

STATE OF NEW YORK

7816

2023-2024 Regular Sessions

IN SENATE

December 15, 2023

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

AN ACT to amend the criminal procedure law, in relation to authorizing bail for certain felony offenses involving the manufacture, sale, distribution, or possession with intent to sell synthetic opioids

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

1 Section 1. Paragraph (d) of subdivision 4 of section 510.10 of the
2 criminal procedure law, as amended by section 2 of part UU of chapter 56
3 of the laws of 2020, is amended to read as follows:

4 (d) a class A felony defined in the penal law[~~, provided that for~~
5 ~~class A felonies under article two hundred twenty of the penal law, only~~
6 ~~class A I felonies shall be a qualifying offense~~];

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

11 (t) 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 own recognizance, released under conditions, or had yet to be
16 arraigned after the issuance of a desk appearance ticket for a separate
17 felony or class A misdemeanor involving harm to an identifiable person
18 or property, or any charge of criminal possession of a firearm as
19 defined in section 265.01-b of the penal law, provided, however, that
20 the prosecutor must show reasonable cause to believe that the defendant
21 committed the instant crime and any underlying crime. For the purposes
22 of this subparagraph, any of the underlying crimes need not be a quali-
23 fying offense as defined in this subdivision. For the purposes of this
24 paragraph, "harm to an identifiable person or property" shall include

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

LBD13271-01-3

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

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

11 (v) any felony offense defined in article two hundred twenty of the
12 penal law, where such offense involves the manufacture, sale, distrib-
13 ution, or possession with intent to sell synthetic opioids, including
14 but not limited to fentanyl, fentanyl analogues, nitazene, and nitazene
15 analogues.

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

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

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

43 (xxii) any felony offense defined in article two hundred twenty of the
44 penal law, where such offense involves the manufacture, sale, distrib-
45 ution, or possession with intent to sell synthetic opioids, including
46 but not limited to fentanyl, fentanyl analogues, nitazene, and nitazene
47 analogues.

48 § 4. Paragraphs (t) and (u) of subdivision 4 of section 530.40 of the
49 criminal procedure law, paragraph (t) as amended and paragraph (u) as
50 added by section 4 of subpart B of part UU of chapter 56 of the laws of
51 2022, are amended and a new paragraph (v) is added to read as follows:

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

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

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

20 (v) any felony offense defined in article two hundred twenty of the
21 penal law, where such offense involves the manufacture, sale, distrib-
22 ution, or possession with intent to sell synthetic opioids, including
23 but not limited to fentanyl, fentanyl analogues, nitazene, and nitazene
24 analogues.

25 § 5. This act shall take effect immediately