STATE OF NEW YORK

254

2023-2024 Regular Sessions

IN ASSEMBLY

(Prefiled)

January 4, 2023

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 Assembly, do enact as follows:

Section 1. Paragraphs (m), (t) and (u) of subdivision 4 of section 510.10 of the criminal procedure law, paragraph (m) as added by section 2 of part UU of chapter 56 of the laws of 2020 and paragraph (t) as amended and (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:

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

(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 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 quali-

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

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fying 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 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) aggravated harassment in the first degree as defined in section 240.31 of the penal law, or aggravated harassment in the second degree as defined in subdivision three of section 240.30 of the penal law.

§ 2. Subparagraphs (xiii), (xx) and (xxi) of paragraph (b) of subdivision 1 of section 530.20 of the criminal procedure law, subparagraph (xiii) as amended by section 3 of part UU of chapter 56 of the laws of 2020 and 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:

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

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

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

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

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

§ 4. This act shall take effect immediately.