STATE OF NEW YORK

8255

2023-2024 Regular Sessions

IN ASSEMBLY

November 15, 2023

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

AN ACT to amend the criminal procedure law, in relation to mandatory pre-trial detention of a principal charged with criminal possession of a controlled substance with intent to sell

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

Section 1. The criminal procedure law is amended by adding a new section 510.25 to read as follows:

§ 510.25 Mandatory pre-trial detention.

1. Except as otherwise provided by subdivision two of this section, pre-trial detention of a principal shall be mandatory when the principal stands charged with criminal possession of a controlled substance in the third degree as defined in section 220.16 of the penal law, criminal possession of a controlled substance in the fourth degree as defined in section 220.09 of the penal law, or criminal possession of a controlled substance in the fifth degree as defined in section 220.06 of the penal law.

2. (a) The court, unless otherwise prohibited by law, may in its discretion release a principal who stands charged with criminal possession of a controlled substance in the third degree as defined in section 220.16 of the penal law, criminal possession of a controlled substance in the fourth degree as defined in section 220.09 of the penal law, or criminal possession of a controlled substance in the fifth degree as defined in section 220.06 of the penal law, pending trial on the principal's own recognizance or under non-monetary conditions, fix bail, or order non-monetary conditions in conjunction with fixing bail, if the defense can demonstrate, through clear and convincing evidence, that the principal does not pose a substantial risk to public safety or is not a flight risk.

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

LBD13573-01-3

(b) The court shall not grant pre-trial release pursuant to paragraph (a) of this subdivision based solely on the absence of previous convictions, familial or community ties, or any other factors that do not directly address the nature of the offense or potential risk that the principal poses to public safety.

(c) The court shall impose strict conditions for pre-trial release granted pursuant to paragraph (a) of this subdivision, including but not limited to electronic monitoring, regular check-ins, or restriction of travel.

3. Any violation of this section shall result in appropriate legal sanctions, including but not limited to contempt of court and sanctions for non-compliance.

§ 2. This act shall take effect immediately.