

STATE OF NEW YORK

9628

IN ASSEMBLY

January 21, 2026

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

AN ACT to amend the criminal procedure law, in relation to ensuring repeat offenders qualify for bail and pre-trial detention

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

1 Section 1. The opening paragraph and paragraphs (t) and (u) of subdi-
2 vision 4 of section 510.10 of the criminal procedure law, the opening
3 paragraph as amended by section 2 of subpart A of part VV of chapter 56
4 of the laws of 2023, paragraph (t) as amended and paragraph (u) as added
5 by section 2 of subpart B of part UU of chapter 56 of the laws of 2022,
6 are amended and a new paragraph (v) is added to read as follows:

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

16 (t) any felony or class A misdemeanor involving harm to an identifi-
17 able person or property, or any charge of criminal possession of a
18 firearm as defined in section 265.01-b of the penal law, where such
19 charge arose from conduct occurring while the defendant was released on
20 [~~his or her~~] such defendant's own recognizance, released under condi-
21 tions, or had yet to be arraigned after the issuance of a desk appear-
22 ance ticket for a separate felony or class A misdemeanor involving harm
23 to an identifiable person or property, or any charge of criminal
24 possession of a firearm as defined in section 265.01-b of the penal law,
25 provided, however, that the prosecutor must show reasonable cause to
26 believe that the defendant committed the instant crime and any underly-
27 ing crime. For the purposes of this subparagraph, any of the underlying
28 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.

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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 nize 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) a misdemeanor or felony offense and the principal has been
13 convicted of one or more misdemeanor or felony offenses within the imme-
14 diately preceding five years.

15 § 2. The opening paragraph and subparagraphs (xx) and (xxi) of para-
16 graph (b) of subdivision 1 of section 530.20 of the criminal procedure
17 law, the opening paragraph as amended by section 6 of subpart A of part
18 VV of chapter 56 of the laws of 2023, subparagraph (xx) as amended and
19 subparagraph (xxi) as added by section 4 of subpart C of part UU of
20 chapter 56 of the laws of 2022, are amended and a new subparagraph
21 (xxii) is added to read as follows:

22 Where the principal stands charged with a qualifying offense, the
23 court, unless otherwise prohibited by law, may in its discretion release
24 the principal pending trial on the principal's own recognizance or under
25 non-monetary conditions, fix bail, order non-monetary conditions in
26 conjunction with fixing bail, or, where the defendant is charged with a
27 qualifying offense ~~[which is a felony]~~, the court may commit the princi-
28 pal to the custody of the sheriff. The court shall explain its choice of
29 securing order on the record or in writing. A principal stands charged
30 with a qualifying offense when ~~[he or she]~~ such principal stands charged
31 with:

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

51 (xxi) criminal possession of a weapon in the third degree as defined
52 in subdivision three of section 265.02 of the penal law or criminal sale
53 of a firearm to a minor as defined in section 265.16 of the penal
54 law~~[-]~~; or

(xxii) a misdemeanor or felony offense and the principal has been convicted of one or more misdemeanor or felony offenses within the immediate preceding five years.

§ 3. The opening paragraph and paragraphs (t) and (u) of subdivision 4 of section 530.40 of the criminal procedure law, the opening paragraph as amended by section 8 of subpart A of part VV of chapter 56 of the laws of 2023, paragraph (t) as amended and paragraph (u) as added by section 4 of subpart B of part UU of chapter 56 of the laws of 2022, are amended and a new paragraph (v) is added to read as follows:

Where the principal stands charged with a qualifying offense, the court, unless otherwise prohibited by law, may in its discretion, and in accordance with section 510.10 of this title, release the principal pending trial on the principal's own recognizance or under non-monetary conditions, fix bail, or order non-monetary conditions in conjunction with fixing bail, or, where the defendant is charged with a qualifying offense [~~which is a felony~~], the court may commit the principal to the custody of the sheriff. The court shall explain the basis for its determination and its choice of securing order on the record or in writing. A principal stands charged with a qualifying offense for the purposes of this subdivision when [~~he or she~~] such principal stands charged with:

(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~~] such defendant's 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 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 recognizance 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) a misdemeanor or felony offense and the principal has been convicted of one or more misdemeanor or felony offenses within the immediate preceding five years.

§ 4. This act shall take effect immediately.