

STATE OF NEW YORK

4206

2025-2026 Regular Sessions

IN ASSEMBLY

January 31, 2025

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

AN ACT to amend the criminal procedure law, in relation to requiring courts to consider whether an individual poses a risk or threat of physical danger to the safety of any person or the community when imposing a securing order and making certain crimes qualifying offenses

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

1 Section 1. The opening paragraph of subdivision 1 of section 510.10 of
2 the criminal procedure law, as amended by section 2 of subpart A of part
3 VV of chapter 56 of the laws of 2023, is amended to read as follows:

4 When a principal, whose future court attendance at a criminal action
5 or proceeding is or may be required, comes under the control of a court,
6 such court shall impose a securing order in accordance with this title.
7 Except as otherwise required by law, the court shall make an individual-
8 ized determination as to whether the principal poses a risk or threat
9 of physical danger to the safety of any person or the community and make
10 an individualized determination as to whether the principal poses a risk
11 of flight to avoid prosecution~~[r]~~. The court shall consider the kind and
12 degree of control or restriction necessary to reasonably assure the
13 principal's return to court and the safety of any person or the communi-
14 ty, and select a securing order consistent with its determination under
15 this subdivision. The court shall explain the basis for its determi-
16 nation and its choice of securing order on the record or in writing. In
17 making a determination under this subdivision, the court must consider
18 and take into account available information about the principal, includ-
19 ing:

20 § 2. Paragraphs (t) and (u) of subdivision 4 of section 510.10 of the
21 criminal procedure law, paragraph (t) as amended and paragraph (u) as

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

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1 added by section 2 of subpart B of part UU of chapter 56 of the laws of
2 2022, are amended and a new paragraph (v) is added to read as follows:

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

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

27 (v) stalking in the second degree as defined in section 120.55 of the
28 penal law and stalking in the third degree as defined in section 120.50
29 of the penal law.

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

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

54 (xxi) criminal possession of a weapon in the third degree as defined
55 in subdivision three of section 265.02 of the penal law or criminal sale

1 of a firearm to a minor as defined in section 265.16 of the penal
2 law~~[+]~~; or

3 (xxii) stalking in the second degree as defined in section 120.55 of
4 the penal law and stalking in the third degree as defined in section
5 120.50 of the penal law.

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

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

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

34 (v) stalking in the second degree as defined in section 120.55 of the
35 penal law and stalking in the third degree as defined in section 120.50
36 of the penal law.

37 § 5. Subparagraph (xi) of paragraph (b) of subdivision 1 of section
38 150.20 of the criminal procedure law, as added by section 1 of subpart B
39 of part UU of chapter 56 of the laws of 2022, is amended to read as
40 follows:

41 (xi) the offense is a qualifying offense pursuant to paragraph (t) or
42 (v) of subdivision four of section 510.10 of this chapter, or pursuant
43 to paragraph (t) or (v) of subdivision four of section 530.40 of this
44 chapter.

45 § 6. Subparagraph (iv) of paragraph (b) and subparagraph (iii) of
46 paragraph (d) of subdivision 2 of section 530.60 of the criminal proce-
47 dure law, subparagraph (iv) of paragraph (b) as added by section 20 of
48 part JJJ of chapter 59 of the laws of 2019, and subparagraph (iii) of
49 paragraph (d) as added by section 11 of subpart A of part VV of chapter
50 56 of the laws of 2023, are amended to read as follows:

51 (iv) stands charged in such action or proceeding with a felony and,
52 after being so charged, committed a felony or class A misdemeanor while
53 at liberty.

54 (iii) Under subparagraphs (ii), (iii), and (iv) of paragraph (b) of
55 this subdivision, revocation of a previously issued securing order shall
56 result in the issuance of a new securing order which may, if otherwise

1 authorized by law, permit the principal's release on recognizance or
2 release under non-monetary conditions, but shall also render the defend-
3 ant eligible for an order fixing bail or ordering non-monetary condi-
4 tions in conjunction with fixing bail. In issuing the new securing
5 order, the court shall consider the kind and degree of control or
6 restriction necessary to reasonably assure the principal's return to
7 court, the safety of any person or the community and compliance with
8 court conditions, and select a securing order consistent with its deter-
9 mination, taking into account the factors required to be considered
10 under subdivision one of section 510.10 of this title, the circumstances
11 warranting such revocation, and the nature and extent of the principal's
12 noncompliance with previously ordered non-monetary conditions of the
13 securing order subject to revocation under this subdivision. Nothing in
14 this subparagraph shall be interpreted as shortening the period of
15 detention, or requiring or authorizing any less restrictive form of a
16 securing order, which may be imposed pursuant to any other law.

17 § 7. Subdivision 3 of section 510.30 of the criminal procedure law, as
18 amended by section 5 of part JJJ of chapter 59 of the laws of 2019, is
19 amended to read as follows:

20 3. When bail or recognizance is ordered, the court shall inform the
21 principal, if the principal is a defendant charged with the commission
22 of a felony, that the release is conditional and that the court may
23 revoke the order of release and may be authorized to commit the princi-
24 pal to the custody of the sheriff in accordance with the provisions of
25 subdivision two of section 530.60 of this [~~chapter~~] title if the princi-
26 pal commits a subsequent felony or class A misdemeanor while at liberty
27 upon such order.

28 § 8. This act shall take effect on the sixtieth day after it shall
29 have become a law.