

STATE OF NEW YORK

7126

2025-2026 Regular Sessions

IN SENATE

April 1, 2025

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

AN ACT to amend the criminal procedure law, in relation to authorizing bail for certain offenses involving the sale or possession with intent to sell of a controlled substance or a synthetic opioid

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

1 Section 1. Paragraph (d) of subdivision 4 of section 510.10 of the
2 criminal procedure law, as amended by section 2 of part UU of chapter 56
3 of the laws of 2020, is amended to read as follows:

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

7 § 2. Paragraphs (t) and (u) of subdivision 4 of section 510.10 of the
8 criminal procedure law, paragraph (t) as amended and paragraph (u) as
9 added by section 2 of subpart B of part UU of chapter 56 of the laws of
10 2022, are amended and a new paragraph (v) is added to read as follows:

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

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

LBD01664-02-5

1 include but not be limited to theft of or damage to property. However,
2 based upon a review of the facts alleged in the accusatory instrument,
3 if the court determines that such theft is negligible and does not
4 appear to be in furtherance of other criminal activity, the principal
5 shall be released on [~~his or her~~] their own recognizance or under appro-
6 priate non-monetary conditions; [~~or~~]

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

11 (v) notwithstanding any provision of this subdivision to the contrary,
12 any offense defined in article two hundred twenty of the penal law,
13 where such offense involves the sale or possession with intent to sell
14 of a controlled substance or a synthetic opioid, including but not
15 limited to fentanyl, fentanyl analogues, nitazene, and nitazene
16 analogues.

17 § 3. Subparagraph (iv) of paragraph (b) of subdivision 1 of section
18 530.20 of the criminal procedure law, as amended by section 3 of part UU
19 of chapter 56 of the laws of 2020, is amended to read as follows:

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

23 § 4. Subparagraphs (xx) and (xxi) of paragraph (b) of subdivision 1 of
24 section 530.20 of the criminal procedure law, subparagraph (xx) as
25 amended and subparagraph (xxi) as added by section 4 of subpart C of
26 part UU of chapter 56 of the laws of 2022, are amended and a new subpar-
27 agraph (xxii) is added to read as follows:

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~~] their own recognizance, released under conditions, or had
33 yet to be arraigned after the issuance of a desk appearance ticket for a
34 separate felony or class A misdemeanor involving harm to an identifiable
35 person or property, provided, however, that the prosecutor must show
36 reasonable cause to believe that the defendant committed the instant
37 crime and any underlying crime. For the purposes of this subparagraph,
38 any of the underlying crimes need not be a qualifying offense as defined
39 in this subdivision. For the purposes of this paragraph, "harm to an
40 identifiable person or property" shall include but not be limited to
41 theft of or damage to property. However, based upon a review of the
42 facts alleged in the accusatory instrument, if the court determines that
43 such theft is negligible and does not appear to be in furtherance of
44 other criminal activity, the principal shall be released on [~~his or her~~]
45 their own recognizance or under appropriate non-monetary conditions;
46 [~~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~~]; or

51 (xxii) notwithstanding any provision of this subdivision to the
52 contrary, any offense defined in article two hundred twenty of the penal
53 law, where such offense involves the sale or possession with intent to
54 sell of a controlled substance or a synthetic opioid, including but not
55 limited to fentanyl, fentanyl analogues, nitazene, and nitazene
56 analogues.

1 § 5. Paragraph (d) of subdivision 4 of section 530.40 of the criminal
2 procedure law, as amended by section 4 of part UU of chapter 56 of the
3 laws of 2020, is amended to read as follows:

4 (d) a class A felony 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 § 6. Paragraphs (t) and (u) of subdivision 4 of section 530.40 of the
8 criminal procedure law, paragraph (t) as amended and paragraph (u) as
9 added by section 4 of subpart B of part UU of chapter 56 of the laws of
10 2022, are amended and a new paragraph (v) is added to read as follows:

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

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

35 (v) notwithstanding any provision of this subdivision to the contrary,
36 any offense defined in article two hundred twenty of the penal law,
37 where such offense involves the sale or possession with intent to sell
38 of a controlled substance or a synthetic opioid, including but not
39 limited to fentanyl, fentanyl analogues, nitazene, and nitazene
40 analogues.

41 § 7. This act shall take effect immediately.