## STATE OF NEW YORK

7078

2023-2024 Regular Sessions

## IN ASSEMBLY

May 10, 2023

Introduced by M. of A. ZEBROWSKI, WOERNER, FAHY, WALLACE -- read once and referred to the Committee on Codes

AN ACT to amend the criminal procedure law, in relation to including certain offenses involving situations where a person physically harms another or engages in conduct that results in an unacceptable level of danger as qualifying offenses for the purpose of allowing a principal to be eligible to be held on bail; and to require the Office of Court Administration to establish an electronic tracking system maintaining a record of all bail decisions and to deliver a report to the legislature

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

1 Section 1. Paragraphs (a), (m), (t) and (u) of subdivision 4 of 2 section 510.10 of the criminal procedure law, paragraph (a) as amended 3 and paragraph (m) as added by section 2 of part UU of chapter 56 of the 4 laws of 2020, and paragraph (t) as amended and paragraph (u) as added by 5 section 2 of subpart B of part UU of chapter 56 of the laws of 2022, are 6 amended and seven new paragraphs (v), (w), (x), (y), (z), (aa) and (bb) 7 are added to read as follows:

8 (a) a felony enumerated in section 70.02 of the penal law[, other than
9 robbery in the second degree as defined in subdivision one of section
10 160.10 of the penal law, provided, however, that burglary in the second
11 degree as defined in subdivision two of section 140.25 of the penal law

12 shall be a qualifying offense only where the defendant is charged with 13 entering the living area of the dwelling];

(m) assault in the third degree as defined in section 120.00 of the penal law [or argon in the third degree as defined in section 150.10 of the penal law], when such crime is charged as a hate crime as defined in section 485.05 of the penal law;

18 (t) any felony or class A misdemeanor involving harm to an identifi-19 able person or property, or any charge of criminal possession of a

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

LBD10672-02-3

A. 7078

firearm as defined in section 265.01-b of the penal law[, where such 1 2 charge arose from conduct occurring while the defendant was released on his or her own recognizance, released under conditions, or had yet to be 3 4 arraigned after the issuance of a desk appearance ticket for a separate 5 felony or class A misdemeanor involving harm to an identifiable person or property, or any charge of criminal possession of a firearm as 6 defined in section 265.01-b of the penal law, provided, however, that 7 the prosecutor must show reasonable cause to believe that the defendant 8 committed the instant crime and any underlying crime. For the purposes 9 10 of this subparagraph, any of the underlying crimes need not be a qualifying offense as defined in this subdivision]. For the purposes of this 11 12 paragraph, "harm to an identifiable person or property" shall include but not be limited to theft of or damage to property. However, based 13 14 upon a review of the facts alleged in the accusatory instrument, if the 15 court determines that such theft is negligible and does not appear to be 16 in furtherance of other criminal activity, the principal shall be 17 released on his or her own recognizance or under appropriate non-monetary conditions; [er] 18 (u) criminal possession of a weapon in the third degree as defined in 19 subdivision three of section 265.02 of the penal law or criminal sale of 20 21 a firearm to a minor as defined in section 265.16 of the penal law[-]: 22 (v) assault in the third degree as defined in section 120.00 of the 23 penal law; reckless assault of a child by a child day care provider as defined in section 120.01 of the penal law; vehicular assault in the 24 25 second degree as defined in section 120.03 of the penal law; menacing in the first degree as defined in section 120.13 of the penal law; menacing 26 27 in the second degree as defined in section 120.14 of the penal law; 28 menacing in the third degree as defined in section 120.15 of the penal 29 law; reckless endangerment in the second degree as defined in section 30 120.20 of the penal law; reckless endangerment in the first degree as 31 defined in section 120.25 of the penal law; stalking in the third degree 32 as defined in section 120.50 of the penal law; or stalking in the second 33 degree as defined in section 120.55 of the penal law; 34 (w) unlawful imprisonment in the second degree as defined in section 35 135.05 of the penal law; (x) burglary in the third degree as defined in section 140.20 of the 36 37 penal law; (y) arson in the fifth degree as defined in section 150.01; arson in 38 39 the fourth degree as defined in section 150.05 of the penal law; or arson in the third degree as defined in section 150.10 of the penal 40 41 <u>law;</u> 42 (z) public lewdness in the first degree as defined in section 245.03 43 of the penal law; 44 (aa) criminal possession of a rapid-fire modification device as defined in section 265.01-c of the penal law; criminal possession of a 45 46 weapon in a restricted location as defined in section 265.01-d of the 47 penal law; criminal possession of a firearm, rifle or shotgun in a sensitive location as defined in section 265.01-e of the penal law; a 48 violation of manufacture, transport, disposition and defacement of weap-49 ons and dangerous instruments and appliances as defined in subdivision 50 five of section 265.10 of the penal law; prohibited use of weapons as 51 52 defined in subdivision three of section 265.35 of the penal law; or 53 unlawful possession of certain ammunition feeding devices as defined in 54 section 265.37 of the penal law; or 55 (bb) unlawful fleeing a police officer in a motor vehicle in the third

56 degree as defined in section 270.25 of the penal law.

2

Subparagraphs (i), (xiii), (xx) and (xxi) of paragraph (b) of 1 § 2. subdivision 1 of section 530.20 of the criminal procedure law, subpara-2 3 graphs (i) and (xiii) as amended by section 3 of part UU of chapter 56 of the laws of 2020, and subparagraph (xx) as amended and subparagraph 4 5 (xxi) as added by section 4 of subpart C of part UU of chapter 56 of the 6 laws of 2022, are amended and seven new subparagraphs (xxii), (xxiii), 7 (xxiv), (xxv), (xxvi), (xxvii) and (xxviii) are added to read as 8 follows: 9 (i) a felony enumerated in section 70.02 of the penal law[, other than 10 robbery in the second degree as defined in subdivision one of section 160.10 of the penal law, provided, however, that burglary in the second 11 12 degree as defined in subdivision two of section 140.25 of the penal law shall be a qualifying offense only where the defendant is charged with 13 14 entering the living area of the dwelling]; 15 (xiii) assault in the third degree as defined in section 120.00 of the 16 penal law [or argon in the third degree as defined in section 150.10 of 17 the penal law], when such crime is charged as a hate crime as defined in section 485.05 of the penal law; 18 19 (xx) any felony or class A misdemeanor involving harm to an identifi-20 able person or property, or any charge of criminal possession of a 21 firearm as defined in section 265.01-b of the penal law [where such 22 charge arose from conduct occurring while the defendant was released on 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 25 felony or class A misdemeanor involving harm to an identifiable person or property, provided, however, that the prosecutor must show reasonable 26 27 cause to believe that the defendant committed the instant crime and any 28 underlying crime. For the purposes of this subparagraph, any of the 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 31 able person or property" shall include but not be limited to theft of or 32 damage to property. However, based upon a review of the facts alleged in 33 the accusatory instrument, if the court determines that such theft is 34 negligible and does not appear to be in furtherance of other criminal 35 activity, the principal shall be released on his or her own recognizance 36 or under appropriate non-monetary conditions; [er] 37 (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 38 39 of a firearm to a minor as defined in section 265.16 of the penal 40 law[**-**]<u>;</u> (xxii) assault in the third degree as defined in section 120.00 of the 41 penal law; reckless assault of a child by a child day care provider as 42 43 defined in section 120.01 of the penal law; vehicular assault in the 44 second degree as defined in section 120.03 of the penal law; menacing in 45 the first degree as defined in section 120.13 of the penal law; menacing 46 in the second degree as defined in section 120.14 of the penal law; 47 menacing in the third degree as defined in section 120.15 of the penal 48 law; reckless endangerment in the second degree as defined in section 49 120.20 of the penal law; reckless endangerment in the first degree as defined in section 120.25 of the penal law; stalking in the third degree 50 51 as defined in section 120.50 of the penal law; or stalking in the second 52 degree as defined in section 120.55 of the penal law; 53 (xxiii) unlawful imprisonment in the second degree as defined in 54 section 135.05 of the penal law; 55 (xxiv) burglary in the third degree as defined in section 140.20 of

56 the penal law;

A. 7078

1	(xxv) arson in the fifth degree as defined in section 150.01; arson in
2	the fourth degree as defined in section 150.05 of the penal law; or
3	arson in the third degree as defined in section 150.10 of the penal
4	law;
5	(xxvi) public lewdness in the first degree as defined in section
6	245.03 of the penal law;
7	(xxvii) criminal possession of a rapid-fire modification device as
8	defined in section 265.01-c of the penal law; criminal possession of a
9	weapon in a restricted location as defined in section 265.01-d of the
10	penal law; criminal possession of a firearm, rifle or shotgun in a
11	sensitive location as defined in section 265.01-e of the penal law; a
12	violation of manufacture, transport, disposition and defacement of weap-
13	ons and dangerous instruments and appliances as defined in subdivision
14	five of section 265.10 of the penal law; prohibited use of weapons as
15	defined in subdivision three of section 265.35 of the penal law; or
16	unlawful possession of certain ammunition feeding devices as defined in
17	section 265.37 of the penal law; or
18	(xxviii) unlawful fleeing a police officer in a motor vehicle in the
19	third degree as defined in section 270.25 of the penal law.
20	§ 3. Paragraphs (a), (m), (t) and (u) of subdivision 4 of section
21	530.40 of the criminal procedure law, paragraph (a) as amended and para-
22	graph (m) as added by section 4 of part UU of chapter 56 of the laws of
23	2020, and paragraph (t) as amended and paragraph (u) as added by section
24	4 of subpart B of part UU of chapter 56 of the laws of 2022 are amended
25	and seven new paragraphs (v), (w), (x), (y), (z), (aa) and (bb) are
26	added to read as follows:
27	(a) a felony enumerated in section 70.02 of the penal law $\frac{1}{7}$ other than
28	robbery in the second degree as defined in subdivision one of section
29	160.10 of the penal law, provided, however, that burglary in the second
29 30	160.10 of the penal law, provided, however, that burglary in the second degree as defined in subdivision two of section 140.25 of the penal law
	160.10 of the penal law, provided, however, that burglary in the second degree as defined in subdivision two of section 140.25 of the penal law shall be a qualifying offense only where the defendant is charged with
30	degree as defined in subdivision two of section 140.25 of the penal law shall be a qualifying offense only where the defendant is charged with
30 31	degree as defined in subdivision two of section 140.25 of the penal law shall be a qualifying offense only where the defendant is charged with entering the living area of the dwelling];
30 31 32	degree as defined in subdivision two of section 140.25 of the penal law shall be a qualifying offense only where the defendant is charged with
30 31 32 33 34	<pre>degree as defined in subdivision two of section 140.25 of the penal law shall be a qualifying offense only where the defendant is charged with entering the living area of the dwelling]; (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</pre>
30 31 32 33 34 35	<pre>degree as defined in subdivision two of section 140.25 of the penal law shall be a qualifying offense only where the defendant is charged with entering the living area of the dwelling]; (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], when such crime is charged as a hate crime as defined in</pre>
30 31 32 33 34 35 36	<pre>degree as defined in subdivision two of section 140.25 of the penal law shall be a qualifying offense only where the defendant is charged with entering the living area of the dwelling]; (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], when such crime is charged as a hate crime as defined in section 485.05 of the penal law;</pre>
30 31 32 33 34 35 36 37	<pre>degree as defined in subdivision two of section 140.25 of the penal law shall be a qualifying offense only where the defendant is charged with entering the living area of the dwelling]; (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], 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 identifi-</pre>
30 31 32 33 34 35 36 37 38	<pre>degree as defined in subdivision two of section 140.25 of the penal law shall be a qualifying offense only where the defendant is charged with entering the living area of the dwelling]; (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], 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 identifi- able person or property, or any charge of criminal possession of a</pre>
30 31 32 33 34 35 36 37 38 39	<pre>degree as defined in subdivision two of section 140.25 of the penal law shall be a qualifying offense only where the defendant is charged with entering the living area of the dwelling]; (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], 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 identifi- able 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</pre>
30 31 32 33 34 35 36 37 38 39 40	<pre>degree as defined in subdivision two of section 140.25 of the penal law shall be a qualifying offense only where the defendant is charged with entering the living area of the dwelling]; (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], 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 identifi- able 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 oharge arose from conduct occurring while the defendant was released on</pre>
30 31 32 33 34 35 36 37 38 39 40 41	<pre>degree as defined in subdivision two of section 140.25 of the penal law shall be a qualifying offense only where the defendant is charged with entering the living area of the dwelling]; (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], 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 identifi- able 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 condust occurring while the defendant was released on his or her own recognizance, released under conditions, or had yet to be</pre>
30 31 32 33 34 35 36 37 38 39 40 41 42	<pre>degree as defined in subdivision two of section 140.25 of the penal law shall be a qualifying offense only where the defendant is charged with entering the living area of the dwelling]; (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], 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 identifi- able 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</pre>
30 31 32 33 34 35 36 37 38 39 40 41 42 43	<pre>degree as defined in subdivision two of section 140.25 of the penal law shall be a qualifying offense only where the defendant is charged with entering the living area of the dwelling]; (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], 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 identifi- able 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 recognisance, 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</pre>
30 31 32 33 34 35 36 37 38 39 40 41 42 43 44	<pre>degree as defined in subdivision two of section 140.25 of the penal law shall be a qualifying offense only where the defendant is charged with entering the living area of the dwelling]; (m) assault in the third degree as defined in section 120.00 of the penal law [or arean in the third degree as defined in section 150.10 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 identifi- able 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 recognisance, 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</pre>
30 31 32 33 35 36 37 38 39 41 42 43 44 45	degree as defined in subdivision two of section 140.25 of the penal law shall be a qualifying offense only where the defendant is charged with entering the living area of the dwelling]; (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], 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 identifi- able 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 a firearm as defined person or property, or any charge 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 a desk appearance ticket for a separate felony or class A misdemeanor involving harm to an identifiable person or property, or any charge of a desk appearance ticket for a separate felony in section 265.01-b of the penal law, provided, however, that
30 31 32 33 34 35 36 37 38 39 40 41 42 43 445 46	<pre>degree as defined in subdivision two of section 140.25 of the penal law shall be a qualifying offense only where the defendant is charged with entering the living area of the dwelling]; (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], 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 identifi- able 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[, where such section 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</pre>
30 31 32 33 35 36 37 38 39 40 41 42 43 445 46 47	<pre>degree as defined in subdivision two of section 140.25 of the penal law shall be a qualifying offense only where the defendant is charged with entering the living area of the dwelling]; (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], 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 identifi- able 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 oharge 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 oriminal 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</pre>
30 31 32 33 35 36 37 38 39 40 41 42 43 445 46 47 48	<pre>degree as defined in subdivision two of section 140.25 of the penal law shall be a qualifying offense only where the defendant is charged with entering the living area of the dwelling]; (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], 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 identifi- able 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 oharge 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[, 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-</pre>
30 31 32 33 35 36 37 38 39 41 42 43 445 467 48 49	<pre>degree as defined in subdivision two of section 140.25 of the penal law shall be a qualifying offense only where the defendant is charged with entering the living area of the dwelling]; (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], 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 identifi- able 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 oharge arose from conduct occurring while the defendant was released on his or her own recognisance, 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 crimes need not be a quali- fying offense as defined in this subdivision]. For the purposes of this</pre>
30 31 32 33 35 36 37 39 41 423 445 467 489 50	degree as defined in subdivision two of section 140.25 of the penal law shall be a qualifying offense only where the defendant is charged with entering the living area of the dwelling]; (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], 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 identifi- able 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 recognisance, 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 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 crimes need not be a quali- fying offense as defined in this subdivision]. For the purposes of this paragraph, "harm to an identifiable person or property" shall include
30 31 32 33 35 36 37 39 41 42 45 467 489 51	<pre>degree as defined in subdivision two of section 140.25 of the penal law shall be a qualifying offense only where the defendant is charged with entering the living area of the dwelling]; (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], 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 identifi- able 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 recognisance, 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 oriminal 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 orimes need not be a quali- 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</pre>
30 312 334 35 36 37 390 412 434 456 478 490 512 52	<pre>degree as defined in subdivision two of section 140.25 of the penal law shall be a qualifying offense only where the defendant is charged with entering the living area of the dwelling]; (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], 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 identifi- able 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 crime, For the purposes of this subparagraph, any of the underlying crime, 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</pre>
30 312 334 35 37 390 412 434 456 789 512 525	<pre>degree as defined in subdivision two of section 140.25 of the penal law shall be a qualifying offense only where the defendant is charged with ontering the living area of the dwelling]; (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], 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 identifi- able 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- 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</pre>
30 312 334 35 3733 3733 41234 456789 51234 551235 54	degree as defined in subdivision two of section 140.25 of the penal law shall be a qualifying offense only where the defendant is charged with entering the living area of the dwelling]; (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], 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 identifi- able 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 recognisance, released under conditions, or had yet to be arraigned after the isouance 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 crimes need not be a quali- 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
30 312 334 35 37 390 412 434 456 789 512 525	<pre>degree as defined in subdivision two of section 140.25 of the penal law shall be a qualifying offense only where the defendant is charged with ontering the living area of the dwelling]; (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], 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 identifi- able 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- 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</pre>

A. 7078

(u) criminal possession of a weapon in the third degree as defined in 1 subdivision three of section 265.02 of the penal law or criminal sale of 2 3 a firearm to a minor as defined in section 265.16 of the penal law $[-]_{:}$ 4 (v) assault in the third degree as defined in section 120.00 of the 5 penal law; reckless assault of a child by a child day care provider as 6 defined in section 120.01 of the penal law; vehicular assault in the 7 second degree as defined in section 120.03 of the penal law; menacing in 8 the first degree as defined in section 120.13 of the penal law; menacing 9 in the second degree as defined in section 120.14 of the penal law; 10 menacing in the third degree as defined in section 120.15 of the penal 11 law; reckless endangerment in the second degree as defined in section 12 120.20 of the penal law; reckless endangerment in the first degree as defined in section 120.25 of the penal law; stalking in the third degree 13 14 as defined in section 120.50 of the penal law; or stalking in the second 15 degree as defined in section 120.55 of the penal law; 16 (w) unlawful imprisonment in the second degree as defined in section 17 135.05 of the penal law; (x) burglary in the third degree as defined in section 140.20 of the 18 penal law; 19 20 (y) arson in the fifth degree as defined in section 150.01; arson in 21 the fourth degree as defined in section 150.05 of the penal law; or 22 arson in the third degree as defined in section 150.10 of the penal 23 law; 24 (z) public lewdness in the first degree as defined in section 245.03 25 of the penal law; 26 (aa) criminal possession of a rapid-fire modification device as 27 defined in section 265.01-c of the penal law; criminal possession of a 28 weapon in a restricted location as defined in section 265.01-d of the penal law; criminal possession of a firearm, rifle or shotgun in a 29 sensitive location as defined in section 265.01-e of the penal law; a 30 31 violation of manufacture, transport, disposition and defacement of weap-32 ons and dangerous instruments and appliances as defined in subdivision 33 five of section 265.10 of the penal law; prohibited use of weapons as 34 defined in subdivision three of section 265.35 of the penal law; or 35 unlawful possession of certain ammunition feeding devices as defined in 36 section 265.37 of the penal law; or 37 (bb) unlawful fleeing a police officer in a motor vehicle in the third 38 degree as defined in section 270.25 of the penal law. 39 § 4. The Office of Court Administration, in conjunction with the New York State Division of Criminal Justice Services, shall manage an elec-40 tronic tracking system maintaining a record of all bail decisions of 41 42 judges in this state, specifying by court, the number of cases in which 43 bail was granted, in which bail was denied and in which no bail was required. If bail was granted, the average amount of bail required shall 44 45 be specified. On or before July 31st of each year, the Office of Court Administration shall prepare a report detailing the record of cases and 46 47 deliver such report to the Speaker of the Assembly and the Temporary 48 President of the Senate. This act shall take effect on the sixtieth day after it shall 49 § 5. have become a law; provided that section four of this act shall take 50 effect one year after it shall have become a law. Effective immediate-51 ly, the addition, amendment and/or repeal of any rule or regulation 52 necessary for the implementation of this act on its effective date are 53 authorized to be made and completed on or before such effective date. 54