STATE OF NEW YORK

7347

2025-2026 Regular Sessions

IN ASSEMBLY

March 25, 2025

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

AN ACT to amend the penal law and the criminal procedure law, in relation to criminal trespass

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

Section 1. Section 140.10 of the penal law, as amended by chapter 192 of the laws of 1987, subdivision (b) as amended by chapter 350 of the laws of 2001, subdivision (d) as amended and subdivision (e) as added by chapter 434 of the laws of 1992, subdivision (f) as amended by chapter 338 of the laws of 1997 and subdivision (g) as amended by chapter 176 of the laws of 2011, is amended to read as follows:

§ 140.10 Criminal trespass in the third degree.

A person is guilty of criminal trespass in the third degree when [~~he~~] **such person** knowingly enters or remains unlawfully in a building or upon real property**:**

(a) which is fenced or otherwise enclosed in a manner designed to exclude intruders; or

(b) where the building is utilized as an elementary or secondary school or a children's overnight camp as defined in section one thousand three hundred ninety-two of the public health law or a summer day camp as defined in section one thousand three hundred ninety-two of the public health law in violation of conspicuously posted rules or regulations governing entry and use thereof; or

(c) located within a city with a population in excess of one million and where the building or real property is utilized as an elementary or secondary school in violation of a personally communicated request to leave the premises from a principal, custodian or other person in charge thereof; or

(d) located outside of a city with a population in excess of one million and where the building or real property is utilized as an

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

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elementary or secondary school in violation of a personally communicated request to leave the premises from a principal, custodian, school board member or trustee, or other person in charge thereof; or

(e) where the building is used as a public housing project in violation of conspicuously posted rules or regulations governing entry and use thereof; or

(f) where a building is used as a public housing project in violation of a personally communicated request to leave the premises from a housing police officer or other person in charge thereof; or

(g) where the property consists of a right-of-way or yard of a railroad or rapid transit railroad which has been designated and conspicuously posted as a no-trespass railroad zone[~~.~~]**; or**

(h) in any portion of this state after entering the state at any location other than a lawful port of entry or border crossing.

Criminal trespass in the third degree is a class B misdemeanor.

§ 2. The opening paragraph and paragraphs (t) and (u) of subdivision 4 of section 510.10 of the criminal procedure law, the opening paragraph as added by section 2 of subpart A of part VV of chapter 56 of the laws of 2023 and paragraph (t) as amended and paragraph (u) as added by section 2 of subpart B of part UU of chapter 56 of the laws of 2022, are amended and a new paragraph (v) is added to read as follows:

Where the principal stands charged with a qualifying offense, the court, unless otherwise prohibited by law, may in its discretion release the principal pending trial on the principal's own recognizance or under non-monetary conditions, fix bail, or order non-monetary conditions in conjunction with fixing bail, or, where the defendant is charged with a qualifying offense which is a felony **or criminal trespass in the third degree as defined in subdivision (h) of section 140.10 of the penal law**, the court may commit the principal to the custody of the sheriff. A principal stands charged with a qualifying offense for the purposes of this subdivision when [~~he or she~~] **such principal** stands charged with:

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

(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**

(v) criminal trespass in the third degree as defined in subdivision (h) of section 140.10 of the penal law.

§ 3. The opening paragraph and subparagraphs (xx) and (xxi) of paragraph (b) of subdivision 1 of section 530.20 of the criminal procedure law, the opening paragraph as amended by section 6 of subpart A of part VV of chapter 56 of the laws of 2023 and subparagraph (xx) as amended and subparagraph (xxi) as added by section 4 of subpart C of part UU of chapter 56 of the laws of 2022, are amended and a new subparagraph (xxii) is added to read as follows:

Where the principal stands charged with a qualifying offense, the court, unless otherwise prohibited by law, may in its discretion release the principal pending trial on the principal's own recognizance or under non-monetary conditions, fix bail, order non-monetary conditions in conjunction with fixing bail, or, where the defendant is charged with a qualifying offense which is a felony **or criminal trespass in the third degree as defined in subdivision (h) of section 140.10 of the penal law**, the court may commit the principal to the custody of the sheriff. The court shall explain its choice of securing order on the record or in writing. A principal stands charged with a qualifying offense when [~~he or she~~] **such principal** stands charged with:

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

(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**

(xxii) criminal trespass in the third degree as defined in subdivision (h) of section 140.10 of the penal law.

§ 4. The opening paragraph and paragraphs (t) and (u) of subdivision 4 of section 530.40 of the criminal procedure law, the opening paragraph as amended by section 8 of subpart A of part VV of chapter 56 of the laws of 2023, paragraph (t) as amended and paragraph (u) as added by section 4 of subpart B of part UU of chapter 56 of the laws of 2022, are amended and a new paragraph (v) is added to read as follows:

Where the principal stands charged with a qualifying offense, the court, unless otherwise prohibited by law, may in its discretion, and in accordance with section 510.10 of this title, release the principal pending trial on the principal's own recognizance or under non-monetary conditions, fix bail, or order non-monetary conditions in conjunction

with fixing bail, or, where the defendant is charged with a qualifying offense which is a felony **or criminal trespass in the third degree as defined in subdivision (h) of section 140.10 of the penal law**, the court may commit the principal to the custody of the sheriff. The court shall explain the basis for its determination and its choice of securing order on the record or in writing. A principal stands charged with a qualifying offense for the purposes of this subdivision when [~~he or she~~] **such principal** stands charged with:

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

(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

(v) criminal trespass in the third degree as defined in subdivision (h) of section 140.10 of the penal law.

§ 5. This act shall take effect immediately.