

STATE OF NEW YORK

3573

2023-2024 Regular Sessions

IN ASSEMBLY

February 3, 2023

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

AN ACT to amend the criminal procedure law, in relation to setting bail for defendants who pose a threat to public safety

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

1 Section 1. Subdivision 1 of section 510.10 of the criminal procedure
2 law, as amended by section 1 of subpart C of part UU of chapter 56 of
3 the laws of 2022, is amended to read as follows:

4 1. When a principal, whose future court attendance at a criminal
5 action or proceeding is or may be required, comes under the control of a
6 court, such court shall, in accordance with this title, by a securing
7 order release the principal on the principal's own recognizance, release
8 the principal under non-monetary conditions, or, where authorized, fix
9 bail or commit the principal to the custody of the sheriff. In all such
10 cases, except where another type of securing order is shown to be
11 required by law, the court shall release the principal pending trial on
12 the principal's own recognizance, unless it is demonstrated and the
13 court makes an individualized determination that the principal poses a
14 risk of flight to avoid prosecution[~~-. If such a finding is made, the~~
15 ~~court must select the least restrictive alternative and condition or~~
16 ~~conditions that will reasonably assure the principal's return to court]~~
17 or it is demonstrated and the court makes an individualized determi-
18 nation based on the principal's record of a prior felony conviction, a
19 failure to appear in court or if the principal is arrested during the
20 interim period while awaiting a preliminary hearing or trial. The court
21 shall explain its choice of release, release with conditions, bail or
22 remand on the record or in writing. In making its determination, the
23 court must consider and take into account available information about
24 the principal, including:

25 (a) The principal's activities and history;

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

LBD03622-01-3

1 (b) If the principal is a defendant, the charges facing the principal;

2 (c) The principal's criminal conviction record if any;

3 (d) The principal's record of previous adjudication as a juvenile
4 delinquent, as retained pursuant to section 354.1 of the family court
5 act, or, of pending cases where fingerprints are retained pursuant to
6 section 306.1 of such act, or a youthful offender, if any;

7 (e) The principal's previous record with respect to flight to avoid
8 criminal prosecution;

9 (f) If monetary bail is authorized, according to the restrictions set
10 forth in this title, the principal's individual financial circumstances,
11 and, in cases where bail is authorized, the principal's ability to post
12 bail without posing undue hardship, as well as his or her ability to
13 obtain a secured, unsecured, or partially secured bond;

14 (g) Any violation by the principal of an order of protection issued by
15 any court;

16 (h) The principal's history of use or possession of a firearm;

17 (i) Whether the charge is alleged to have caused serious harm to an
18 individual or group of individuals; and

19 (j) If the principal is a defendant, in the case of an application for
20 a securing order pending appeal, the merit or lack of merit of the
21 appeal.

22 § 2. This act shall take effect immediately.