STATE OF NEW YORK

10661

IN ASSEMBLY

July 22, 2024

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Simpson) -- read once and referred to the Committee on Codes

AN ACT to amend the penal law and the criminal procedure law, in relation to increasing the designation of certain offenses relating to unlawfully fleeing a police officer and making such offenses eligible for bail

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

Section 1. The second undesignated paragraph of section 270.25 of the penal law, as added by chapter 738 of the laws of 2006, is amended to read as follows:

Unlawful fleeing a police officer in a motor vehicle in the third degree is a class [~~A misdemeanor~~] **E felony**.

§ 2. The second undesignated paragraph of section 270.30 of the penal law, as added by chapter 738 of the laws of 2006, is amended to read as follows:

Unlawful fleeing a police officer in a motor vehicle in the second degree is a class [~~E~~] **D** felony.

§ 3. The second undesignated paragraph of section 270.35 of the penal law, as added by chapter 738 of the laws of 2006, is amended to read as follows:

Unlawful fleeing a police officer in a motor vehicle in the first degree is a class [~~D~~] **C** felony.

§ 4. Paragraphs (t) and (u) of subdivision 4 of section 510.10 of the criminal procedure law, paragraph (t) as amended and paragraph (u) as added by section 2 of subpart B of part UU of chapter 56 of the laws of 2022, are amended and a new paragraph (v) is added to read as follows:

(t) any felony or class A misdemeanor involving harm to an identifiable person or property, or any charge of criminal possession of a firearm as defined in section 265.01-b of the penal law, where such charge arose from conduct occurring while the defendant was released on [~~his or her~~] **their** own recognizance, released under conditions, or had yet to be arraigned after the issuance of a desk appearance ticket for a separate felony or class A misdemeanor involving harm to an identifiable

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

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person or property, or any charge of criminal possession of a firearm as defined in section 265.01-b of the penal law, 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. For the purposes of this paragraph, "harm to an identifiable person or property" shall include but not be limited to theft of or damage to property. However, based upon a review of the facts alleged in the accusatory instrument, if the court determines that such theft is negligible and does not appear to be in furtherance of other criminal activity, the principal shall be released on [~~his or her~~] **their** own recognizance or under appropriate non-monetary conditions; [~~or~~]

(u) criminal possession of a weapon in the third degree as defined in subdivision three of section 265.02 of the penal law or criminal sale of a firearm to a minor as defined in section 265.16 of the penal law[~~.~~]**;**

or

(v) unlawful fleeing a police officer in a motor vehicle in the third degree as defined in section 270.25 of the penal law; unlawful fleeing a police officer in a motor vehicle in the second degree as defined in section 270.30 of the penal law; or unlawful fleeing a police officer in a motor vehicle in the first degree as defined in section 270.35 of the penal law.

§ 5. Subparagraphs (xx) and (xxi) of paragraph (b) of subdivision 1 of section 530.20 of the criminal procedure law, subparagraph (xx) as amended and subparagraph (xxi) as added by section 4 of subpart C of part UU of chapter 56 of the laws of 2022, are amended and a new subparagraph (xxii) is added to read as follows:

(xx) any felony or class A misdemeanor involving harm to an identifiable person or property, or any charge of criminal possession of a firearm as defined in section 265.01-b of the penal law where such charge arose from conduct occurring while the defendant was released on [~~his or her~~] **their** own recognizance, released under conditions, or had yet to be arraigned after the issuance of a desk appearance ticket 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. For the purposes of this paragraph, "harm to an identifiable person or property" shall include but not be limited to theft of or damage to property. However, based upon a review of the facts alleged in the accusatory instrument, if the court determines that such theft is negligible and does not appear to be in furtherance of other criminal activity, the principal shall be released on [~~his or her~~] **their** own recognizance or under appropriate non-monetary conditions; [~~or~~]

(xxi) criminal possession of a weapon in the third degree as defined in subdivision three of section 265.02 of the penal law or criminal sale of a firearm to a minor as defined in section 265.16 of the penal law[~~.~~]**; or**

(xxii) unlawful fleeing a police officer in a motor vehicle in the third degree as defined in section 270.25 of the penal law; unlawful fleeing a police officer in a motor vehicle in the second degree as defined in section 270.30 of the penal law; or unlawful fleeing a police

officer in a motor vehicle in the first degree as defined in section 270.35 of the penal law.

§ 6. Paragraphs (t) and (u) of subdivision 4 of section 530.40 of the criminal procedure law, paragraph (t) as amended and paragraph (u) as added by section 4 of subpart B of part UU of chapter 56 of the laws of 2022, are amended and a new paragraph (v) is added to read as follows:

(t) any felony or class A misdemeanor involving harm to an identifiable person or property, or any charge of criminal possession of a firearm as defined in section 265.01-b of the penal law, where such charge arose from conduct occurring while the defendant was released on [~~his or her~~] their own recognizance, released under conditions, or had yet to be arraigned after the issuance of a desk appearance ticket for a separate felony or class A misdemeanor involving harm to an identifiable person or property, or any charge of criminal possession of a firearm as defined in section 265.01-b of the penal law, 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. For the purposes of this paragraph, "harm to an identifiable person or property" shall include but not be limited to theft of or damage to property. However, based upon a review of the facts alleged in the accusatory instrument, if the court determines that such theft is negligible and does not appear to be in furtherance of other criminal activity, the principal shall be released on [~~his or her~~] their own recognizance or under appropriate non-monetary conditions; [~~or~~]

(u) criminal possession of a weapon in the third degree as defined in subdivision three of section 265.02 of the penal law or criminal sale of a firearm to a minor as defined in section 265.16 of the penal law[~~.~~]; or

(v) unlawful fleeing a police officer in a motor vehicle in the third degree as defined in section 270.25 of the penal law; unlawful fleeing a police officer in a motor vehicle in the second degree as defined in section 270.30 of the penal law; or unlawful fleeing a police officer in a motor vehicle in the first degree as defined in section 270.35 of the penal law.

§ 7. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.