

STATE OF NEW YORK

9908

IN SENATE

September 11, 2024

Introduced by Sens. GALLIVAN, BORRELLO, GRIFFO, OBERACKER, PALUMBO, RHOADS, TEDISCO, WEBER -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the penal law and the criminal procedure law, in relation to increasing the designation of certain offenses relating to unlawfully fleeing a police officer and making such offenses eligible for bail

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

1 Section 1. The second undesignated paragraph of section 270.25 of the
2 penal law, as added by chapter 738 of the laws of 2006, is amended to
3 read as follows:

4 Unlawful fleeing a police officer in a motor vehicle in the third
5 degree is a class [~~A misdemeanor~~] **E felony**.

6 § 2. The second undesignated paragraph of section 270.30 of the penal
7 law, as added by chapter 738 of the laws of 2006, is amended to read as
8 follows:

9 Unlawful fleeing a police officer in a motor vehicle in the second
10 degree is a class [~~E~~] **D felony**.

11 § 3. The second undesignated paragraph of section 270.35 of the penal
12 law, as added by chapter 738 of the laws of 2006, is amended to read as
13 follows:

14 Unlawful fleeing a police officer in a motor vehicle in the first
15 degree is a class [~~D~~] **C felony**.

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

20 (t) any felony or class A misdemeanor involving harm to an identifi-
21 able person or property, or any charge of criminal possession of a
22 firearm as defined in section 265.01-b of the penal law, where such
23 charge arose from conduct occurring while the defendant was released on
24 [~~his or her~~] **their** own recognizance, released under conditions, or had
25 yet to be arraigned after the issuance of a desk appearance ticket for a

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

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1 separate felony or class A misdemeanor involving harm to an identifiable
2 person or property, or any charge of criminal possession of a firearm as
3 defined in section 265.01-b of the penal law, provided, however, that
4 the prosecutor must show reasonable cause to believe that the defendant
5 committed the instant crime and any underlying crime. For the purposes
6 of this subparagraph, any of the underlying crimes need not be a quali-
7 fying offense as defined in this subdivision. For the purposes of this
8 paragraph, "harm to an identifiable person or property" shall include
9 but not be limited to theft of or damage to property. However, based
10 upon a review of the facts alleged in the accusatory instrument, if the
11 court determines that such theft is negligible and does not appear to be
12 in furtherance of other criminal activity, the principal shall be
13 released on [~~his or her~~] their own recognizance or under appropriate
14 non-monetary conditions; [~~or~~]

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

19 (v) unlawful fleeing a police officer in a motor vehicle in the third
20 degree as defined in section 270.25 of the penal law; unlawful fleeing a
21 police officer in a motor vehicle in the second degree as defined in
22 section 270.30 of the penal law; or unlawful fleeing a police officer in
23 a motor vehicle in the first degree as defined in section 270.35 of the
24 penal law.

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

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

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

53 (xxii) unlawful fleeing a police officer in a motor vehicle in the
54 third degree as defined in section 270.25 of the penal law; unlawful
55 fleeing a police officer in a motor vehicle in the second degree as
56 defined in section 270.30 of the penal law; or unlawful fleeing a police

officer in a motor vehicle in the first degree as defined in section 270.35 of the penal law.

§ 6. 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 a new paragraph (v) is 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]~~ their 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]~~ their 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~~[-]~~;

or
(v) unlawful fleeing a police officer in a motor vehicle in the third degree as defined in section 270.25 of the penal law; unlawful fleeing a police officer in a motor vehicle in the second degree as defined in section 270.30 of the penal law; or unlawful fleeing a police officer in a motor vehicle in the first degree as defined in section 270.35 of the penal law.

§ 7. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.