

STATE OF NEW YORK

4665

2023-2024 Regular Sessions

IN SENATE

February 13, 2023

Introduced by Sen. LANZA -- 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 hate crimes and bail eligibility

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

1 Section 1. Paragraphs (t) and (u) of subdivision 4 of section 510.10
2 of the criminal procedure law, paragraph (t) as amended and paragraph
3 (u) as added by section 2 of subpart B of part UU of chapter 56 of the
4 laws of 2022, are amended and a new paragraph (v) is added to read as
5 follows:

6 (t) any felony or class A misdemeanor involving harm to an identifi-
7 able person or property, or any charge of criminal possession of a
8 firearm as defined in section 265.01-b of the penal law, where such
9 charge arose from conduct occurring while the defendant was released on
10 his or her own recognizance, released under conditions, or had yet to be
11 arraigned after the issuance of a desk appearance ticket for a separate
12 felony or class A misdemeanor involving harm to an identifiable person
13 or property, or any charge of criminal possession of a firearm as
14 defined in section 265.01-b of the penal law, provided, however, that
15 the prosecutor must show reasonable cause to believe that the defendant
16 committed the instant crime and any underlying crime. For the purposes
17 of this subparagraph, any of the underlying crimes need not be a quali-
18 fying offense as defined in this subdivision. For the purposes of this
19 paragraph, "harm to an identifiable person or property" shall include
20 but not be limited to theft of or damage to property. However, based
21 upon a review of the facts alleged in the accusatory instrument, if the
22 court determines that such theft is negligible and does not appear to be
23 in furtherance of other criminal activity, the principal shall be
24 released on his or her own recognizance or under appropriate non-mone-
25 tary conditions; [~~ex~~]

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

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1 (u) criminal possession of a weapon in the third degree as defined in
2 subdivision three of section 265.02 of the penal law or criminal sale of
3 a firearm to a minor as defined in section 265.16 of the penal law~~[-];~~
4 or
5 (v) a hate crime as defined in article four hundred eighty-five of the
6 penal law.

7 § 2. Subparagraphs (xx) and (xxi) of paragraph (b) of subdivision 1 of
8 section 530.20 of the criminal procedure law, subparagraph (xx) as
9 amended and subparagraph (xxi) as added by section 4 of subpart C of
10 part UU of chapter 56 of the laws of 2022, are amended and a new subpar-
11 agraph (xxii) is added to read as follows:

12 (xx) any felony or class A misdemeanor involving harm to an identifi-
13 able person or property, or any charge of criminal possession of a
14 firearm as defined in section 265.01-b of the penal law where such
15 charge arose from conduct occurring while the defendant was released on
16 his or her own recognizance, released under conditions, or had yet to be
17 arraigned after the issuance of a desk appearance ticket for a separate
18 felony or class A misdemeanor involving harm to an identifiable person
19 or property, provided, however, that the prosecutor must show reasonable
20 cause to believe that the defendant committed the instant crime and any
21 underlying crime. For the purposes of this subparagraph, any of the
22 underlying crimes need not be a qualifying offense as defined in this
23 subdivision. For the purposes of this paragraph, "harm to an identifi-
24 able person or property" shall include but not be limited to theft of or
25 damage to property. However, based upon a review of the facts alleged in
26 the accusatory instrument, if the court determines that such theft is
27 negligible and does not appear to be in furtherance of other criminal
28 activity, the principal shall be released on his or her own recognizance
29 or under appropriate non-monetary conditions; ~~[ex]~~

30 (xxi) criminal possession of a weapon in the third degree as defined
31 in subdivision three of section 265.02 of the penal law or criminal sale
32 of a firearm to a minor as defined in section 265.16 of the penal
33 law~~[-]; or~~

34 (xxii) a hate crime as defined in article four hundred eighty-five of
35 the penal law.

36 § 3. Paragraphs (t) and (u) of subdivision 4 of section 530.40 of the
37 criminal procedure law, paragraph (t) as amended and paragraph (u) as
38 added by section 4 of subpart B of part UU of chapter 56 of the laws of
39 2022, are amended and a new subdivision (v) is added to read as follows:

40 (t) any felony or class A misdemeanor involving harm to an identifi-
41 able person or property, or any charge of criminal possession of a
42 firearm as defined in section 265.01-b of the penal law, where such
43 charge arose from conduct occurring while the defendant was released on
44 his or her own recognizance, released under conditions, or had yet to be
45 arraigned after the issuance of a desk appearance ticket for a separate
46 felony or class A misdemeanor involving harm to an identifiable person
47 or property, or any charge of criminal possession of a firearm as
48 defined in section 265.01-b of the penal law, provided, however, that
49 the prosecutor must show reasonable cause to believe that the defendant
50 committed the instant crime and any underlying crime. For the purposes
51 of this subparagraph, any of the underlying crimes need not be a quali-
52 fying offense as defined in this subdivision. For the purposes of this
53 paragraph, "harm to an identifiable person or property" shall include
54 but not be limited to theft of or damage to property. However, based
55 upon a review of the facts alleged in the accusatory instrument, if the
56 court determines that such theft is negligible and does not appear to be

1 in furtherance of other criminal activity, the principal shall be
2 released on his or her own recognizance or under appropriate non-mone-
3 tary conditions; [~~ex~~]
4 (u) criminal possession of a weapon in the third degree as defined in
5 subdivision three of section 265.02 of the penal law or criminal sale of
6 a firearm to a minor as defined in section 265.16 of the penal law[~~.~~];
7 or
8 (v) a hate crime as defined in article four hundred eighty-five of
9 the penal law.
10 § 4. This act shall take effect immediately.