

# STATE OF NEW YORK

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254

2023-2024 Regular Sessions

## IN ASSEMBLY

(Prefiled)

January 4, 2023

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Introduced by M. of A. EICHENSTEIN -- read once and referred to the  
Committee on Codes

AN ACT to amend the criminal procedure law, in relation to securing  
orders for principals charged with certain hate crimes

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

1 Section 1. Paragraphs (m), (t) and (u) of subdivision 4 of section  
2 510.10 of the criminal procedure law, paragraph (m) as added by section  
3 2 of part UU of chapter 56 of the laws of 2020 and paragraph (t) as  
4 amended and (u) as added by section 2 of subpart B of part UU of chapter  
5 56 of the laws of 2022, are amended and a new paragraph (v) is added to  
6 read as follows:

7 (m) assault in the third degree as defined in section 120.00 of the  
8 penal law ~~[or]~~, arson in the third degree as defined in section 150.10  
9 of the penal law, harassment in the first degree as defined in section  
10 240.25 of the penal law, or harassment in the second degree as defined  
11 in section 240.26 of the penal law, when such crime is charged as a hate  
12 crime as defined in section 485.05 of the penal law;

13 (t) any felony or class A misdemeanor involving harm to an identifi-  
14 able person or property, or any charge of criminal possession of a  
15 firearm as defined in section 265.01-b of the penal law, where such  
16 charge arose from conduct occurring while the defendant was released on  
17 his or her own recognizance, released under conditions, or had yet to be  
18 arraigned after the issuance of a desk appearance ticket for a separate  
19 felony or class A misdemeanor involving harm to an identifiable person  
20 or property, or any charge of criminal possession of a firearm as  
21 defined in section 265.01-b of the penal law, provided, however, that  
22 the prosecutor must show reasonable cause to believe that the defendant  
23 committed the instant crime and any underlying crime. For the purposes  
24 of this subparagraph, any of the underlying crimes need not be a quali-

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

LBD00203-01-3

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

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

13 (v) aggravated harassment in the first degree as defined in section  
14 240.31 of the penal law, or aggravated harassment in the second degree  
15 as defined in subdivision three of section 240.30 of the penal law.

16 § 2. Subparagraphs (xiii), (xx) and (xxi) of paragraph (b) of subdivi-  
17 sion 1 of section 530.20 of the criminal procedure law, subparagraph  
18 (xiii) as amended by section 3 of part UU of chapter 56 of the laws of  
19 2020 and subparagraph (xx) as amended and subparagraph (xxi) as added by  
20 section 4 of subpart C of part UU of chapter 56 of the laws of 2022, are  
21 amended and a new subparagraph (xxii) is added to read as follows:

22 (xiii) assault in the third degree as defined in section 120.00 of the  
23 penal law ~~[ex]~~, arson in the third degree as defined in section 150.10  
24 of the penal law, harassment in the first degree as defined in section  
25 240.25 of the penal law, or harassment in the second degree as defined  
26 in section 240.26 of the penal law, when such crime is charged as a hate  
27 crime as defined in section 485.05 of the penal law;

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

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

50 (xxii) aggravated harassment in the first degree as defined in section  
51 240.31 of the penal law, or aggravated harassment in the second degree  
52 as defined in subdivision three of section 240.30 of the penal law.

53 § 3. Paragraphs (m), (t) and (u) of subdivision 4 of section 530.40 of  
54 the criminal procedure law, as added by section 4 of part UU of chapter  
55 56 of the laws of 2020 and paragraph (t) as amended and (u) as added by

1 section 4 of subpart B of part UU of chapter 56 of the laws of 2022, are  
2 amended and a new paragraph (v) is added to read as follows:

3 (m) assault in the third degree as defined in section 120.00 of the  
4 penal law ~~[or]~~, arson in the third degree as defined in section 150.10  
5 of the penal law, harassment in the first degree as defined in section  
6 240.25 of the penal law, or harassment in the second degree as defined  
7 in section 240.26 of the penal law, when such crime is charged as a hate  
8 crime as defined in section 485.05 of the penal law;

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

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

33 (v) aggravated harassment in the first degree as defined in section  
34 240.31 of the penal law, or aggravated harassment in the second degree  
35 as defined in subdivision three of section 240.30 of the penal law.

36 § 4. This act shall take effect immediately.