

# STATE OF NEW YORK

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2282

2025-2026 Regular Sessions

## IN SENATE

January 16, 2025

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Introduced by Sen. HELMING -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the executive law and the criminal procedure law, in relation to enacting the "pretrial risk overview for threat evaluation, custody, and treatment (PROTECT) act" and establishing a risk assessment instrument to evaluate certain defendants; and to repeal certain provisions of the criminal procedure law relating thereto

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

1 Section 1. Legislative findings and intent. The legislature finds that  
2 localities throughout New York State have struggled to prevent the pre-  
3 trial release of individuals who pose a threat to themselves and their  
4 communities. Moreover, many municipalities outside of New York City lack  
5 adequate funding and resources to develop and appropriate plans and  
6 invest in necessary technology, such as GPS monitoring, for successful  
7 monitoring of criminal defendants who have been released into the commu-  
8 nity pending trial. We also find that the current system for determining  
9 remand, coupled with this lack of resources, has enabled individuals to  
10 reoffend during their period of pre-trial release. As a result, we have  
11 seen an increase in crime and a growing concern about public safety  
12 throughout our state. In response, the legislature seeks to create a  
13 system that balances reasonable fairness for criminal defendants and the  
14 need to protect the public from dangerous offenders. This proposal would  
15 create a risk assessment instrument to determine the danger an individ-  
16 ual poses to themselves and the community. By using this instrument,  
17 courts can make decisions regarding remand which are unrelated to an  
18 individual's ability to afford bail, accomplishing the stated goals of  
19 previous reforms while also ensuring public safety. This proposal  
20 further addresses the threat posed by repeat offenders by ensuring that  
21 individuals arrested for a new serious offense after being released  
22 remain in custody pending trial. We also find that it is crucial that

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

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1 individuals with serious mental illnesses are quickly evaluated and  
2 provided treatment rather than being incarcerated without access to  
3 necessary support. Accordingly, this proposal encourages courts to  
4 utilize existing statute to refer individuals in need of mental health  
5 treatment to the appropriate venue.

6 § 2. Short title. This act shall be known and may be cited as the  
7 "pretrial risk overview for threat evaluation, custody, and treatment  
8 (PROTECT) act".

9 § 3. The executive law is amended by adding a new section 845-f to  
10 read as follows:

11 § 845-f Risk assessment instrument. 1. The division shall create a  
12 risk assessment instrument to be used by all courts in the state to aid  
13 judges in determining whether to release or detain a principal, where  
14 and when release is appropriate, and, where applicable, necessary condi-  
15 tions that should be imposed as part of such release. Such instrument  
16 shall be developed based on empirical data and risk factors relevant to  
17 the danger that the principal poses to themselves, another person, or the  
18 community as a whole, and the likelihood that such principal may attempt  
19 to evade or obstruct the criminal justice process. Such tool shall  
20 incorporate the following factors, including but not limited to:

21 (a) The nature of the charge and whether it involves allegations of  
22 causing or threatening harm to another person or persons;

23 (b) The principal's criminal history, with emphasis on previous  
24 convictions for violent felonies, escape, bail jumping, witness tamper-  
25 ing and witness intimidation, and any history of failing to appear in  
26 court or failing to comply with court orders. Such criminal history  
27 shall include, but not be limited to, criminal convictions, juvenile  
28 delinquent and youthful offender adjudications;

29 (c) The principal's history of use or possession of firearms or access  
30 to deadly weapons or dangerous instruments, as defined in section 10.00  
31 of the penal law;

32 (d) The principal's known associations with criminal street gangs as  
33 defined in section 10-170 of the administrative code of the city of New  
34 York or a criminal enterprise, as defined in section 460.10 of the penal  
35 law;

36 (e) Any history of threats or intimidation to witnesses in prior crim-  
37 inal proceedings; and

38 (f) The extent of the principal's history within the jurisdiction  
39 where the criminal charges are pending, and the extent of ties, includ-  
40 ing family ties, outside the state of New York.

41 2. Nothing in this section shall prohibit the division from incorpo-  
42 rating any other factors which may aid in determining whether a princi-  
43 pal poses a risk of flight or a safety risk.

44 3. Such instrument shall include a recommendation as to whether a  
45 principal should be detained, released on bail, or released on non-mone-  
46 tary conditions as well as a recommendation as to which non-monetary  
47 conditions should be imposed.

48 § 4. The criminal procedure law is amended by adding a new section  
49 510.16 to read as follows:

50 § 510.16 Completion of risk assessment instrument.

51 1. The court shall order the completion of a risk assessment instru-  
52 ment created by the division of criminal justice services pursuant to  
53 section eight hundred forty-seven-f of the executive law for all princi-  
54 pals who are charged with a felony or class A misdemeanor. Once a prin-  
55 cipal is arraigned on a felony or class A misdemeanor, the court shall  
56 direct the applicable pretrial services agency to complete a risk

1 assessment instrument. The court shall order the detention of a princi-  
 2 pal pending the completion of such risk assessment instrument. Absent  
 3 extraordinary circumstances, the court shall make a decision on  
 4 detention within forty-eight hours.

5 2. No court may release a principal charged with a felony or a class A  
 6 misdemeanor unless and until it has had an opportunity to review and  
 7 consider a completed risk assessment instrument.

8 § 5. Subdivision 1 of section 510.10 of the criminal procedure law, as  
 9 amended by section 1 of subpart C of part UU of chapter 56 of the laws  
 10 of 2022, the opening paragraph as amended by section 2 of subpart A of  
 11 part VV of chapter 56 of the laws of 2023, is amended to read as  
 12 follows:

13 1. When a principal, whose future court attendance at a criminal  
 14 action or proceeding is or may be required, comes under the control of a  
 15 court, such court shall impose a securing order in accordance with this  
 16 title. Except as otherwise required by law, the court shall make an  
 17 individualized determination as to whether the principal poses a risk of  
 18 flight to avoid prosecution and/or a risk to the safety and security of  
 19 the community, themself, or another person, consider the kind and degree  
 20 of control or restriction necessary to reasonably assure the principal's  
 21 return to court, and select a securing order consistent with its deter-  
 22 mination under this subdivision. The court shall explain the basis for  
 23 its determination and its choice of securing order on the record or in  
 24 writing. In making a determination under this subdivision, the court  
 25 must consider and take into account the risk assessment instrument, the  
 26 recommendation of the pretrial services agencies, the arguments of the  
 27 prosecutor and principal and available information about the principal,  
 28 including:

29 (a) The principal's character, reputation, habits, mental condition,  
 30 activities and history;

31 (b) If the principal is a defendant, the charges facing the principal  
 32 and the weight of the evidence against such principal in the pending  
 33 criminal action;

34 (c) The principal's criminal conviction record if any;

35 (d) The principal's record of previous adjudication as a juvenile  
 36 delinquent, as retained pursuant to section 354.1 of the family court  
 37 act, or, of pending cases where fingerprints are retained pursuant to  
 38 section 306.1 of such act, or a youthful offender, if any;

39 (e) The principal's previous record with respect to flight to avoid  
 40 criminal prosecution and lack of compliance with court orders;

41 (f) [~~if monetary bail is authorized, according to the restrictions set~~  
 42 ~~forth in this title, the principal's individual financial circumstances,~~  
 43 ~~and, in cases where bail is authorized, the principal's ability to post~~  
 44 ~~bail without posing undue hardship, as well as his or her ability to~~  
 45 ~~obtain a secured, unsecured, or partially secured bond;~~

46 ~~(g)]~~ Any violation by the principal of an order of protection issued  
 47 by any court;

48 [~~(h)]~~ (g) The principal's history of use or possession of a firearm;

49 [~~(i)]~~ (h) Whether the charge is alleged to have caused serious harm to  
 50 an individual or group of individuals; [~~and~~

51 ~~(j)]~~ (i) If the principal is a defendant, in the case of an applica-  
 52 tion for a securing order pending appeal, the merit or lack of merit of  
 53 the appeal~~[-];~~

54 (j) Whether the principal has any known associations with criminal  
 55 street gangs or criminal enterprises;

1 (k) The principal's ties to the jurisdiction where the court sits and  
2 whether the principal has any ties outside the state of New York; and

3 (l) The charges facing the principal and the weight of the evidence  
4 against such principal in the pending criminal action.

5 § 6. Subdivision 4 of section 510.10 of the criminal procedure law is  
6 REPEALED and two new subdivisions 4 and 7 are added to read as follows:

7 4. Where a principal is arrested on a new offense of a felony or class  
8 A misdemeanor which was committed after being released pending trial, or  
9 being issued an appearance ticket, such principal shall be committed to  
10 the custody of the sheriff until appearing before a judge for arraign-  
11 ment. Upon arraignment, the court shall remand the principal to the  
12 custody of the sheriff unless and until the judge, after reviewing all  
13 relevant information, including the risk assessment instrument created  
14 pursuant to section 510.16 of this title, determines that the risk that  
15 the principal will reoffend has been mitigated with appropriate condi-  
16 tions of release. Should the court determine that such risk cannot be  
17 mitigated with any reasonable conditions of release, the court shall  
18 order that the principal remain in the custody of the sheriff during the  
19 pendency of the proceeding.

20 7. Nothing in this section shall prohibit the court from directing  
21 that a defendant who presents an immediate risk of serious harm to them-  
22 self or others be transported to a hospital for a psychiatric assessment  
23 and appropriate treatment pursuant to paragraph (b) of subdivision  
24 three-c of section 500.10 of this title.

25 § 7. Subdivision 5 of section 510.10 of the criminal procedure law, as  
26 added by section 2 of part JJJ of chapter 59 of the laws of 2019, is  
27 amended to read as follows:

28 5. Notwithstanding the provisions of [~~subdivisions~~] subdivision three  
29 [~~and four~~] of this section, with respect to any charge for which bail or  
30 remand is not ordered, and for which the court would not or could not  
31 otherwise require bail or remand, a defendant may, at any time, request  
32 that the court set bail in a nominal amount requested by the defendant  
33 in the form specified in paragraph (a) of subdivision one of section  
34 520.10 of this title; if the court is satisfied that the request is  
35 voluntary, the court shall set such bail in such amount.

36 § 8. Subparagraphs (ix), (x) and (xi) of paragraph (b) of subdivision  
37 1 of section 150.20 of the criminal procedure law, as added by section 1  
38 of subpart B of part UU of chapter 56 of the laws of 2022, are amended  
39 to read as follows:

40 (ix) the person is eighteen years of age or older and charged with  
41 criminal possession of a weapon on school grounds as defined in section  
42 265.01-a of the penal law; or

43 (x) the person is eighteen years of age or older and charged with a  
44 hate crime as defined in section 485.05 of the penal law[~~+~~ ~~or~~

45 ~~(xi) the offense is a qualifying offense pursuant to paragraph (t) of~~  
46 ~~subdivision four of section 510.10 of this chapter, or pursuant to para-~~  
47 ~~graph (t) of subdivision four of section 530.40 of this chapter].~~

48 § 9. Subdivision 1 of section 530.20 of the criminal procedure law, as  
49 amended by section 16 of part JJJ of chapter 59 of the laws of 2019,  
50 paragraph (a) and the opening paragraph of paragraph (b) as amended by  
51 section 6 of subpart A of part VV of chapter 56 of the laws of 2023,  
52 paragraph (b) as amended by section 3 of part UU of chapter 56 of the  
53 laws of 2020, subparagraphs (xix) and (xx) of paragraph (b) as amended  
54 and subparagraph (xxi) of paragraph (b) as added by section 4 of subpart  
55 C of part UU of chapter 56 of the laws of 2022, is amended to read as  
56 follows:

1 1. (a) [~~In cases other than as described in paragraph (b) of this~~  
2 ~~subdivision, the~~] The court shall release the principal pending trial on  
3 the principal's own recognizance or release the principal pending trial  
4 under non-monetary conditions, the determination for which shall be made  
5 in accordance with subdivision one of section 510.10 of this title. The  
6 court shall explain the basis for its determination and choice of secur-  
7 ing order on the record or in writing.

8 (b) [~~Where the principal stands charged with a qualifying offense, the~~  
9 ~~court, unless otherwise prohibited by law, may in its discretion release~~  
10 ~~the principal pending trial on the principal's own recognizance or under~~  
11 ~~non monetary conditions, fix bail, order non monetary conditions in~~  
12 ~~conjunction with fixing bail, or, where the defendant is charged with a~~  
13 ~~qualifying offense which is a felony, the court may commit the principal~~  
14 ~~to the custody of the sheriff. The court shall explain its choice of~~  
15 ~~securing order on the record or in writing. A principal stands charged~~  
16 ~~with a qualifying offense when he or she stands charged with:~~

17 (i) ~~a felony enumerated in section 70.02 of the penal law, other than~~  
18 ~~robbery in the second degree as defined in subdivision one of section~~  
19 ~~160.10 of the penal law, provided, however, that burglary in the second~~  
20 ~~degree as defined in subdivision two of section 140.25 of the penal law~~  
21 ~~shall be a qualifying offense only where the defendant is charged with~~  
22 ~~entering the living area of the dwelling;~~

23 (ii) ~~a crime involving witness intimidation under section 215.15 of~~  
24 ~~the penal law;~~

25 (iii) ~~a crime involving witness tampering under section 215.11, 215.12~~  
26 ~~or 215.13 of the penal law;~~

27 (iv) ~~a class A felony defined in the penal law, provided, that for~~  
28 ~~class A felonies under article two hundred twenty of such law, only~~  
29 ~~class A-I felonies shall be a qualifying offense;~~

30 (v) ~~a sex trafficking offense defined in section 230.34 or 230.34-a of~~  
31 ~~the penal law, or a felony sex offense defined in section 70.80 of the~~  
32 ~~penal law or a crime involving incest as defined in section 255.25,~~  
33 ~~255.26 or 255.27 of such law, or a misdemeanor defined in article one~~  
34 ~~hundred thirty of such law;~~

35 (vi) ~~conspiracy in the second degree as defined in section 105.15 of~~  
36 ~~the penal law, where the underlying allegation of such charge is that~~  
37 ~~the defendant conspired to commit a class A felony defined in article~~  
38 ~~one hundred twenty five of the penal law;~~

39 (vii) ~~money laundering in support of terrorism in the first degree as~~  
40 ~~defined in section 470.24 of the penal law; money laundering in support~~  
41 ~~of terrorism in the second degree as defined in section 470.23 of the~~  
42 ~~penal law; money laundering in support of terrorism in the third degree~~  
43 ~~as defined in section 470.22 of the penal law; money laundering in~~  
44 ~~support of terrorism in the fourth degree as defined in section 470.21~~  
45 ~~of the penal law; or a felony crime of terrorism as defined in article~~  
46 ~~four hundred ninety of the penal law, other than the crime defined in~~  
47 ~~section 490.20 of such law;~~

48 (viii) ~~criminal contempt in the second degree as defined in subdivi-~~  
49 ~~sion three of section 215.50 of the penal law, criminal contempt in the~~  
50 ~~first degree as defined in subdivision (b), (c) or (d) of section 215.51~~  
51 ~~of the penal law or aggravated criminal contempt as defined in section~~  
52 ~~215.52 of the penal law, and the underlying allegation of such charge of~~  
53 ~~criminal contempt in the second degree, criminal contempt in the first~~  
54 ~~degree or aggravated criminal contempt is that the defendant violated a~~  
55 ~~duly served order of protection where the protected party is a member of~~

~~the defendant's same family or household as defined in subdivision one of section 530.11 of this article;~~

~~(ix) facilitating a sexual performance by a child with a controlled substance or alcohol as defined in section 263.30 of the penal law, use of a child in a sexual performance as defined in section 263.05 of the penal law or luring a child as defined in subdivision one of section 120.70 of the penal law, promoting an obscene sexual performance by a child as defined in section 263.10 of the penal law or promoting a sexual performance by a child as defined in section 263.15 of the penal law;~~

~~(x) any crime that is alleged to have caused the death of another person;~~

~~(xi) criminal obstruction of breathing or blood circulation as defined in section 121.11 of the penal law, strangulation in the second degree as defined in section 121.12 of the penal law or unlawful imprisonment in the first degree as defined in section 135.10 of the penal law, and is alleged to have committed the offense against a member of the defendant's same family or household as defined in subdivision one of section 530.11 of this article;~~

~~(xii) aggravated vehicular assault as defined in section 120.04-a of the penal law or vehicular assault in the first degree as defined in section 120.04 of the penal law;~~

~~(xiii) assault in the third degree as defined in section 120.00 of the penal law or arson in the third degree as defined in section 150.10 of the penal law, when such crime is charged as a hate crime as defined in section 485.05 of the penal law;~~

~~(xiv) aggravated assault upon a person less than eleven years old as defined in section 120.12 of the penal law or criminal possession of a weapon on school grounds as defined in section 265.01-a of the penal law;~~

~~(xv) grand larceny in the first degree as defined in section 155.42 of the penal law, enterprise corruption as defined in section 460.20 of the penal law, or money laundering in the first degree as defined in section 470.20 of the penal law;~~

~~(xvi) failure to register as a sex offender pursuant to section one hundred sixty-eight-t of the correction law or endangering the welfare of a child as defined in subdivision one of section 260.10 of the penal law, where the defendant is required to maintain registration under article six C of the correction law and designated a level three offender pursuant to subdivision six of section one hundred sixty-eight-l of the correction law;~~

~~(xvii) a crime involving bail jumping under section 215.55, 215.56 or 215.57 of the penal law, or a crime involving escaping from custody under section 205.05, 205.10 or 205.15 of the penal law;~~

~~(xviii) any felony offense committed by the principal while serving a sentence of probation or while released to post release supervision;~~

~~(xix) a felony, where the defendant qualifies for sentencing on such charge as a persistent felony offender pursuant to section 70.10 of the penal law;~~

~~(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 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~~

~~1 cause to believe that the defendant committed the instant crime and any  
2 underlying crime. For the purposes of this subparagraph, any of the  
3 underlying crimes need not be a qualifying offense as defined in this  
4 subdivision. For the purposes of this paragraph, "harm to an identifi-  
5 able person or property" shall include but not be limited to theft of or  
6 damage to property. However, based upon a review of the facts alleged in  
7 the accusatory instrument, if the court determines that such theft is  
8 negligible and does not appear to be in furtherance of other criminal  
9 activity, the principal shall be released on his or her own recognizance  
10 or under appropriate non-monetary conditions; or~~

~~11 (xi) criminal possession of a weapon in the third degree as defined  
12 in subdivision three of section 265.02 of the penal law or criminal sale  
13 of a firearm to a minor as defined in section 265.16 of the penal law.~~

~~14 (d)]~~ Notwithstanding the provisions of [~~paragraphs~~] paragraph (a) [~~and~~  
15 ~~(b)]~~ of this subdivision, with respect to any charge for which bail or  
16 remand is not ordered, and for which the court would not or could not  
17 otherwise require bail or remand, a defendant may, at any time, request  
18 that the court set bail in a nominal amount requested by the defendant  
19 in the form specified in paragraph (a) of subdivision one of section  
20 520.10 of this title; if the court is satisfied that the request is  
21 voluntary, the court shall set such bail in such amount.

22 § 10. Section 530.20 of the criminal procedure law is amended by  
23 adding two new subdivisions 3 and 4 to read as follows:

24 3. Where a principal is arrested on a new offense of a felony or class  
25 A misdemeanor which was committed after being released pending trial, or  
26 being issued an appearance ticket, such principal shall be committed to  
27 the custody of the sheriff until appearing before a judge for arraign-  
28 ment. Upon arraignment, the court shall remand the principal to the  
29 custody of the sheriff unless and until the judge, after reviewing all  
30 relevant information, including the risk assessment instrument created  
31 pursuant to section 510.16 of this title, determines that the risk that  
32 the principal will reoffend has been mitigated with appropriate condi-  
33 tions of release. Should the court determine that such risk cannot be  
34 mitigated with any reasonable conditions of release, the court shall  
35 order that the principal remain in the custody of the sheriff during the  
36 pendency of the proceeding.

37 4. Nothing in this section shall prohibit the court from directing  
38 that a defendant who presents an immediate risk of serious harm to them-  
39 self or others be transported to a hospital for a psychiatric assessment  
40 and appropriate treatment pursuant to paragraph (b) of subdivision  
41 three-c of section 500.10 of this title.

42 § 11. Subdivision 4 of section 530.40 of the criminal procedure law is  
43 REPEALED and two new subdivisions 4 and 8 are added to read as follows:

44 4. Where a principal is arrested on a new offense of a felony or class  
45 A misdemeanor which was committed after being released pending trial, or  
46 being issued an appearance ticket, such principal shall be committed to  
47 the custody of the sheriff until appearing before a judge for arraign-  
48 ment. Upon arraignment, the court shall remand the principal to the  
49 custody of the sheriff unless and until the judge, after reviewing all  
50 relevant information, including the risk assessment instrument created  
51 pursuant to section 510.16 of this title, determines that the risk that  
52 the principal will reoffend has been mitigated with appropriate condi-  
53 tions of release. Should the court determine that such risk cannot be  
54 mitigated with any reasonable conditions of release, the court shall  
55 order that the principal remain in the custody of the sheriff during the  
56 pendency of the proceeding.

1 8. Nothing in this section shall prohibit the court from directing  
2 that a defendant who presents an immediate risk of serious harm to them-  
3 self or others be transported to a hospital for a psychiatric assessment  
4 and appropriate treatment pursuant to paragraph (b) of subdivision  
5 three-c of section 500.10 of this title.

6 § 12. Subdivisions 5, 6 and 7 of section 530.40 of the criminal proce-  
7 dure law, subdivision 5 as added and subdivisions 6 and 7 as amended by  
8 section 18 of part JJJ of chapter 59 of the laws of 2019, are amended to  
9 read as follows:

10 5. Notwithstanding the provisions of [~~subdivisions~~] subdivision three  
11 [~~and four~~] of this section, with respect to any charge for which bail or  
12 remand is not ordered, and for which the court would not or could not  
13 otherwise require bail or remand, a defendant may, at any time, request  
14 that the court set bail in a nominal amount requested by the defendant  
15 in the form specified in paragraph (a) of subdivision one of section  
16 520.10 of this title; if the court is satisfied that the request is  
17 voluntary, the court shall set such bail in such amount.

18 6. Notwithstanding the provisions of subdivisions two[~~7~~] and three  
19 [~~and four~~] of this section, a superior court may not order recognizance,  
20 release under non-monetary conditions or, where authorized, bail, or  
21 permit a defendant to remain at liberty pursuant to an existing order,  
22 after the defendant has been convicted of either: (a) a class A felony  
23 or (b) any class B or class C felony as defined in article one hundred  
24 thirty of the penal law committed or attempted to be committed by a  
25 person eighteen years of age or older against a person less than eigh-  
26 teen years of age. In either case the court must commit or remand the  
27 defendant to the custody of the sheriff.

28 7. Notwithstanding the provisions of subdivisions two[~~7~~] and three  
29 [~~and four~~] of this section, a superior court may not order recognizance,  
30 release under non-monetary conditions or, where authorized, bail when  
31 the defendant is charged with a felony unless and until the district  
32 attorney has had an opportunity to be heard in the matter and such court  
33 and counsel for the defendant have been furnished with a report as  
34 described in subparagraph (ii) of paragraph (b) of subdivision two of  
35 section 530.20 of this article.

36 § 13. This act shall take effect immediately; provided, however, that  
37 the provisions of sections four, five, six, seven, eight, nine, ten,  
38 eleven and twelve of this act shall take effect on the one hundred twen-  
39 tieth day after it shall have become a law.