

STATE OF NEW YORK

9794

IN ASSEMBLY

April 9, 2024

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

AN ACT to amend the criminal procedure law, in relation to authorizing
bail for principals charged with certain driving while intoxicated
offenses

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

1 Section 1. Paragraphs (t) and (u) of subdivision 4 of section 510.10
2 of the criminal procedure law, paragraph (t) as amended and paragraph
3 (u) as added by section 2 of subpart B of part UU of chapter 56 of the
4 laws of 2022, are amended and a new paragraph (v) is added to read as
5 follows:

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

26 (u) criminal possession of a weapon in the third degree as defined in
27 subdivision three of section 265.02 of the penal law or criminal sale of

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

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1 a firearm to a minor as defined in section 265.16 of the penal law[~~+~~];
2 or
3 (v) felony driving while under the influence of alcohol or drugs
4 offenses pursuant to sections eleven hundred ninety-two and eleven
5 hundred ninety-three of the vehicle and traffic law.

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

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

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

34 (xxii) felony driving while under the influence of alcohol or drugs
35 offenses pursuant to sections eleven hundred ninety-two and eleven
36 hundred ninety-three of the vehicle and traffic law.

37 § 3. Paragraphs (t) and (u) of subdivision 4 of section 530.40 of the
38 criminal procedure law, paragraph (t) as amended and paragraph (u) as
39 added by section 4 of subpart B of part UU of chapter 56 of the laws of
40 2022, are amended and a new paragraph (v) is added to read as follows:

41 (t) any felony or class A misdemeanor involving harm to an identifi-
42 able person or property, or any charge of criminal possession of a
43 firearm as defined in section 265.01-b of the penal law, where such
44 charge arose from conduct occurring while the defendant was released on
45 [~~his or her~~] such defendant's own recognizance, released under condi-
46 tions, or had yet to be arraigned after the issuance of a desk appear-
47 ance ticket for a separate felony or class A misdemeanor involving harm
48 to an identifiable person or property, or any charge of criminal
49 possession of a firearm as defined in section 265.01-b of the penal law,
50 provided, however, that the prosecutor must show reasonable cause to
51 believe that the defendant committed the instant crime and any underly-
52 ing crime. For the purposes of this subparagraph, any of the underlying
53 crimes need not be a qualifying offense as defined in this subdivision.
54 For the purposes of this paragraph, "harm to an identifiable person or
55 property" shall include but not be limited to theft of or damage to
56 property. However, based upon a review of the facts alleged in the accu-

1 satory instrument, if the court determines that such theft is negligible
2 and does not appear to be in furtherance of other criminal activity, the
3 principal shall be released on [~~his or her~~] such principal's own recog-
4 nizance or under appropriate non-monetary conditions; [~~or~~]
5 (u) criminal possession of a weapon in the third degree as defined in
6 subdivision three of section 265.02 of the penal law or criminal sale of
7 a firearm to a minor as defined in section 265.16 of the penal law[~~+~~];
8 or
9 (v) felony driving while under the influence of alcohol or drugs
10 offenses pursuant to sections eleven hundred ninety-two and eleven
11 hundred ninety-three of the vehicle and traffic law.
12 § 4. This act shall take effect immediately.