

# STATE OF NEW YORK

4976

2025-2026 Regular Sessions

## IN ASSEMBLY

February 10, 2025

Introduced by M. of A. BUTTENSCHON, JONES, McMAHON, STERN -- read once  
and referred to the Committee on Codes

AN ACT to amend the criminal procedure law, in relation to drug and  
domestic violence offenses qualifying for bail

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

1 Section 1. The opening paragraph and paragraphs (a), (d), (j), (t) and  
2 (u) of subdivision 4 of section 510.10 of the criminal procedure law,  
3 the opening paragraph as amended by section 2 of subpart A of part VV of  
4 chapter 56 of the laws of 2023, paragraphs (a) and (d) as amended and  
5 paragraph (j) as added by section 2 of part UU of chapter 56 of the laws  
6 of 2020, and paragraph (t) as amended and paragraph (u) as added by  
7 section 2 of subpart B of part UU of chapter 56 of the laws of 2022, are  
8 amended and two new paragraphs (v) and (w) are added to read as follows:  
9 Where the principal stands charged with a qualifying offense, the  
10 court, unless otherwise prohibited by law, may in its discretion release  
11 the principal pending trial on the principal's own recognizance or under  
12 non-monetary conditions, fix bail, or order non-monetary conditions in  
13 conjunction with fixing bail, or, where the defendant is charged with a  
14 qualifying offense [~~which is a felony~~], the court may commit the princi-  
15 pal to the custody of the sheriff. A principal stands charged with a  
16 qualifying offense for the purposes of this subdivision when [~~he or she~~]  
17 such principal stands charged with:  
18 (a) a felony enumerated in section 70.02 of the penal law[~~, other than~~  
19 ~~robbery in the second degree as defined in subdivision one of section~~  
20 ~~160.10 of the penal law, provided, however, that burglary in the second~~  
21 ~~degree as defined in subdivision two of section 140.25 of the penal law~~  
22 ~~shall be a qualifying offense only where the defendant is charged with~~  
23 ~~entering the living area of the dwelling~~];

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

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

4 (j) any crime that is alleged to have caused the death or serious  
5 physical injury of another person;

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

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

29 (v) a class B, C or D felony enumerated in article two hundred twenty  
30 of the penal law; or

31 (w) an aggravated family offense as defined in section 240.75 of the  
32 penal law.

33 § 2. The opening paragraph and subparagraphs (i), (iv), (x), (xx) and  
34 (xxi) of paragraph (b) of subdivision 1 of section 530.20 of the crimi-  
35 nal procedure law, the opening paragraph as amended by section 6 of  
36 subpart A of part VV of chapter 56 of the laws of 2023, subparagraphs  
37 (i), (iv) and (x) as amended by section 3 of part UU of chapter 56 of  
38 the laws of 2020, and subparagraph (xx) as amended and subparagraph  
39 (xxi) as added by section 4 of subpart C of part UU of chapter 56 of the  
40 laws of 2022, are amended and two new subparagraphs and (xxii) and  
41 (xxiii) are added to read as follows:

42 Where the principal stands charged with a qualifying offense, the  
43 court, unless otherwise prohibited by law, may in its discretion release  
44 the principal pending trial on the principal's own recognizance or under  
45 non-monetary conditions, fix bail, order non-monetary conditions in  
46 conjunction with fixing bail, or, where the defendant is charged with a  
47 qualifying offense [~~which is a felony~~], the court may commit the princi-  
48 pal to the custody of the sheriff. The court shall explain its choice of  
49 securing order on the record or in writing. A principal stands charged  
50 with a qualifying offense when [~~he or she~~] such principal stands charged  
51 with:

52 (i) a felony enumerated in section 70.02 of the penal law[~~, other than~~  
53 ~~robbery in the second degree as defined in subdivision one of section~~  
54 ~~160.10 of the penal law, provided, however, that burglary in the second~~  
55 ~~degree as defined in subdivision two of section 140.25 of the penal law~~

1 ~~shall be a qualifying offense only where the defendant is charged with~~  
2 ~~entering the living area of the dwelling~~];

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

6 (x) any crime that is alleged to have caused the death or serious  
7 physical injury of another person;

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

27 (xxi) criminal possession of a weapon in the third degree as defined  
28 in subdivision three of section 265.02 of the penal law or criminal sale  
29 of a firearm to a minor as defined in section 265.16 of the penal  
30 law[~~;~~];

31 (xxii) a class B, C or D felony enumerated in article two hundred  
32 twenty of the penal law; or

33 (xxiii) an aggravated family offense as defined in section 240.75 of  
34 the penal law.

35 § 3. The opening paragraph and paragraphs (a), (d), (j), (t) and (u)  
36 of subdivision 4 of section 530.40 of the criminal procedure law, the  
37 opening paragraph as amended by section 8 of subpart A of part VV of  
38 chapter 56 of the laws of 2023, paragraphs (a) and (d) as amended and  
39 paragraph (j) as added by section 4 of part UU of chapter 56 of the laws  
40 of 2020, and paragraph (t) as amended and paragraph (u) as added by  
41 section 4 of subpart B of part UU of chapter 56 of the laws of 2022, are  
42 amended and two new paragraphs (v) and (w) are added to read as follows:

43 Where the principal stands charged with a qualifying offense, the  
44 court, unless otherwise prohibited by law, may in its discretion, and in  
45 accordance with section 510.10 of this title, release the principal  
46 pending trial on the principal's own recognizance or under non-monetary  
47 conditions, fix bail, or order non-monetary conditions in conjunction  
48 with fixing bail, or, where the defendant is charged with a qualifying  
49 offense [~~which is a felony~~], the court may commit the principal to the  
50 custody of the sheriff. The court shall explain the basis for its deter-  
51 mination and its choice of securing order on the record or in writing. A  
52 principal stands charged with a qualifying offense for the purposes of  
53 this subdivision when [~~he or she~~] such principal stands charged with:

54 (a) a felony enumerated in section 70.02 of the penal law[~~, other than~~  
55 ~~robbery in the second degree as defined in subdivision one of section~~  
56 ~~160.10 of the penal law, provided, however, that burglary in the second~~

1 ~~degree as defined in subdivision two of section 140.25 of the penal law~~  
2 ~~shall be a qualifying offense only where the defendant is charged with~~  
3 ~~entering the living area of the dwelling];~~

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

7 (j) any crime that is alleged to have caused the death or serious  
8 physical injury of another person;

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

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

32 (v) a class B, C or D felony enumerated in article two hundred twenty  
33 of the penal law; or

34 (w) an aggravated family offense as defined in section 240.75 of the  
35 penal law.

36 § 4. This act shall take effect immediately.