

STATE OF NEW YORK

989--A

2025-2026 Regular Sessions

IN SENATE

(Prefiled)

January 8, 2025

Introduced by Sens. ROLISON, BORRELLO, GALLIVAN, HELMING, LANZA, MARTINS, MATTERA, MURRAY, OBERACKER, O'MARA, PALUMBO, STEC, TEDISCO, WALCZYK, WEBER, WEIK -- read twice and ordered printed, and when printed to be committed to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the penal law, in relation to establishing the offense of aggravated reckless endangerment; and to amend the criminal procedure law, in relation to including aggravated reckless endangerment as a qualified offense the court must consider and take into account for securing an order

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

1 Section 1. The penal law is amended by adding a new section 120.26 to
2 read as follows:

3 § 120.26 Aggravated reckless endangerment.

4 A person is guilty of aggravated reckless endangerment when such
5 person knowingly possesses fentanyl or a fentanyl derivative and reck-
6 lessly exposes a first responder, correction officer, employee of a
7 correctional facility or active duty military personnel to such fentanyl
8 or fentanyl derivative in a manner that is likely to result in illness
9 or injury to such first responder, correction officer, employee of a
10 correctional facility or active duty military personnel.

11 Aggravated reckless endangerment is a class C felony.

12 § 2. Paragraphs (t) and (u) of subdivision 4 of section 510.10 of the
13 criminal procedure law, paragraph (t) as amended and paragraph (u) as
14 added by section 2 of subpart B of part UU of chapter 56 of the laws of
15 2022, are amended and a new paragraph (v) is added to read as follows:

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

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

LBD01593-03-5

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

20 (u) criminal possession of a weapon in the third degree as defined in
21 subdivision three of section 265.02 of the penal law or criminal sale of
22 a firearm to a minor as defined in section 265.16 of the penal law[~~r~~];
23 or

24 (v) aggravated reckless endangerment as defined in section 120.26 of
25 the penal law.

26 § 3. Subparagraphs (xx) and (xxi) of paragraph (b) of subdivision 1 of
27 section 530.20 of the criminal procedure law, paragraph (xx) as amended
28 and paragraph (xxi) as added by section 4 of subpart C of part UU of
29 chapter 56 of the laws of 2022, are amended and a new paragraph (xxii)
30 is added to read as follows:

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

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

54 (xxii) aggravated reckless endangerment as defined in section 120.26
55 of the penal law.

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

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

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

30 (v) aggravated reckless endangerment as defined in section 120.26 of
31 the penal law.

32 § 5. This act shall take effect immediately.