

STATE OF NEW YORK

3494

2023-2024 Regular Sessions

IN SENATE

January 31, 2023

Introduced by Sen. WEIK -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the criminal procedure law, in relation to making any offense involving the use or possession of a firearm, shotgun or rifle bail eligible

The People of the State of New York, represented in Senate and Assembly, 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 own recognizance, released under conditions, or had yet to be
11 arraigned after the issuance of a desk appearance ticket for a separate
12 felony or class A misdemeanor involving harm to an identifiable person
13 or property, or any charge of criminal possession of a firearm as
14 defined in section 265.01-b of the penal law, provided, however, that
15 the prosecutor must show reasonable cause to believe that the defendant
16 committed the instant crime and any underlying crime. For the purposes
17 of this subparagraph, any of the underlying crimes need not be a quali-
18 fying offense as defined in this subdivision. For the purposes of this
19 paragraph, "harm to an identifiable person or property" shall include
20 but not be limited to theft of or damage to property. However, based
21 upon a review of the facts alleged in the accusatory instrument, if the
22 court determines that such theft is negligible and does not appear to be
23 in furtherance of other criminal activity, the principal shall be

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

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1 released on his or her own recognizance or under appropriate non-mone-
2 tary conditions; [~~ex~~]

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

7 (v) any misdemeanor or felony offense involving the use or possession
8 of a firearm, shotgun or rifle.

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

14 (xx) 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, provided, however, that the prosecutor must show reasonable
22 cause to believe that the defendant committed the instant crime and any
23 underlying crime. For the purposes of this subparagraph, any of the
24 underlying crimes need not be a qualifying offense as defined in this
25 subdivision. For the purposes of this paragraph, "harm to an identifi-
26 able person or property" shall include but not be limited to theft of or
27 damage to property. However, based upon a review of the facts alleged in
28 the accusatory instrument, if the court determines that such theft is
29 negligible and does not appear to be in furtherance of other criminal
30 activity, the principal shall be released on his or her own recognizance
31 or under appropriate non-monetary conditions; [~~ex~~]

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

36 (xxii) any misdemeanor or felony offense involving the use or
37 possession of a firearm, shotgun or rifle.

38 § 3. Paragraphs (t) and (u) of subdivision 4 of section 530.40 of the
39 criminal procedure law, paragraph (t) as amended and paragraph (u) as
40 added by section 4 of subpart B of part UU of chapter 56 of the laws of
41 2022, are amended and a new paragraph (v) is added to read as follows:

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

1 upon a review of the facts alleged in the accusatory instrument, if the
2 court determines that such theft is negligible and does not appear to be
3 in furtherance of other criminal activity, the principal shall be
4 released on his or her own recognizance or under appropriate non-mone-
5 tary conditions; [~~or~~]

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

9 or
10 (v) any misdemeanor or felony offense involving the use or possession
11 of a firearm, shotgun or rifle.

12 § 4. This act shall take effect immediately.