

STATE OF NEW YORK

2523

2023-2024 Regular Sessions

IN SENATE

January 23, 2023

Introduced by Sen. HELMING -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the criminal procedure law, in relation to offenses for which a court may fix bail or commit a principal to custody of the sheriff

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

1 Section 1. The opening paragraph of subdivision 1 and subdivision 3 of
2 section 510.10 of the criminal procedure law, the opening paragraph of
3 subdivision 1 as amended by section 1 of subpart C of part UU of section
4 56 of the laws of 2022 and subdivision 3 as added by section 2 of part
5 JJJ of chapter 59 of the laws of 2019, are amended to read as follows:

6 When a principal, whose future court attendance at a criminal action
7 or proceeding is or may be required, comes under the control of a court,
8 such court shall, in accordance with this title, by a securing order
9 release the principal on the principal's own recognizance, release the
10 principal under non-monetary conditions, or, where authorized, fix bail
11 or commit the principal to the custody of the sheriff. In all such
12 cases, except where another type of securing order is shown to be
13 required by law, the court shall release the principal pending trial on
14 the principal's own recognizance, unless it is demonstrated and the
15 court makes an individualized determination that: the principal poses a
16 risk of flight to avoid prosecution; or that the principal has been
17 designated a sex offender under article six-C of the correction law. If
18 such a finding is made, the court must select the least restrictive
19 alternative and condition or conditions that will reasonably assure the
20 principal's return to court. The court shall explain its choice of
21 release, release with conditions, bail or remand on the record or in
22 writing. In making its determination, the court must consider and take
23 into account available information about the principal, including:

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

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1 3. In cases other than as described in subdivision four of this
2 section the court shall release the principal pending trial on the prin-
3 cipal's own recognizance, unless the court finds on the record or in
4 writing that: (a) release on the principal's own recognizance will not
5 reasonably assure the principal's return to court; or (b) that the prin-
6 cipal has been designated a sex offender under article six-C of the
7 correction law. In such instances, the court shall release the principal
8 under non-monetary conditions, selecting the least restrictive alterna-
9 tive and conditions that will reasonably assure the principal's return
10 to court; provided, however, where the principal has been designated a
11 sex offender under article six-C of the correction law, the court may in
12 its discretion fix bail or commit the principal to the custody of the
13 sheriff. The court shall explain its [~~choice-of-alternative~~] determi-
14 nation and conditions on the record or in writing.

15 § 2. The opening paragraph of paragraph (a) of subdivision 1 of
16 section 530.20 of the criminal procedure law, as amended by section 3 of
17 subpart C of part UU of chapter 56 of the laws of 2022, is amended to
18 read as follows:

19 In cases other than as described in paragraph (b) of this subdivision
20 the court shall release the principal pending trial on the principal's
21 own recognizance, unless the court finds on the record or in writing
22 that: release on the principal's own recognizance will not reasonably
23 assure the principal's return to court; or that the principal has been
24 designated a sex offender under article six-C of the correction law. In
25 such instances, the court shall release the principal under non-monetary
26 conditions, selecting the least restrictive alternative and conditions
27 that will reasonably assure the principal's return to court; provided,
28 however, where the principal has been designated a sex offender under
29 article six-C of the correction law, the court may in its discretion fix
30 bail or commit the principal to the custody of the sheriff. The court
31 shall explain its [~~choice-of-alternative~~] determination and conditions
32 on the record or in writing. In making its determination, the court must
33 consider and take into account available information about the princi-
34 pal, including:

35 § 3. The opening paragraph of subdivision 3 of section 530.40 of the
36 criminal procedure law, as amended by section 3 of subpart B of part UU
37 of chapter 56 of the laws of 2022, is amended to read as follows:

38 In cases other than as described in subdivision four of this section
39 the court shall release the principal pending trial on the principal's
40 own recognizance, unless the court finds on the record or in writing
41 that: release on the principal's own recognizance will not reasonably
42 assure the principal's return to court; or that the principal has been
43 designated a sex offender under article six-C of the correction law. In
44 such instances, the court shall release the principal under non-monetary
45 conditions, selecting the least restrictive alternative and conditions
46 that will reasonably assure the principal's return to court; however,
47 where the principal has been designated a sex offender under article
48 six-C of the correction law, the court may in its discretion fix bail or
49 commit the principal to the custody of the sheriff. The court shall
50 explain its [~~choice-of-alternative~~] determination and conditions on the
51 record or in writing. In making its determination, the court must
52 consider and take into account available information about the princi-
53 pal, including:

54 § 4. This act shall take effect on the thirtieth day after it shall
55 have become a law.