

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:

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

4 (u) criminal possession of a weapon in the third degree as defined in
5 subdivision three of section 265.02 of the penal law or criminal sale of
6 a firearm to a minor as defined in section 265.16 of the penal law or
7 any other felony offense involving criminal possession of a firearm or
8 criminal possession of a weapon in violation of article two hundred
9 sixty-five of the penal law.

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

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

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

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

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

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

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

19 § 5. Subparagraph (xxi) of paragraph (b) of subdivision 1 of section
20 530.20 of the criminal procedure law, as amended by section 4 of subpart
21 C of part UU of chapter 56 of the laws of 2022, is amended to read as
22 follows:

23 (xxi) criminal possession of a weapon in the third degree as defined
24 in subdivision three of section 265.02 of the penal law or criminal sale
25 of a firearm to a minor as defined in section 265.16 of the penal law or
26 any other felony offense involving criminal possession of a firearm or
27 criminal possession of a weapon in violation of article two hundred
28 sixty-five of the penal law.

29 § 6. Paragraph (u) of subdivision 4 of section 530.40 of the criminal
30 procedure law, as added by section 4 of subpart B of part UU of chapter
31 56 of the laws of 2022, is amended to read as follows:

32 (u) criminal possession of a weapon in the third degree as defined in
33 subdivision three of section 265.02 of the penal law or criminal sale of
34 a firearm to a minor as defined in section 265.16 of the penal law or
35 any other felony offense involving criminal possession of a firearm or
36 criminal possession of a weapon in violation of article two hundred
37 sixty-five of the penal law.

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

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

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

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

29 § 8. This act shall take effect immediately.