

STATE OF NEW YORK

8112

2023-2024 Regular Sessions

IN ASSEMBLY

October 13, 2023

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

AN ACT to amend the penal law, in relation to establishing the offense of aggravated reckless endangerment; and to amend the criminal procedure law, in relation to including aggravated reckless endangerment as a qualified offense the court must consider and take into account for securing an order

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

1 Section 1. The penal law is amended by adding a new section 120.26 to
2 read as follows:

3 § 120.26 Aggravated reckless endangerment.

4 A person is guilty of aggravated reckless endangerment when such
5 person knowingly possesses fentanyl or a fentanyl derivative and reck-
6 lessly exposes a first responder or correction officer to such fentanyl
7 or fentanyl derivative in a manner that is likely to result in illness
8 or injury to such first responder or correction officer.

9 Aggravated reckless endangerment is a class C felony.

10 § 2. Paragraphs (t) and (u) of subdivision 4 of section 510.10 of the
11 criminal procedure law, paragraph (t) as amended and paragraph (u) as
12 added by section 2 of subpart B of part UU of chapter 56 of the laws of
13 2022, are amended and a new paragraph (v) is added to read as follows:

14 (t) any felony or class A misdemeanor involving harm to an identifi-
15 able person or property, or any charge of criminal possession of a
16 firearm as defined in section 265.01-b of the penal law, where such
17 charge arose from conduct occurring while the defendant was released on
18 his or her own recognizance, released under conditions, or had yet to be
19 arraigned after the issuance of a desk appearance ticket for a separate
20 felony or class A misdemeanor involving harm to an identifiable person
21 or property, or any charge of criminal possession of a firearm as
22 defined in section 265.01-b of the penal law, provided, however, that

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

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

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

16 (v) aggravated reckless endangerment as defined in section 120.26 of
17 the penal law.

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

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

41 (xxi) criminal possession of a weapon in the third degree as defined
42 in subdivision three of section 265.02 of the penal law or criminal sale
43 of a firearm to a minor as defined in section 265.16 of the penal
44 law[~~+~~]; or

45 (xxii) aggravated reckless endangerment as defined in section 120.26
46 of the penal law.

47 § 4. Paragraphs (t) and (u) of subdivision 4 of section 530.40 of the
48 criminal procedure law, paragraph (t) as amended and paragraph (u) as
49 added by section 4 of subpart B of part UU of chapter 56 of the laws of
50 2022, are amended and a new paragraph (v) is added to read as follows:

51 (t) any felony or class A misdemeanor involving harm to an identifi-
52 able person or property, or any charge of criminal possession of a
53 firearm as defined in section 265.01-b of the penal law, where such
54 charge arose from conduct occurring while the defendant was released on
55 his or her own recognizance, released under conditions, or had yet to be
56 arraigned after the issuance of a desk appearance ticket for a separate

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

15 (u) criminal possession of a weapon in the third degree as defined in
16 subdivision three of section 265.02 of the penal law or criminal sale of
17 a firearm to a minor as defined in section 265.16 of the penal law[~~r~~];

18 or

19 (v) aggravated reckless endangerment as defined in section 120.26 of
20 the penal law.

21 § 5. This act shall take effect immediately.