

STATE OF NEW YORK

7565

2025-2026 Regular Sessions

IN ASSEMBLY

April 1, 2025

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

AN ACT to amend the criminal procedure law and the penal law, in relation to making all offenses qualifying offenses for bail where the principal is a non-citizen, requiring courts remand without bail any principal charged with an offense has an outstanding United States immigration and customs enforcement detainer, including federal laws, rules, and regulations in the definition of offense, allowing police officers to detain certain non-citizens, and reinstating the maximum sentence for misdemeanors as three hundred sixty-five days; and to repeal certain provisions of the penal law relating thereto

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

1 Section 1. Paragraphs (t) and (u) of subdivision 4 of section 510.10
2 of the criminal procedure law, paragraph (t) as amended and paragraph
3 (u) as added by section 2 of subpart B of part UU of chapter 56 of the
4 laws of 2022, are amended and a new paragraph (v) is added to read as
5 follows:
6 (t) any felony or class A misdemeanor involving harm to an identifi-
7 able person or property, or any charge of criminal possession of a
8 firearm as defined in section 265.01-b of the penal law, where such
9 charge arose from conduct occurring while the defendant was released on
10 ~~[his or her]~~ such defendant's own recognizance, released under condi-
11 tions, or had yet to be arraigned after the issuance of a desk appear-
12 ance ticket for a separate felony or class A misdemeanor involving harm
13 to an identifiable person or property, or any charge of criminal
14 possession of a firearm as defined in section 265.01-b of the penal law,
15 provided, however, that the prosecutor must show reasonable cause to
16 believe that the defendant committed the instant crime and any underly-
17 ing crime. For the purposes of this subparagraph, any of the underlying
18 crimes need not be a qualifying offense as defined in this subdivision.

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

LBD09561-02-5

1 For the purposes of this paragraph, "harm to an identifiable person or
2 property" shall include but not be limited to theft of or damage to
3 property. However, based upon a review of the facts alleged in the accu-
4 satory instrument, if the court determines that such theft is negligible
5 and does not appear to be in furtherance of other criminal activity, the
6 principal shall be released on ~~[his or her]~~ such principal's own recog-
7 nizance or under appropriate non-monetary conditions; ~~[or]~~

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

12 (v) any felony or misdemeanor and such principal is a non-citizen.

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

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

37 (xxi) criminal possession of a weapon in the third degree as defined
38 in subdivision three of section 265.02 of the penal law or criminal sale
39 of a firearm to a minor as defined in section 265.16 of the penal
40 law~~[-]~~; or

41 (xxii) any felony or misdemeanor and such principal is a non-citizen.

42 § 3. Paragraphs (t) and (u) of subdivision 4 of section 530.40 of the
43 criminal procedure law, paragraph (t) as amended and paragraph (u) as
44 added by section 4 of subpart B of part UU of chapter 56 of the laws of
45 2022, are amended and a new paragraph (v) is added to read as follows:

46 (t) any felony or class A misdemeanor involving harm to an identifi-
47 able person or property, or any charge of criminal possession of a
48 firearm as defined in section 265.01-b of the penal law, where such
49 charge arose from conduct occurring while the defendant was released on
50 ~~[his or her]~~ such defendant's own recognizance, released under condi-
51 tions, or had yet to be arraigned after the issuance of a desk appear-
52 ance ticket for a separate felony or class A misdemeanor involving harm
53 to an identifiable person or property, or any charge of criminal
54 possession of a firearm as defined in section 265.01-b of the penal law,
55 provided, however, that the prosecutor must show reasonable cause to
56 believe that the defendant committed the instant crime and any underly-

ing 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]~~ such principal's own recognition 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) any felony or misdemeanor and such principal is a non-citizen.

§ 4. The criminal procedure law is amended by adding a new section 510.55 to read as follows:

§ 510.55 Effect of United States immigration and customs enforcement detainer.

Notwithstanding any other provisions of this title to the contrary, when a principal, whose future court attendance at a criminal action or proceeding is or may be required, comes under the control of a court and has an outstanding United States immigration and customs enforcement detainer, such court shall commit the principal to the custody of the sheriff.

§ 5. The criminal procedure law is amended by adding a new section 530.35 to read as follows:

§ 530.35 Effect of United States immigration and customs enforcement detainer.

Notwithstanding any other provisions of this title to the contrary, when a principal, whose future court attendance at a criminal action or proceeding is or may be required, comes under the control of a court and has an outstanding United States immigration and customs enforcement detainer, such court shall commit the principal to the custody of the sheriff.

§ 6. Subdivision 1 of section 10.00 of the penal law, as amended by chapter 791 of the laws of 1967, is amended to read as follows:

1. "Offense" means conduct for which a sentence to a term of imprisonment or to a fine is provided by any law of this state or by any law, local law or ordinance of a political subdivision of this state, or by any order, rule or regulation of any governmental instrumentality authorized by law to adopt the same or any federal immigration laws, rules, or regulations.

§ 7. Section 140.10 of the criminal procedure law is amended by adding a new subdivision 1-a to read as follows:

1-a. Notwithstanding any provision of law to the contrary, a police officer may arrest a person when such officer has reasonable cause to believe such person is a non-citizen and is the subject of a United States immigration and customs enforcement detainer, administrative warrant, or judicial warrant.

§ 8. Subdivision 1-a of section 70.15 of the penal law is REPEALED.

§ 9. Subdivisions 1 and 3 of section 70.15 of the penal law, as amended by section 1 of part 00 of chapter 55 of the laws of 2019, are amended to read as follows:

1. Class A misdemeanor. A sentence of imprisonment for a class A misdemeanor shall be a definite sentence. When such a sentence is

1 imposed the term shall be fixed by the court, and shall not exceed
2 [~~three hundred sixty four days~~] one year.

3 3. Unclassified misdemeanor. A sentence of imprisonment for an unclas-
4 sified misdemeanor shall be a definite sentence. When such a sentence is
5 imposed the term shall be fixed by the court, and shall be in accordance
6 with the sentence specified in the law or ordinance that defines the
7 crime [~~but, in any event, it shall not exceed three hundred sixty four~~
8 ~~days~~].

9 § 10. This act shall take effect on the thirtieth day after it shall
10 have become a law. Effective immediately, the addition, amendment and/or
11 repeal of any rule or regulation necessary for the implementation of
12 this act on its effective date are authorized to be made and completed
13 on or before such effective date.