STATE OF NEW YORK

32

2025-2026 Regular Sessions

IN SENATE

(Prefiled)

January 8, 2025

Introduced by Sens. TEDISCO, BORRELLO, GRIFFO, HELMING, OBERACKER, O'MARA, ORTT, STEC, WEIK -- 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 setting bail for defendants who pose a threat to public safety

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

Section 1. Subdivision 1 of section 510.10 of the criminal procedure law, as amended by section 1 of subpart C of part UU of chapter 56 of the laws of 2022 and the opening paragraph as amended by section 2 of subpart A of part VV of chapter 56 of the laws of 2023, is amended to read as follows:

1. 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, such court shall impose a securing order in accordance with this title. Except as otherwise required by law, the court shall make an individualized determination as to whether the principal poses a risk of flight to avoid prosecution, consider the kind and degree of control or restriction necessary to reasonably assure the principal's return to court, and select a securing order consistent with its determination under this subdivision **or the court shall make an individualized determination based on the principal's record of a prior felony conviction, a failure to appear in court or if the principal is arrested during the interim period while awaiting a preliminary hearing or trial and select a securing order consistent with its determination under this subdivision**. The court shall explain the basis for its determination and its choice of securing order on the record or in writing. In making a determination under this subdivision, the court must consider and take into account available information about the principal, including:

(a) The principal's activities and history;

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

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(b) If the principal is a defendant, the charges facing the principal;

(c) The principal's criminal conviction record if any;

(d) The principal's record of previous adjudication as a juvenile delinquent, as retained pursuant to section 354.1 of the family court act, or, of pending cases where fingerprints are retained pursuant to section 306.1 of such act, or a youthful offender, if any;

(e) The principal's previous record with respect to flight to avoid criminal prosecution;

(f) If monetary bail is authorized, according to the restrictions set forth in this title, the principal's individual financial circumstances, and, in cases where bail is authorized, the principal's ability to post bail without posing undue hardship, as well as [~~his or her~~] **the principal's** ability to obtain a secured, unsecured, or partially secured bond;

(g) Any violation by the principal of an order of protection issued by any court;

(h) The principal's history of use or possession of a firearm;

(i) Whether the charge is alleged to have caused serious harm to an individual or group of individuals; and

(j) If the principal is a defendant, in the case of an application for a securing order pending appeal, the merit or lack of merit of the appeal.

§ 2. This act shall take effect immediately.