STATE OF NEW YORK

2175

2023-2024 Regular Sessions

IN ASSEMBLY

January 23, 2023

Introduced by M. of A. STERN -- read once and referred to the Committee on Codes

AN ACT to amend the criminal procedure law, in relation to authorizing bail for certain offenses committed during a riot

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

Section 1. Paragraphs (a) and (u) of subdivision 4 of section 510.10 of the criminal procedure law, paragraph (a) as amended by section 2 of part UU of chapter 56 of the laws of 2020, paragraph (u) as added by section 2 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:

(a) a felony enumerated in section 70.02 of the penal law, other than robbery in the second degree as defined in subdivision one of section 160.10 of the penal law, provided, however, that burglary in the second degree as defined in subdivision two of section 140.25 of the penal law shall be a qualifying offense only where the defendant is charged with entering the living area of the dwelling **or is charged with committing such offense while engaging in a riot as defined in article two hundred forty of the penal law**;

(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) any felony or class A misdemeanor involving harm to an identifiable person or property, where such charge arose from conduct occurring while the defendant was engaging in a riot as defined in article two hundred forty of the penal law.

§ 2. Subparagraphs (i) and (xxi) of paragraph (b) of subdivision 1 of section 530.20 of the criminal procedure law, subparagraph (i) as amended by section 3 of part UU of chapter 56 of the laws of 2020, subparagraph (xxi) as added by section 4 of subpart C of part UU of

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

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chapter 56 of the laws of 2022, are amended and a new subparagraph (xxii) is added to read as follows:

(i) a felony enumerated in section 70.02 of the penal law, other than robbery in the second degree as defined in subdivision one of section 160.10 of the penal law, provided, however, that burglary in the second degree as defined in subdivision two of section 140.25 of the penal law shall be a qualifying offense only where the defendant is charged with entering the living area of the dwelling**, or is charged with committing such offense while engaging in a riot as defined in article two hundred forty of the penal law**;

(xxi) 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**

(xxii) any felony or class A misdemeanor involving harm to an identifiable person or property, where such charge arose from conduct occurring while the defendant was engaging in a riot as defined in article two hundred forty of the penal law.

§ 3. Paragraphs (a) and (u) of subdivision 4 of section 530.40 of the criminal procedure law, paragraph (a) as amended by section 4 of part UU of chapter 56 of the laws of 2020, 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:

(a) a felony enumerated in section 70.02 of the penal law, other than robbery in the second degree as defined in subdivision one of section 160.10 of the penal law, provided, however, that burglary in the second degree as defined in subdivision two of section 140.25 of the penal law shall be a qualifying offense only where the defendant is charged with entering the living area of the dwelling **or is charged with committing such offense while engaging in a riot as defined in article two hundred forty of the penal law**;

(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) any felony or class A misdemeanor involving harm to an identifiable person or property, where such charge arose from conduct occurring while the defendant was engaging in a riot as defined in article two hundred forty of the penal law.

§ 4. This act shall take effect immediately.