

STATE OF NEW YORK

7446

2021-2022 Regular Sessions

IN SENATE

October 18, 2021

Introduced by Sen. SERINO -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the criminal procedure law, in relation to authorizing crimes committed by members of street gangs or a criminal enterprise to be eligible for 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 misdemeanor or felony offense and there is reasonable cause to
18 believe the principal is associated with a criminal street gang, as
19 defined in section 10-170 of the administrative code of the city of New
20 York or a criminal enterprise, as defined in section 460.10 of the penal
21 law and there is reasonable cause to believe the offense is connected to
22 criminal street gang or criminal enterprise activity.

23 § 2. Subparagraphs (xix) and (xx) of paragraph (b) of subdivision 1 of
24 section 530.20 of the criminal procedure law, as amended by section 3 of

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

LBD13374-01-1

1 part UU of chapter 56 of the laws of 2020, are amended and a new subpar-
2 agraph (xxi) is added to read as follows:

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

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

15 (xxi) any misdemeanor or felony offense and there is reasonable cause
16 to believe the principal is associated with a criminal street gang, as
17 defined in section 10-170 of the administrative code of the city of New
18 York or a criminal enterprise, as defined in section 460.10 of the penal
19 law and there is reasonable cause to believe the offense is connected to
20 criminal street gang or criminal enterprise activity.

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

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

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

37 (u) any misdemeanor or felony offense and there is reasonable cause to
38 believe the principal is associated with a criminal street gang, as
39 defined in section 10-170 of the administrative code of the city of New
40 York or a criminal enterprise, as defined in section 460.10 of the penal
41 law and there is reasonable cause to believe the offense is connected to
42 criminal street gang or criminal enterprise activity.

43 § 4. This act shall take effect immediately.