STATE OF NEW YORK

9088

IN SENATE

April 22, 2024

Introduced by Sen. O'MARA -- 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 making menacing and stalking qualifying offenses for the purposes of bail

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

Section 1. Subparagraphs (x) and (xi) of paragraph (b) of subdivision 1 of section 150.20 of the criminal procedure law, as added by section 1 of subpart B of part UU of chapter 56 of the laws of 2022, are amended and two new subparagraphs (xii) and (xiii) are added to read as follows:

(x) the person is eighteen years of age or older and charged with a hate crime as defined in section 485.05 of the penal law; [~~or~~]

(xi) the offense is a qualifying offense pursuant to paragraph (t) of subdivision four of section 510.10 of this chapter, or pursuant to paragraph (t) of subdivision four of section 530.40 of this chapter[~~.~~]*;*

(xii) the offense is a qualifying offense pursuant to paragraph (v) of subdivision four of section 510.10 of this chapter, or pursuant to paragraph (v) of subdivision four of section 530.40 of this chapter; or

(xiii) the offense is a qualifying offense pursuant to paragraph (w) of subdivision four of section 510.10 of this chapter, or pursuant to paragraph (w) of subdivision four of section 530.40 of this chapter.

§ 2. Paragraph (h) of subdivision 4 of section 510.10 of the criminal procedure law, as amended by section 2 of part UU of chapter 56 of the laws of 2020, is amended to read as follows:

(h) criminal contempt in the second degree as defined in subdivision three of section 215.50 of the penal law, criminal contempt in the first degree as defined in subdivision (b), (c) or (d) of section 215.51 of the penal law or aggravated criminal contempt as defined in section 215.52 of the penal law, and the underlying allegation of such charge of criminal contempt in the second degree, criminal contempt in the first degree or aggravated criminal contempt is that the defendant violated a duly served order of protection where the protected party is a member of the defendant's same family or household as defined in subdivision one

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

LBD15078-01-4

of section 530.11 of this title**, or such protected party is the victim of an alleged crime involving menacing or stalking**;

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

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

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

(v) a crime involving menacing under section 120.13, 120.14 or 120.15 of the penal law; or

(w) a crime involving stalking under section 120.45, 120.50, 120.55 or 120.60 of the penal law.

§ 4. Paragraph (h) of subdivision 4 of section 530.40 of the criminal procedure law, as amended by section 4 of part UU of chapter 56 of the laws of 2020, is amended to read as follows:

(h) criminal contempt in the second degree as defined in subdivision three of section 215.50 of the penal law, criminal contempt in the first degree as defined in subdivision (b), (c) or (d) of section 215.51 of the penal law or aggravated criminal contempt as defined in section 215.52 of the penal law, and the underlying allegation of such charge of criminal contempt in the second degree, criminal contempt in the first degree or aggravated criminal contempt is that the defendant violated a duly served order of protection where the protected party is a member of the defendant's same family or household as defined in subdivision one of section 530.11 of this article**, or such protected party is the victim of an alleged crime involving menacing or stalking**;

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

(t) any felony or class A misdemeanor involving harm to an identifiable person or property, or any charge of criminal possession of a firearm as defined in section 265.01-b of the penal law, where such

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

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

(v) a crime involving menacing under section 120.13, 120.14 or 120.15 of the penal law; or

(w) a crime involving stalking under section 120.45, 120.50, 120.55 or 120.60 of the penal law.

§ 6. This act shall take effect immediately.