STATE OF NEW YORK

1402

2023-2024 Regular Sessions

IN ASSEMBLY

January 17, 2023

Introduced by M. of A. BUTTENSCHON, JONES, STERN, THIELE, WALLACE, WOERNER -- read once and referred to the Committee on Codes

AN ACT to amend the criminal procedure law, in relation to allowing the courts to consider a principal's threat to public safety when determining bail

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

Section 1. The opening paragraph of subdivision 1 of section 510.10 of the criminal procedure law, as amended by section 1 of subpart C of part UU of chapter 56 of the laws of 2022, is amended to read as follows:

When a principal, whose future court attendance at a criminal action or proceeding is or may be required, comes under the control of a court, such court shall, in accordance with this title, by a securing order release the principal on the principal's own recognizance, release the principal under non-monetary conditions, or, where authorized, fix bail or commit the principal to the custody of the sheriff. In all such cases, except where another type of securing order is shown to be required by law, the court shall release the principal pending trial on the principal's own recognizance, unless it is demonstrated and the court makes an individualized determination that the principal poses a risk of flight to avoid prosecution **or such principal poses a current physical danger to the safety of any crime victim, person or the community**. If such a finding is made, the court must select the least restrictive alternative and condition or conditions that will reasonably assure the principal's return to court. The court shall explain its choice of release, release with conditions, bail or remand on the record or in writing. In making its determination, the court must consider and take into account available information about the principal, including:

§ 2. The opening paragraph of paragraph (a) of subdivision 1 of section 530.20 of the criminal procedure law, as amended by section 3 of

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

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subpart C of part UU of chapter 56 of the laws of 2022, is amended to read as follows:

In cases other than as described in paragraph (b) of this subdivision the court shall release the principal pending trial on the principal's own recognizance, unless the court finds on the record or in writing that release on the principal's own recognizance will not reasonably assure the principal's return to court. In such instances, the court shall release the principal under non-monetary conditions, selecting the least restrictive alternative and conditions that will reasonably assure the principal's return to court **or such principal poses a current physical danger to the safety of any crime victim, person or the community**. The court shall explain its choice of alternative and conditions on the record or in writing. In making its determination, the court must consider and take into account available information about the principal, including:

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

In cases other than as described in subdivision four of this section the court shall release the principal pending trial on the principal's own recognizance, unless the court finds on the record or in writing that release on the principal's own recognizance will not reasonably assure the principal's return to court **or such principal poses a current physical danger to the safety of any crime victim, person or the community**. In such instances, the court shall release the principal under non-monetary conditions, selecting the least restrictive alternative and conditions that will reasonably assure the principal's return to court. The court shall explain its choice of alternative and conditions on the record or in writing. In making its determination, the court must consider and take into account available information about the principal, including:

§ 4. This act shall take effect immediately.