

STATE OF NEW YORK

254

2023-2024 Regular Sessions

IN ASSEMBLY

(Prefiled)

January 4, 2023

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

AN ACT to amend the criminal procedure law, in relation to securing
orders for principals charged with certain hate crimes

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

1 Section 1. Paragraphs (m), (t) and (u) of subdivision 4 of section
2 510.10 of the criminal procedure law, paragraph (m) as added by section
3 2 of part UU of chapter 56 of the laws of 2020 and paragraph (t) as
4 amended and (u) as added by section 2 of subpart B of part UU of chapter
5 56 of the laws of 2022, are amended and a new paragraph (v) is added to
6 read as follows:

7 (m) assault in the third degree as defined in section 120.00 of the
8 penal law ~~[or]~~, arson in the third degree as defined in section 150.10
9 of the penal law, harassment in the first degree as defined in section
10 240.25 of the penal law, or harassment in the second degree as defined
11 in section 240.26 of the penal law, when such crime is charged as a hate
12 crime as defined in section 485.05 of the penal law;

13 (t) any felony or class A misdemeanor involving harm to an identifi-
14 able person or property, or any charge of criminal possession of a
15 firearm as defined in section 265.01-b of the penal law, where such
16 charge arose from conduct occurring while the defendant was released on
17 his or her own recognizance, released under conditions, or had yet to be
18 arraigned after the issuance of a desk appearance ticket for a separate
19 felony or class A misdemeanor involving harm to an identifiable person
20 or property, or any charge of criminal possession of a firearm as
21 defined in section 265.01-b of the penal law, provided, however, that
22 the prosecutor must show reasonable cause to believe that the defendant
23 committed the instant crime and any underlying crime. For the purposes
24 of this subparagraph, any of the underlying crimes need not be a quali-

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

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1 fying offense as defined in this subdivision. For the purposes of this
2 paragraph, "harm to an identifiable person or property" shall include
3 but not be limited to theft of or damage to property. However, based
4 upon a review of the facts alleged in the accusatory instrument, if the
5 court determines that such theft is negligible and does not appear to be
6 in furtherance of other criminal activity, the principal shall be
7 released on his or her own recognizance or under appropriate non-mone-
8 tary conditions; ~~[ex]~~

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

13 (v) aggravated harassment in the first degree as defined in section
14 240.31 of the penal law, or aggravated harassment in the second degree
15 as defined in subdivision three of section 240.30 of the penal law.

16 § 2. Subparagraphs (xiii), (xx) and (xxi) of paragraph (b) of subdivi-
17 sion 1 of section 530.20 of the criminal procedure law, subparagraph
18 (xiii) as amended by section 3 of part UU of chapter 56 of the laws of
19 2020 and subparagraph (xx) as amended and subparagraph (xxi) as added by
20 section 4 of subpart C of part UU of chapter 56 of the laws of 2022, are
21 amended and a new subparagraph (xxii) is added to read as follows:

22 (xiii) assault in the third degree as defined in section 120.00 of the
23 penal law ~~[ex]~~, arson in the third degree as defined in section 150.10
24 of the penal law, harassment in the first degree as defined in section
25 240.25 of the penal law, or harassment in the second degree as defined
26 in section 240.26 of the penal law, when such crime is charged as a hate
27 crime as defined in section 485.05 of the penal law;

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

46 (xxi) criminal possession of a weapon in the third degree as defined
47 in subdivision three of section 265.02 of the penal law or criminal sale
48 of a firearm to a minor as defined in section 265.16 of the penal
49 law~~[+]~~; or

50 (xxii) aggravated harassment in the first degree as defined in section
51 240.31 of the penal law, or aggravated harassment in the second degree
52 as defined in subdivision three of section 240.30 of the penal law.

53 § 3. Paragraphs (m), (t) and (u) of subdivision 4 of section 530.40 of
54 the criminal procedure law, as added by section 4 of part UU of chapter
55 56 of the laws of 2020 and paragraph (t) as amended and (u) as added by

1 section 4 of subpart B of part UU of chapter 56 of the laws of 2022, are
2 amended and a new paragraph (v) is added to read as follows:

3 (m) assault in the third degree as defined in section 120.00 of the
4 penal law ~~[or]~~, arson in the third degree as defined in section 150.10
5 of the penal law, harassment in the first degree as defined in section
6 240.25 of the penal law, or harassment in the second degree as defined
7 in section 240.26 of the penal law, when such crime is charged as a hate
8 crime as defined in section 485.05 of the penal law;

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

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

33 (v) aggravated harassment in the first degree as defined in section
34 240.31 of the penal law, or aggravated harassment in the second degree
35 as defined in subdivision three of section 240.30 of the penal law.

36 § 4. This act shall take effect immediately.