant committed the instant crime and any underlying crime. For the purposes of this subparagraph, any of the underlying crimes need not be 11 a qualifying offense as defined in this subdivision $[-]_{:}$ 12 13 (u) a felony enumerated in article two hundred twenty of the penal 14 law; 15 (v) a hate crime defined in article four hundred eighty-five of the 16 penal law; 17 (w) manslaughter in the second degree as defined in section 125.15 of 18 the penal law; 19 (x) criminally negligent homicide as defined in section 125.10 of the 20 penal law; 21 (y) reckless assault of a child as defined in section 120.02 of the 22 law, reckless assault of a child by a child day care provider as penal defined in section 120.01 of the penal law; 23 (z) burglary in the third degree as defined in section 140.20 of the 24 penal law and robbery in the third degree as defined in section 160.05 25 26 of the penal law; 27 (aa) stalking in the second degree as defined in section 120.55 of the penal law, stalking in the third degree as defined in section 120.50 of 28 the penal law or stalking in the fourth degree as defined in section 29 30 120.45 of the penal law; 31 (bb) aggravated vehicular manslaughter as defined in section 125.14 of 32 the penal law; 33 (cc) vehicular manslaughter in the first degree as defined in section 34 125.13 of the penal law or vehicular manslaughter in the second degree 35 as defined in section 125.12 of the penal law; (dd) menacing in the first degree as defined in section 120.13 of the 36 penal law, menacing in the second degree as defined in section 120.14 of 37 the penal law or menacing in the third degree as defined in section 38 120.15 of the penal law; 39 (ee) coercion in the first degree as defined in section 135.65 of the 40 41 penal law; 42 (ff) arson in the fourth degree as defined in section 150.05 of the 43 penal law; 44 (gg) criminal possession of a firearm as defined in section 265.01-b 45 of the penal law; 46 (hh) patronizing a person for prostitution in a school zone as defined 47 in section 230.08 of the penal law; 48 (ii) aggravated harassment in the first degree as defined in section 240.31 of the penal law; or 49 50 (jj) aggravated cruelty to animals as defined in section three hundred 51 fifty-three-a of the agriculture and markets law, overriding, torturing 52 and injuring animals; failure to provide proper sustenance as defined in 53 section three hundred fifty-three of the agriculture and markets law, or 54 animal fighting as defined in section three hundred fifty-one of the

55 <u>agriculture and markets law.</u>

56 § 4. This act shall take effect immediately.