

STATE OF NEW YORK

394

2025-2026 Regular Sessions

IN ASSEMBLY

(Prefiled)

January 8, 2025

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

AN ACT to amend the criminal procedure law, in relation to securing orders for principals charged with certain hate crimes

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

1 Section 1. Paragraphs (m), (t) and (u) of subdivision 4 of section
2 510.10 of the criminal procedure law, paragraph (m) as added by section
3 2 of part UU of chapter 56 of the laws of 2020 and paragraph (t) as
4 amended and (u) as added by section 2 of subpart B of part UU of chapter
5 56 of the laws of 2022, are amended and a new paragraph (v) is added to
6 read as follows:

7 (m) assault in the third degree as defined in section 120.00 of the
8 penal law ~~[or]~~, arson in the third degree as defined in section 150.10
9 of the penal law, harassment in the first degree as defined in section
10 240.25 of the penal law, or harassment in the second degree as defined
11 in section 240.26 of the penal law, when such crime is charged as a hate
12 crime as defined in section 485.05 of the penal law;

13 (t) any felony or class A misdemeanor involving harm to an identifi-
14 able person or property, or any charge of criminal possession of a
15 firearm as defined in section 265.01-b of the penal law, where such
16 charge arose from conduct occurring while the defendant was released on
17 ~~[his or her]~~ the defendant's own recognizance, released under condi-
18 tions, or had yet to be arraigned after the issuance of a desk appear-
19 ance ticket for a separate felony or class A misdemeanor involving harm
20 to an identifiable person or property, or any charge of criminal
21 possession of a firearm as defined in section 265.01-b of the penal law,
22 provided, however, that the prosecutor must show reasonable cause to
23 believe that the defendant committed the instant crime and any underly-
24 ing crime. For the purposes of this subparagraph, any of the underlying

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

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1 crimes need not be a qualifying offense as defined in this subdivision.
2 For the purposes of this paragraph, "harm to an identifiable person or
3 property" shall include but not be limited to theft of or damage to
4 property. However, based upon a review of the facts alleged in the accu-
5 satory instrument, if the court determines that such theft is negligible
6 and does not appear to be in furtherance of other criminal activity, the
7 principal shall be released on ~~[his or her]~~ the principal's own recogni-
8 zance or under appropriate non-monetary conditions; ~~[or]~~

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

13 (v) aggravated harassment in the first degree as defined in section
14 240.31 of the penal law, or aggravated harassment in the second degree
15 as defined in subdivision three of section 240.30 of the penal law.

16 § 2. Subparagraphs (xiii), (xx) and (xxi) of paragraph (b) of subdivi-
17 sion 1 of section 530.20 of the criminal procedure law, subparagraph
18 (xiii) as amended by section 3 of part UU of chapter 56 of the laws of
19 2020 and subparagraph (xx) as amended and subparagraph (xxi) as added by
20 section 4 of subpart C of part UU of chapter 56 of the laws of 2022, are
21 amended and a new subparagraph (xxii) is added to read as follows:

22 (xiii) assault in the third degree as defined in section 120.00 of the
23 penal law ~~[or]~~, arson in the third degree as defined in section 150.10
24 of the penal law, harassment in the first degree as defined in section
25 240.25 of the penal law, or harassment in the second degree as defined
26 in section 240.26 of the penal law, when such crime is charged as a hate
27 crime as defined in section 485.05 of the penal law;

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

47 (xxi) criminal possession of a weapon in the third degree as defined
48 in subdivision three of section 265.02 of the penal law or criminal sale
49 of a firearm to a minor as defined in section 265.16 of the penal
50 law~~[-];~~ or

51 (xxii) aggravated harassment in the first degree as defined in section
52 240.31 of the penal law, or aggravated harassment in the second degree
53 as defined in subdivision three of section 240.30 of the penal law.

54 § 3. Paragraphs (m), (t) and (u) of subdivision 4 of section 530.40 of
55 the criminal procedure law, paragraph (m) as added by section 4 of part
56 UU of chapter 56 of the laws of 2020 and paragraph (t) as amended and

1 (u) as added by section 4 of subpart B of part UU of chapter 56 of the
2 laws of 2022, are amended and a new paragraph (v) is added to read as
3 follows:

4 (m) assault in the third degree as defined in section 120.00 of the
5 penal law ~~[or]~~, arson in the third degree as defined in section 150.10
6 of the penal law, harassment in the first degree as defined in section
7 240.25 of the penal law, or harassment in the second degree as defined
8 in section 240.26 of the penal law, when such crime is charged as a hate
9 crime as defined in section 485.05 of the penal law;

10 (t) any felony or class A misdemeanor involving harm to an identifi-
11 able person or property, or any charge of criminal possession of a
12 firearm as defined in section 265.01-b of the penal law, where such
13 charge arose from conduct occurring while the defendant was released on
14 ~~[his or her]~~ the defendant's own recognizance, released under condi-
15 tions, or had yet to be arraigned after the issuance of a desk appear-
16 ance ticket for a separate felony or class A misdemeanor involving harm
17 to an identifiable person or property, or any charge of criminal
18 possession of a firearm as defined in section 265.01-b of the penal law,
19 provided, however, that the prosecutor must show reasonable cause to
20 believe that the defendant committed the instant crime and any underly-
21 ing crime. For the purposes of this subparagraph, any of the underlying
22 crimes need not be a qualifying offense as defined in this subdivision.
23 For the purposes of this paragraph, "harm to an identifiable person or
24 property" shall include but not be limited to theft of or damage to
25 property. However, based upon a review of the facts alleged in the accu-
26 satory instrument, if the court determines that such theft is negligible
27 and does not appear to be in furtherance of other criminal activity, the
28 principal shall be released on ~~[his or her]~~ the principal's own recogni-
29 zance or under appropriate non-monetary conditions; ~~[or]~~

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

34 (v) aggravated harassment in the first degree as defined in section
35 240.31 of the penal law, or aggravated harassment in the second degree
36 as defined in subdivision three of section 240.30 of the penal law.

37 § 4. This act shall take effect immediately.