STATE OF NEW YORK

2357

2025-2026 Regular Sessions

IN ASSEMBLY

January 16, 2025

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

AN ACT to amend the criminal procedure law, in relation to authorizing the court the discretion to release persons charged with certain crimes involving possession of a firearm on their own recognizance or under non-monetary conditions, fix bail, or commit the person to the custody of the sheriff

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

Section 1. Paragraph (u) of subdivision 4 of section 510.10 of the criminal procedure law, as added by section 2 of subpart B of part UU of chapter 56 of the laws of 2022, is amended to read as follows:

(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 any other felony offense involving criminal possession of a firearm or criminal possession of a weapon in violation of article two hundred sixty-five of the penal law**.

§ 2. Section 510.10 of the criminal procedure law is amended by adding a new subdivision 7 to read as follows:

7. When the principal is charged with a crime as defined in article two hundred sixty-five of the penal law that involves a machine-gun, firearm silencer, firearm, rifle, shotgun, disguised gun, ghost gun or assault weapon, the court may in its discretion release the principal pending trial on the principal's own recognizance or under non-monetary conditions, fix bail, or the court may commit the principal to the custody of the sheriff without considering the likelihood that the defendant will return for court or selecting the least restrictive means necessary to ensure their return to court.

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

LBD02225-01-5

§ 3. The opening paragraph of subdivision 1 of section 510.30 of the criminal procedure law, as amended by section 4 of subpart A of part VV of chapter 56 of the laws of 2023, is amended to read as follows:

With respect to any principal, the court [~~in all cases~~], unless otherwise provided by law, must impose a securing order in accordance with section 510.10 of this article, and shall explain the basis for its determination and choice of securing order on the record or in writing.

§ 4. Section 510.30 of the criminal procedure law is amended by adding a new subdivision 4 to read as follows:

4. When the principal is charged with a crime as defined in article two hundred sixty-five of the penal law that involves a machine-gun, firearm silencer, firearm, rifle, shotgun, disguised gun, ghost gun or assault weapon, the court may in its discretion release the principal pending trial on the principal's own recognizance or under non-monetary conditions, fix bail, or the court may commit the principal to the custody of the sheriff without considering the likelihood that the defendant will return for court or selecting the least restrictive means necessary to ensure their return to court.

§ 5. Subparagraph (xxi) of paragraph (b) of subdivision 1 of section 530.20 of the criminal procedure law, as amended by section 4 of subpart C of part UU of chapter 56 of the laws of 2022, is amended to read as follows:

(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 any other felony offense involving criminal possession of a firearm or criminal possession of a weapon in violation of article two hundred sixty-five of the penal law**.

§ 6. Paragraph (u) of subdivision 4 of section 530.40 of the criminal procedure law, as added by section 4 of subpart B of part UU of chapter 56 of the laws of 2022, is amended to read as follows:

(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 any other felony offense involving criminal possession of a firearm or criminal possession of a weapon in violation of article two hundred sixty-five of the penal law**.

§ 7. Subparagraphs (ii) and (iii) of paragraph (d) of subdivision 2 of section 530.60 of the criminal procedure law, subparagraph (ii) as amended and subparagraph (iii) as added by section 11 of subpart A of part VV of chapter 56 of the laws of 2023, are amended and a new subparagraph (iv) is added to read as follows:

(ii) Under subparagraph (i) of paragraph (b) of this subdivision, revocation of a previously issued securing order shall result in the issuance of a new securing order which may, if otherwise authorized by law, permit the principal's release on recognizance or release under non-monetary conditions, but shall also render the defendant eligible for an order fixing bail, or ordering non-monetary conditions in conjunction with fixing bail, provided, however, that in accordance with the principles in this title the court must impose a new securing order in accordance with subdivision one of section 510.10 of this title, and in imposing such order, may consider the circumstances warranting such revocation. Nothing in this subparagraph shall be interpreted as shortening the period of detention, or requiring or authorizing any less restrictive form of a securing order, which may be imposed pursuant to any other law; [~~and~~]

(iii) Under subparagraphs (ii), (iii), and (iv) of paragraph (b) of this subdivision, revocation of a previously issued securing order shall result in the issuance of a new securing order which may, if otherwise authorized by law, permit the principal's release on recognizance or release under non-monetary conditions, but shall also render the defendant eligible for an order fixing bail or ordering non-monetary conditions in conjunction with fixing bail. In issuing the new securing order, the court shall consider the kind and degree of control or restriction necessary to reasonably assure the principal's return to court and compliance with court conditions, and select a securing order consistent with its determination, taking into account the factors required to be considered under subdivision one of section 510.10 of this title, the circumstances warranting such revocation, and the nature and extent of the principal's noncompliance with previously ordered non-monetary conditions of the securing order subject to revocation under this subdivision. Nothing in this subparagraph shall be interpreted as shortening the period of detention, or requiring or authorizing any less restrictive form of a securing order, which may be imposed pursuant to any other law[.] **; and**

(iv) When the principal is charged with a crime as defined in article two hundred sixty-five of the penal law that involves a machine-gun, firearm silencer, firearm, rifle, shotgun, disguised gun, ghost gun or assault weapon, the court may in its discretion release the principal pending trial on the principal's own recognizance or under non-monetary conditions, fix bail, or the court may commit the principal to the custody of the sheriff without considering the likelihood that the defendant will return for court or selecting the least restrictive means necessary to ensure their return to court.

§ 8. This act shall take effect immediately.