

STATE OF NEW YORK

857

2025-2026 Regular Sessions

IN SENATE

(Prefiled)

January 8, 2025

Introduced by Sens. GALLIVAN, BORRELLO, MATTERA, MURRAY, OBERACKER, O'MARA, PALUMBO -- 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 bail reform; and to repeal certain provisions of such law relating thereto

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

1 Section 1. Section 500.10 of the criminal procedure law is amended by
2 adding a new subdivision 23 to read as follows:

3 23. "Risk and needs assessment" means a risk and needs assessment
4 instrument, approved by the chief administrative judge of the unified
5 court system. Such approved assessment instrument shall be objective,
6 standardized and developed based on analysis of empirical data and risk
7 factors relevant to the principal's danger to the community and risk of
8 failure of a principal to appear. Such approved assessment instrument
9 shall not be discriminatory based on race, national origin, sex, any
10 other protected class or socioeconomic status.

11 § 2. Section 510.10 of the criminal procedure law, as amended by
12 section 2 of part JJJ of chapter 59 of the laws of 2019, the opening
13 paragraph as added by, the opening paragraph of subdivision 1, subdivi-
14 sion 3, and the opening paragraph of subdivision 4, as amended by
15 section 2 of subpart A of part VV of chapter 56 of the laws of 2023,
16 subdivision 1 as amended by section 1 of subpart C of part UU of chapter
17 56 of the laws of 2022, subdivision 4 as amended by section 2 of part UU
18 of chapter 56 of the laws of 2020, paragraphs (s) and (t) of subdivision
19 4 as amended and paragraph (u) of subdivision 4 as added by section 2 of
20 subpart B of part UU of chapter 56 of the laws of 2022, is amended to
21 read as follows:

22 § 510.10 Securing order; when required; alternatives available; standard
23 to be applied.

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

LBD02583-01-5

1 The imposition of a specific type of securing order is in some cases
2 required by law and in other cases within the discretion of the court in
3 accordance with the principles of, and pursuant to its authority granted
4 under, this title.

5 1. When a principal, whose future court attendance at a criminal
6 action or proceeding is or may be required, comes under the control of a
7 court, such court shall impose a securing order [~~in accordance with this~~
8 ~~title~~] request of the applicable county pre-trial services agency that a
9 risk and needs assessment be conducted on the eligible principal and
10 such court shall take into account the risk and needs assessment, but
11 such assessment shall not be the sole determinative factor, for the
12 purpose of determining whether such principal should be released.

13 Except as otherwise required by law, the court shall [~~make an individ-~~
14 ~~ualized determination as to~~] determine whether the principal is a danger
15 to the community or poses a risk of flight to avoid prosecution, consid-
16 er the kind and degree of control or restriction necessary to reasonably
17 assure the principal's return to court, and select a securing order
18 consistent with its determination under this subdivision. The court
19 shall explain the basis for its determination and its choice of securing
20 order on the record or in writing. In making a determination under this
21 subdivision, the court must consider and take into account available
22 information about the principal, including:

- 23 (a) The principal's activities and history;
- 24 (b) If the principal is a defendant, the charges facing the principal;
- 25 (c) The principal's criminal conviction record if any;
- 26 (d) The principal's record of previous adjudication as a juvenile
27 delinquent, as retained pursuant to section 354.1 of the family court
28 act, or, of pending cases where fingerprints are retained pursuant to
29 section 306.1 of such act, or a youthful offender, if any;
- 30 (e) The principal's previous record with respect to flight to avoid
31 criminal prosecution;
- 32 (f) If monetary bail is authorized, according to the restrictions set
33 forth in this title, the principal's individual financial circumstances,
34 and, in cases where bail is authorized, the principal's ability to post
35 bail without posing undue hardship, as well as [~~his or her~~] such princi-
36 pal's ability to obtain a secured, unsecured, or partially secured bond;
- 37 (g) Any violation by the principal of an order of protection issued by
38 any court;
- 39 (h) The principal's history of use or possession of a firearm;
- 40 (i) Whether the charge is alleged to have caused serious harm to an
41 individual or group of individuals; and
- 42 (j) If the principal is a defendant, in the case of an application for
43 a securing order pending appeal, the merit or lack of merit of the
44 appeal.

45 2. A principal is entitled to representation by counsel under this
46 chapter in preparing an application for release, when a securing order
47 is being considered and when a securing order is being reviewed for
48 modification, revocation or termination. If the principal is financially
49 unable to obtain counsel, counsel shall be assigned to the principal.

50 3. [~~In cases other than as described in subdivision four of this~~
51 ~~section, the court shall release the principal pending trial on the~~
52 ~~principal's own recognizance, unless the court finds on the record or in~~
53 ~~writing that release on the principal's own recognizance will not~~
54 ~~reasonably assure the principal's return to court. In such instances,~~
55 ~~the court shall release the principal under non-monetary conditions as~~
56 ~~provided for in subdivision three-a of section 500.10 of this title that~~

1 ~~will reasonably assure the principal's return to court. The court shall~~
2 ~~explain its choice of securing order on the record or in writing.~~

3 ~~4. Where the principal stands charged with a qualifying offense, the~~
4 ~~court, unless otherwise prohibited by law, may in its discretion release~~
5 ~~the principal pending trial on the principal's own recognizance or under~~
6 ~~non-monetary conditions, fix bail, or order non-monetary conditions in~~
7 ~~conjunction with fixing bail, or, where the defendant is charged with a~~
8 ~~qualifying offense which is a felony, the court may commit the principal~~
9 ~~to the custody of the sheriff. A principal stands charged with a quali-~~
10 ~~fying offense for the purposes of this subdivision when he or she stands~~
11 ~~charged with:~~

12 ~~(a) a felony enumerated in section 70.02 of the penal law, other than~~
13 ~~robbery in the second degree as defined in subdivision one of section~~
14 ~~160.10 of the penal law, provided, however, that burglary in the second~~
15 ~~degree as defined in subdivision two of section 140.25 of the penal law~~
16 ~~shall be a qualifying offense only where the defendant is charged with~~
17 ~~entering the living area of the dwelling;~~

18 ~~(b) a crime involving witness intimidation under section 215.15 of the~~
19 ~~penal law;~~

20 ~~(c) a crime involving witness tampering under section 215.11, 215.12~~
21 ~~or 215.13 of the penal law;~~

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

25 ~~(e) a sex trafficking offense defined in section 230.34 or 230.34-a of~~
26 ~~the penal law, or a felony sex offense defined in section 70.80 of the~~
27 ~~penal law, or a crime involving incest as defined in section 255.25,~~
28 ~~255.26 or 255.27 of such law, or a misdemeanor defined in article one~~
29 ~~hundred thirty of such law;~~

30 ~~(f) conspiracy in the second degree as defined in section 105.15 of~~
31 ~~the penal law, where the underlying allegation of such charge is that~~
32 ~~the defendant conspired to commit a class A felony defined in article~~
33 ~~one hundred twenty five of the penal law;~~

34 ~~(g) money laundering in support of terrorism in the first degree as~~
35 ~~defined in section 470.24 of the penal law; money laundering in support~~
36 ~~of terrorism in the second degree as defined in section 470.23 of the~~
37 ~~penal law; money laundering in support of terrorism in the third degree~~
38 ~~as defined in section 470.22 of the penal law; money laundering in~~
39 ~~support of terrorism in the fourth degree as defined in section 470.21~~
40 ~~of the penal law; or a felony crime of terrorism as defined in article~~
41 ~~four hundred ninety of the penal law, other than the crime defined in~~
42 ~~section 490.20 of such law;~~

43 ~~(h) criminal contempt in the second degree as defined in subdivision~~
44 ~~three of section 215.50 of the penal law, criminal contempt in the first~~
45 ~~degree as defined in subdivision (b), (c) or (d) of section 215.51 of~~
46 ~~the penal law or aggravated criminal contempt as defined in section~~
47 ~~215.52 of the penal law, and the underlying allegation of such charge of~~
48 ~~criminal contempt in the second degree, criminal contempt in the first~~
49 ~~degree or aggravated criminal contempt is that the defendant violated a~~
50 ~~duly served order of protection where the protected party is a member of~~
51 ~~the defendant's same family or household as defined in subdivision one~~
52 ~~of section 530.11 of this title;~~

53 ~~(i) facilitating a sexual performance by a child with a controlled~~
54 ~~substance or alcohol as defined in section 263.30 of the penal law, use~~
55 ~~of a child in a sexual performance as defined in section 263.05 of the~~
56 ~~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;~~

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

~~(k) 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 title;~~

~~(l) 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;~~

~~(m) 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;~~

~~(n) 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;~~

~~(o) 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;~~

~~(p) 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;~~

~~(q) 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;~~

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

~~(s) 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;~~

~~(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 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~~

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

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

18 [~~6-~~] 4. When a securing order is revoked or otherwise terminated in
19 the course of an uncompleted action or proceeding but the principal's
20 future court attendance still is or may be required and the principal is
21 still under the control of a court, a new securing order must be issued.
22 When the court revokes or otherwise terminates a securing order which
23 committed the principal to the custody of the sheriff, the court shall
24 give written notification to the sheriff of such revocation or termi-
25 nation of the securing order.

26 § 3. Subdivision 1 of section 510.20 of the criminal procedure law, as
27 amended by section 3 of subpart A of part VV of chapter 56 of the laws
28 of 2023, is amended to read as follows:

29 1. Upon any occasion when a court has issued a securing order with
30 respect to a principal and the principal is confined in the custody of
31 the sheriff as a result of the securing order or a previously issued
32 securing order, the principal may make an application for recognizance,
33 release under non-monetary conditions, bail, a reduction of bail, or
34 imposition of non-monetary conditions in conjunction with bail or a
35 reduction of bail. Any such decision by the court for a change in a
36 securing order with respect to a principal shall take into account the
37 risk and needs assessment conducted by the applicable county pre-trial
38 services agency, but such assessment shall not be the sole determinative
39 factor.

40 § 4. Subdivision 1 of section 510.30 of the criminal procedure law, as
41 amended by section 4 of subpart A of part VV of chapter 56 of the laws
42 of 2023, is amended to read as follows:

43 1. With respect to any principal, the court in all cases, unless
44 otherwise provided by law, must impose a securing order in accordance
45 with section 510.10 of this article, and shall, in addition to taking
46 into account the risk and needs assessment conducted by the applicable
47 county pre-trial services agency, explain the basis for its determi-
48 nation and choice of securing order on the record or in writing.

49 § 5. Paragraph (a) of subdivision 3 of section 510.45 of the criminal
50 procedure law, as added by section 8 of part JJJ of chapter 59 of the
51 laws of 2019, is amended to read as follows:

52 [~~(a) Any questionnaire, instrument or tool~~] The risk and needs assess-
53 ment instrument used with a principal in the process of considering or
54 determining the principal's possible release on recognizance, release
55 under non-monetary conditions or on bail, or used with a principal in
56 the process of considering or determining a condition or conditions of

1 release or monitoring by a pretrial services agency, shall be promptly
2 made available to the principal and the principal's counsel upon [~~writ-~~
3 ~~ten~~] request. [~~Any such blank form questionnaire, instrument or tool~~]
4 Any such blank risk and needs assessment instrument regularly used in
5 the county for such purpose or a related purpose shall be made available
6 to any person promptly upon written request.

7 § 6. Paragraph (b) of subdivision 3 of section 510.45 of the criminal
8 procedure law is REPEALED.

9 § 7. Paragraph (a) of subdivision 1 of section 530.20 of the criminal
10 procedure law, as amended by section 6 of subpart A of part VV of chap-
11 ter 56 of the laws of 2023, is amended to read as follows:

12 (a) [~~In cases other than as described in paragraph (b) of this subdivi-~~
13 ~~vision,~~] When the principal is charged with an offense or offenses of
14 less than felony grade only the court shall [~~release the~~] request of the
15 applicable county pre-trial services agency a risk and needs assessment
16 be conducted on the eligible principal and the court shall take into
17 account the risk and needs assessment, but such assessment shall not be
18 the sole determinative factor, for the purpose of determining whether
19 such principal should be released pending trial on the principal's own
20 recognizance or release the principal pending trial under non-monetary
21 conditions, or where authorized, fix bail or commit the principal to the
22 custody of the sheriff, the determination for which shall be made in
23 accordance with subdivision one of section 510.10 of this title. The
24 court shall explain the basis for its determination and choice of secur-
25 ing order, release, release with conditions, bail or remand on the
26 record or in writing.

27 § 8. Paragraph (b) of subdivision 1 of section 530.20 of the criminal
28 procedure law is REPEALED.

29 § 9. Paragraph (d) of subdivision 1 of section 530.20 of the criminal
30 procedure law, as added by section 16 of part JJJ of chapter 59 of the
31 laws of 2019, is relettered paragraph (b) and amended to read as
32 follows:

33 (b) [~~Notwithstanding the provisions of paragraphs (a) and (b) of this~~
34 ~~subdivision, with~~] With respect to any charge for which bail or remand
35 is not ordered, and for which the court would not [~~or could not~~] other-
36 wise require bail or remand, a defendant may, at any time, request that
37 the court set bail in a nominal amount requested by the defendant in the
38 form specified in paragraph (a) of subdivision one of section 520.10 of
39 this title; if the court is satisfied that the request is voluntary, the
40 court shall set such bail in such amount.

41 § 10. The opening paragraph of subdivision 2 of section 530.20 of the
42 criminal procedure law, as amended by section 6 of subpart A part VV of
43 chapter 56 of the laws of 2023, is amended to read as follows:

44 When the defendant is charged, by felony complaint, with a felony, the
45 court [~~may, in its discretion, and~~] in accordance with section 510.10 of
46 this title, [~~order~~] shall, request of the applicable county pre-trial
47 services agency a risk and needs assessment be conducted on the eligible
48 defendant and the court shall take into account the risk and needs
49 assessment, but such assessment shall not be the sole determinative
50 factor, for the purpose of determining whether such defendant should be
51 released on the defendant's own recognizance, [~~release~~] released under
52 non-monetary conditions, or, where authorized, fix bail, or order non-
53 monetary conditions in conjunction with fixing bail, or commit the
54 defendant to the custody of the sheriff except as otherwise provided in
55 [~~subdivision one of this section or~~] this subdivision:

1 § 11. Section 530.40 of the criminal procedure law, as amended by
2 section 18 of part JJJ of chapter 59 of the laws of 2019, subdivision 3
3 and the opening paragraph of subdivision 4 as amended by section 8 of
4 subpart A of part VV of chapter 56 of the laws of 2023, and subdivision
5 4 as amended by section 4 of part UU of chapter 56 of the laws of 2020,
6 paragraphs (s) and (t) of subdivision 4 as amended and paragraph (u) of
7 subdivision 4 as added by section 4 of subpart B of part UU of chapter
8 56 of the laws of 2022, is amended to read as follows:

9 § 530.40 Order of recognizance, release under non-monetary conditions or
10 bail; by superior court when action is pending therein.

11 When a criminal action is pending in a superior court, such court,
12 upon application of a defendant, must or may order recognizance or bail
13 as follows:

14 1. When the defendant is charged with an offense or offenses of less
15 than felony grade only, the court must, request of the applicable county
16 pre-trial services agency a risk and needs assessment be conducted on
17 the eligible defendant and the court shall take into account the risk
18 and needs assessment, but such assessment shall not be the sole determi-
19 native factor, for the purpose of determining whether such defendant,
20 unless otherwise provided by law, should be released on an order of
21 recognizance or bail or release under non-monetary conditions [in
22 accordance with this section] or commit the defendant to the custody of
23 the sheriff.

24 2. When the defendant is charged with a felony, the court [~~may, unless~~
25 ~~otherwise provided by law in its discretion, order~~] shall request of
26 the applicable county pre-trial services agency a risk and needs assess-
27 ment be conducted on the eligible defendant and the court shall take
28 into account the risk and needs assessment, but such assessment shall
29 not be the sole determinative factor, for the purpose of determining
30 whether such defendant should be released on the defendant's own recog-
31 nizance, [release] released under non-monetary conditions or, where
32 authorized, bail or commit the defendant to the custody of the sheriff.
33 In any such case in which an indictment (a) has resulted from an order
34 of a local criminal court holding the defendant for the action of the
35 grand jury, or (b) was filed at a time when a felony complaint charging
36 the same conduct was pending in a local criminal court, and in which
37 such local criminal court or a superior court judge has issued an order
38 of recognizance, release under non-monetary conditions or, where author-
39 ized, bail which is still effective, the superior court's order may be
40 in the form of a direction continuing the effectiveness of the previous
41 order.

42 3. [~~In cases other than as described in subdivision four of this~~
43 ~~section the court shall release the principal pending trial on the prin-~~
44 ~~icipal's own recognizance or release the principal pending trial under~~
45 ~~non-monetary conditions, the determination for which shall be made in~~
46 ~~accordance with section 510.10 of this title. The court shall explain~~
47 ~~the basis for its determination and choice of securing order on the~~
48 ~~record or in writing.~~

49 4. ~~Where the principal stands charged with a qualifying offense, the~~
50 ~~court, unless otherwise prohibited by law, may in its discretion, and in~~
51 ~~accordance with section 510.10 of this title, release the principal~~
52 ~~pending trial on the principal's own recognizance or under non-monetary~~
53 ~~conditions, fix bail, or order non-monetary conditions in conjunction~~
54 ~~with fixing bail, or, where the defendant is charged with a qualifying~~
55 ~~offense which is a felony, the court may commit the principal to the~~
56 ~~custody of the sheriff. The court shall explain the basis for its deter-~~

1 ~~mination and its choice of securing order on the record or in writing. A~~
2 ~~principal stands charged with a qualifying offense for the purposes of~~
3 ~~this subdivision when he or she stands charged with:~~

4 ~~(a) a felony enumerated in section 70.02 of the penal law, other than~~
5 ~~robbery in the second degree as defined in subdivision one of section~~
6 ~~160.10 of the penal law, provided, however, that burglary in the second~~
7 ~~degree as defined in subdivision two of section 140.25 of the penal law~~
8 ~~shall be a qualifying offense only where the defendant is charged with~~
9 ~~entering the living area of the dwelling;~~

10 ~~(b) a crime involving witness intimidation under section 215.15 of the~~
11 ~~penal law;~~

12 ~~(c) a crime involving witness tampering under section 215.11, 215.12~~
13 ~~or 215.13 of the penal law;~~

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

17 ~~(e) a sex trafficking offense defined in section 230.34 or 230.34-a of~~
18 ~~the penal law, or a felony sex offense defined in section 70.80 of the~~
19 ~~penal law or a crime involving incest as defined in section 255.25,~~
20 ~~255.26 or 255.27 of such law, or a misdemeanor defined in article one~~
21 ~~hundred thirty of such law;~~

22 ~~(f) conspiracy in the second degree as defined in section 105.15 of~~
23 ~~the penal law, where the underlying allegation of such charge is that~~
24 ~~the defendant conspired to commit a class A felony defined in article~~
25 ~~one hundred twenty-five of the penal law;~~

26 ~~(g) money laundering in support of terrorism in the first degree as~~
27 ~~defined in section 470.24 of the penal law; money laundering in support~~
28 ~~of terrorism in the second degree as defined in section 470.23 of the~~
29 ~~penal law; money laundering in support of terrorism in the third degree~~
30 ~~as defined in section 470.22 of the penal law; money laundering in~~
31 ~~support of terrorism in the fourth degree as defined in section 470.21~~
32 ~~of the penal law; or a felony crime of terrorism as defined in article~~
33 ~~four hundred ninety of the penal law, other than the crime defined in~~
34 ~~section 490.20 of such law;~~

35 ~~(h) criminal contempt in the second degree as defined in subdivision~~
36 ~~three of section 215.50 of the penal law, criminal contempt in the first~~
37 ~~degree as defined in subdivision (b), (c) or (d) of section 215.51 of~~
38 ~~the penal law or aggravated criminal contempt as defined in section~~
39 ~~215.52 of the penal law, and the underlying allegation of such charge of~~
40 ~~criminal contempt in the second degree, criminal contempt in the first~~
41 ~~degree or aggravated criminal contempt is that the defendant violated a~~
42 ~~duly served order of protection where the protected party is a member of~~
43 ~~the defendant's same family or household as defined in subdivision one~~
44 ~~of section 530.11 of this article;~~

45 ~~(i) facilitating a sexual performance by a child with a controlled~~
46 ~~substance or alcohol as defined in section 263.30 of the penal law, use~~
47 ~~of a child in a sexual performance as defined in section 263.05 of the~~
48 ~~penal law or luring a child as defined in subdivision one of section~~
49 ~~120.70 of the penal law, promoting an obscene sexual performance by a~~
50 ~~child as defined in section 263.10 of the penal law or promoting a sexu-~~
51 ~~al performance by a child as defined in section 263.15 of the penal law;~~

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

54 ~~(k) criminal obstruction of breathing or blood circulation as defined~~
55 ~~in section 121.11 of the penal law, strangulation in the second degree~~
56 ~~as defined in section 121.12 of the penal law or unlawful imprisonment~~

1 ~~in the first degree as defined in section 135.10 of the penal law, and~~
2 ~~is alleged to have committed the offense against a member of the defend-~~
3 ~~ant's same family or household as defined in subdivision one of section~~
4 ~~530.11 of this article;~~

5 ~~(l) aggravated vehicular assault as defined in section 120.04-a of the~~
6 ~~penal law or vehicular assault in the first degree as defined in section~~
7 ~~120.04 of the penal law;~~

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

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

16 ~~(o) grand larceny in the first degree as defined in section 155.42 of~~
17 ~~the penal law, enterprise corruption as defined in section 460.20 of the~~
18 ~~penal law, or money laundering in the first degree as defined in section~~
19 ~~470.20 of the penal law;~~

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

27 ~~(q) a crime involving bail jumping under section 215.55, 215.56 or~~
28 ~~215.57 of the penal law, or a crime involving escaping from custody~~
29 ~~under section 205.05, 205.10 or 205.15 of the penal law;~~

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

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

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

1 ~~(u) criminal possession of a weapon in the third degree as defined in~~
2 ~~subdivision three of section 265.02 of the penal law or criminal sale of~~
3 ~~a firearm to a minor as defined in section 265.16 of the penal law.~~

4 ~~5. Notwithstanding the provisions of subdivisions three and four of~~
5 ~~this section, with] With~~ respect to any charge for which bail or remand
6 is not ordered, and for which the court would not ~~[or could not]~~ other-
7 wise require bail or remand, a defendant may, at any time, request that
8 the court set bail in a nominal amount requested by the defendant in the
9 form specified in paragraph (a) of subdivision one of section 520.10 of
10 this title; if the court is satisfied that the request is voluntary, the
11 court shall set such bail in such amount.

12 [~~6-~~ 4. Notwithstanding the provisions of [~~subdivisions~~] subdivision
13 two[, ~~three and four~~] of this section, a superior court may not order
14 recognizance, release under non-monetary conditions or, where author-
15 ized, bail, or permit a defendant to remain at liberty pursuant to an
16 existing order, after the defendant has been convicted of either: (a) a
17 class A felony or (b) any class B or class C felony as defined in arti-
18 cle one hundred thirty of the penal law committed or attempted to be
19 committed by a person eighteen years of age or older against a person
20 less than eighteen years of age. In either case the court must commit or
21 remand the defendant to the custody of the sheriff.

22 [~~7-~~ 5. Notwithstanding the provisions of [~~subdivisions~~] subdivision
23 two[, ~~three and four~~] of this section, a superior court may not order
24 recognizance, release under non-monetary conditions or, where author-
25 ized, bail when the defendant is charged with a felony unless and until
26 the district attorney has had an opportunity to be heard in the matter
27 and such court and counsel for the defendant have been furnished with a
28 report as described in subparagraph (ii) of paragraph (b) of subdivision
29 two of section 530.20 of this article.

30 § 12. This act shall take effect immediately.