

STATE OF NEW YORK

1503

2023-2024 Regular Sessions

IN ASSEMBLY

January 17, 2023

Introduced by M. of A. BARCLAY, J. M. GIGLIO, GALLAHAN, JENSEN, McDONOUGH, GANDOLFO, BYRNES, RA, K. BROWN, SMITH, ANGELINO, DURSO, MORINELLO, LEMONDES, REILLY, SIMPSON, TANNOUSIS, PALMESANO, WALSH, NORRIS, BRABENEC -- read once and referred to the Committee on Codes

AN ACT to amend the criminal procedure law, in relation to including offenses involving the possession, display or discharge of a firearm, rifle, shotgun, machine-gun, or disguised gun as qualifying offenses for the purpose of allowing a principal to be eligible to be held on bail

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

1 Section 1. Paragraphs (t) and (u) of subdivision 4 of section 510.10
2 of the criminal procedure law, paragraph (t) as amended and paragraph
3 (u) as added by section 2 of subpart B of part UU of chapter 56 of the
4 laws of 2022, are amended and a new paragraph (v) is added to read as
5 follows:
6 (t) any felony or class A misdemeanor involving harm to an identifi-
7 able person or property, or any charge of criminal possession of a
8 firearm as defined in section 265.01-b of the penal law, where such
9 charge arose from conduct occurring while the defendant was released on
10 his or her own recognizance, released under conditions, or had yet to be
11 arraigned after the issuance of a desk appearance ticket for a separate
12 felony or class A misdemeanor involving harm to an identifiable person
13 or property, or any charge of criminal possession of a firearm as
14 defined in section 265.01-b of the penal law, provided, however, that
15 the prosecutor must show reasonable cause to believe that the defendant
16 committed the instant crime and any underlying crime. For the purposes
17 of this subparagraph, any of the underlying crimes need not be a quali-
18 fying offense as defined in this subdivision. For the purposes of this
19 paragraph, "harm to an identifiable person or property" shall include
20 but not be limited to theft of or damage to property. However, based

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

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1 upon a review of the facts alleged in the accusatory instrument, if the
2 court determines that such theft is negligible and does not appear to be
3 in furtherance of other criminal activity, the principal shall be
4 released on his or her own recognizance or under appropriate non-mone-
5 tary conditions; [~~or~~]

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

9 or

10 (v) any misdemeanor or felony offense as defined in the penal law
11 involving the possession, display or discharge of a firearm, rifle,
12 shotgun, machine-gun, or disguised gun.

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

18 (xx) any felony or class A misdemeanor involving harm to an identifi-
19 able person or property, or any charge of criminal possession of a
20 firearm as defined in section 265.01-b of the penal law where such
21 charge arose from conduct occurring while the defendant was released on
22 his or her own recognizance, released under conditions, or had yet to be
23 arraigned after the issuance of a desk appearance ticket for a separate
24 felony or class A misdemeanor involving harm to an identifiable person
25 or property, provided, however, that the prosecutor must show reasonable
26 cause to believe that the defendant committed the instant crime and any
27 underlying crime. For the purposes of this subparagraph, any of the
28 underlying crimes need not be a qualifying offense as defined in this
29 subdivision. For the purposes of this paragraph, "harm to an identifi-
30 able person or property" shall include but not be limited to theft of or
31 damage to property. However, based upon a review of the facts alleged in
32 the accusatory instrument, if the court determines that such theft is
33 negligible and does not appear to be in furtherance of other criminal
34 activity, the principal shall be released on his or her own recognizance
35 or under appropriate non-monetary conditions; [~~or~~]

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

40 (xxii) any misdemeanor or felony offense as defined in the penal law
41 involving the possession, display or discharge of a firearm, rifle,
42 shotgun, machine-gun, or disguised gun.

43 § 3. Paragraphs (t) and (u) of subdivision 4 of section 530.40 of the
44 criminal procedure law, paragraph (t) as amended and paragraph (u) as
45 added by section 4 of subpart B of part UU of chapter 56 of the laws of
46 2022 are amended and a new paragraph (v) is added to read as follows:

47 (t) any felony or class A misdemeanor involving harm to an identifi-
48 able person or property, or any charge of criminal possession of a
49 firearm as defined in section 265.01-b of the penal law, where such
50 charge arose from conduct occurring while the defendant was released on
51 his or her own recognizance, released under conditions, or had yet to be
52 arraigned after the issuance of a desk appearance ticket for a separate
53 felony or class A misdemeanor involving harm to an identifiable person
54 or property, or any charge of criminal possession of a firearm as
55 defined in section 265.01-b of the penal law, provided, however, that
56 the prosecutor must show reasonable cause to believe that the defendant

1 committed the instant crime and any underlying crime. For the purposes
2 of this subparagraph, any of the underlying crimes need not be a quali-
3 fying offense as defined in this subdivision. For the purposes of this
4 paragraph, "harm to an identifiable person or property" shall include
5 but not be limited to theft of or damage to property. However, based
6 upon a review of the facts alleged in the accusatory instrument, if the
7 court determines that such theft is negligible and does not appear to be
8 in furtherance of other criminal activity, the principal shall be
9 released on his or her own recognizance or under appropriate non-mone-
10 tary conditions; [~~ex~~]

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

15 (v) any misdemeanor or felony offense as defined in the penal law
16 involving the possession, display or discharge of a firearm, rifle,
17 shotgun, machine-gun, or disguised gun.

18 § 4. This act shall take effect immediately.