

STATE OF NEW YORK

6153

2021-2022 Regular Sessions

IN SENATE

April 12, 2021

Introduced by Sen. BOYLE -- 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 ensuring repeat offenders qualify for bail and pre-trial detention

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

1 Section 1. The opening paragraph and paragraphs (s) and (t) of subdivi-
2 sion 4 of section 510.10 of the criminal procedure law, the opening
3 paragraph as amended and paragraphs (s) and (t) as added by section 2 of
4 part UU of chapter 56 of the laws of 2020, are amended and a new para-
5 graph (u) is added to read as follows:

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

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

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

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

LBD10639-01-1

(u) a misdemeanor or felony offense and the principal has been convicted of one or more misdemeanor or felony offenses within the immediate preceding five years.

§ 2. The opening paragraph and 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:

Where the principal stands charged with a qualifying offense, the court, unless otherwise prohibited by law, may in its discretion release the principal pending trial on the principal's own recognizance or under non-monetary conditions, fix bail, or, where the defendant is charged with a qualifying offense [~~which is a felony~~], the court may commit the principal to the custody of the sheriff. The court shall explain its choice of release, release with conditions, bail or remand on the record or in writing. A principal stands charged with a qualifying offense when he or she stands charged with:

(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) a misdemeanor or felony offense and the principal has been convicted of one or more misdemeanor or felony offenses within the immediate preceding five years.

§ 3. The opening paragraph and paragraphs (s) and (t) of subdivision 4 of section 530.40 of the criminal procedure law, the opening paragraph as amended and paragraphs (s) and (t) 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:

Where the principal stands charged with a qualifying offense, the court, unless otherwise prohibited by law, may in its discretion release the principal pending trial on the principal's own recognizance or under non-monetary conditions, fix bail, or, where the defendant is charged with a qualifying offense [~~which is a felony~~], the court may commit the principal to the custody of the sheriff. The court shall explain its choice of release, release with conditions, bail or remand on the record or in writing. A principal stands charged with a qualifying offense for the purposes of this subdivision when he or she stands charged with:

(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

1 purposes of this subparagraph, any of the underlying crimes need not be
2 a qualifying offense as defined in this subdivision[~~+~~]; or
3 (u) a misdemeanor or felony offense and the principal has been
4 convicted of one or more misdemeanor or felony offenses within the imme-
5 diate preceding five years.

6 § 4. This act shall take effect January 1, 2022.