# STATE OF NEW YORK

4049

2023-2024 Regular Sessions

# IN ASSEMBLY

February 9, 2023

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

AN ACT to amend the criminal procedure law, in relation to bail and domestic violence charges

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

Section 1. 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:

1. 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 where the principal stands charged with a crime or crimes against a member or members of the same family or household as that term is defined in subdivision one of section 530.11 of this title**. If [~~such~~] a finding is made **that the principal poses a risk of flight to avoid prosecution**, 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:

(a) The principal's activities and history;

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

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(b) If the principal is a defendant, the charges facing the principal;
(c) The principal's criminal conviction record if any;
(d) The principal's record of previous adjudication as a juvenile delinquent, as retained pursuant to section 354.1 of the family court act, or, of pending cases where fingerprints are retained pursuant to section 306.1 of such act, or a youthful offender, if any;
(e) The principal's previous record with respect to flight to avoid criminal prosecution;
(f) If monetary bail is authorized, according to the restrictions set forth in this title, the principal's individual financial circumstances, and, in cases where bail is authorized, the principal's ability to post bail without posing undue hardship, as well as his or her ability to obtain a secured, unsecured, or partially secured bond;
(g) Any violation by the principal of an order of protection issued by any court;
(h) The principal's history of use or possession of a firearm;
(i) Whether the charge is alleged to have caused serious harm to an individual or group of individuals; [~~and~~]
(j) If the principal is a defendant, in the case of an application for a securing order pending appeal, the merit or lack of merit of the appeal[~~.~~];
**(k) Any history of prior acts of violence or threats of violence against a witness in the pending criminal action;**
**(l) Any order of protection issued by any court against the principal for the protection of a member or members of the same family or household as that term is defined in subdivision one of section 530.11 of this title, whether or not such order is currently in effect; and**
**(m) Any prior arrest or conviction for a crime or violation against a member or members of the same family or household as that term is defined in subdivision one of section 530.11 of this title.**
§ 2. This act shall take effect on the ninetieth day after it shall have become a law.