

# STATE OF NEW YORK

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2523

2023-2024 Regular Sessions

## IN SENATE

January 23, 2023

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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.