

STATE OF NEW YORK

5667

2025-2026 Regular Sessions

IN SENATE

February 26, 2025

Introduced by Sens. ASHBY, CANZONERI-FITZPATRICK, GALLIVAN, MATTERA, MURRAY, OBERACKER, RHOADS, ROLISON, WALCZYK, WEBER, 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 eliminating bail; to amend the executive law, in relation to establishing a commission on public safety reform; and to repeal certain provisions of the criminal procedure law and the lien law relating thereto

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

1 Section 1. Subdivisions 2 and 3 of section 140.20 of the criminal
2 procedure law, as amended by section 3 of subpart B of part VV of chap-
3 ter 56 of the laws of 2023 and the opening paragraph of subdivision 2
4 and paragraph (a) of subdivision 3 as separately amended by chapter 23
5 of the laws of 2024, are amended to read as follows:

6 2. If the arrest is for an offense other than a class A, B, C or D
7 felony or a violation of section 130.25, former section 130.40, section
8 205.10, 205.17, 205.19 or 215.56 of the penal law, or other than where
9 an arrest is required to be made pursuant to subdivision four of section
10 140.10 of this article, the arrested person need not be brought before a
11 local criminal court as provided in subdivision one, and [~~the procedure~~
12 ~~may instead be as follows:~~

13 ~~(a)~~ A instead a police officer may issue and serve an appearance
14 ticket upon the arrested person and release [~~him~~] such person from
15 custody, as prescribed in subdivision two of section 150.20 of this
16 title[~~;~~ ~~or~~

17 ~~(b) The desk officer in charge at a police station, county jail or~~
18 ~~police headquarters, or any of his superior officers, may, in such place~~
19 ~~fix pre-arraignment bail and, upon deposit thereof, issue and serve an~~
20 ~~appearance ticket upon the arrested person and release him from custo-~~
21 ~~dy].~~

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

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3. Other than where an arrest is required to be made pursuant to subdivision four of section 140.10 of this article, if (a) the arrest is for an offense other than a class A, B, C or D felony or a violation of section 130.25, former section 130.40, section 205.10, 205.17, 205.19 or 215.56 of the penal law, and (b) owing to unavailability of a local criminal court the arresting police officer is unable to bring the arrested person before such a court with reasonable promptness, either an appearance ticket must be served unconditionally upon the arrested person ~~[or pre-arraignment bail must be fixed, as prescribed in subdivision two. If pre-arraignment bail is fixed but not posted, such arrested person may be temporarily held in custody but must be brought before a local criminal court without unnecessary delay]~~. Nothing contained in this subdivision requires a police officer to serve an appearance ticket upon an arrested person or release ~~[him]~~ such person from custody at a time when such person appears to be under the influence of alcohol, narcotics or other drug to the degree that ~~[he]~~ such person may endanger ~~[himself]~~ themselves or other persons.

§ 2. Subdivision 3 of section 140.40 of the criminal procedure law, as amended by chapter 550 of the laws of 1987 and the opening paragraph as amended by chapter 23 of the laws of 2024, is amended to read as follows:

3. If the arrest is for an offense other than a class A, B, C or D felony or a violation of section 130.25, former section 130.40, section 205.10, 205.17, 205.19 or 215.56 of the penal law, the arrested person need not be brought before a local criminal court, as provided in subdivision one, and ~~[the procedure may instead be as follows:]~~

~~(a) An~~ instead an appropriate police officer may issue and serve an appearance ticket upon the arrested person and release ~~[him]~~ such person from custody, as prescribed in subdivision two of section 150.20~~[-or~~

~~(b) The desk officer in charge at the appropriate police officer's station, county jail or police headquarters, or any of his superior officers, may, in such place, fix pre-arraignment bail and, upon deposit thereof, issue and serve an appearance ticket upon the arrested person and release him from custody, as prescribed in section 150.30]~~ of this title.

§ 3. The section heading and subdivision 7 of section 170.10 of the criminal procedure law are amended to read as follows:

Arraignment upon information, simplified traffic information, prosecutor's information or misdemeanor complaint; defendant's presence, defendant's rights, court's instructions and ~~[bail]~~ securing order matters.

7. Upon the arraignment, the court, unless it intends to make a final disposition of the action immediately thereafter, must, as provided in subdivision one of section 530.20 of this chapter, issue a securing order either releasing the defendant on ~~[his]~~ such defendant's own recognizance ~~[or fixing bail], under non-monetary conditions, or, where authorized, committing the defendant to the custody of the sheriff~~ for ~~[his]~~ such defendant's future appearance in the action; except that where a defendant appears by counsel pursuant to paragraph (b) of subdivision one of this section, the court must release the defendant on ~~[his]~~ such defendant's own recognizance.

§ 4. Paragraph (a) and the opening paragraph and subparagraph (xi) of paragraph (b) of subdivision 1 of section 150.20 of the criminal procedure law, paragraph (a) as separately amended by section 1 of subpart B of part VV of chapter 56 of the laws of 2023 and chapter 23 of the laws of 2024, the opening paragraph of paragraph (b) as added by section 1-a

1 of part JJJ of chapter 59 of the laws of 2019, subparagraph (xi) of
2 paragraph (b) of subdivision 1 as added by section 1 of subpart B of
3 part UU of chapter 56 of the laws of 2022, are amended to read as
4 follows:

5 (a) Whenever a police officer is authorized pursuant to section 140.10
6 of this title to arrest a person without a warrant for an offense other
7 than a class A, B, C or D felony or a violation of section 130.25,
8 former section 130.40, section 205.10, 205.17, 205.19 or 215.56 of the
9 penal law, or other than where an arrest is required to be made pursuant
10 to subdivision four of section 140.10 of this title, the officer [~~shall,~~
11 ~~except as set out in paragraph (b) of this subdivision]~~ may, subject to
12 the provisions of subdivisions three and four of section 150.40 of this
13 title, instead issue to and serve upon such person an appearance ticket.

14 An officer is not [~~required~~] authorized to issue an appearance ticket
15 if:

16 (xi) the offense is a qualifying offense pursuant to paragraph [~~(t)~~]
17 (k) of subdivision four of section 510.10 of this chapter, or pursuant
18 to paragraph [~~(t)~~] (k) of subdivision four of section 530.40 of this
19 chapter.

20 § 5. Subdivision 2 of section 170.25 of the criminal procedure law is
21 amended to read as follows:

22 2. Such order stays the proceedings in the local criminal court pend-
23 ing submission of the charge to the grand jury. Upon the subsequent
24 filing of an indictment in the superior court, the proceedings in the
25 local criminal court terminate and the defendant must be required to
26 appear for arraignment upon the indictment in the manner prescribed in
27 subdivisions one and two of section 210.10 of this part. Upon the subse-
28 quent filing of a grand jury dismissal of the charge, the proceedings in
29 the local criminal court terminate and the superior court must, if the
30 defendant is not at liberty on [~~his~~] such defendant's own recognizance,
31 discharge [~~him~~] such defendant from custody [~~or exonerate his bail, as~~
32 ~~the case may be~~].

33 § 6. Subdivision 3 of section 170.50 of the criminal procedure law is
34 amended to read as follows:

35 3. Upon dismissing a prosecutor's information or a count thereof
36 pursuant to this section, the court may, upon application of the people,
37 in its discretion authorize the people to resubmit the charge or charges
38 to the same or another grand jury. In the absence of such authorization,
39 such charge or charges may not be resubmitted to a grand jury. The rules
40 prescribed in subdivisions eight and nine of section 210.45 of this part
41 concerning the discharge of a defendant from custody [~~or exonerate of~~
42 ~~bail~~] in the absence of an authorization to resubmit an indictment to a
43 grand jury, and concerning the issuance of a securing order and the
44 effective period thereof where such an authorization is issued, apply
45 equally where a prosecutor's information is dismissed pursuant to this
46 section.

47 § 7. Subdivision 2 of section 210.10 of the criminal procedure law, as
48 amended by chapter 681 of the laws of 1990, is amended to read as
49 follows:

50 2. If a felony complaint against the defendant was pending in a local
51 criminal court or if the defendant was previously held by a local crimi-
52 nal court for the action of the grand jury, and if the defendant is at
53 liberty on [~~his or her~~] such defendant's own recognizance or [~~on bail~~]
54 under non-monetary conditions pursuant to a previous court order issued
55 in the same criminal action, the superior court must, upon at least two
56 days notice to the defendant [~~and his or her surety, to any person other~~

1 ~~than the defendant who posted cash bail~~] and to any attorney who would
2 be entitled to notice under circumstances prescribed in subdivision one
3 of this section, direct the defendant to appear before the superior
4 court for arraignment on a specified date. If the defendant fails to
5 appear on such date, the court may issue a bench warrant [~~and, in addi-~~
6 ~~tion, may forfeit the bail, if any~~]. Upon taking the defendant into
7 custody pursuant to such bench warrant, the executing police officer
8 must without unnecessary delay bring the defendant before such superior
9 court for arraignment. If such superior court is not available, the
10 executing police officer may bring the defendant to the local correc-
11 tional facility of the county in which such superior court sits, to be
12 detained there until not later than the commencement of the next session
13 of such court occurring on the next business day.

14 § 8. The section heading and subdivision 6 of section 210.15 of the
15 criminal procedure law are amended to read as follows:

16 Arraignment upon indictment; defendant's rights, court's instructions
17 and [~~bail~~] securing order matters.

18 6. Upon the arraignment, the court, unless it intends to make a final
19 disposition of the action immediately thereafter, must, as provided in
20 section 530.40 of this chapter, issue a securing order, releasing the
21 defendant on [~~his~~] such defendant's own recognizance or [~~fixing bail~~]
22 under non-monetary conditions or committing [~~him~~] such defendant to the
23 custody of the sheriff for [~~his~~] such defendant's future appearance in
24 such action.

25 § 9. Subdivisions 8 and 9 of section 210.45 of the criminal procedure
26 law are amended to read as follows:

27 8. When the court dismisses the entire indictment without authorizing
28 resubmission of the charge or charges to a grand jury, it must order
29 that the defendant be discharged from custody if [~~he~~] such defendant is
30 in the custody of the sheriff[, ~~or if he is at liberty on bail it must~~
31 ~~exonerate the bail~~].

32 9. When the court dismisses the entire indictment but authorizes
33 resubmission of the charge or charges to a grand jury, such authori-
34 zation is, for purposes of this subdivision, deemed to constitute an
35 order holding the defendant for the action of a grand jury with respect
36 to such charge or charges. Such order must be accompanied by a securing
37 order either releasing the defendant on [~~his~~] such defendant own recog-
38 nizance or [~~fixing bail~~] under non-monetary conditions or committing
39 [~~him~~] such defendant to the custody of the sheriff pending resubmission
40 of the case to the grand jury and the grand jury's disposition thereof.
41 Such securing order remains in effect until the first to occur of any of
42 the following:

43 (a) A statement to the court by the people that they do not intend to
44 resubmit the case to a grand jury;

45 (b) Arraignment of the defendant upon an indictment or prosecutor's
46 information filed as a result of resubmission of the case to a grand
47 jury. Upon such arraignment, the arraigning court must issue a new
48 securing order;

49 (c) The filing with the court of a grand jury dismissal of the case
50 following resubmission thereof;

51 (d) The expiration of a period of forty-five days from the date of
52 issuance of the order; provided that such period may, for good cause
53 shown, be extended by the court to a designated subsequent date if such
54 be necessary to accord the people reasonable opportunity to resubmit the
55 case to a grand jury.

1 Upon the termination of the effectiveness of the securing order pursu-
2 ant to paragraph (a), (c) or (d) of this subdivision, the court must
3 immediately order that the defendant be discharged from custody if ~~[he]~~
4 such defendant is in the custody of the sheriff~~[, or if he is at liberty~~
5 ~~on bail it must exonerate the bail]~~. Although expiration of the period
6 of time specified in paragraph (d) without any resubmission or grand
7 jury disposition of the case terminates the effectiveness of the secur-
8 ing order, it does not terminate the effectiveness of the order author-
9 izing resubmission.

10 § 10. Subdivision 6 and paragraph (c) of subdivision 9 of section
11 216.05 of the criminal procedure law, as amended by chapter 435 of the
12 laws of 2021, are amended to read as follows:

13 6. Upon an eligible defendant's agreement to abide by the conditions
14 set by the court, the court shall issue a securing order providing for
15 ~~[bail or]~~ release on the defendant's own recognizance and conditioning
16 any release upon the agreed upon conditions. The period of alcohol or
17 substance use treatment shall begin as specified by the court and as
18 soon as practicable after the defendant's release, taking into account
19 the availability of treatment, so as to facilitate early intervention
20 with respect to the defendant's substance use or condition and the
21 effectiveness of the treatment program. In the event that a treatment
22 program is not immediately available or becomes unavailable during the
23 course of the defendant's participation in the judicial diversion
24 program, the court may release the defendant pursuant to the securing
25 order.

26 (c) If the court determines that the defendant has violated a condi-
27 tion of ~~[his or her]~~ such defendant's release under the judicial diver-
28 sion program, the court may modify the conditions thereof, reconsider
29 the order of recognizance ~~[or bail]~~ pursuant to subdivision two of
30 section 510.30 of this chapter, or terminate the defendant's partic-
31 ipation in the judicial diversion program; and when applicable proceed
32 with the defendant's sentencing in accordance with the agreement.
33 Notwithstanding any provision of law to the contrary, the court may
34 impose any sentence authorized for the crime of conviction in accordance
35 with the plea agreement, or any lesser sentence authorized to be imposed
36 on a felony drug offender pursuant to paragraph (b) or (c) of subdivi-
37 sion two of section 70.70 of the penal law taking into account the
38 length of time the defendant spent in residential treatment and how best
39 to continue treatment while the defendant is serving that sentence. In
40 determining what action to take for a violation of a release condition,
41 the court shall consider all relevant circumstances, including the views
42 of the prosecutor, the defense and the alcohol or substance use treat-
43 ment provider, and the extent to which persons who ultimately success-
44 fully complete a drug treatment regimen sometimes relapse by not
45 abstaining from alcohol or substance use or by failing to comply fully
46 with all requirements imposed by a treatment program. The court shall
47 also consider using a system of graduated and appropriate responses or
48 sanctions designed to address such inappropriate behaviors, protect
49 public safety and facilitate, where possible, successful completion of
50 the alcohol or substance use treatment program.

51 § 11. Subdivision 4 of section 290.10 of the criminal procedure law is
52 amended to read as follows:

53 4. Upon issuing a trial order of dismissal which dismisses the entire
54 indictment, the court must immediately discharge the defendant from
55 custody if he is in custody of the sheriff~~[, or, if he is at liberty on~~
56 ~~bail, it must exonerate the bail]~~.

§ 12. Subdivision 1 of section 330.10 of the criminal procedure law is amended to read as follows:

1. Upon a verdict of complete acquittal, the court must immediately discharge the defendant if ~~[he]~~ such defendant is in the custody of the sheriff~~[, or, if he is at liberty on bail, it must exonerate the bail]~~.

§ 13. Section 410.60 of the criminal procedure law, as amended by section 23 of part JJJ of chapter 59 of the laws of 2019, is amended to read as follows:

§ 410.60 Appearance before court.

A person who has been taken into custody pursuant to section 410.40 or section 410.50 of this article for violation of a condition of a sentence of probation or a sentence of conditional discharge must forthwith be brought before the court that imposed the sentence. Where a violation of probation petition and report has been filed and the person has not been taken into custody nor has a warrant been issued, an initial court appearance shall occur within ten business days of the court's issuance of a notice to appear. If the court has reasonable cause to believe that such person has violated a condition of the sentence, it may commit such person to the custody of the sheriff, ~~[fix bail,]~~ release such person under non-monetary conditions or release such person on such person's own recognizance for future appearance at a hearing to be held in accordance with section 410.70 of this article. If the court does not have reasonable cause to believe that such person has violated a condition of the sentence, it must direct that such person be released.

§ 14. Subdivision 1 of section 410.70 of the criminal procedure law, as amended by chapter 17 of the laws of 2014, is amended to read as follows:

1. In general. The court may not revoke a sentence of probation or a sentence of conditional discharge, or extend a period of probation, unless (a) the court has found that the defendant has violated a condition of the sentence and (b) the defendant has had an opportunity to be heard pursuant to this section. The defendant is entitled to a hearing in accordance with this section promptly after the court has filed a declaration of delinquency or has committed ~~[him or has fixed bail]~~ such defendant pursuant to this article.

§ 15. Paragraph (e) of subdivision 1 of section 420.10 of the criminal procedure law is REPEALED.

§ 16. Subdivisions 1 and 6 of section 460.50 of the criminal procedure law, subdivision 1 as amended by chapter 884 of the laws of 1971, subdivision 6 as added by chapter 168 of the laws of 1981, are amended to read as follows:

1. Upon application of a defendant who has taken an appeal to an intermediate appellate court from a judgment or from a sentence of a criminal court, a judge designated in subdivision two of this section may issue an order both (a) staying or suspending the execution of the judgment pending the determination of the appeal, and (b) ~~[either]~~ releasing the defendant on ~~[his]~~ such defendant's own recognizance or ~~[fixing bail]~~ under non-monetary conditions pursuant to the provisions of article five hundred thirty of this chapter. That phase of the order staying or suspending execution of the judgment does not become effective unless and until the defendant is released~~[, either on his own recognizance or upon the posting of bail]~~.

6. Upon application of a defendant who has been granted a certificate granting leave to appeal pursuant to section 460.15 of this chapter, and in accordance with the procedures set forth in subdivisions three, four

1 and five of this section, the intermediate appellate court may issue an
2 order both (a) staying or suspending the execution of the judgment pend-
3 ing the determination of the appeal, and (b) ~~[either]~~ releasing the
4 defendant on ~~[his]~~ such defendant's own recognizance or ~~[fixing bail]~~
5 under non-monetary conditions pursuant to the provisions of article five
6 hundred thirty of this chapter. That phase of the order staying or
7 suspending execution of the judgment does not become effective unless
8 and until the defendant is released~~[, either on his own recognizance or~~
9 ~~upon the posting of bail]~~.

10 § 17. Subdivision 1 of section 460.60 of the criminal procedure law,
11 as amended by chapter 168 of the laws of 1981, is amended to read as
12 follows:

13 1. (a) A judge who, pursuant to section 460.20 of this ~~[chapter]~~ arti-
14 cle, has received an application for a certificate granting a defendant
15 leave to appeal to the court of appeals from an order of an intermediate
16 appellate court affirming or modifying a judgment including a sentence
17 of imprisonment, a sentence of imprisonment, or an order appealed pursu-
18 ant to section 450.15 of this ~~[chapter]~~ title, of a criminal court, may,
19 upon application of such defendant-appellant issue an order both (i)
20 staying or suspending the execution of the judgment pending the determi-
21 nation of the application for leave to appeal, and, if that application
22 is granted, staying or suspending the execution of the judgment pending
23 the determination of the appeal, and (ii) either releasing the defend-
24 ant on ~~[his]~~ such defendant's own recognizance or ~~[continuing bail as~~
25 ~~previously determined or fixing bail]~~ under non-monetary conditions
26 pursuant to the provisions of article five hundred thirty of this chap-
27 ter. Such an order is effective immediately and that phase of the order
28 staying or suspending execution of the judgment does not become effec-
29 tive unless and until the defendant is released~~[, either on his own~~
30 ~~recognizance or upon the posting of bail]~~.

31 (b) If the application for leave to appeal is denied, the stay or
32 suspension pending the application automatically terminates upon the
33 signing of the certificate denying leave. Upon such termination, the
34 certificate denying leave must be sent to the criminal court in which
35 the original judgment was entered, and the latter must proceed in the
36 manner provided in subdivision five of section 460.50 of this ~~[chapter]~~
37 article.

38 § 18. Section 470.45 of the criminal procedure law is amended to read
39 as follows:

40 § 470.45 Remission of case by appellate court to criminal court upon
41 reversal or modification of judgment; action by criminal
42 court.

43 Upon reversing or modifying a judgment and directing corrective
44 action, an appellate court must remit the case to the criminal court in
45 which the judgment was entered. Such criminal court must execute the
46 direction of the appellate court and must, depending upon the nature of
47 such direction, either discharge the defendant from custody~~[, exonerate~~
48 ~~his bail]~~ or issue a securing order.

49 § 19. The article heading of article 500 of the criminal procedure law
50 is amended to read as follows:

51 RECOGNIZANCE~~[, BAIL]~~ AND
52 COMMITMENT--DEFINITIONS OF TERMS

53 § 20. Section 500.10 of the criminal procedure law, subdivisions 1, 2,
54 4, 6, 7 and 9 as amended by section 1-e and subdivisions 21 and 22 as
55 added by section 1-f of part JJJ of chapter 59 of the laws of 2019,
56 subdivision 3-a as amended and subdivision 3-b as added by section 1 of

part UU of chapter 56 of the laws of 2020, the opening paragraph and paragraphs (d) and (f) of subdivision 3-a and subdivision 5 as amended by section 1 of subpart A of part VV of chapter 56 of the laws of 2023, subdivision 3-c as added by section 1 of subpart F of part UU of chapter 56 of the laws of 2022, subdivision 16 as further amended by section 104 of part A of chapter 62 of the laws of 2011, paragraph (b) of subdivision 17 as amended by chapter 305 of the laws of 2011, is amended to read as follows:

§ 500.10 Recognizance[~~, bail~~] and commitment; definitions of terms.

As used in this title, and in this chapter generally, the following terms have the following meanings:

1. "Principal" means a defendant in a criminal action or proceeding, or a person adjudged a material witness therein, or any other person so involved therein that the principal may by law be compelled to appear before a court for the purpose of having such court exercise control over the principal's person to secure the principal's future attendance at the action or proceeding when required, and who in fact either is before the court for such purpose or has been before it and been subjected to such control.

2. "Release on own recognizance." A court releases a principal on the principal's own recognizance when, having acquired control over the principal's person, it permits the principal to be at liberty during the pendency of the criminal action or proceeding involved upon condition that the principal will appear thereat whenever the principal's attendance may be required and will at all times render the principal amenable to the orders and processes of the court.

~~3. ["Fix bail." A court fixes bail when, having acquired control over the person of a principal, it designates a sum of money and stipulates that, if bail in such amount is posted on behalf of the principal and approved, it will permit him to be at liberty during the pendency of the criminal action or proceeding involved.]~~

~~3-a.]~~ "Release under non-monetary conditions." A court releases a principal under non-monetary conditions when, having acquired control over a person, it authorizes the person to be at liberty during the pendency of the criminal action or proceeding involved under conditions ordered by the court. The conditions ordered shall reflect the findings of the individualized determination warranting such imposition of non-monetary conditions to reasonably assure the principal's return to court and reasonably assure the principal's compliance with court conditions. A principal shall not be required to pay for any part of the cost of release on non-monetary conditions. Such conditions may include, among other conditions reasonable under the circumstances:

(a) that the principal be in contact with a pretrial services agency serving principals in that county;

(b) that the principal abide by reasonable, specified restrictions on travel that are reasonably related to an actual risk of flight from the jurisdiction, or that the principal surrender [~~his or her~~] such principal's passport;

(c) that the principal refrain from possessing a firearm, destructive device or other dangerous weapon;

(d) that, upon a finding in accordance with subdivision four of section 510.45 of this title, the person be placed in reasonable pretrial supervision with a pretrial services agency serving principals in that county[~~, provided, however that where non-monetary conditions are imposed in combination with a securing order also fixing bail, the court shall not be required to make such separate finding~~];

(e) that the principal refrain from associating with certain persons who are connected with the instant charge, including, when appropriate, specified victims, witnesses, or co-defendants;

(f) that the principal be referred to a pretrial services agency for placement in mandatory programming, including counseling, treatment, including but not limited to mental health and chemical dependence treatment, and intimate partner violence intervention programs. Where applicable, the court may refer the principal to a crisis stabilization center or direct that the principal be removed to a hospital pursuant to section 9.43 of the mental hygiene law;

(g) that the principal make diligent efforts to maintain employment, housing, or enrollment in school or educational programming;

(h) that the principal obey an order of protection issued by the court, including an order issued pursuant to section 530.11 of this title;

(i) that the principal obey conditions set by the court addressed to the safety of a victim of a family offense as defined in section 530.11 of this title including conditions that may be requested by or on behalf of the victim; and

(j) that, when it is shown pursuant to paragraph (a) of subdivision four of section 510.40 of this title that no other realistic non-monetary condition or set of non-monetary conditions will suffice to reasonably assure the principal's return to court, the principal's location be monitored with an approved electronic monitoring device, in accordance with such subdivision four of section 510.40 of this title.

~~[3-b-]~~ 4. Subdivision ~~[three-a]~~ three of this section presents a non-exclusive list of conditions that may be considered and imposed by law, singularly or in combination, when reasonable under the circumstances of the defendant, the case, and the situation of the defendant. The court need not necessarily order one or more specific conditions first before ordering one or more or additional conditions.

~~[3-e-]~~ 5. (a) "Release for mental health assessment and evaluation." When a principal appearing before the court appears, by clear and convincing evidence, to be mentally ill at the present moment such that if left unattended their conduct may result in harm to ~~[himself or herself]~~ themselves or others, the court may: order as a condition of release under supervision that the principal seek a voluntary psychiatric assessment under section 9.13 of the mental hygiene law if the principal has a recently documented history of mental illness or psychiatric hospitalization, and the defense consents to the assessment.

(b) "Involuntary assessment pending release." When a principal appearing before the court appears, by clear and convincing evidence, to be mentally ill at the present moment such that if left unattended their conduct may result in immediate serious harm to ~~[himself or herself]~~ themselves or others, the court may order as a condition of release under supervision that the principal be taken by an entity, including but not limited to, pretrial services agencies, or another qualified provider, to a local hospital for immediate psychiatric assessment involuntarily under section 9.43 of the mental hygiene law if the principal is conducting ~~[himself or herself]~~ themselves before the court, in such a manner which in a person who is not mentally ill would be deemed disorderly conduct which is likely to result in immediate serious harm to ~~[himself or herself]~~ themselves or others. The court is also authorized to request peace officers, when acting pursuant to their special duties, or police officers, who are members of an authorized police department or force or of a sheriff's department, to take into custody and transport

1 such person to a hospital for determination by the director of community
2 services when such person qualifies for admission pursuant to this
3 section. The court may authorize an ambulance service, as defined by
4 subdivision two of section three thousand one of the public health law,
5 to transport such person to any hospital specified in subdivision (a) of
6 section 9.39 of the mental hygiene law or any comprehensive psychiatric
7 emergency program specified in subdivision (a) of section 9.40 of the
8 mental hygiene law, that is willing to receive such person. Upon
9 removal, there shall be a determination made by the director of such
10 hospital or program whether such person should be retained therein
11 pursuant to section 9.39 of the mental hygiene law. If the principal is
12 hospitalized, at the time of release the hospital shall complete a
13 discharge plan with linkages to community-based mental health treatment,
14 including services that are provided after the individual has stabi-
15 lized, if applicable and other community-based services as may be deemed
16 necessary and appropriate and notify pretrial services agencies and the
17 defense counsel of the person's discharge. Pretrial services agencies
18 are responsible for ensuring continuity of care for the principal in the
19 community.

20 (c) "Pretrial services." Pretrial services agencies shall be required,
21 upon the request of the court to provide a summary of the assessment,
22 limited to necessary and relevant information relating to the princi-
23 pal's completion of an assessment and evaluation, placement, treatment,
24 and discharge from the hospital solely for the purpose of ensuring
25 compliance with the conditions of release and in accordance with any
26 applicable state and federal confidentiality laws. Conditions of release
27 may not be revoked solely based on noncompliance with treatment.

28 (d) "Confidential." Any clinical record produced as a part of the
29 assessment, services or treatment plans required pursuant to this subdi-
30 vision shall be considered confidential and shall not be considered part
31 of the public record, and access to such records shall be limited in
32 accordance with applicable federal and state privacy laws. Such informa-
33 tion shall not be used as part of the criminal proceeding and shall be
34 expunged upon the resolution of the case.

35 (e) "Referral." Courts shall refer the principal, where appropriate,
36 to a judicial diversion program as defined in section 216.00 of this
37 chapter or to any other appropriate treatment court.

38 ~~[4-]~~ 6. "Commit to the custody of the sheriff." A court commits a
39 principal to the custody of the sheriff when, having acquired control
40 over the principal's person, it orders that the principal be confined in
41 the custody of the sheriff during the pendency of the criminal action or
42 proceeding involved.

43 ~~[5-]~~ 7. "Securing order" means an order of a court committing a prin-
44 cipal to the custody of the sheriff ~~[or fixing bail, where authorized,]~~
45 or releasing the principal on the principal's own recognizance or
46 releasing the principal under non-monetary conditions.

47 ~~[6-]~~ 8. "Order of recognizance or ~~[bail]~~ non-monetary conditions"
48 means a securing order releasing a principal on the principal's own
49 recognizance or under non-monetary conditions ~~[or, where authorized,~~
50 ~~fixing bail]~~.

51 ~~[7-]~~ 9. "Application for recognizance or ~~[bail]~~ non-monetary condi-
52 tions" means an application by a principal that the court, instead of
53 committing the principal to or retaining the principal in the custody of
54 the sheriff, either release the principal on the principal's own recog-
55 nizance, or release under non-monetary conditions ~~[, or, where author-~~
56 ~~ized, fix bail]~~.

~~1 [8. "Post bail" means to deposit bail in the amount and form fixed by~~
~~2 the court, with the court or with some other authorized public servant~~
~~3 or agency.~~

~~4 9. "Bail" means cash bail, a bail bond or money paid with a credit~~
~~5 card.~~

~~6 10. "Cash bail" means a sum of money, in the amount designated in an~~
~~7 order fixing bail, posted by a principal or by another person on his~~
~~8 behalf with a court or other authorized public servant or agency, upon~~
~~9 the condition that such money will become forfeit to the people of the~~
~~10 state of New York if the principal does not comply with the directions~~
~~11 of a court requiring his attendance at the criminal action or proceeding~~
~~12 involved or does not otherwise render himself amenable to the orders and~~
~~13 processes of the court.~~

~~14 11. "Obligor" means a person who executes a bail bond on behalf of a~~
~~15 principal and thereby assumes the undertaking described therein. The~~
~~16 principal himself may be an obligor.~~

~~17 12. "Surety" means an obligor who is not a principal.~~

~~18 13. "Bail bond" means a written undertaking, executed by one or more~~
~~19 obligors, that the principal designated in such instrument will, while~~
~~20 at liberty as a result of an order fixing bail and of the posting of the~~
~~21 bail bond in satisfaction thereof, appear in a designated criminal~~
~~22 action or proceeding when his attendance is required and otherwise~~
~~23 render himself amenable to the orders and processes of the court, and~~
~~24 that in the event that he fails to do so the obligor or obligors will~~
~~25 pay to the people of the state of New York a specified sum of money, in~~
~~26 the amount designated in the order fixing bail.~~

~~27 14. "Appearance bond" means a bail bond in which the only obligor is~~
~~28 the principal.~~

~~29 15. "Surety bond" means a bail bond in which the obligor or obligors~~
~~30 consist of one or more sureties or of one or more sureties and the prin-~~
~~31 cipal.~~

~~32 16. "Insurance company bail bond" means a surety bond, executed in the~~
~~33 form prescribed by the superintendent of financial services, in which~~
~~34 the surety-obligor is a corporation licensed by the superintendent of~~
~~35 financial services to engage in the business of executing bail bonds.~~

~~36 17. "Secured bail bond" means a bail bond secured by either:~~

~~37 (a) Personal property which is not exempt from execution and which,~~
~~38 over and above all liabilities and encumbrances, has a value equal to or~~
~~39 greater than the total amount of the undertaking; or~~

~~40 (b) Real property having a value of at least twice the total amount of~~
~~41 the undertaking. For purposes of this paragraph, value of real property~~
~~42 is determined by either:~~

~~43 (i) dividing the last assessed value of such property by the last~~
~~44 given equalization rate or in a special assessing unit, as defined in~~
~~45 article eighteen of the real property tax law, the appropriate class~~
~~46 ratio established pursuant to section twelve hundred two of such law of~~
~~47 the assessing municipality wherein the property is situated and by~~
~~48 deducting from the resulting figure the total amount of any liens or~~
~~49 other encumbrances upon such property; or~~

~~50 (ii) the value of the property as indicated in a certified appraisal~~
~~51 report submitted by a state certified general real estate appraiser duly~~
~~52 licensed by the department of state as provided in section one hundred~~
~~53 sixty-j of the executive law, and by deducting from the appraised value~~
~~54 the total amount of any liens or other encumbrances upon such property.~~
~~55 A lien report issued by a title insurance company licensed under article~~
~~56 sixty-four of the insurance law, that guarantees the correctness of a~~

~~lien search conducted by it, shall be presumptive proof of liens upon the property.~~

~~18. "Partially secured bail bond" means a bail bond secured only by a deposit of a sum of money not exceeding ten percent of the total amount of the undertaking.~~

~~19. "Unsecured bail bond" means a bail bond, other than an insurance company bail bond, not secured by any deposit of or lien upon property.~~

~~20.] 10.~~ "Court" includes, where appropriate, a judge authorized to act as described in a particular statute, though not as a court.

~~21.] 11.~~ "Qualifies for electronic monitoring," for purposes of subdivision four of section 510.40 of this title, means a person charged with a felony, a misdemeanor crime of domestic violence, a misdemeanor defined in article one hundred thirty of the penal law, a crime and the circumstances of paragraph (b) of subdivision two of section 530.60 of this title apply, or any crime where such conduct arose while the principal was released on such principal's own recognizance, released under conditions or had yet to be arraigned after the issuance of a desk appearance ticket for a separate offense, or any misdemeanor where the defendant stands previously convicted, within the past ~~[five]~~ ten years, of ~~[a violent felony offense as defined in section 70.02 of the penal law]~~ any crime. For the purposes of this subdivision, in calculating such ~~[five]~~ ten year period, any period of time during which the defendant was incarcerated for any reason between the time of the commission of any such previous crime and the time of commission of the present crime shall be excluded and such ~~[five]~~ ten year period shall be extended by a period or periods equal to the time served under such incarceration.

~~22.] 12.~~ "Misdemeanor crime of domestic violence," for purposes of subdivision ~~[twenty-one]~~ eleven of this section, means a misdemeanor under the penal law provisions and circumstances described in subdivision one of section 530.11 of this title.

§ 21. The article heading of article 510 of the criminal procedure law is amended to read as follows:

RECOGNIZANCE~~[,-BAIL]~~ AND COMMITMENT--
DETERMINATION OF APPLICATION FOR RECOGNIZANCE
~~[OR-BAIL]~~, ISSUANCE OF SECURING ORDERS, AND
RELATED MATTERS

§ 22. Section 510.10 of the criminal procedure law, as amended by section 2 of part JJJ of chapter 59 of the laws of 2019, the opening paragraph as added and the opening paragraph of subdivision 1, subdivision 3, and the opening paragraph of subdivision 4 as amended by section 2 of subpart A of part VV of chapter 56 of the laws of 2023, subdivision 1 as amended by section 1 of subpart C of part UU of chapter 56 of the laws of 2022, subdivision 4 as amended by section 2 of part UU of chapter 56 of the laws of 2020, paragraphs (s) and (t) of subdivision 4 as amended and paragraph (u) of subdivision 4 as added by section 2 of subpart B of part UU of chapter 56 of the laws of 2022, is amended to read as follows:

§ 510.10 Securing order; when required; alternatives available; standard to be applied.

The imposition of a specific type of securing order is in some cases required by law and in other cases within the discretion of the court in accordance with the principles of, and pursuant to its authority granted under, this title.

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

1 court, such court shall impose a securing order in accordance with this
2 title. Except as otherwise required by law, the court shall make an
3 individualized determination as to whether the principal poses a risk of
4 flight to avoid prosecution~~[,]~~ or whether the principal poses a danger
5 to themselves, another person, or the community as a whole. In making
6 such determination, the court shall consider the kind and degree of
7 control or restriction necessary to reasonably assure the principal's
8 return to court and to prevent the principal from harming themselves or
9 others, and select a securing order consistent with its determination
10 under this subdivision. The court shall explain the basis for its deter-
11 mination and its choice of securing order on the record or in writing.
12 In making a determination under this subdivision, the court must consid-
13 er and take into account available information about the principal,
14 including:

15 (a) The principal's character, reputation, habits, mental condition,
16 activities and history;

17 (b) If the principal is a defendant, the charges facing the principal
18 and the weight of the evidence against such principal in the pending
19 criminal action and any other factor indicating the probability or
20 improbability of conviction;

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

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

26 (e) The principal's previous record in complying with court orders,
27 including orders to appear when required, or with respect to flight to
28 avoid criminal prosecution;

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

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

36 ~~(h)]~~ ~~(g)~~ The principal's history of use or possession of a firearm;

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

39 ~~(j)]~~ ~~(i)~~ If the principal is a defendant, in the case of an applica-
40 tion for a securing order pending appeal, the merit or lack of merit of
41 the appeal.

42 2. A principal is entitled to representation by counsel under this
43 chapter in preparing an application for release, when a securing order
44 is being considered and when a securing order is being reviewed for
45 modification, revocation or termination. If the principal is financially
46 unable to obtain counsel, counsel shall be assigned to the principal.

47 3. In cases other than as described in subdivision four or five of
48 this section, the court shall release the principal pending trial on the
49 principal's own recognizance, unless the court finds on the record or in
50 writing that release on the principal's own recognizance will not
51 reasonably assure the principal's return to court. In such instances,
52 the court shall release the principal under non-monetary conditions as
53 provided for in subdivision three-a of section 500.10 of this title that
54 will reasonably assure the principal's return to court. The court shall
55 explain its choice of securing order on the record or in writing.

4. Where the principal stands charged with a ~~[qualifying offense]~~
felony, except a class E felony under title J or K of the penal law, or
a qualifying misdemeanor, or where the court has found that committing
the principal to the custody of the sheriff is warranted under subdivi-
sion five of this section, the court, unless otherwise prohibited by
law, may in its discretion 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 sher-
iff. A principal stands charged with a qualifying ~~[offense]~~ misdemeanor
for the purposes of this subdivision when ~~[he or she]~~ such principal
stands charged with:

(a) ~~[a felony enumerated in section 70.02 of the penal law, other than~~
~~robbery in the second degree as defined in subdivision one of section~~
~~160.10 of the penal law, provided, however, that burglary in the second~~
~~degree as defined in subdivision two of section 140.25 of the penal law~~
~~shall be a qualifying offense only where the defendant is charged with~~
~~entering the living area of the dwelling;~~

~~(b) a crime involving witness intimidation under section 215.15 of the~~
~~penal law;~~

~~(c) a crime involving witness tampering under section 215.11, 215.12~~
~~or 215.13 of the penal law;~~

~~(d) a class A felony defined in the penal law, provided that for class~~
~~A felonies under article two hundred twenty of the penal law, only class~~
~~A-I felonies shall be a qualifying offense;~~

~~(e) a sex trafficking offense defined in section 230.34 or 230.34 a of~~
~~the penal law, or a felony sex offense defined in section 70.80 of the~~
~~penal law, or a crime involving incest as defined in section 255.25,~~
~~255.26 or 255.27 of such law, or a misdemeanor defined in article one~~
~~hundred thirty of such law;~~

~~(f) conspiracy in the second degree as defined in section 105.15 of~~
~~the penal law, where the underlying allegation of such charge is that~~
~~the defendant conspired to commit a class A felony defined in article~~
~~one hundred twenty-five of the penal law;~~

~~(g) money laundering in support of terrorism in the first degree as~~
~~defined in section 470.24 of the penal law; money laundering in support~~
~~of terrorism in the second degree as defined in section 470.23 of the~~
~~penal law; money laundering in support of terrorism in the third degree~~
~~as defined in section 470.22 of the penal law; money laundering in~~
~~support of terrorism in the fourth degree as defined in section 470.21~~
~~of the penal law; or a felony crime of terrorism as defined in article~~
~~four hundred ninety of the penal law, other than the crime defined in~~
~~section 490.20 of such law;~~

~~(h) criminal contempt in the second degree as defined in subdivision~~
~~three of section 215.50 of the penal law, criminal contempt in the first~~
~~degree as defined in subdivision (b), (c) or (d) of section 215.51 of~~
~~the penal law or aggravated criminal contempt as defined in section~~
~~215.52 of the penal law, and the underlying allegation of such charge of~~
~~criminal contempt in the second degree, criminal contempt in the first~~
~~degree or aggravated criminal contempt is that the defendant violated a~~
~~duly served order of protection where the protected party is a member of~~
~~the defendant's same family or household as defined in subdivision one~~
~~of section 530.11 of this title;~~

~~(i) facilitating a sexual performance by a child with a controlled~~
~~substance or alcohol as defined in section 263.30 of the penal law, use~~

~~of a child in a sexual performance as defined in section 263.05 of the penal law or luring a child as defined in subdivision one of section 120.70 of the penal law, promoting an obscene sexual performance by a child as defined in section 263.10 of the penal law or promoting a sexual performance by a child as defined in section 263.15 of the penal law;~~

~~(j) any crime that is alleged to have caused the death of another person;~~

~~(k) criminal obstruction of breathing or blood circulation as defined in section 121.11 of the penal law, strangulation in the second degree as defined in section 121.12 of the penal law or unlawful imprisonment in the first degree as defined in section 135.10 of the penal law, and is alleged to have committed the offense against a member of the defendant's same family or household as defined in subdivision one of section 530.11 of this title;~~

~~(l) aggravated vehicular assault as defined in section 120.04-a of the penal law or vehicular assault in the first degree as defined in section 120.04 of the penal law;~~

~~(m) assault in the third degree as defined in section 120.00 of the penal law or arson in the third degree as defined in section 150.10 of the penal law, when such crime is charged as a hate crime as defined in section 485.05 of the penal law;~~

~~(n) aggravated assault upon a person less than eleven years old as defined in section 120.12 of the penal law or criminal possession of a weapon on school grounds as defined in section 265.01-a of the penal law;~~

~~(o) grand larceny in the first degree as defined in section 155.42 of the penal law, enterprise corruption as defined in section 460.20 of the penal law, or money laundering in the first degree as defined in section 470.20 of the penal law;~~

~~(p) failure to register as a sex offender pursuant to section one hundred sixty-eight t of the correction law or endangering the welfare of a child as defined in subdivision one of section 260.10 of the penal law, where the defendant is required to maintain registration under article six-C of the correction law and designated a level three offender pursuant to subdivision six of section one hundred sixty-eight-l of the correction law;~~

~~(q) a crime involving bail jumping under section 215.55, 215.56 or 215.57 of the penal law, or a crime involving escaping from custody under section 205.05, 205.10 or 205.15 of the penal law;~~

~~(r) any felony offense committed by the principal while serving a sentence of probation or while released to post release supervision;~~

~~(s) a felony, where the defendant qualifies for sentencing on such charge as a persistent felony offender pursuant to section 70.10 of the penal law;~~

~~(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 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 quali-~~

~~1 flying offense as defined in this subdivision. For the purposes of this~~
~~2 paragraph, "harm to an identifiable person or property" shall include~~
~~3 but not be limited to theft of or damage to property. However, based~~
~~4 upon a review of the facts alleged in the accusatory instrument, if the~~
~~5 court determines that such theft is negligible and does not appear to be~~
~~6 in furtherance of other criminal activity, the principal shall be~~
~~7 released on his or her own recognizance or under appropriate non-mone-~~
~~8 tary conditions; or~~

~~9 (u) criminal possession of a weapon in the third degree as defined in~~
~~10 subdivision three of section 265.02 of the penal law or criminal sale of~~
~~11 a firearm to a minor as defined in section 265.16 of the penal law]~~
12 witness tampering in the fourth degree as defined in section 215.10 of
13 the penal law;

14 (b) a misdemeanor under article one hundred thirty of the penal law;

15 (c) conspiracy in the fifth degree as defined in section 105.05 of the
16 penal law where the underlying allegations of such charge is that the
17 defendant conspired to commit a felony or misdemeanor that otherwise
18 qualifies for bail;

19 (d) criminal contempt in the second degree as defined in subdivision
20 three of section 215.50 of the penal law;

21 (e) a specified offense enumerated in subdivision two of section
22 240.75 of the penal law where such offense is alleged to have been
23 committed against a member of the defendant's same family or household
24 as defined in subdivision one of section 530.11 of this title;

25 (f) any misdemeanor when such crime is charged as a hate crime as
26 defined in section 485.05 of the penal law;

27 (g) bail jumping in the third degree as defined in section 215.55 of
28 the penal law;

29 (h) escape in the third degree as defined in section 205.05 of the
30 penal law;

31 (i) any misdemeanor involving intentionally causing harm to another
32 person or an animal;

33 (j) any misdemeanor involving the use and possession of a firearm,
34 shotgun or rifle;

35 (k) any class A misdemeanor where such charge arose from conduct while
36 the defendant was released on such defendant's own recognizance,
37 released under conditions or had yet to be arraigned after the issuance
38 of a desk appearance ticket for a separate offense;

39 (l) any other offense that the division of criminal justice services
40 has identified pursuant to article fifty of the executive law.

~~41 5. [Notwithstanding the provisions of subdivisions three and four of~~
~~42 this section, with respect to any charge for which bail or remand is not~~
~~43 ordered, and for which the court would not or could not otherwise~~
~~44 require bail or remand, a defendant may, at any time, request that the~~
~~45 court set bail in a nominal amount requested by the defendant in the~~
~~46 form specified in paragraph (a) of subdivision one of section 520.10 of~~
~~47 this title; if the court is satisfied that the request is voluntary, the~~
~~48 court shall set such bail in such amount]~~ Where a defendant is charged
49 with an offense that does not qualify for pretrial detention under
50 subdivision four of this section, the court may commit the principal to
51 the custody of the sheriff if the court makes an individualized determi-
52 nation that the principal poses a substantial risk of harm to them-
53 selves, others or the community as a whole, or where the court deter-
54 mines that the defendant has an established history of disobeying
55 directives of the court.

(a) The court may consider the following factors when determining whether a principal poses a risk of harm:

(i) the nature of the principal's prior convictions, including whether the principal has been convicted of any violent felonies listed in section 70.02 of the penal law;

(ii) the principal's access to weapons;

(iii) whether the principal has any association with a criminal street gang, as defined in section 10-170 of the administrative code of the city of New York or a criminal enterprise, as defined in section 460.10 of the penal law; and

(iv) any history of threats or intimidation to witnesses in prior criminal proceedings.

(b) The court may consider the following factors when determining whether a principal has an established history of disobeying directives of the court:

(i) any history of bench warrants failures to appear;

(ii) previous violation of orders of protection;

(iii) any history of rearrests while other charges are pending; and

(iv) any history of witness intimidation or tampering.

6. When a securing order is revoked or otherwise terminated in the course of an uncompleted action or proceeding but the principal's future court attendance still is or may be required and the principal is still under the control of a court, a new securing order must be issued. When the court revokes or otherwise terminates a securing order which committed the principal to the custody of the sheriff, the court shall give written notification to the sheriff of such revocation or termination of the securing order.

§ 23. Section 510.20 of the criminal procedure law, as amended by section 3 of part JJJ of chapter 59 of the laws of 2019, subdivision 1 and paragraph (b) of subdivision 2 as amended and subdivision 3 as added by section 3 of subpart A of part VV of chapter 56 of the laws of 2023, is amended to read as follows:

§ 510.20 Application for a change in securing order.

1. Upon any occasion when a court has issued a securing order with respect to a principal and the principal is confined in the custody of the sheriff as a result of the securing order or a previously issued securing order, the principal may make an application for recognizance[~~7~~] or release under non-monetary conditions[~~7, bail, a reduction of bail, or imposition of non-monetary conditions in conjunction with bail or a reduction of bail~~].

2. (a) The principal is entitled to representation by counsel in the making and presentation of such application. If the principal is financially unable to obtain counsel, counsel shall be assigned to the principal.

(b) Upon such application, the principal must be accorded an opportunity to be heard, present evidence and to contend that an order of recognizance[~~7~~] or release under non-monetary conditions [~~or, where authorized, bail, a reduction of bail, or imposition of non-monetary conditions in conjunction with bail or a reduction of bail,~~] must or should issue, and that the court should release the principal on the principal's own recognizance or under non-monetary conditions [~~rather than fix bail, or where bail has been imposed, reduce the amount of bail and impose non-monetary conditions, where authorized under this title, and that if bail is authorized and fixed it should be in a suggested amount and form~~].

3. When an application for a change in securing order is brought under this section and one or more of the charge or charges on which such securing order was based have been dismissed and/or reduced such that the securing order is no longer supported by the provisions of section 510.10 of this article, the court shall impose a new securing order in accordance with such section.

§ 24. Section 510.40 of the criminal procedure law, as amended by section 6 of part JJJ of chapter 59 of the laws of 2019, subdivision 3 and paragraph (b) of subdivision 4 as amended by section 5 of subpart A of part VV of chapter 56 of the laws of 2023, paragraph (c) of subdivision 4 as amended by section 7 of part UU of chapter 56 of the laws of 2020, is amended to read as follows:

§ 510.40 Court notification to principal of conditions of release and of alleged violations of conditions of release.

1. Upon ordering that a principal be released on the principal's own recognizance~~[,]~~ or released under non-monetary conditions, ~~[or, if bail has been fixed, upon the posting of bail,]~~ the court must direct the principal to appear in the criminal action or proceeding involved whenever the principal's attendance may be required and to be at all times amenable to the orders and processes of the court. If such principal is in the custody of the sheriff ~~[or at liberty upon bail]~~ at the time of the order, the court must direct that the principal be discharged from such ~~[custody or, as the case may be, that the principal's bail be exonerated]~~.

2. ~~[Upon the issuance of an order fixing bail, where authorized, and upon the posting thereof, the court must examine the bail to determine whether it complies with the order. If it does, the court must, in the absence of some factor or circumstance which in law requires or authorizes disapproval thereof, approve the bail and must issue a certificate of release, authorizing the principal to be at liberty, and, if the principal is in the custody of the sheriff at the time, directing the sheriff to discharge the principal therefrom. If the bail fixed is not posted, or is not approved after being posted, the court must order that the principal be committed to the custody of the sheriff. In the event of any such non-approval, the court shall explain promptly in writing the reasons therefor.]~~

~~3-]~~ Non-monetary conditions of release shall be individualized and established in writing by the court. At future court appearances, the court shall consider a lessening of conditions or modification of conditions to a less burdensome form based on the principal's compliance with such conditions of release. In the event of alleged non-compliance with the conditions of release in an important respect, pursuant to this subdivision, additional conditions may be imposed by the court, on the record or in writing, only after notice of the facts and circumstances of such alleged non-compliance, reasonable under the circumstances, affording the principal and the principal's attorney and the people an opportunity to present relevant, admissible evidence, relevant witnesses and to cross-examine witnesses, and a finding by clear and convincing evidence that the principal violated a condition of release in an important respect. Following such a finding, in determining whether to impose additional conditions for non-compliance, the court shall consider and may select conditions as provided for in subdivision three-a of section 500.10 of this title that will reasonably assure the defendant's return to court. The court shall explain on the record or in writing the reasons for its determination and for any changes to the conditions imposed.

1 ~~[4-]~~ 3. (a) Electronic monitoring of a principal's location may be
2 ordered only if the court finds, after notice, an opportunity to be
3 heard and an individualized determination explained on the record or in
4 writing, that the defendant qualifies for electronic monitoring in
5 accordance with subdivision ~~[twenty-one]~~ eleven of section 500.10 of
6 this title, and no other realistic non-monetary condition or set of
7 non-monetary conditions will suffice to reasonably assure a principal's
8 return to court.

9 (b) The specific method of electronic monitoring of the principal's
10 location must be approved by the court. The procedure and method of such
11 electronic monitoring shall reflect the findings of the individualized
12 determination warranting such imposition of electronic monitoring to
13 reasonably assure the principal's return to court~~[, and shall be unob-~~
14 ~~trusive to the greatest extent practicable]~~ or mitigate the risk of
15 danger to the principal, another person or the community.

16 (c) Electronic monitoring of the location of a principal may be
17 conducted only by a public entity under the supervision and control of a
18 county or municipality or a non-profit entity under contract to the
19 county, municipality or the state. A county or municipality shall be
20 authorized to enter into a contract with another county or municipality
21 in the state to monitor principals under non-monetary conditions of
22 release in its county, but counties, municipalities and the state shall
23 not contract with any private for-profit entity for such purposes.
24 Counties, municipalities and the state may contract with a private for-
25 profit entity to supply electronic monitoring devices or other items,
26 provided that any interaction with persons under electronic monitoring
27 or the data produced by such monitoring shall be conducted solely by
28 employees of a county, municipality, the state, or a non-profit entity
29 under contract with such county, municipality or the state.

30 ~~[(d) Electronic monitoring of a principal's location may be for a~~
31 ~~maximum period of sixty days, and may be renewed for such period, after~~
32 ~~notice, an opportunity to be heard and a de novo, individualized deter-~~
33 ~~mination in accordance with this subdivision, which shall be explained~~
34 ~~on the record or in writing.~~

35 ~~A defendant subject to electronic location monitoring under this~~
36 ~~subdivision shall be considered held or confined in custody for purposes~~
37 ~~of section 180.80 of this chapter and shall be considered committed to~~
38 ~~the custody of the sheriff for purposes of section 170.70 of the chap-~~
39 ~~ter, as applicable.]~~

40 ~~[5-]~~ 4. If a principal is released under non-monetary conditions, the
41 court shall, on the record and in an individualized written document
42 provided to the principal, notify the principal, in plain language and a
43 manner sufficiently clear and specific:

44 (a) of any conditions to which the principal is subject, to serve as a
45 guide for the principal's conduct; and

46 (b) that the possible consequences for violation of such a condition
47 may include revocation of the securing order and the ordering of a more
48 restrictive securing order.

49 § 25. Section 510.45 of the criminal procedure law, as added by
50 section 8 of part JJJ of chapter 59 of the laws of 2019, is amended to
51 read as follows:

52 § 510.45 Pretrial services agencies.

53 1. The office of court administration shall certify and regularly
54 review for recertification one or more pretrial services agencies in
55 each county to monitor principals released under non-monetary condi-
56 tions. Such office shall maintain a listing on its public website iden-

1 tifying by county each pretrial services agency so certified in the
2 state.

3 2. Every such agency shall be a public entity under the supervision
4 and control of a county or municipality or a non-profit entity under
5 contract to the county, municipality or the state. A county or munici-
6 pality shall be authorized to enter into a contract with another county
7 or municipality in the state to monitor principals under non-monetary
8 conditions of release in its county, but counties, municipalities and
9 the state shall not contract with any private for-profit entity for such
10 purposes.

11 3. (a) Any questionnaire, instrument or tool used with a principal in
12 the process of considering or determining the principal's possible
13 release on recognizance^[7] ~~or~~ release under non-monetary conditions ~~[or~~
14 ~~on bail,~~] or used with a principal in the process of considering or
15 determining a condition or conditions of release or monitoring by a
16 pretrial services agency, shall be promptly made available to the prin-
17 cipal and the principal's counsel upon written request. Any such blank
18 form questionnaire, instrument or tool regularly used in the county for
19 such purpose or a related purpose shall be made available to any person
20 promptly upon request.

21 (b) Any such questionnaire, instrument or tool used to inform determi-
22 nations on release or conditions of release shall be:

23 (i) designed and implemented in a way that ensures the results are
24 free from discrimination on the basis of race, national origin, sex, or
25 any other protected class; and

26 (ii) empirically validated and regularly revalidated, with such vali-
27 dation and revalidation studies and all underlying data, except personal
28 identifying information for any defendant, publicly available upon
29 request.

30 4. ~~[Supervision by a pre-trial services agency may be ordered as a~~
31 ~~non-monetary condition pursuant to this title only if the court finds,~~
32 ~~after notice, an opportunity to be heard and an individualized determi-~~
33 ~~nation explained on the record or in writing, that no other realistic~~
34 ~~non-monetary condition or set of non-monetary conditions will suffice to~~
35 ~~reasonably assure the principal's return to court.~~

36 ~~5.]~~ Each pretrial service agency certified by the office of court
37 administration pursuant to this section shall at the end of each year
38 prepare and file with such office an annual report, which the office
39 shall compile, publish on its website and make available upon request to
40 members of the public. Such reports shall not include any personal iden-
41 tifying information for any individual defendants. Each such report, in
42 addition to other relevant information, shall set forth, disaggregated
43 by each county served:

44 (a) the number of defendants supervised by the agency;

45 (b) the length of time (in months) each such person was supervised by
46 the agency prior to acquittal, dismissal, release on recognizance, revo-
47 cation of release on conditions, and sentencing;

48 (c) the race, ethnicity, age and sex of each person supervised;

49 (d) the crimes with which each person supervised was charged;

50 (e) the number of persons supervised for whom release conditions were
51 modified by the court, describing generally for each person or group of
52 persons the type and nature of the condition or conditions added or
53 removed;

54 (f) the number of persons supervised for whom release under conditions
55 was revoked by the court, and the basis for such revocations; and

(g) the court disposition in each supervised case, including sentencing information.

§ 26. Subdivision 1 of section 510.50 of the criminal procedure law, as amended by section 9 of part JJJ of chapter 59 of the laws of 2019, is amended to read as follows:

1. When the attendance of a principal confined in the custody of the sheriff is required at the criminal action or proceeding at a particular time and place, the court may compel such attendance by directing the sheriff to produce the principal at such time and place. If the principal is at liberty on the principal's own recognizance or non-monetary conditions ~~[or on bail]~~, the principal's attendance may be achieved or compelled by various methods, including notification and the issuance of a bench warrant, prescribed by law in provisions governing such matters with respect to the particular kind of action or proceeding involved.

§ 27. Article 520 of the criminal procedure law is REPEALED.

§ 28. The article heading of article 530 of the criminal procedure law is amended to read as follows:

~~[ORDERS OF RECOGNIZANCE OR BAIL]~~ SECURING ORDERS
WITH RESPECT TO DEFENDANTS IN CRIMINAL ACTIONS
AND PROCEEDINGS--WHEN AND BY WHAT
COURTS AUTHORIZED

§ 29. Section 530.10 of the criminal procedure law, as amended by section 11 of part JJJ of chapter 59 of the laws of 2019, is amended to read as follows:

§ 530.10 Order of recognizance release under non-monetary conditions ~~[or bail]~~; in general.

Under circumstances prescribed in this article, a court, upon application of a defendant charged with or convicted of an offense, is required to issue a securing order for such defendant during the pendency of either:

1. A criminal action based upon such charge; or
2. An appeal taken by the defendant from a judgment of conviction or a sentence or from an order of an intermediate appellate court affirming or modifying a judgment of conviction or a sentence.

§ 30. The opening paragraph of subdivision 1 and subdivisions 9 and 11 of section 530.12 of the criminal procedure law, the opening paragraph of subdivision 1 as amended by chapter 526 of the laws of 2013, subdivision 9 as amended by section 81 of subpart B of part C of chapter 62 of the laws of 2011, subdivision 11 as amended by section 15 of part JJJ of chapter 59 of the laws of 2019, are amended to read as follows:

When a criminal action is pending involving a complaint charging any crime or violation between spouses, former spouses, parent and child, or between members of the same family or household, as members of the same family or household are defined in subdivision one of section 530.11 of this article, the court, in addition to any other powers conferred upon it by this chapter may issue a temporary order of protection in conjunction with any securing order committing the defendant to the custody of the sheriff or as a condition of any order of recognizance or ~~[bail]~~ release under non-monetary conditions or an adjournment in contemplation of dismissal.

9. If no warrant, order or temporary order of protection has been issued by the court, and an act alleged to be a family offense as defined in section 530.11 of this ~~[chapter]~~ article is the basis of the arrest, the magistrate shall permit the complainant to file a petition, information or accusatory instrument and for reasonable cause shown, shall thereupon hold such respondent or defendant, admit to, ~~[fix or~~

1 ~~accept bail,~~ or parole [~~him or her~~] such respondent or defendant for
2 hearing before the family court or appropriate criminal court as the
3 complainant shall choose in accordance with the provisions of section
4 530.11 of this [~~chapter~~] article.

5 11. If a defendant is brought before the court for failure to obey any
6 lawful order issued under this section, or an order of protection issued
7 by a court of competent jurisdiction in another state, territorial or
8 tribal jurisdiction, and if, after hearing, the court is satisfied by
9 competent proof that the defendant has willfully failed to obey any such
10 order, the court may:

11 (a) revoke an order of recognizance or release under non-monetary
12 conditions [~~or revoke an order of bail or order forfeiture of such bail~~]
13 and commit the defendant to custody; or

14 (b) restore the case to the calendar when there has been an adjourn-
15 ment in contemplation of dismissal and commit the defendant to custody;
16 or

17 (c) revoke a conditional discharge in accordance with section 410.70
18 of this chapter and impose probation supervision or impose a sentence of
19 imprisonment in accordance with the penal law based on the original
20 conviction; or

21 (d) revoke probation in accordance with section 410.70 of this chapter
22 and impose a sentence of imprisonment in accordance with the penal law
23 based on the original conviction. In addition, if the act which consti-
24 tutes the violation of the order of protection or temporary order of
25 protection is a crime or a violation the defendant may be charged with
26 and tried for that crime or violation.

27 § 31. Subdivision 8 of section 530.13 of the criminal procedure law,
28 as added by chapter 388 of the laws of 1984, paragraph (a) as amended by
29 section 13 of part JJJ of chapter 59 of the laws of 2019, is amended to
30 read as follows:

31 8. If a defendant is brought before the court for failure to obey any
32 lawful order issued under this section and if, after hearing, the court
33 is satisfied by competent proof that the defendant has willfully failed
34 to obey any such order, the court may:

35 (a) revoke an order of recognizance[~~r~~] or release under non-monetary
36 conditions [~~or bail~~] and commit the defendant to custody; or

37 (b) restore the case to the calendar when there has been an adjourn-
38 ment in contemplation of dismissal and commit the defendant to custody
39 [~~or impose or increase bail~~] pending a trial of the original crime or
40 violation; or

41 (c) revoke a conditional discharge in accordance with section 410.70
42 of this chapter and impose probation supervision or impose a sentence of
43 imprisonment in accordance with the penal law based on the original
44 conviction; or

45 (d) revoke probation in accordance with section 410.70 of this chapter
46 and impose a sentence of imprisonment in accordance with the penal law
47 based on the original conviction. In addition, if the act which consti-
48 tutes the violation of the order of protection or temporary order of
49 protection is a crime or a violation the defendant may be charged with
50 and tried for that crime or violation.

51 § 32. Section 530.20 of the criminal procedure law, as amended by
52 section 16 of part JJJ of chapter 59 of the laws of 2019, paragraph (a)
53 and the opening paragraph of paragraph (b) of subdivision 1 and the
54 opening paragraph of subdivision 2 as amended by section 6 of subpart A
55 of part VV of chapter 56 of the laws of 2023, paragraph (b) of subdivi-
56 sion 1 as amended by section 3 of part UU of chapter 56 of the laws of

2020, subparagraphs (xix) and (xx) of paragraph (b) of subdivision 1 as amended and subparagraph (xxi) of paragraph (b) of subdivision 1 as added by section 4 of subpart C of part UU of chapter 56 of the laws of 2022, is amended to read as follows:

§ 530.20 Securing order by local criminal court when action is pending therein.

When a criminal action is pending in a local criminal court, such court, upon application of a defendant, shall proceed as follows:

1. (a) In cases other than as described in paragraph (b) of this subdivision, the court shall release the principal pending trial on the principal's own recognizance or release the principal pending trial under non-monetary conditions, the determination for which shall be made in accordance with subdivision one of section 510.10 of this title. The court shall explain the basis for its determination and choice of securing order on the record or in writing.

(b) Where the principal stands charged with a ~~[qualifying offense,]~~ a felony, except a class E felony under title J or K of the penal law, or a qualifying misdemeanor, or where the court has found that committing the principal to the custody of the sheriff is warranted under subdivision two of this section, the court, unless otherwise prohibited ~~[by law]~~, may in its discretion release the principal pending trial on the principal's own recognizance or under non-monetary conditions, ~~[fix bail, 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 its choice of securing order on the record or in writing. A principal stands charged with a qualifying offense when ~~[he or she]~~ such principal stands charged with:

(i) ~~[a felony enumerated in section 70.02 of the penal law, other than robbery in the second degree as defined in subdivision one of section 160.10 of the penal law, provided, however, that burglary in the second degree as defined in subdivision two of section 140.25 of the penal law shall be a qualifying offense only where the defendant is charged with entering the living area of the dwelling;~~

~~(ii) a crime involving witness intimidation under section 215.15 of the penal law;~~

~~(iii) a crime involving witness tampering under section 215.11, 215.12 or 215.13 of the penal law;~~

~~(iv) a class A felony defined in the penal law, provided, that for class A felonies under article two hundred twenty of such law, only class A-I felonies shall be a qualifying offense;~~

~~(v) a sex trafficking offense defined in section 230.34 or 230.34-a of the penal law, or a felony sex offense defined in section 70.80 of the penal law or a crime involving incest as defined in section 255.25, 255.26 or 255.27 of such law, or a misdemeanor defined in article one hundred thirty of such law;~~

~~(vi) conspiracy in the second degree as defined in section 105.15 of the penal law, where the underlying allegation of such charge is that the defendant conspired to commit a class A felony defined in article one hundred twenty-five of the penal law;~~

~~(vii) money laundering in support of terrorism in the first degree as defined in section 470.24 of the penal law; money laundering in support of terrorism in the second degree as defined in section 470.23 of the penal law; money laundering in support of terrorism in the third degree as defined in section 470.22 of the penal law; money laundering in support of terrorism in the fourth degree as defined in section 470.21~~

~~of the penal law; or a felony crime of terrorism as defined in article four hundred ninety of the penal law, other than the crime defined in section 490.20 of such law;~~

~~(viii) criminal contempt in the second degree as defined in subdivision three of section 215.50 of the penal law, criminal contempt in the first degree as defined in subdivision (b), (c) or (d) of section 215.51 of the penal law or aggravated criminal contempt as defined in section 215.52 of the penal law, and the underlying allegation of such charge of criminal contempt in the second degree, criminal contempt in the first degree or aggravated criminal contempt is that the defendant violated a duly served order of protection where the protected party is a member of the defendant's same family or household as defined in subdivision one of section 530.11 of this article;~~

~~(ix) facilitating a sexual performance by a child with a controlled substance or alcohol as defined in section 263.30 of the penal law, use of a child in a sexual performance as defined in section 263.05 of the penal law or luring a child as defined in subdivision one of section 120.70 of the penal law, promoting an obscene sexual performance by a child as defined in section 263.10 of the penal law or promoting a sexual performance by a child as defined in section 263.15 of the penal law;~~

~~(x) any crime that is alleged to have caused the death of another person;~~

~~(xi) criminal obstruction of breathing or blood circulation as defined in section 121.11 of the penal law, strangulation in the second degree as defined in section 121.12 of the penal law or unlawful imprisonment in the first degree as defined in section 135.10 of the penal law, and is alleged to have committed the offense against a member of the defendant's same family or household as defined in subdivision one of section 530.11 of this article;~~

~~(xii) aggravated vehicular assault as defined in section 120.04-a of the penal law or vehicular assault in the first degree as defined in section 120.04 of the penal law;~~

~~(xiii) assault in the third degree as defined in section 120.00 of the penal law or arson in the third degree as defined in section 150.10 of the penal law, when such crime is charged as a hate crime as defined in section 485.05 of the penal law;~~

~~(xiv) aggravated assault upon a person less than eleven years old as defined in section 120.12 of the penal law or criminal possession of a weapon on school grounds as defined in section 265.01-a of the penal law;~~

~~(xv) grand larceny in the first degree as defined in section 155.42 of the penal law, enterprise corruption as defined in section 460.20 of the penal law, or money laundering in the first degree as defined in section 470.20 of the penal law;~~

~~(xvi) failure to register as a sex offender pursuant to section one hundred sixty-eight t of the correction law or endangering the welfare of a child as defined in subdivision one of section 260.10 of the penal law, where the defendant is required to maintain registration under article six-C of the correction law and designated a level three offender pursuant to subdivision six of section one hundred sixty-eight-l of the correction law;~~

~~(xvii) a crime involving bail jumping under section 215.55, 215.56 or 215.57 of the penal law, or a crime involving escaping from custody under section 205.05, 205.10 or 205.15 of the penal law;~~

~~(xviii) any felony offense committed by the principal while serving a sentence of probation or while released to post release supervision;~~

~~(xix) a felony, where the defendant qualifies for sentencing on such charge as a persistent felony offender pursuant to section 70.10 of the penal law;~~

~~(xx) 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 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, 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 own recognizance or under appropriate non-monetary conditions; or~~

~~(xxi) 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]~~
witness tampering in the fourth degree as defined in section 215.10 of the penal law;

(ii) a misdemeanor under article one hundred thirty of the penal law;
(iii) conspiracy in the fifth degree as defined in section 105.05 of the penal law where the underlying allegations of such charge is that the defendant conspired to commit a felony or misdemeanor that otherwise qualifies for bail;

(iv) criminal contempt in the second degree as defined in subdivision three of section 215.50 of the penal law;

(v) a specified offense enumerated in subdivision two of section 240.75 of the penal law where such offense is alleged to have been committed against a member of the defendant's same family or household as defined in subdivision one of section 530.11 of this title;

(vi) any misdemeanor when such crime is charged as a hate crime as defined in section 485.05 of the penal law;

(vii) bail jumping in the third degree as defined in section 215.55 of the penal law;

(viii) escape in the third degree as defined in section 205.05 of the penal law;

(ix) any misdemeanor involving intentionally causing harm to another person or an animal;

(x) any misdemeanor involving the use and possession of a firearm, shotgun or rifle;

(xi) any class A misdemeanor where such charge arose from conduct while the defendant was released on 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 offense;

(xii) any other offense that the division of criminal justice services has identified pursuant to article fifty of the executive law.

~~[(d) Notwithstanding the provisions of paragraphs (a) and (b) of this subdivision, with respect to any charge for which bail or remand is not ordered, and for which the court would not or could not otherwise~~

~~require bail or remand, a defendant may, at any time, request that the court set bail in a nominal amount requested by the defendant in the form specified in paragraph (a) of subdivision one of section 520.10 of this title; if the court is satisfied that the request is voluntary, the court shall set such bail in such amount.]~~

2. Where a defendant is charged with an offense that does not qualify for pretrial detention under subdivision four of this section, the court may commit the principal to the custody of the sheriff if the court makes an individualized determination that the principal poses a substantial risk of harm to themselves, others or the community as a whole, or where the court determines that the defendant has an established history of disobeying directives of the court.

(a) The court may consider the following factors when determining whether a principal poses a risk of harm:

(i) the nature of the principal's prior convictions, including whether the principal has been convicted of any violent felonies listed in section 70.02 of the penal law;

(ii) the principal's access to weapons;

(iii) whether the principal has any association with a criminal street gang, as defined in section 10-170 of the administrative code of the city of New York or a criminal enterprise, as defined in section 460.10 of the penal law; and

(iv) any history of threats or intimidation to witnesses in prior criminal proceedings.

(b) The court may consider the following factors when determining whether a principal has an established history of disobeying directives of the court:

(i) any history of bench warrants failures to appear;

(ii) previous violation of orders of protection;

(iii) any history of rearrests while other charges are pending; and

(iv) any history of witness intimidation or tampering.

3. When the defendant is charged, by felony complaint, with a felony, the court may, in its discretion, and in accordance with section 510.10 of this title, order recognizance, release under non-monetary conditions, [or, where authorized, fix bail, or order non-monetary conditions in conjunction with fixing bail,] or commit the defendant to the custody of the sheriff except as otherwise provided in subdivision one of this section or this subdivision:

(a) A city court, a town court or a village court may not order recognizance [or bail] when (i) the defendant is charged with a class A felony, or (ii) the defendant has two previous felony convictions;

(b) No local criminal court may order recognizance[, or] or release under non-monetary conditions [or bail] with respect to a defendant charged with a felony unless and until:

(i) The district attorney has been heard in the matter or, after knowledge or notice of the application and reasonable opportunity to be heard, has failed to appear at the proceeding or has otherwise waived [his] their right to do so; and

(ii) The court and counsel for the defendant have been furnished with a report of the division of criminal justice services concerning the defendant's criminal record, if any, or with a police department report with respect to the defendant's prior arrest and conviction record, if any. If neither report is available, the court, with the consent of the district attorney, may dispense with this requirement; provided, however, that in an emergency, including but not limited to a substantial impairment in the ability of such division or police department to time-

ly furnish such report, such consent shall not be required if, for reasons stated on the record, the court deems it unnecessary. When the court has been furnished with any such report or record, it shall furnish a copy thereof to counsel for the defendant or, if the defendant is not represented by counsel, to the defendant.

§ 33. Section 530.30 of the criminal procedure law, the section heading and subdivisions 1 and 2 as amended by section 17 of part JJJ of chapter 59 of the laws of 2019, and the closing paragraph of subdivision 1 as amended by section 7 of subpart A of part VV of chapter 56 of the laws of 2023, is amended to read as follows:

§ 530.30 Order of recognizance[~~7~~] or release under non-monetary conditions [~~or bail~~]; by superior court judge when action is pending in local criminal court.

1. When a criminal action is pending in a local criminal court, other than one consisting of a superior court judge sitting as such, a judge of a superior court holding a term thereof in the county, upon application of a defendant, may order recognizance[~~7~~] or release under non-monetary conditions [~~or, where authorized, bail~~] when such local criminal court:

(a) Lacks authority to issue such an order, pursuant to the relevant provisions of section 530.20 of this article; or

(b) Has denied an application for recognizance[~~7~~] or release under non-monetary conditions [~~or bail~~]; or

(c) [~~Has fixed bail, where authorized, which is excessive; or (d)~~] Has set a securing order of release under non-monetary conditions which are more restrictive than necessary to reasonably assure the defendant's return to court.

In such case, such superior court judge may vacate the order of such local criminal court and release the defendant on recognizance or under non-monetary conditions, [~~or where authorized, fix bail in a lesser amount or in a less burdensome form, or order non-monetary conditions in conjunction with fixing bail, including fixing bail in a lesser amount or in a less burdensome form,~~] the determination for which shall be made in accordance with section 510.10 of this title, including an individualized determination that any conditions imposed are necessary to secure the principal's return to court when required or mitigate the risk of danger to the principal, another person, or the community. The court shall explain the basis for its determination and choice of securing order on the record or in writing.

2. Notwithstanding the provisions of subdivision one of this section, when the defendant is charged with a felony in a local criminal court, a superior court judge may not order recognizance[~~7~~] or release under non-monetary conditions [~~or, where authorized, bail~~] unless and until the district attorney has had an opportunity to be heard in the matter and such judge and counsel for the defendant have been furnished with a report as described in subparagraph (ii) of paragraph (b) of subdivision [~~two~~] three of section 530.20 of this article.

3. Not more than one application may be made pursuant to this section.

§ 34. Section 530.40 of the criminal procedure law, as amended by section 18 of part JJJ of chapter 59 of the laws of 2019, subdivision 3 and the opening paragraph of subdivision 4 as amended by section 8 of subpart A of part VV of chapter 56 of the laws of 2023, subdivision 4 as amended by section 4 of part UU of chapter 56 of the laws of 2020, paragraphs (s) and (t) of subdivision 4 as amended and paragraph (u) of subdivision 4 as added by section 4 of subpart B of part UU of chapter 56 of the laws of 2022, is amended to read as follows:

§ 530.40 Order of recognizance~~[7]~~ or release under non-monetary conditions ~~[or bail]~~; by superior court when action is pending therein.

When a criminal action is pending in a superior court, such court, upon application of a defendant, must or may order recognizance ~~[or bail]~~ as follows:

1. When the defendant is charged with an offense or offenses of less than felony grade only, the court must, unless otherwise provided by law, order recognizance or release under non-monetary conditions in accordance with this section.

2. When the defendant is charged with a felony, the court may, unless otherwise provided by law in its discretion, order recognizance, release under non-monetary conditions or, where authorized, ~~[bail]~~ committing the principal to the custody of the sheriff. In any such case in which an indictment (a) has resulted from an order of a local criminal court holding the defendant for the action of the grand jury, or (b) was filed at a time when a felony complaint charging the same conduct was pending in a local criminal court, and in which such local criminal court or a superior court judge has issued an order of recognizance, release under non-monetary conditions or, where authorized, ~~[bail]~~ committing the principal to the custody of the sheriff which is still effective, the superior court's order may be in the form of a direction continuing the effectiveness of the previous order.

3. In cases other than as described in subdivision four of this section the court shall release the principal pending trial on the principal's own recognizance or release the principal pending trial under non-monetary conditions, the determination for which shall be made in accordance with section 510.10 of this title, including an individualized determination that any conditions imposed are necessary to secure the principal's return to court when required or mitigate the risk of danger to the principal, another person, or the community. The court shall explain the basis for its determination and choice of securing order on the record or in writing.

4. Where the principal stands charged with a ~~[qualifying offense]~~ felony, except a class E felony under title J or K of the penal law, or a qualifying misdemeanor, or where the court has found that committing the principal to the custody of the sheriff is warranted under subdivision two of this section, 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]~~ or 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:

(a) ~~[a felony enumerated in section 70.02 of the penal law, other than robbery in the second degree as defined in subdivision one of section 160.10 of the penal law, provided, however, that burglary in the second degree as defined in subdivision two of section 140.25 of the penal law shall be a qualifying offense only where the defendant is charged with entering the living area of the dwelling;~~

~~(b) a crime involving witness intimidation under section 215.15 of the penal law;~~

~~(c) a crime involving witness tampering under section 215.11, 215.12 or 215.13 of the penal law;~~

~~(d) a class A felony defined in the penal law, provided that for class A felonies under article two hundred twenty of such law, only class A-I felonies shall be a qualifying offense;~~

~~(e) a sex trafficking offense defined in section 230.34 or 230.34 a of the penal law, or a felony sex offense defined in section 70.80 of the penal law or a crime involving incest as defined in section 255.25, 255.26 or 255.27 of such law, or a misdemeanor defined in article one hundred thirty of such law;~~

~~(f) conspiracy in the second degree as defined in section 105.15 of the penal law, where the underlying allegation of such charge is that the defendant conspired to commit a class A felony defined in article one hundred twenty-five of the penal law;~~

~~(g) money laundering in support of terrorism in the first degree as defined in section 470.24 of the penal law; money laundering in support of terrorism in the second degree as defined in section 470.23 of the penal law; money laundering in support of terrorism in the third degree as defined in section 470.22 of the penal law; money laundering in support of terrorism in the fourth degree as defined in section 470.21 of the penal law; or a felony crime of terrorism as defined in article four hundred ninety of the penal law, other than the crime defined in section 490.20 of such law;~~

~~(h) criminal contempt in the second degree as defined in subdivision three of section 215.50 of the penal law, criminal contempt in the first degree as defined in subdivision (b), (c) or (d) of section 215.51 of the penal law or aggravated criminal contempt as defined in section 215.52 of the penal law, and the underlying allegation of such charge of criminal contempt in the second degree, criminal contempt in the first degree or aggravated criminal contempt is that the defendant violated a duly served order of protection where the protected party is a member of the defendant's same family or household as defined in subdivision one of section 530.11 of this article;~~

~~(i) facilitating a sexual performance by a child with a controlled substance or alcohol as defined in section 263.30 of the penal law, use of a child in a sexual performance as defined in section 263.05 of the penal law or luring a child as defined in subdivision one of section 120.70 of the penal law, promoting an obscene sexual performance by a child as defined in section 263.10 of the penal law or promoting a sexual performance by a child as defined in section 263.15 of the penal law;~~

~~(j) any crime that is alleged to have caused the death of another person;~~

~~(k) criminal obstruction of breathing or blood circulation as defined in section 121.11 of the penal law, strangulation in the second degree as defined in section 121.12 of the penal law or unlawful imprisonment in the first degree as defined in section 135.10 of the penal law, and is alleged to have committed the offense against a member of the defendant's same family or household as defined in subdivision one of section 530.11 of this article;~~

~~(l) aggravated vehicular assault as defined in section 120.04-a of the penal law or vehicular assault in the first degree as defined in section 120.04 of the penal law;~~

~~(m) assault in the third degree as defined in section 120.00 of the penal law or arson in the third degree as defined in section 150.10 of the penal law, when such crime is charged as a hate crime as defined in section 485.05 of the penal law;~~

~~(n) aggravated assault upon a person less than eleven years old as defined in section 120.12 of the penal law or criminal possession of a weapon on school grounds as defined in section 265.01 a of the penal law;~~

~~(o) grand larceny in the first degree as defined in section 155.42 of the penal law, enterprise corruption as defined in section 460.20 of the penal law, or money laundering in the first degree as defined in section 470.20 of the penal law;~~

~~(p) failure to register as a sex offender pursuant to section one hundred sixty-eight of the correction law or endangering the welfare of a child as defined in subdivision one of section 260.10 of the penal law, where the defendant is required to maintain registration under article six C of the correction law and designated a level three offender pursuant to subdivision six of section one hundred sixty-eight of the correction law;~~

~~(q) a crime involving bail jumping under section 215.55, 215.56 or 215.57 of the penal law, or a crime involving escaping from custody under section 205.05, 205.10 or 205.15 of the penal law;~~

~~(r) any felony offense committed by the principal while serving a sentence of probation or while released to post release supervision;~~

~~(s) a felony, where the defendant qualifies for sentencing on such charge as a persistent felony offender pursuant to section 70.10 of the penal law;~~

~~(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 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 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]~~

witness tampering in the fourth degree as defined in section 215.10 of the penal law;

(b) a misdemeanor under article one hundred thirty of the penal law;

(c) conspiracy in the fifth degree as defined in section 105.05 of the penal law where the underlying allegations of such charge is that the defendant conspired to commit a felony or misdemeanor that otherwise qualifies for bail;

(d) criminal contempt in the second degree as defined in subdivision three of section 215.50 of the penal law;

(e) a specified offense enumerated in subdivision two of section 240.75 of the penal law where such offense is alleged to have been committed against a member of the defendant's same family or household as defined in subdivision one of section 530.11 of this title;

(f) any misdemeanor when such crime is charged as a hate crime as defined in section 485.05 of the penal law;

(g) bail jumping in the third degree as defined in section 215.55 of the penal law;

(h) escape in the third degree as defined in section 205.05 of the penal law;

(i) any misdemeanor involving intentionally causing harm to another person or an animal;

(j) any misdemeanor involving the use and possession of a firearm, shotgun or rifle;

(k) any class A misdemeanor where such charge arose from conduct while the defendant was released on 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 offense; or

(l) any other offense that the division of criminal justice services has identified pursuant to article fifty of the executive law.

~~5. [Notwithstanding the provisions of subdivisions three and four of this section, with respect to any charge for which bail or remand is not ordered, and for which the court would not or could not otherwise require bail or remand, a defendant may, at any time, request that the court set bail in a nominal amount requested by the defendant in the form specified in paragraph (a) of subdivision one of section 520.10 of this title; if the court is satisfied that the request is voluntary, the court shall set such bail in such amount]~~ Where a defendant is charged with an offense that does not qualify for pretrial detention under subdivision four of this section, the court may commit the principal to the custody of the sheriff if the court makes an individualized determination that the principal poses a substantial risk of harm to themselves, others or the community as a whole, or where the court determines that the defendant has an established history of disobeying directives of the court.

(a) The court may consider the following factors when determining whether a principal poses a risk of harm:

(i) the nature of the principal's prior convictions, including whether the principal has been convicted of any violent felonies listed in section 70.02 of the penal law;

(ii) the principal's access to weapons;

(iii) whether the principal has any association with a criminal street gang, as defined in section 10-170 of the administrative code of the city of New York or a criminal enterprise, as defined in section 460.10 of the penal law; and

(iv) any history of threats or intimidation to witnesses in prior criminal proceedings.

(b) The court may consider the following factors when determining whether a principal has an established history of disobeying directives of the court:

(i) any history of bench warrants failures to appear;

(ii) previous violation of orders of protection;

(iii) any history of rearrests while other charges are pending; and

(iv) any history of witness intimidation or tampering.

6. Notwithstanding the provisions of subdivisions two, three and four of this section, a superior court may not order recognizance, release

1 under non-monetary conditions [~~or, where authorized, bail,~~] or permit a
2 defendant to remain at liberty pursuant to an existing order, after the
3 defendant has been convicted of either: (a) a class A felony or (b) any
4 class B or class C felony as defined in article one hundred thirty of
5 the penal law committed or attempted to be committed by a person eigh-
6 teen years of age or older against a person less than eighteen years of
7 age. In either case the court must commit or remand the defendant to the
8 custody of the sheriff.

9 7. Notwithstanding the provisions of subdivisions two, three and four
10 of this section, a superior court may not order recognizance[~~r~~] or
11 release under non-monetary conditions [~~or, where authorized, bail~~] when
12 the defendant is charged with a felony unless and until the district
13 attorney has had an opportunity to be heard in the matter and such court
14 and counsel for the defendant have been furnished with a report as
15 described in subparagraph (ii) of paragraph (b) of subdivision [~~two~~]
16 three of section 530.20 of this article.

17 § 35. The section heading and subdivisions 1 and 2-a of section 530.45
18 of the criminal procedure law, the section heading as added by chapter
19 435 of the laws of 1974, and subdivisions 1 and 2-a as amended by
20 section 9 of subpart A of part VV of chapter 56 of the laws of 2023, are
21 amended to read as follows:

22 Order of recognizance [~~or bail~~] non-monetary conditions; after
23 conviction and before sentence.

24 1. When the defendant is at liberty in the course of a criminal action
25 as a result of a prior securing order and the court revokes such order
26 and then, where authorized, [~~fixes no bail, fixes bail in a greater~~
27 ~~amount or in a more burdensome form than was previously fixed, or, in~~
28 ~~conjunction with the imposition of non-monetary conditions, fixes bail~~
29 ~~in a greater amount or in a more burdensome form than was previously~~
30 ~~fixed]~~ and remands or commits defendant to the custody of the sheriff,
31 or issues a more restrictive securing order, a judge designated in
32 subdivision two of this section, upon application of the defendant
33 following conviction of an offense other than a class A felony or a
34 class B or class C felony offense as defined in article one hundred
35 thirty of the penal law committed or attempted to be committed by a
36 person eighteen years of age or older against a person less than eigh-
37 teen years of age, and before sentencing, may issue a securing order and
38 release the defendant on the defendant's own recognizance, release the
39 defendant under non-monetary conditions, [~~or, where authorized, fix~~
40 ~~bail, which may be in conjunction with the imposition of non-monetary~~
41 ~~conditions, fix bail in a lesser amount or in a less burdensome form,~~
42 ~~which may be in conjunction with the imposition of non-monetary condi-~~
43 ~~tions,~~] or issue a less restrictive securing order, than fixed by the
44 court in which the conviction was entered.

45 2-a. Notwithstanding the provisions of subdivision four of section
46 510.10, paragraph (b) of subdivision one of section 530.20 and subdivi-
47 sion four of section 530.40 of this title, when a defendant charged with
48 an offense that is not such a qualifying offense is convicted, whether
49 by guilty plea or verdict, in such criminal action or proceeding of an
50 offense that is not a qualifying offense, the court may, in accordance
51 with law, issue a securing order: releasing the defendant on the defend-
52 ant's own recognizance or under non-monetary conditions where author-
53 ized, [~~fix bail, or ordering non-monetary conditions in conjunction with~~
54 ~~fixing bail,~~] or remand the defendant to the custody of the sheriff
55 where authorized.

§ 36. Section 530.50 of the criminal procedure law, as amended by chapter 264 of the laws of 2003, subdivision 1 as designated by section 10 of part UU of chapter 56 of the laws of 2020, and subdivisions 2 and 3 as amended by section 10 of subpart A of part VV of chapter 56 of the laws of 2023, is amended to read as follows:

§ 530.50 Order of recognizance or ~~[bail]~~ non-monetary conditions; during pendency of appeal.

1. A judge who is otherwise authorized pursuant to section 460.50 or section 460.60 of this chapter to issue an order of recognizance or ~~[bail]~~ non-monetary conditions pending the determination of an appeal, may do so unless the defendant received a class A felony sentence or a sentence for any class B or class C felony offense defined in article one hundred thirty of the penal law committed or attempted to be committed by a person eighteen years of age or older against a person less than eighteen years of age.

2. Notwithstanding the provisions of subdivision four of section 510.10 of this title, paragraph (b) of subdivision one of section 530.20 and subdivision four of section 530.40 of this ~~[title]~~ article, when a defendant charged with an offense that is not such a qualifying offense applies, pending determination of an appeal, for an order of recognizance or release on non-monetary conditions, where authorized, ~~[fixing bail, or ordering non-monetary conditions in conjunction with fixing bail,]~~ a judge identified in subdivision two of section 460.50 or paragraph (a) of subdivision one of section 460.60 of this chapter may, in accordance with law, and except as otherwise provided by law, issue a securing order: releasing the defendant on the defendant's own recognizance or under non-monetary conditions where authorized, ~~[fixing bail, or ordering non-monetary conditions in conjunction with fixing bail,]~~ or remanding the defendant to the custody of the sheriff where authorized.

3. Where an appeal by the people has been taken from an order dismissing one or more counts of an accusatory instrument for failure to comply with a discovery order pursuant to subdivision twelve of section 450.20 of this chapter and the defendant is charged with a qualifying offense in the remaining counts in the accusatory instrument, pending determination of an appeal, the defendant may apply for an order of recognizance or release on non-monetary conditions, where authorized, ~~[fixing bail, or ordering non-monetary conditions in conjunction with fixing bail,]~~ A judge identified in subdivision two of section 460.50 of this chapter or paragraph (a) of subdivision one of section 460.60 of this chapter may, in accordance with law, and except as otherwise provided by law, issue a securing order releasing the defendant on the defendant's own recognizance or under non-monetary conditions where authorized, ~~[fixing bail, or ordering non-monetary conditions in conjunction with fixing bail,]~~ or remanding the defendant to the custody of the sheriff where authorized.

§ 37. Section 530.60 of the criminal procedure law, as amended by section 20 of part JJJ of chapter 59 of the laws of 2019, the opening paragraph of paragraph (b) and the closing paragraph of subparagraph (i) and subparagraph (ii) as amended and subparagraph (iii) of paragraph (d) of subdivision 2 as added by section 11 of subpart A of part VV of chapter 56 of the laws of 2023, is amended to read as follows:

§ 530.60 Certain modifications of a securing order.

1. Whenever in the course of a criminal action or proceeding a defendant is at liberty as a result of an order of recognizance~~[r]~~ or release under non-monetary conditions ~~[or bail]~~ issued pursuant to this chapter, and the court considers it necessary to review such order, whether due

1 to a motion by the people or otherwise, the court may, and except as
2 provided in subdivision two of section 510.50 of this title concerning a
3 failure to appear in court, by a bench warrant if necessary, require the
4 defendant to appear before the court. Upon such appearance, the court,
5 for good cause shown, may revoke the order of recognizance^[7] or release
6 under non-monetary conditions, ~~[or bail]~~ and commit the principal to the
7 custody of the sheriff. ~~[If the defendant is entitled to recognizance,~~
8 ~~release under non-monetary conditions, or bail as a matter of right, the~~
9 ~~court must issue another such order. If the defendant is not, the court~~
10 ~~may either issue such an order or commit the defendant to the custody of~~
11 ~~the sheriff in accordance with this section.]~~

12 Where the defendant is committed to the custody of the sheriff and is
13 held on a felony complaint, a new period as provided in section 180.80
14 of this chapter shall commence to run from the time of the defendant's
15 commitment under this subdivision.

16 2. (a) Whenever in the course of a criminal action or proceeding a
17 defendant charged with the commission of a felony is at liberty as a
18 result of an order of recognizance^[7] or release under non-monetary
19 conditions ~~[or bail]~~ issued pursuant to this article it shall be grounds
20 for revoking such order that the court finds reasonable cause to believe
21 the defendant committed one or more ~~[specified class A or violent felony~~
22 ~~offenses or intimidated a victim or witness in violation of section~~
23 ~~215.15, 215.16 or 215.17 of the penal law]~~ felony offenses or misdemea-
24 nor offenses enumerated in subdivision four of section 510.10 of this
25 title while at liberty.

26 (b) Except as provided in paragraph (a) of this subdivision or any
27 other law, whenever in the course of a criminal action or proceeding a
28 defendant charged with the commission of an offense is at liberty as a
29 result of a securing order issued pursuant to this article it shall be
30 grounds for revoking such order and imposing a new securing order in
31 accordance with paragraph (d) of this subdivision, the basis for which
32 shall be made on the record or in writing, in such criminal action or
33 proceeding when the court has found, by clear and convincing evidence,
34 that the defendant:

35 (i) persistently and willfully failed to appear after notice of sched-
36 uled appearances in the case before the court; or

37 (ii) violated an order of protection in the manner prohibited by
38 subdivision (b), (c) or (d) of section 215.51 of the penal law while at
39 liberty; or

40 (iii) stands charged in such criminal action or proceeding with a
41 misdemeanor or violation and, after being so charged, intimidated a
42 victim or witness in violation of section 215.15, 215.16 or 215.17 of
43 the penal law or tampered with a witness in violation of section 215.11,
44 215.12 or 215.13 of the penal law, ~~[law]~~ while at liberty; or

45 (iv) stands charged in such action or proceeding with a felony and,
46 after being so charged, committed a felony while at liberty.

47 (c) Before revoking an order of recognizance^[7] or release under non-
48 monetary conditions, ~~[or bail]~~ pursuant to this subdivision, the court
49 must hold a hearing and shall receive any relevant, admissible evidence
50 not legally privileged. The defendant may cross-examine witnesses and
51 may present relevant, admissible evidence on ~~[his]~~ such defendant's own
52 behalf. Such hearing may be consolidated with, and conducted at the same
53 time as, a felony hearing conducted pursuant to article one hundred
54 eighty of this chapter. A transcript of testimony taken before the grand
55 jury upon presentation of the subsequent offense shall be admissible as
56 evidence during the hearing. The district attorney may move to introduce

1 grand jury testimony of a witness in lieu of that witness' appearance at
2 the hearing.

3 (d) Revocation of an order of recognizance[~~7~~] ~~or~~ release under non-
4 monetary conditions [~~or bail~~] and a new securing order [~~fixing bail~~] or
5 commitment, as specified in this paragraph and pursuant to this subdivi-
6 sion shall be for the following periods:

7 (i) Under paragraph (a) of this subdivision, revocation of the order
8 of recognizance[~~7~~] ~~or~~ release under non-monetary conditions [~~or, as the~~
9 ~~case may be, bail~~], and a new securing order [~~fixing bail~~] or committing
10 the defendant to the custody of the sheriff shall be as follows:

11 (A) For a period not to exceed ninety days exclusive of any periods of
12 adjournment requested by the defendant; or

13 (B) Until the charges contained within the accusatory instrument have
14 been reduced or dismissed such that no count remains which charges the
15 defendant with commission of a felony; or

16 (C) Until reduction or dismissal of the charges contained within the
17 accusatory instrument charging the subsequent offense such that no count
18 remains which charges the defendant with commission of a class A or
19 violent felony offense.

20 Upon expiration of any of the three periods specified within this
21 subparagraph, whichever is shortest, the court may grant or deny release
22 upon an order of [~~bail or~~] recognizance in accordance with the
23 provisions of this article. Upon conviction to an offense the provisions
24 of [~~article five hundred thirty of~~] this [~~chapter~~] ~~article~~ shall apply;

25 (ii) Under subparagraph (i) of paragraph (b) of this subdivision,
26 revocation of a previously issued securing order shall result in the
27 issuance of a new securing order which may, if otherwise authorized by
28 law, permit the principal's release on recognizance or release under
29 non-monetary conditions, but shall also render the defendant eligible
30 for an order [~~fixing bail, or ordering non-monetary conditions in~~
31 ~~conjunction with fixing bail~~] ~~of commitment to the custody of the sher-~~
32 ~~iff~~, provided, however, that in accordance with the principles in this
33 title the court must impose a new securing order in accordance with
34 subdivision one of section 510.10 of this title, and in imposing such
35 order, may consider the circumstances warranting such revocation. Noth-
36 ing in this subparagraph shall be interpreted as shortening the period
37 of detention, or requiring or authorizing any less restrictive form of a
38 securing order, which may be imposed pursuant to any other law; and

39 (iii) Under subparagraphs (ii), (iii), and (iv) of paragraph (b) of
40 this subdivision, revocation of a previously issued securing order shall
41 result in the issuance of a new securing order which may, if otherwise
42 authorized by law, permit the principal's release on recognizance or
43 release under non-monetary conditions[~~7~~, ~~but shall also render the~~
44 ~~defendant eligible for an order fixing bail or ordering non-monetary~~
45 ~~conditions in conjunction with fixing bail~~]. In issuing the new securing
46 order, the court shall consider the kind and degree of control or
47 restriction necessary to reasonably assure the principal's return to
48 court and compliance with court conditions, and select a securing order
49 consistent with its determination, taking into account the factors
50 required to be considered under subdivision one of section 510.10 of
51 this title, the circumstances warranting such revocation, and the nature
52 and extent of the principal's noncompliance with previously ordered
53 non-monetary conditions of the securing order subject to revocation
54 under this subdivision. Nothing in this subparagraph shall be interpret-
55 ed as shortening the period of detention, or requiring or authorizing

1 any less restrictive form of a securing order, which may be imposed
2 pursuant to any other law.

3 (e) Notwithstanding the provisions of paragraph (a) or (b) of this
4 subdivision a defendant, against whom a felony complaint has been filed
5 which charges the defendant with commission of a class A or violent
6 felony offense or violation of section 215.15, 215.16 or 215.17 of the
7 penal law committed while ~~[he]~~ such defendant was at liberty as speci-
8 fied therein, may be committed to the custody of the sheriff pending a
9 revocation hearing for a period not to exceed seventy-two hours. An
10 additional period not to exceed seventy-two hours may be granted by the
11 court upon application of the district attorney upon a showing of good
12 cause or where the failure to commence the hearing was due to the
13 defendant's request or occurred with ~~[his]~~ such defendant's consent.
14 Such good cause must consist of some compelling fact or circumstance
15 which precluded conducting the hearing within the initial prescribed
16 period.

17 § 38. The section heading of section 530.70 of the criminal procedure
18 law is amended to read as follows:

19 Order of recognizance or ~~[bail]~~ non-monetary conditions; bench
20 warrant.

21 § 39. Section 530.80 of the criminal procedure law is REPEALED.

22 § 40. Article 540 of the criminal procedure law is REPEALED.

23 § 41. Subdivisions 2 and 3 of section 550.10 of the criminal procedure
24 law is amended to read as follows:

25 2. If the defendant has been arraigned in the action and, by virtue of
26 a securing order, is either in the custody of the sheriff or at liberty
27 within the state on ~~[his]~~ such defendant's own recognizance or ~~[on-bail]~~
28 under non-monetary conditions, ~~[his]~~ such defendant's attendance may be
29 secured as follows:

30 (a) If the defendant is confined in the custody of the sheriff, the
31 court may direct the sheriff to produce ~~[him]~~ such defendant;

32 (b) If the defendant is at liberty within the state as a result of an
33 order releasing ~~[him]~~ such defendant on ~~[his]~~ such defendant's own
34 recognizance or ~~[on-bail]~~ under non-monetary conditions, the court may
35 secure ~~[his]~~ such defendant's attendance by notification or by the issu-
36 ance of a bench warrant.

37 3. If the defendant's attendance cannot be secured by methods
38 described in subdivisions one and two of this section, either because
39 ~~[he]~~ such defendant is outside the state or because ~~[he]~~ such defendant
40 is confined in an institution within the state as a result of an order
41 issued in some other action, proceeding or matter, ~~[his]~~ such defend-
42 ant's attendance may, under indicated circumstances, be secured by
43 procedures prescribed in the ensuing articles of this title.

44 § 42. Section 570.36 of the criminal procedure law is amended to read
45 as follows:

46 § 570.36 Commitment to await requisition~~[-bail]~~.

47 If from the examination before the local criminal court it appears
48 that the person held is the person charged with having committed the
49 crime alleged, and, except in cases arising under section 570.14 or
50 570.16 of this article, that ~~[he]~~ such person has fled from justice, the
51 local criminal court must, by a warrant reciting the accusation, commit
52 ~~[him]~~ such person to the county jail for such a time not exceeding thir-
53 ty days and specified in the warrant, as will enable the arrest of the
54 accused to be made under a warrant of the governor on a requisition of
55 the executive authority of the state having jurisdiction of the

1 offense~~[, unless the accused gives bail as provided in the next~~
2 ~~section,]~~ or until ~~[he]~~ such person shall be legally discharged.

3 § 43. Section 570.38 of the criminal procedure law is REPEALED.

4 § 44. Section 570.40 of the criminal procedure law is amended to read
5 as follows:

6 § 570.40 Extension of time of commitment; adjournment.

7 If the accused is not arrested under warrant of the governor by the
8 expiration of the time specified in the warrant, bond or undertaking, a
9 local criminal court may discharge ~~[him]~~ such accused or may recommit
10 ~~[him]~~ such accused for a further period of sixty days, or for further
11 periods not to exceed in the aggregate sixty days~~[, or a supreme court~~
12 ~~justice or county judge may again take bail for his appearance and~~
13 ~~surrender, as provided in section 570.38 but within a period not to~~
14 ~~exceed sixty days after the date of such new bond or undertaking].~~

15 § 45. Section 570.42 of the criminal procedure law is REPEALED.

16 § 46. Paragraph (c) of subdivision 3 of section 722.20 of the criminal
17 procedure law, as added by section 1-a of part WWW of chapter 59 of the
18 laws of 2017, is amended to read as follows:

19 (c) If there is not reasonable cause to believe that the defendant
20 committed any criminal act, the court must dismiss the felony complaint
21 and discharge the defendant from custody if ~~[he]~~ such defendant is in
22 custody~~[, or if he is at liberty on bail, it must exonerate the bail].~~

23 § 47. Paragraph (c) of subdivision 3 of section 722.21 of the criminal
24 procedure law, as added by section 1-a of part WWW of chapter 59 of the
25 laws of 2017, is amended to read as follows:

26 (c) If there is not reasonable cause to believe that the defendant
27 committed any criminal act, the court must dismiss the felony complaint
28 and discharge the defendant from custody if ~~[he]~~ such defendant is in
29 custody~~[, or if he is at liberty on bail, it must exonerate the bail].~~

30 § 48. Subdivision 2 of section 730.20 of the criminal procedure law is
31 amended to read as follows:

32 2. When the defendant is not in custody at the time a court issues an
33 order of examination, because ~~[he]~~ such defendant was theretofore
34 released ~~[on bail or]~~ on ~~[his]~~ such defendant's own recognizance or
35 under non-monetary conditions, the court may direct that the examination
36 be conducted on an out-patient basis, and at such time and place as the
37 director shall designate. If, however, the director informs the court
38 that hospital confinement of the defendant is necessary for an effective
39 examination, the court may direct that the defendant be confined in a
40 hospital designated by the director until the examination is completed.

41 § 49. Subdivision 1 of section 730.50 of the criminal procedure law,
42 as amended by chapter 7 of the laws of 2013, is amended to read as
43 follows:

44 1. When a superior court, following a hearing conducted pursuant to
45 subdivision three or four of section 730.30 of this article, is satis-
46 fied that the defendant is not an incapacitated person, the criminal
47 action against ~~[him or her]~~ such defendant must proceed. If it is satis-
48 fied that the defendant is an incapacitated person, or if no motion for
49 such a hearing is made, it must adjudicate ~~[him or her]~~ such defendant
50 an incapacitated person, and must issue a final order of observation or
51 an order of commitment. When the indictment does not charge a felony or
52 when the defendant has been convicted of an offense other than a felony,
53 such court (a) must issue a final order of observation committing the
54 defendant to the custody of the commissioner for care and treatment in
55 an appropriate institution for a period not to exceed ninety days from
56 the date of such order, provided, however, that the commissioner may

1 designate an appropriate hospital for placement of a defendant for whom
2 a final order of observation has been issued, where such hospital is
3 licensed by the office of mental health and has agreed to accept, upon
4 referral by the commissioner, defendants subject to final orders of
5 observation issued under this subdivision, and (b) must dismiss the
6 indictment filed in such court against the defendant, and such dismissal
7 constitutes a bar to any further prosecution of the charge or charges
8 contained in such indictment. Upon the issuance of a final order of
9 observation, the district attorney shall immediately transmit to the
10 commissioner, in a manner intended to protect the confidentiality of the
11 information, a list of names and contact information of persons who may
12 reasonably be expected to be the victim of any assault or any violent
13 felony offense, as defined in the penal law, or any offense listed in
14 section 530.11 of this chapter which would be carried out by the committed
15 person; provided that the person who reasonably may be expected to
16 be a victim does not need to be a member of the same family or household
17 as the committed person. When the indictment charges a felony or when
18 the defendant has been convicted of a felony, it must issue an order of
19 commitment committing the defendant to the custody of the commissioner
20 for care and treatment in an appropriate institution or, upon the
21 consent of the district attorney, committing ~~[him or her]~~ such defendant
22 to the custody of the commissioner for care and treatment on an out-pa-
23 tient basis, for a period not to exceed one year from the date of such
24 order. ~~[Upon the issuance of an order of commitment, the court must~~
25 ~~exonerate the defendant's bail if he or she was previously at liberty on~~
26 ~~bail; provided, however, that exoneration of bail is not required when a~~
27 ~~defendant is committed to the custody of the commissioner for care and~~
28 ~~treatment on an out-patient basis.]~~ When the defendant is in the custody
29 of the commissioner pursuant to a final order of observation, the
30 commissioner or ~~[his or her]~~ the commissioner's designee, which may
31 include the director of an appropriate institution, immediately upon the
32 discharge of the defendant, must certify to such court that ~~[he or she]~~
33 such defendant has complied with the notice provisions set forth in
34 paragraph (a) of subdivision six of section 730.60 of this article.

35 § 50. Section 246-a of the lien law is REPEALED.

36 § 51. Article 50 and sections 1000, 1001, 1002 and 1003 of the execu-
37 tive law, as renumbered by chapter 770 of the laws of 1978, are renum-
38 bered article 51 and sections 1100, 1101, 1102 and 1103 and a new arti-
39 cle 50 is added to read as follows:

40 ARTICLE 50

41 COMMISSION ON PUBLIC SAFETY REFORM

42 Section 1005. Commission on public safety reform.

43 1006. Powers and duties of the commission.

44 § 1005. Commission on public safety reform. 1. There is hereby created
45 in the department, the commission on public safety reform, which shall
46 consist of the following fifteen members:

47 (a) the commissioner of the division of criminal justice services who
48 shall be chair of the commission;

49 (b) fourteen members appointed by the governor.

50 2. Of the members appointed by the governor:

51 (a) one member shall be a representative of a law enforcement agency
52 located outside of a city with a population of over one million and
53 shall be appointed upon the recommendation of the commissioner of crimi-
54 nal justice services;

1 (b) one member shall be a representative of a law enforcement agency
2 located within a city with a population of over one million and shall be
3 appointed upon the recommendation of the mayor of such city;

4 (c) one member shall be a district attorney of a county outside a city
5 with a population of greater than one million and shall be appointed
6 upon the recommendation of an organization representing district attor-
7 neys;

8 (d) one member shall be a district attorney of a county within a city
9 with a population of greater than one million and shall be appointed
10 upon the recommendation of the mayor of such city;

11 (e) one member shall be a representative of the public criminal
12 defense bar who shall be appointed upon the recommendation of an organ-
13 ization representing public defense services;

14 (f) one member shall be a representative of the private criminal
15 defense bar who shall be appointed upon the recommendation of an organ-
16 ization of such bar;

17 (g) two members shall appointed upon the recommendation of the tempo-
18 rary president of the senate;

19 (h) two members shall be appointed upon the recommendation of the
20 speaker of the assembly;

21 (i) one member shall be appointed upon the recommendation of the
22 minority leader of the senate;

23 (j) one member shall be appointed upon the recommendation of the
24 minority leader of the assembly;

25 (k) one member shall be appointed upon the recommendation of the
26 attorney general of the state of New York; and

27 (l) one member, who shall be an attorney or judge shall be appointed
28 upon the recommendation of the chief judge of the court of appeals.

29 3. Of the members appointed by the governor, each member shall be
30 appointed to serve a two-year term. Any member appointed by the governor
31 may be reappointed for additional two-year terms.

32 4. Any member chosen to fill a vacancy created otherwise than by expi-
33 ration of term shall be appointed by the governor for the unexpired term
34 of the member such member is to succeed. Any such vacancy shall be
35 filled in the same manner as the original appointment.

36 5. The commission shall meet at least four times each year and may
37 establish its own rules and procedures concerning the conduct of its
38 meetings and other affairs not inconsistent with law.

39 6. No member of the commission on public safety reform shall be
40 disqualified from holding any public office or employment, nor shall
41 such member forfeit any such office or employment, by reason of such
42 member's appointment hereunder, and members of the commission shall not
43 be required to take and file oaths of office before serving on the
44 commission.

45 7. Members of the commission shall receive no compensation for their
46 services but shall be allowed their actual and necessary expenses
47 incurred in the performance of their functions hereunder.

48 § 1006. Powers and duties of the commission. 1. The commission shall
49 have the following duties, including, but not limited to:

50 (a) The commission shall conduct a thorough study and issue a compre-
51 hensive report on which crimes should be eligible for pretrial
52 detention. When conducting such study the commission shall seek to find
53 the appropriate balance between public safety and the rights of the
54 accused. The commission shall consider the following factors, including,
55 but not limited to:

56 (i) data on crime in New York state;

1 (ii) a review of the successes and challenges faced by other states
2 that have enacted large scale criminal justice reform;
3 (iii) rates of recidivism; and
4 (iv) any other factor the commission deems relevant.

5 (b) The comprehensive report shall contain detailed analysis and
6 justification of the data utilized to determine which crimes shall or
7 shall not be eligible for pretrial detention.

8 (c) The commission shall draft and publish a model risk analysis tool
9 utilizing crime data from the department of criminal justice services
10 for use by judges in determining if it is appropriate for a judge to
11 remand an individual accused of a crime. The commission will hold at
12 least one public hearing on this model risk analysis tool within eigh-
13 teen months of the effective date of this section, and shall publish the
14 final model risk analysis tool within ninety days of the public hearing.

15 2. Within one year of the effective date of this section, the commis-
16 sion on public safety reform shall issue a draft report, which shall be
17 submitted to the governor, the temporary president of the senate, the
18 speaker of the assembly, the minority leader of the senate, and the
19 minority leader of the assembly on recommended eligible for pretrial
20 detention crimes with supporting evidence of why certain crimes were
21 included and others were excluded. At least three public hearings shall
22 be held by the commission to provide the public with the opportunity to
23 comment on the report. Notice of such hearings shall be provided on the
24 department of criminal justice services website.

25 3. Within ninety days of the date of the last public hearing, the
26 commission on public safety reform shall submit a final report to the
27 governor, the temporary president of the senate, the speaker of the
28 assembly, the minority leader of the senate, and the minority leader of
29 the assembly. Copies of such report shall also be made available to the
30 public and posted on the website of the department of criminal justice
31 services.

32 § 52. This act shall take effect immediately; provided, however, that
33 sections one through fifty of this act shall take effect on the nineti-
34 eth day after it shall have become a law.