

# STATE OF NEW YORK

4433

2023-2024 Regular Sessions

## IN ASSEMBLY

February 14, 2023

Introduced by M. of A. DURSO -- read once and referred to the Committee on Election Law

AN ACT to amend the election law and the criminal procedure law, in relation to including attempting to register as an elector knowing that he or she is not qualified due to lack of U.S. citizenship

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

1 Section 1. Section 17-104 of the election law is amended to read as  
2 follows:  
3 § 17-104. False registration. Any person who:  
4 1. Registers or attempts to register as an elector in more than one  
5 election district for the same election, or more than once in the same  
6 election district; or~~7~~  
7 2. Registers or attempts to register as an elector, knowing that he or  
8 she will not be a qualified voter in the district at the election for  
9 which such registration is made; or  
10 3. Registers or attempts to register as an elector, when he or she is  
11 not qualified due to lack of U.S. citizenship; or  
12 4. Registers or attempts to register as an elector under any name but  
13 his or her own; or  
14 ~~4.~~ 5. Knowingly gives a false residence within the election district  
15 when registering as an elector; or  
16 ~~5.~~ 6. Knowingly permits, aids, assists, abets, procures, commands or  
17 advises another to commit any such act, is guilty of a class E felony.  
18 § 2. Paragraphs (t) and (u) of subdivision 4 of section 510.10 of the  
19 criminal procedure law, paragraph (t) as amended and paragraph (u) as  
20 added by section 2 of subpart B of part UU of chapter 56 of the laws of  
21 2022, are amended and a new paragraph (v) is added to read as follows:  
22 (t) any felony or class A misdemeanor involving harm to an identifi-  
23 able person or property, or any charge of criminal possession of a  
24 firearm as defined in section 265.01-b of the penal law, where such

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

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

18 (u) criminal possession of a weapon in the third degree as defined in  
19 subdivision three of section 265.02 of the penal law or criminal sale of  
20 a firearm to a minor as defined in section 265.16 of the penal law[~~+~~];  
21 or

22 (v) a violation of subdivision three of section 17-104 of the election  
23 law.

24 § 3. Subparagraphs (xx) and (xxi) of paragraph (b) of subdivision 1 of  
25 section 530.20 of the criminal procedure law, subparagraph (xx) as  
26 amended and subparagraph (xxi) as added by section 4 of subpart C of  
27 part UU of chapter 56 of the laws of 2022, are amended and a new subpar-  
28 agraph (xxii) is added to read as follows:

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

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

51 (xxii) a violation of subdivision three of section 17-104 of the  
52 election law.

53 § 4. Paragraphs (t) and (u) of subdivision 4 of section 530.40 of the  
54 criminal procedure law, paragraph (t) as amended and paragraph (u) as  
55 added by section 4 of subpart B part UU of chapter 56 of the laws of  
56 2022, are amended and a new paragraph (v) is added to read as follows:

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

21 (u) criminal possession of a weapon in the third degree as defined in  
22 subdivision three of section 265.02 of the penal law or criminal sale of  
23 a firearm to a minor as defined in section 265.16 of the penal law[~~+~~];  
24 or

25 (v) a violation of subdivision three of section 17-104 of the election  
26 law.

27 § 5. This act shall take effect immediately.