

# STATE OF NEW YORK

9426--A

## IN ASSEMBLY

March 14, 2024

Introduced by M. of A. DURSO -- read once and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the penal law, in relation to concealment and/or mutilation of a human corpse; and to amend the criminal procedure law, in relation to authorizing bail for principals charged with concealment and/or mutilation of a human corpse

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

1 Section 1. Section 195.02 of the penal law, as added by chapter 242 of  
2 the laws of 2015, is amended to read as follows:

3 § 195.02 Concealment and/or mutilation of a human corpse.

4 A person is guilty of concealment and/or mutilation of a human corpse  
5 when~~[, having a reasonable expectation that a human corpse or a part~~  
6 ~~thereof will be produced for or used as physical evidence in: (a) an~~  
7 ~~official proceeding; (b) an autopsy as part of a criminal investigation;~~  
8 ~~or (c) an examination by law enforcement personnel as part of a criminal~~  
9 ~~investigation;]~~ such person, alone or in concert with another, conceals,  
10 alters, mutilates and/or destroys such corpse or part thereof ~~[with the~~  
11 ~~intent to prevent its production, use or discovery]~~. The provisions of  
12 this section shall not apply to an individual or entity authorized to  
13 accept an anatomical gift pursuant to section forty-three hundred two of  
14 the public health law or to the lawful activities of a funeral director,  
15 undertaker or embalmer under article thirty-four of the public health  
16 law.

17 Concealment and/or mutilation of a human corpse is a class E felony.

18 § 2. Paragraphs (t) and (u) of subdivision 4 of section 510.10 of the  
19 criminal procedure law, paragraph (t) as amended and paragraph (u) as  
20 added by section 2 of subpart B of part UU of chapter 56 of the laws of  
21 2022, are amended and a new paragraph (v) is added to read as follows:

22 (t) any felony or class A misdemeanor involving harm to an identifi-  
23 able person or property, or any charge of criminal possession of a  
24 firearm as defined in section 265.01-b of the penal law, where such  
25 charge arose from conduct occurring while the defendant was released on

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

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1 ~~[his or her]~~ such defendant's own recognizance, released under condi-  
2 tions, or had yet to be arraigned after the issuance of a desk appear-  
3 ance ticket for a separate felony or class A misdemeanor involving harm  
4 to an identifiable person or property, or any charge of criminal  
5 possession of a firearm as defined in section 265.01-b of the penal law,  
6 provided, however, that the prosecutor must show reasonable cause to  
7 believe that the defendant committed the instant crime and any underly-  
8 ing crime. For the purposes of this subparagraph, any of the underlying  
9 crimes need not be a qualifying offense as defined in this subdivision.

10 For the purposes of this paragraph, "harm to an identifiable person or  
11 property" shall include but not be limited to theft of or damage to  
12 property. However, based upon a review of the facts alleged in the accu-  
13 satory instrument, if the court determines that such theft is negligible  
14 and does not appear to be in furtherance of other criminal activity, the  
15 principal shall be released on ~~[his or her]~~ such principal's own recog-  
16 nizance or under appropriate non-monetary conditions; ~~[or]~~

17 (u) criminal possession of a weapon in the third degree as defined in  
18 subdivision three of section 265.02 of the penal law or criminal sale of  
19 a firearm to a minor as defined in section 265.16 of the penal law~~[-];~~

20 or

21 (v) the concealment and/or mutilation of a human corpse pursuant to  
22 section 195.02 of the penal law.

23 § 3. Subparagraphs (xx) and (xxi) of paragraph (b) of subdivision 1 of  
24 section 530.20 of the criminal procedure law, subparagraph (xx) as  
25 amended and subparagraph (xxi) as added by section 4 of subpart C of  
26 part UU of chapter 56 of the laws of 2022, are amended and a new subpar-  
27 agraph (xxii) is added to read as follows:

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]~~ such defendant's own recognizance, released under condi-  
33 tions, or had yet to be arraigned after the issuance of a desk appear-  
34 ance ticket for a separate felony or class A misdemeanor involving harm  
35 to an identifiable person or property, provided, however, that the  
36 prosecutor must show reasonable cause to believe that the defendant  
37 committed the instant crime and any underlying crime. For the purposes  
38 of this subparagraph, any of the underlying crimes need not be a quali-  
39 fying offense as defined in this subdivision. For the purposes of this  
40 paragraph, "harm to an identifiable person or property" shall include  
41 but not be limited to theft of or damage to property. However, based  
42 upon a review of the facts alleged in the accusatory instrument, if the  
43 court determines that such theft is negligible and does not appear to be  
44 in furtherance of other criminal activity, the principal shall be  
45 released on ~~[his or her]~~ such principal's own recognizance or under  
46 appropriate non-monetary conditions; ~~[or]~~

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

51 (xxii) the concealment and/or mutilation of a human corpse pursuant  
52 to section 195.02 of the penal law.

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

1 (t) any felony or class A misdemeanor involving harm to an identifi-  
2 able person or property, or any charge of criminal possession of a  
3 firearm as defined in section 265.01-b of the penal law, where such  
4 charge arose from conduct occurring while the defendant was released on  
5 ~~[his or her]~~ such defendant's own recognizance, released under condi-  
6 tions, or had yet to be arraigned after the issuance of a desk appear-  
7 ance ticket for a separate felony or class A misdemeanor involving harm  
8 to an identifiable person or property, or any charge of criminal  
9 possession of a firearm as defined in section 265.01-b of the penal law,  
10 provided, however, that the prosecutor must show reasonable cause to  
11 believe that the defendant committed the instant crime and any underly-  
12 ing crime. For the purposes of this subparagraph, any of the underlying  
13 crimes need not be a qualifying offense as defined in this subdivision.  
14 For the purposes of this paragraph, "harm to an identifiable person or  
15 property" shall include but not be limited to theft of or damage to  
16 property. However, based upon a review of the facts alleged in the accu-  
17 satory instrument, if the court determines that such theft is negligible  
18 and does not appear to be in furtherance of other criminal activity, the  
19 principal shall be released on ~~[his or her]~~ such principal's own recog-  
20 nizance or under appropriate non-monetary conditions; ~~[or]~~  
21 (u) criminal possession of a weapon in the third degree as defined in  
22 subdivision three of section 265.02 of the penal law or criminal sale of  
23 a firearm to a minor as defined in section 265.16 of the penal law~~[-]~~;  
24 or  
25 (v) the concealment and/or mutilation of a human corpse pursuant to  
26 section 195.02 of the penal law.  
27 § 5. This act shall take effect immediately.