S T A T E O F N E W Y O R K

4798

2009-2010 Regular Sessions

I N S E N A T E

April 27, 2009

Introduced by Sen. SAVINO -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the criminal procedure law, the domestic relations law, the New York city criminal court act and the family court act, in relation to deputy sheriffs in the city of New York

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Subdivisions 28, 29 and 30 of section 1.20 of the criminal procedure law, subdivision 30 as amended by chapter 265 of the laws of 1976, are amended to read as follows:

28. "Warrant of arrest" means a process of a local criminal court, more fully defined in section 120.10, directing a police officer OR A SHERIFF, UNDERSHERIFF, OR DEPUTY SHERIFF OF THE CITY OF NEW YORK to arrest a defendant and to bring him before such court for the purpose of arraignment upon an accusatory instrument filed therewith by which a criminal action against him has been commenced.

29. "Superior court warrant of arrest" means a process of a superior court directing a police officer OR A SHERIFF, UNDERSHERIFF, OR DEPUTY SHERIFF OF THE CITY OF NEW YORK to arrest a defendant and to bring him before such court for the purpose of arraignment upon an indictment filed therewith by which a criminal action against him has been commenced.

30. "Bench warrant" means a process of a criminal court in which a criminal action is pending, directing a police officer, OR A SHERIFF, UNDERSHERIFF, OR DEPUTY SHERIFF OF THE CITY OF NEW YORK or a uniformed court officer, pursuant to paragraph b of subdivision two of section 530.70 of this chapter, to take into custody a defendant in such action who has previously been arraigned upon the accusatory instrument by which the action was commenced, and to bring him before such court. The function of a bench warrant is to achieve the court appearance of a

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

LBD10441-01-9

defendant in a pending criminal action for some purpose other than his initial arraignment in the action.

S 2. Section 120.10 of the criminal procedure law, as amended by chapter 424 of the laws of 1998, is amended to read as follows:

S 120.10 Warrant of arrest; definition, function, form and content.

1. A warrant of arrest is a process issued by a local criminal court directing a police officer OR A SHERIFF, UNDERSHERIFF, OR DEPUTY SHERIFF OF THE CITY OF NEW YORK to arrest a defendant designated in an accusatory instrument filed with such court and to bring him before such court in connection with such instrument. The sole function of a warrant of arrest is to achieve a defendant's court appearance in a criminal action for the purpose of arraignment upon the accusatory instrument by which such action was commenced.

2. A warrant of arrest must be subscribed by the issuing judge and must state or contain (a) the name of the issuing court, and (b) the date of issuance of the warrant, and (c) the name or title of an offense charged in the underlying accusatory instrument, and (d) the name of the defendant to be arrested or, if such be unknown, any name or description by which he can be identified with reasonable certainty, and (e) the police officer or officers to whom the warrant is addressed, and (f) a direction that such officer arrest the defendant and bring him before the issuing court.

3. A warrant of arrest may be addressed to a classification of police officers, or to two or more classifications thereof, as well as to a designated individual police officer or officers OR TO A SHERIFF, UNDERSHERIFF OR DEPUTY SHERIFF OF THE CITY OF NEW YORK AS WELL AS TO A DESIGNATED INDIVIDUAL SHERIFF, UNDERSHERIFF OR DEPUTY SHERIFF OF THE CITY OF NEW YORK. Multiple copies of such a warrant may be issued.

S 3. Section 120.50 of the criminal procedure law, as amended by chapter 424 of the laws of 1998, is amended to read as follows:

S 120.50 Warrant of arrest; to what police officers OR PEACE OFFICERS addressed.

A warrant of arrest may be addressed to any police officer or classification of police officers OR TO A SHERIFF, UNDERSHERIFF OR DEPUTY SHERIFF OF THE CITY OF NEW YORK whose geographical area of employment embraces either the place where the offense charged was allegedly committed or the locality of the court by which the warrant is issued.

S 4. Section 120.60 of the criminal procedure law, as amended by chapter 424 of the laws of 1998, is amended to read as follows:

S 120.60 Warrant of arrest; what police officers OR PEACE OFFICERS may execute.

1. A warrant of arrest may be executed by (a) any police officer OR A SHERIFF, UNDERSHERIFF, OR DEPUTY SHERIFF OF THE CITY OF NEW YORK to whom it is addressed, or (b) any other police officer OR A SHERIFF, UNDERSHERIFF, OR DEPUTY SHERIFF OF THE CITY OF NEW YORK delegated to execute it under circumstances prescribed in subdivisions two and three.

2. A police officer OR A SHERIFF, UNDERSHERIFF, OR DEPUTY SHERIFF OF THE CITY OF NEW YORK to whom a warrant of arrest is addressed may delegate another officer OR A SHERIFF, UNDERSHERIFF, OR A DEPUTY SHERIFF OF THE CITY OF NEW YORK to whom it is not addressed to execute such warrant as his agent when:

(a) He has reasonable cause to believe that the defendant is in a particular county other than the one in which the warrant is returnable; and

(b) The warrant is, pursuant to section 120.70, executable in such other county without endorsement by a local criminal court thereof; and

(c) The geographical area of employment of the delegated police officer OR THE SHERIFF, UNDERSHERIFF, AND DEPUTY SHERIFFS OF THE CITY OF NEW YORK embraces the locality where the arrest is to be made.

3. Under circumstances specified in subdivision two, the police officer OR A SHERIFF, UNDERSHERIFF, OR DEPUTY SHERIFF OF THE CITY OF NEW YORK to whom the warrant is addressed may inform the delegated officer, by telecommunication, mail or any other means, of the issuance of the warrant, of the offense charged in the underlying accusatory instrument and of all other pertinent details, and may request him to act as his agent in arresting the defendant pursuant to such warrant. Upon such request, the delegated police officer OR A SHERIFF, UNDERSHERIFF, OR DEPUTY SHERIFF OF THE CITY OF NEW YORK is to the same extent as the delegating officer, authorized to make such arrest pursuant to the warrant within the geographical area of such delegated officer's OR A SHERIFF, UNDERSHERIFF, OR DEPUTY SHERIFF OF THE CITY OF NEW YORK'S employment. Upon so arresting the defendant, he must proceed as provided in subdivisions two and four of section 120.90.

S 5. Subdivisions 2, 3, 4 and 5 of section 120.80 of the criminal procedure law, subdivisions 2 and 3 and the opening paragraph of subdivision 4 as amended by chapter 424 of the laws of 1998, subdivision 4 as amended by chapter 504 of the laws of 1991 and subdivision 5 as amended by chapter 843 of the laws of 1980, are amended to read as follows:

2. Unless encountering physical resistance, flight or other factors rendering normal procedure impractical, the arresting police officer OR A SHERIFF, UNDERSHERIFF, OR DEPUTY SHERIFF OF THE CITY OF NEW YORK must inform the defendant that a warrant for his arrest for the offense designated therein has been issued. Upon request of the defendant, the officer OR A SHERIFF, UNDERSHERIFF, AND DEPUTY SHERIFF OF THE CITY OF NEW YORK must show him the warrant if he has it in his possession. The officer need not have the warrant in his possession, and, if he has not, he must show it to the defendant upon request as soon after the arrest as possible.

3. In order to effect the arrest, the police officer OR A SHERIFF, UNDERSHERIFF, AND DEPUTY SHERIFF OF THE CITY OF NEW YORK may use such physical force as is justifiable pursuant to section 35.30 of the penal law.

4. In order to effect the arrest, the police officer OR A SHERIFF, UNDERSHERIFF, OR DEPUTY SHERIFF OF THE CITY OF NEW YORK may, under circumstances and in the manner prescribed in this subdivision, enter any premises in which he reasonably believes the defendant to be present; provided, however, that where the premises in which the officer reasonably believes the defendant to be present is the dwelling of a third party who is not the subject of the arrest warrant, the officer OR A SHERIFF, UNDERSHERIFF, OR DEPUTY SHERIFF OF THE CITY OF NEW YORK shall proceed in the manner specified in article 690 of this chapter. Before such entry, he must give, or make reasonable effort to give, notice of his authority and purpose to an occupant thereof, unless there is reasonable cause to believe that the giving of such notice will:

(a) Result in the defendant escaping or attempting to escape; or

(b) Endanger the life or safety of the officer OR A SHERIFF, UNDERSHERIFF, AND DEPUTY SHERIFF OF THE CITY OF NEW YORK or another person; or

(c) Result in the destruction, damaging or secretion of material evidence.

5. If the officer [is] OR A SHERIFF, UNDERSHERIFF, OR DEPUTY SHERIFF OF THE CITY OF NEW YORK ARE authorized to enter premises without giving

notice of his authority and purpose, or if after giving such notice he is not admitted, he may enter such premises, and by a breaking if necessary.

S 6. Section 120.90 of the criminal procedure law, as amended by chapter 424 of the laws of 1998, is amended to read as follows:

S 120.90 Warrant of arrest; procedure after arrest.

1. Upon arresting a defendant for any offense pursuant to a warrant of arrest in the county in which the warrant is returnable or in any adjoining county, or upon so arresting him for a felony in any other county, a police officer, OR A SHERIFF, UNDERSHERIFF, AND DEPUTY SHERIFF OF THE CITY OF NEW YORK if he be one to whom the warrant is addressed, must without unnecessary delay bring the defendant before the local criminal court in which such warrant is returnable.

2. Upon arresting a defendant for any offense pursuant to a warrant of arrest in a county adjoining the county in which the warrant is returnable, or upon so arresting him for a felony in any other county, a police officer, if he be one delegated to execute the warrant pursuant to section 120.60, must without unnecessary delay deliver the defendant or cause him to be delivered to the custody of the officer OR A SHERIFF, UNDERSHERIFF, OR DEPUTY SHERIFF OF THE CITY OF NEW YORK by whom he was so delegated, and the latter must then proceed as provided in subdivision one.

3. Upon arresting a defendant for an offense other than a felony pursuant to a warrant of arrest in a county other than the one in which the warrant is returnable or one adjoining it, a police officer, OR A SHERIFF, UNDERSHERIFF, OR DEPUTY SHERIFF OF THE CITY OF NEW YORK if he be one to whom the warrant is addressed, must inform the defendant that he has a right to appear before a local criminal court of the county of arrest for the purpose of being released on his own recognizance or having bail fixed. If the defendant does not desire to avail himself of such right, the officer OR A SHERIFF, UNDERSHERIFF, OR DEPUTY SHERIFF OF THE CITY OF NEW YORK must request him to endorse such fact upon the warrant, and upon such endorsement the officer OR A SHERIFF, UNDERSHERIFF, OR DEPUTY SHERIFF OF THE CITY OF NEW YORK must without unnecessary delay bring him before the court in which the warrant is returnable. If the defendant does desire to avail himself of such right, or if he refuses to make the aforementioned endorsement, the officer OR A SHERIFF, UNDERSHERIFF, OR DEPUTY SHERIFF OF THE CITY OF NEW YORK must without unnecessary delay bring him before a local criminal court of the county of arrest. Such court must release the defendant on his own recognizance or fix bail for his appearance on a specified date in the court in which the warrant is returnable. If the defendant is in default of bail, the officer OR A SHERIFF, UNDERSHERIFF, OR DEPUTY SHERIFF OF THE CITY OF NEW YORK must without unnecessary delay bring him before the court in which the warrant is returnable.

4. Upon arresting a defendant for an offense other than a felony pursuant to a warrant of arrest in a county other than the one in which the warrant is returnable or one adjoining it, a police officer, OR A SHERIFF, UNDERSHERIFF, OR DEPUTY SHERIFF OF THE CITY OF NEW YORK if he be one delegated to execute the warrant pursuant to section 120.60, may hold the defendant in custody in the county of arrest for a period not exceeding two hours for the purpose of delivering him to the custody of the officer OR A SHERIFF, UNDERSHERIFF, OR DEPUTY SHERIFF OF THE CITY OF NEW YORK by whom he was delegated to execute such warrant. If the delegating officer OR A SHERIFF, UNDERSHERIFF, OR DEPUTY SHERIFF OF THE CITY OF NEW YORK receives custody of the defendant during such period, he

must proceed as provided in subdivision three. Otherwise, the delegated officer OR A SHERIFF, UNDERSHERIFF, OR DEPUTY SHERIFF OF THE CITY OF NEW YORK must inform the defendant that he has a right to appear before a local criminal court for the purpose of being released on his own recognizance or having bail fixed. If the defendant does not desire to avail himself of such right, the officer OR A SHERIFF, UNDERSHERIFF, OR DEPUTY SHERIFF OF THE CITY OF NEW YORK must request him to make, sign and deliver to him a written statement of such fact, and if the defendant does so, the officer OR A SHERIFF, UNDERSHERIFF, OR DEPUTY SHERIFF OF THE CITY OF NEW YORK must retain custody of him but must without unnecessary delay deliver him or cause him to be delivered to the custody of the delegating police officer OR A SHERIFF, UNDERSHERIFF, OR DEPUTY SHERIFF OF THE CITY OF NEW YORK. If the defendant does desire to avail himself of such right, or if he refuses to make and deliver the aforementioned statement, the delegated or arresting officer OR A SHERIFF, UNDERSHERIFF, OR DEPUTY SHERIFF OF THE CITY OF NEW YORK must without unnecessary delay bring him before a local criminal court of the county of arrest and must submit to such court a written statement reciting the material facts concerning the issuance of the warrant, the offense involved, and all other essential matters relating thereto. Upon the submission of such statement, such court must release the defendant on his own recognizance or fix bail for his appearance on a specified date in the court in which the warrant is returnable. If the defendant is in default of bail, the officer OR A SHERIFF, UNDERSHERIFF, OR DEPUTY SHERIFF OF THE CITY OF NEW YORK must retain custody of him but must without unnecessary delay deliver him or cause him to be delivered to the custody of the delegating officer OR A SHERIFF, UNDERSHERIFF, OR DEPUTY SHERIFF OF THE CITY OF NEW YORK. Upon receiving such custody, the latter must without unnecessary delay bring the defendant before the court in which the warrant is returnable.

5. Whenever a police officer OR A SHERIFF, UNDERSHERIFF, OR DEPUTY SHERIFF OF THE CITY OF NEW YORK is required pursuant to this section to bring an arrested defendant before a town court in which a warrant of arrest is returnable, and if such town court is not available at the time, such officer OR A SHERIFF, UNDERSHERIFF, OR DEPUTY SHERIFF OF THE CITY OF NEW YORK must, if a copy of the underlying accusatory instrument has been attached to the warrant pursuant to section 120.40, instead bring such defendant before any village court embraced, in whole or in part, by such town, or any local criminal court of an adjoining town or city of the same county or any village court embraced, in whole or in part, by such adjoining town. When the court in which the warrant is returnable is a village court which is not available at the time, the officer must in such circumstances bring the defendant before the town court of the town embracing such village or any other village court within such town or, if such town court or village court is not available either, before the local criminal court of any town or city of the same county which adjoins such embracing town or, before the local criminal court of any village embraced in whole or in part by such adjoining town. When the court in which the warrant is returnable is a city court which is not available at the time, the officer must in such circumstances bring the defendant before the local criminal court of any adjoining town or village embraced in whole or in part by such adjoining town of the same county.

6. Before bringing a defendant arrested pursuant to a warrant before the local criminal court in which such warrant is returnable, a police officer OR A SHERIFF, UNDERSHERIFF, OR DEPUTY SHERIFF OF THE CITY OF NEW

YORK must without unnecessary delay perform all fingerprinting and other preliminary police duties required in the particular case. In any case in which the defendant is not brought by a police officer OR A SHERIFF, UNDERSHERIFF, OR DEPUTY SHERIFF OF THE CITY OF NEW YORK before such court but, following his arrest in another county for an offense specified in subdivision one of section 160.10, is released by a local criminal court of such other county on his own recognizance or on bail for his appearance on a specified date before the local criminal court before which the warrant is returnable, the latter court must, upon arraignment of the defendant before it, direct that he be fingerprinted by the appropriate officer or agency, and that he appear at an appropriate designated time and place for such purpose.

7. Upon arresting a juvenile offender, the police officer OR A SHERIFF, UNDERSHERIFF, OR DEPUTY SHERIFF OF THE CITY OF NEW YORK shall immediately notify the parent or other person legally responsible for his care or the person with whom he is domiciled, that the juvenile offender has been arrested, and the location of the facility where he is being detained.

S 7. Subdivision 1 of section 130.40 of the criminal procedure law is amended to read as follows:

1. A summons may be served by a police officer OR A SHERIFF, UNDERSHERIFF, OR DEPUTY SHERIFF OF THE CITY OF NEW YORK, or by a complainant at least eighteen years old or by any other person at least eighteen years old designated by the court.

S 8. Subdivision 3 of section 140.50 of the criminal procedure law, as amended by chapter 911 of the laws of 1972, is renumbered subdivision 4 and amended and a new subdivision 3 is added to read as follows:

3. ANY PERSON WHO IS A SHERIFF, UNDERSHERIFF, OR DEPUTY SHERIFF OF THE CITY OF NEW YORK AND WHO IS ENGAGED IN THE COURSE OF PERFORMING HIS SPECIAL DUTIES MAY STOP A PERSON WITHIN THE CITY OF NEW YORK WHEN HE REASONABLY SUSPECTS THAT SUCH PERSON IS COMMITTING, HAS COMMITTED, OR IS ABOUT TO COMMIT EITHER (A) A FELONY OR (B) A MISDEMEANOR DEFINED IN THE PENAL LAW, AND MAY DEMAND OF HIM HIS NAME, ADDRESS AND AN EXPLANATION OF HIS CONDUCT.

4. When upon stopping a person under circumstances prescribed in [subdivisions] SUBDIVISION one [and], two OR THREE a police officer [or], court officer OR A SHERIFF, UNDERSHERIFF, OR DEPUTY SHERIFF OF THE CITY OF NEW YORK, as the case may be, reasonably suspects that he is in danger of physical injury, he may search such person for a deadly weapon or any instrument, article or substance readily capable of causing serious physical injury and of a sort not ordinarily carried in public places by law-abiding persons. If he finds such a weapon or instrument, or any other property possession of which he reasonably believes may constitute the commission of a crime, he may take it and keep it until the completion of the questioning, at which time he shall either return it, if lawfully possessed, or arrest such person.

S 9. Subdivision 1 of section 150.10 of the criminal procedure law, as amended by chapter 67 of the laws of 1996, is amended to read as follows:

1. An appearance ticket is a written notice issued and subscribed by a police officer OR A SHERIFF, UNDERSHERIFF OR DEPUTY SHERIFF OF THE CITY OF NEW YORK or other public servant authorized by state law or local law enacted pursuant to the provisions of the municipal home rule law to issue the same, directing a designated person to appear in a designated local criminal court at a designated future time in connection with his alleged commission of a designated offense. A notice conforming to such

definition constitutes an appearance ticket regardless of whether it is referred to in some other provision of law as a summons or by any other name or title.

S 10. Subdivision 2 of section 530.70 of the criminal procedure law, as amended by chapter 352 of the laws of 1991, is amended to read as follows:

2. A bench warrant may be addressed to: (a) any police officer whose geographical area of employment embraces either the place where the offense charged was allegedly committed or the locality of the court by which the warrant is issued; or (b) any uniformed court officer for a court in the city of New York, the county of Nassau, the county of Suffolk or the county of Westchester that is part of the unified court system of the state for execution in the building wherein such court officer is employed or in the immediate vicinity thereof; OR (C) A SHERIFF, UNDERSHERIFF OR DEPUTY SHERIFF OF THE CITY OF NEW YORK WHERE THE OFFENSE CHARGED WAS ALLEGEDLY COMMITTED WITHIN THE CITY OF NEW YORK. A bench warrant must be executed in the same manner as a warrant of arrest, as provided in section 120.80, and following the arrest, such executing police officer or court officer OR A SHERIFF, UNDERSHERIFF, OR DEPUTY SHERIFF OF THE CITY OF NEW YORK must without unnecessary delay bring the defendant before the court in which it is returnable; provided, however, if the court in which the bench warrant is returnable is a city, town or village court, and such court is not available, and the bench warrant is addressed to a police officer OR A SHERIFF, UNDERSHERIFF, OR DEPUTY SHERIFF OF THE CITY OF NEW YORK, such executing [police] officer must without unnecessary delay bring the defendant before an alternate local criminal court, as provided in subdivision five of section 120.90; or if the court in which the bench warrant is returnable is a superior court, and such court is not available, and the bench warrant is addressed to a police officer OR A SHERIFF, UNDERSHERIFF, OR DEPUTY SHERIFF OF THE CITY OF NEW YORK, such executing [police] officer may bring the defendant to the local correctional facility of the county in which such court sits, to be detained there until not later than the commencement of the next session of such court occurring on the next business day.

S 11. Section 570.34 of the criminal procedure law is amended to read as follows:

S 570.34 Arrest of accused without warrant therefor.

The arrest of a person in this state may be lawfully made also by any police officer, OR A SHERIFF, UNDERSHERIFF, OR DEPUTY SHERIFF OF THE CITY OF NEW YORK or a private person, without a warrant, upon reasonable information that the accused stands charged in the courts of another state with a crime punishable by death or imprisonment for a term exceeding one year; but when so arrested the accused must be taken before a local criminal court with all practicable speed and complaint must be made against him under oath setting forth the ground for the arrest as in the preceding section; and, thereafter, his answers shall be heard as if he had been arrested on a warrant.

S 12. Paragraph (b) of subdivision 2 of section 620.30 of the criminal procedure law is amended to read as follows:

(b) If in addition to the allegations specified in subdivision one, the application contains further allegations demonstrating to the satisfaction of the court reasonable cause to believe that (i) the witness would be unlikely to respond to such an order, or (ii) after previously having been served with such an order, he did not respond thereto, the court may issue a warrant addressed to a police officer OR A SHERIFF,

UNDERSHERIFF OR DEPUTY SHERIFF OF THE CITY OF NEW YORK, directing such officer to take such prospective witness into custody within the state and to bring him before the court forthwith in order that a proceeding may be conducted to determine whether he is to be adjudged a material witness.

S 13. Section 690.05 of the criminal procedure law, subdivision 2 as amended by chapter 504 of the laws of 1991 and the opening paragraph of subdivision 2 as amended by chapter 424 of the laws of 1998, is amended to read as follows:

S 690.05 Search warrants; in general; definition.

1. Under circumstances prescribed in this article, a local criminal court may, upon application of a police officer, OR A SHERIFF, UNDER-SHERIFF OR DEPUTY SHERIFF OF THE CITY OF NEW YORK, a district attorney or other public servant acting in the course of his official duties, issue a search warrant.

2. A search warrant is a court order and process directing a police officer OR A SHERIFF, UNDERSHERIFF, OR DEPUTY SHERIFF OF THE CITY OF NEW YORK to conduct:

(a) a search of designated premises, or of a designated vehicle, or of a designated person, for the purpose of seizing designated property or kinds of property, and to deliver any property so obtained to the court which issued the warrant; or

(b) a search of a designated premises for the purpose of searching for and arresting a person who is the subject of: (i) a warrant of arrest issued pursuant to this chapter, a superior court warrant of arrest issued pursuant to this chapter, or a bench warrant for a felony issued pursuant to this chapter, where the designated premises is the dwelling of a third party who is not the subject of the arrest warrant; or

(ii) a warrant of arrest issued by any other state or federal court for an offense which would constitute a felony under the laws of this state, where the designated premises is the dwelling of a third party who is not the subject of the arrest warrant.

S 14. Section 690.25 of the criminal procedure law is amended by adding a new subdivision 3 to read as follows:

3. A SEARCH WARRANT MAY BE ADDRESSED TO A SHERIFF, UNDERSHERIFF, OR DEPUTY SHERIFF OF THE CITY OF NEW YORK, TO BE EXECUTED PURSUANT TO ITS TERMS WITHIN THE CITY OF NEW YORK.

S 15. Paragraph (b) of subdivision 4 of section 690.35 of the criminal procedure law, as amended by chapter 424 of the laws of 1998, is amended to read as follows:

(b) A request that the search warrant authorize the executing police officer OR A SHERIFF, UNDERSHERIFF, OR DEPUTY SHERIFF OF THE CITY OF NEW YORK to enter premises to be searched without giving notice of his authority and purpose, upon the ground that there is reasonable cause to believe that (i) the property sought may be easily and quickly destroyed or disposed of, or (ii) the giving of such notice may endanger the life or safety of the executing officer or another person, or (iii) in the case of an application for a search warrant as defined in paragraph (b) of subdivision two of section 690.05 for the purpose of searching for and arresting a person who is the subject of a warrant for a felony, the person sought is likely to commit another felony, or may endanger the life or safety of the executing officer or another person.

S 16. Subdivision 2 of section 690.40 of the criminal procedure law, as amended by chapter 424 of the laws of 1998, is amended to read as follows:

2. If the court is satisfied that there is reasonable cause to believe that property of a kind or character referred to in section 690.10, and described in the application, may be found in or upon the place, premises, vehicle or person designated or described in the application, or, in the case of an application for a search warrant as defined in paragraph (b) of subdivision two of section 690.05, that there is reasonable cause to believe that the person who is the subject of a warrant of arrest, a superior court warrant of arrest, or a bench warrant for a felony may be found at the premises designated in the application, it may grant the application and issue a search warrant directing a search of the said place, premises, vehicle or person and a seizure of the described property or the described person. If the court is further satisfied that grounds, described in subdivision four of section 690.35, exist for authorizing the search to be made at any hour of the day or night, or without giving notice of the police officer's OR A SHERIFF'S, UNDERSHERIFF'S, OR DEPUTY SHERIFF OF THE CITY OF NEW YORK'S authority and purpose, it may make the search warrant executable accordingly.

S 17. Subdivisions 3 and 7 of section 690.45 of the criminal procedure law, as amended by chapter 424 of the laws of 1998, are amended to read as follows:

3. The name, department or classification of the police officer OR A SHERIFF, UNDERSHERIFF, OR DEPUTY SHERIFF OF THE CITY OF NEW YORK to whom it is addressed; and

7. An authorization, where the court has specially so determined, that the executing police officer OR A SHERIFF, UNDERSHERIFF, OR DEPUTY SHERIFF OF THE CITY OF NEW YORK enter the premises to be searched without giving notice of his authority and purpose; and

S 18. Section 690.50 of the criminal procedure law, as amended by chapter 424 of the laws of 1998, is amended to read as follows:

S 690.50 Search warrants; execution thereof.

1. In executing a search warrant directing a search of premises or a vehicle, a police officer OR A SHERIFF, UNDERSHERIFF, OR DEPUTY SHERIFF OF THE CITY OF NEW YORK must, except as provided in subdivision two, give, or make reasonable effort to give, notice of his authority and purpose to an occupant thereof before entry and show him the warrant or a copy thereof upon request. If he is not thereafter admitted, he may forcibly enter such premises or vehicle and may use against any person resisting his entry or search thereof as much physical force, other than deadly physical force, as is necessary to execute the warrant; and he may use deadly physical force if he reasonably believes such to be necessary to defend himself or a third person from what he reasonably believes to be the use or imminent use of deadly physical force.

2. In executing a search warrant directing a search of premises or a vehicle, a police officer OR A SHERIFF, UNDERSHERIFF, OR DEPUTY SHERIFF OF THE CITY OF NEW YORK need not give notice to anyone of his authority and purpose, as prescribed in subdivision one, but may promptly enter the same if:

(a) Such premises or vehicle are at the time unoccupied or reasonably believed by the officer to be unoccupied; or

(b) The search warrant expressly authorizes entry without notice.

3. In executing a search warrant directing or authorizing a search of a person, a police officer OR A SHERIFF, UNDERSHERIFF, OR DEPUTY SHERIFF OF THE CITY OF NEW YORK must give, or make reasonable effort to give, such person notice of his authority and purpose and show him the warrant or a copy thereof upon request. If such person, or another, thereafter resists or refuses to permit the search, the officer may use as much

physical force, other than deadly physical force, as is necessary to execute the warrant; and he may use deadly physical force if he reasonably believes such to be necessary to defend himself or a third person from what he reasonably believes to be the use or imminent use of deadly physical force.

4. Upon seizing property pursuant to a search warrant, a police officer OR A SHERIFF, UNDERSHERIFF, OR DEPUTY SHERIFF OF THE CITY OF NEW YORK must write and subscribe a receipt itemizing the property taken and containing the name of the court by which the warrant was issued. If property is taken from a person, such receipt must be given to such person. If property is taken from premises or a vehicle, such receipt must be given to the owner, tenant or other person in possession thereof if he is present; or if he is not, the officer must leave such a receipt in the premises or vehicle from which the property was taken.

5. Upon seizing property pursuant to a search warrant, a police officer OR A SHERIFF, UNDERSHERIFF, OR DEPUTY SHERIFF OF THE CITY OF NEW YORK must without unnecessary delay return to the court the warrant and the property, and must file therewith a written inventory of such property, subscribed and sworn to by such officer.

6. Upon arresting a person during a search for him or her pursuant to a search warrant as defined in paragraph (b) of subdivision two of section 690.05, a police officer OR A SHERIFF, UNDERSHERIFF, OR DEPUTY SHERIFF OF THE CITY OF NEW YORK shall comply with the terms of the warrant of arrest, superior court warrant of arrest, or bench warrant for a felony, and shall proceed in the manner directed by this chapter. Upon arresting such person, the police officer OR A SHERIFF, UNDERSHERIFF, OR DEPUTY SHERIFF OF THE CITY OF NEW YORK shall also, without unnecessary delay, file a written statement with the court which issued the search warrant, subscribed and sworn to by such officer, setting forth that the person has been arrested and duly brought before the appropriate court, return to the court the warrant and the property seized in the course of its execution, and file therewith a written inventory of any such property, subscribed and sworn to by such officer.

S 19. Paragraph (b) of subdivision 1 of section 690.55 of the criminal procedure law, as amended by chapter 424 of the laws of 1998, is amended to read as follows:

(b) Direct that it be held in the custody of the person who applied for the warrant, or of the police officer OR A SHERIFF, UNDERSHERIFF, OR DEPUTY SHERIFF OF THE CITY OF NEW YORK who executed it, or of the governmental or official agency or department by which either such public servant is employed, upon condition that upon order of such court such property be returned thereto or delivered to another court.

S 20. Subdivision 18 of section 75-a of the domestic relations law, as added by chapter 386 of the laws of 2001, is amended to read as follows:

18. "Law enforcement officer" means a police officer as defined in subdivision thirty-four of section 1.20 of the criminal procedure law, OR A PEACE OFFICER AS DEFINED BY SUBDIVISION TWO OF SECTION 2.10 OF THE CRIMINAL PROCEDURE LAW.

S 21. Section 77-o of the domestic relations law, as added by chapter 386 of the laws of 2001, is amended to read as follows:

S 77-o. Role of law enforcement. At the request of a prosecutor or other appropriate public official acting under section seventy-seven-n of this title, a law enforcement officer, as defined in subdivision thirty-four of section 1.20 of the criminal procedure law, AND AS DEFINED BY SUBDIVISION TWO OF SECTION 2.10 OF THE CRIMINAL PROCEDURE LAW, may take any lawful action reasonably necessary to locate a child

or a party and assist a prosecutor or appropriate public official with responsibilities under section seventy-seven-n of this title.

S 22. Section 58 of the New York city criminal court act is amended by adding a new subdivision 21 to read as follows:

(21) WHERE AN APPEARANCE TICKET HAS BEEN SERVED BY A MEMBER OF THE OFFICE OF THE SHERIFF OF THE CITY OF NEW YORK IN LIEU OF ARREST IN CASES AUTHORIZED BY ARTICLE ONE HUNDRED FIFTY OF THE CRIMINAL PROCEDURE LAW, A SERGEANT DEPUTY SHERIFF, LIEUTENANT DEPUTY SHERIFF, UNDERSHERIFF, OR SHERIFF OF SUCH OFFICE OF THE SHERIFF IS HEREBY AUTHORIZED TO ADMINISTER TO THE DEPUTY SHERIFF ALL NECESSARY OATHS IN CONNECTION WITH THE EXECUTION OF THE ACCUSATORY INSTRUMENT TO BE PRESENTED IN COURT BY SUCH DEPUTY SHERIFF IN THE PROSECUTION OF SUCH OFFENSE.

S 23. Subdivisions (b), (c) and (d) of section 153-a of the family court act, as added by chapter 416 of the laws of 1975, are amended to read as follows:

(b) Unless encountering physical resistance, flight or other factors rendering normal procedure impractical, the arresting police officer OR A SHERIFF, UNDERSHERIFF, OR DEPUTY SHERIFF OF THE CITY OF NEW YORK must inform the subject named therein that a warrant for his arrest for attendance at the proceeding designated therein has been issued. Upon request of such subject, the police officer OR A SHERIFF, UNDERSHERIFF OR DEPUTY SHERIFF OF THE CITY OF NEW YORK must show him the warrant if he has it in his possession. The officer need not have the warrant in his possession, and, if he has not, he must show it to the subject upon request as soon after the arrest as possible.

(c) In order to effect the arrest, the police officer OR A SHERIFF, UNDERSHERIFF, OR DEPUTY SHERIFF OF THE CITY OF NEW YORK may use such physical force as is justifiable pursuant to section 35.30 of the penal law.

(d) In order to effect the arrest, the police officer OR A SHERIFF, UNDERSHERIFF, OR DEPUTY SHERIFF OF THE CITY OF NEW YORK may enter any premises in which he reasonably believes the subject named therein to be present. Before such entry, he must give, or make reasonable effort to give, notice of his authority and purpose to an occupant thereof.

S 24. This act shall take effect immediately, provided, however, that sections two, three, four, five and six of this act shall apply to all arrest warrants addressed to police officers or peace officers outstanding on the date that this act shall have become a law.