STATE OF NEW YORK

9426--A

IN ASSEMBLY

March 14, 2024

Introduced by M. of A. DURSO -- read once and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the penal law, in relation to concealment and/or mutilation of a human corpse; and to amend the criminal procedure law, in relation to authorizing bail for principals charged with concealment and/or mutilation of a human corpse

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

Section 1. Section 195.02 of the penal law, as added by chapter 242 of the laws of 2015, is amended to read as follows:

§ 195.02 Concealment **and/or mutilation** of a human corpse.

A person is guilty of concealment **and/or mutilation** of a human corpse when[~~, having a reasonable expectation that a human corpse or a part thereof will be produced for or used as physical evidence in: (a) an official proceeding; (b) an autopsy as part of a criminal investigation; or (c) an examination by law enforcement personnel as part of a criminal investigation;~~] such person, alone or in concert with another, conceals, alters**, mutilates and/**or destroys such corpse or part thereof [~~with the intent to prevent its production, use or discovery~~]. **The provisions of this section shall not apply to an individual or entity authorized to accept an anatomical gift pursuant to section forty-three hundred two of the public health law or to the lawful activities of a funeral director, undertaker or embalmer under article thirty-four of the public health law.**

Concealment **and/or mutilation** of a human corpse is a class E felony.

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

(t) any felony or class A misdemeanor involving harm to an identifiable person or property, or any charge of criminal possession of a firearm as defined in section 265.01-b of the penal law, where such charge arose from conduct occurring while the defendant was released on

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

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[~~his or her~~] **such defendant's** own recognizance, released under conditions, or had yet to be arraigned after the issuance of a desk appearance ticket for a separate felony or class A misdemeanor involving harm to an identifiable person or property, or any charge of criminal possession of a firearm as defined in section 265.01-b of the penal law, provided, however, that the prosecutor must show reasonable cause to believe that the defendant committed the instant crime and any underlying crime. For the purposes of this subparagraph, any of the underlying crimes need not be a qualifying offense as defined in this subdivision. For the purposes of this paragraph, "harm to an identifiable person or property" shall include but not be limited to theft of or damage to property. However, based upon a review of the facts alleged in the accusatory instrument, if the court determines that such theft is negligible and does not appear to be in furtherance of other criminal activity, the principal shall be released on [~~his or her~~] **such principal's** own recognizance or under appropriate non-monetary conditions; [~~or~~]

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

(v) the concealment and/or mutilation of a human corpse pursuant to section 195.02 of the penal law.

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

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

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

(xxii) the concealment and/or mutilation of a human corpse pursuant to section 195.02 of the penal law.

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

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

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

or

(v) the concealment and/or mutilation of a human corpse pursuant to section 195.02 of the penal law.

§ 5. This act shall take effect immediately.