

# STATE OF NEW YORK

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7322

2023-2024 Regular Sessions

## IN SENATE

May 19, 2023

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Introduced by Sen. CANZONERI-FITZPATRICK -- 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 authorizing crimes committed by members of street gangs or a criminal enterprise to be eligible for bail

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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released on his or her own recognizance or under appropriate non-monetary conditions; ~~[ex]~~

(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) any misdemeanor or felony offense and there is reasonable cause to believe the principal is associated with a criminal street gang, as defined in section 10-170 of the administrative code of the city of New York or a criminal enterprise, as defined in section 460.10 of the penal law and there is reasonable cause to believe the offense is connected to criminal street gang or criminal enterprise activity.

§ 2. 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 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 own recognizance or under appropriate non-monetary conditions; ~~[ex]~~

(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) any misdemeanor or felony offense and there is reasonable cause to believe the principal is associated with a criminal street gang, as defined in section 10-170 of the administrative code of the city of New York or a criminal enterprise, as defined in section 460.10 of the penal law and there is reasonable cause to believe the offense is connected to criminal street gang or criminal enterprise activity.

§ 3. 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 subdivision (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 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

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

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

18 (v) any misdemeanor or felony offense and there is reasonable cause to  
19 believe the principal is associated with a criminal street gang, as  
20 defined in section 10-170 of the administrative code of the city of New  
21 York or a criminal enterprise, as defined in section 460.10 of the penal  
22 law and there is reasonable cause to believe the offense is connected to  
23 criminal street gang or criminal enterprise activity.

24 § 4. This act shall take effect immediately.