

4517

2011-2012 Regular Sessions

I N S E N A T E

April 8, 2011

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:

- 1 Section 1. Subdivisions 28, 29 and 30 of section 1.20 of the criminal
2 procedure law, subdivision 30 as amended by chapter 265 of the laws of
3 1976, are amended to read as follows:
4 28. "Warrant of arrest" means a process of a local criminal court,
5 more fully defined in section 120.10, directing a police officer OR A
6 SHERIFF, UNDERSHERIFF, OR DEPUTY SHERIFF OF THE CITY OF NEW YORK to
7 arrest a defendant and to bring him before such court for the purpose of
8 arraignment upon an accusatory instrument filed therewith by which a
9 criminal action against him has been commenced.
10 29. "Superior court warrant of arrest" means a process of a superior
11 court directing a police officer OR A SHERIFF, UNDERSHERIFF, OR DEPUTY
12 SHERIFF OF THE CITY OF NEW YORK to arrest a defendant and to bring him
13 before such court for the purpose of arraignment upon an indictment
14 filed therewith by which a criminal action against him has been
15 commenced.
16 30. "Bench warrant" means a process of a criminal court in which a
17 criminal action is pending, directing a police officer, OR A SHERIFF,
18 UNDERSHERIFF, OR DEPUTY SHERIFF OF THE CITY OF NEW YORK or a uniformed
19 court officer, pursuant to paragraph (b) of subdivision two of section
20 530.70 of this chapter, to take into custody a defendant in such action
21 who has previously been arraigned upon the accusatory instrument by
22 which the action was commenced, and to bring him before such court. The
23 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.

LBD09552-01-1

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

1 notice of his authority and purpose, or if after giving such notice he
2 is not admitted, he may enter such premises, and by a breaking if neces-
3 sary.

4 S 6. Section 120.90 of the criminal procedure law, as amended by chap-
5 ter 424 of the laws of 1998, subdivision 8 as amended by chapter 96 of
6 the laws of 2010, is amended to read as follows:

7 S 120.90 Warrant of arrest; procedure after arrest.

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

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

24 3. Upon arresting a defendant for an offense other than a felony
25 pursuant to a warrant of arrest in a county other than the one in which
26 the warrant is returnable or one adjoining it, a police officer, OR A
27 SHERIFF, UNDERSHERIFF, OR DEPUTY SHERIFF OF THE CITY OF NEW YORK if he
28 be one to whom the warrant is addressed, must inform the defendant that
29 he has a right to appear before a local criminal court of the county of
30 arrest for the purpose of being released on his own recognizance or
31 having bail fixed. If the defendant does not desire to avail himself of
32 such right, the officer OR A SHERIFF, UNDERSHERIFF, OR DEPUTY SHERIFF OF
33 THE CITY OF NEW YORK must request him to endorse such fact upon the
34 warrant, and upon such endorsement the officer OR A SHERIFF, UNDERSHER-
35 IFF, OR DEPUTY SHERIFF OF THE CITY OF NEW YORK must without unnecessary
36 delay bring him before the court in which the warrant is returnable. If
37 the defendant does desire to avail himself of such right, or if he
38 refuses to make the aforementioned endorsement, the officer OR A SHER-
39 IFF, UNDERSHERIFF, OR DEPUTY SHERIFF OF THE CITY OF NEW YORK must with-
40 out unnecessary delay bring him before a local criminal court of the
41 county of arrest. Such court must release the defendant on his own
42 recognizance or fix bail for his appearance on a specified date in the
43 court in which the warrant is returnable. If the defendant is in
44 default of bail, the officer OR A SHERIFF, UNDERSHERIFF, OR DEPUTY SHER-
45 IFF OF THE CITY OF NEW YORK must without unnecessary delay bring him
46 before the court in which the warrant is returnable.

47 4. Upon arresting a defendant for an offense other than a felony
48 pursuant to a warrant of arrest in a county other than the one in which
49 the warrant is returnable or one adjoining it, a police officer, OR A
50 SHERIFF, UNDERSHERIFF, OR DEPUTY SHERIFF OF THE CITY OF NEW YORK if he
51 be one delegated to execute the warrant pursuant to section 120.60, may
52 hold the defendant in custody in the county of arrest for a period not
53 exceeding two hours for the purpose of delivering him to the custody of
54 the officer OR A SHERIFF, UNDERSHERIFF, OR DEPUTY SHERIFF OF THE CITY OF
55 NEW YORK by whom he was delegated to execute such warrant. If the deleg-
56 ating officer OR A SHERIFF, UNDERSHERIFF, OR DEPUTY SHERIFF OF THE CITY

1 OF NEW YORK receives custody of the defendant during such period, he
2 must proceed as provided in subdivision three. Otherwise, the delegated
3 officer OR A SHERIFF, UNDERSHERIFF, OR DEPUTY SHERIFF OF THE CITY OF NEW
4 YORK must inform the defendant that he has a right to appear before a
5 local criminal court for the purpose of being released on his own recog-
6 nizance or having bail fixed. If the defendant does not desire to avail
7 himself of such right, the officer OR A SHERIFF, UNDERSHERIFF, OR DEPUTY
8 SHERIFF OF THE CITY OF NEW YORK must request him to make, sign and
9 deliver to him a written statement of such fact, and if the defendant
10 does so, the officer OR A SHERIFF, UNDERSHERIFF, OR DEPUTY SHERIFF OF
11 THE CITY OF NEW YORK must retain custody of him but must without unnec-
12 essary delay deliver him or cause him to be delivered to the custody of
13 the delegating police officer OR A SHERIFF, UNDERSHERIFF, OR DEPUTY
14 SHERIFF OF THE CITY OF NEW YORK. If the defendant does desire to avail
15 himself of such right, or if he refuses to make and deliver the afore-
16 mentioned statement, the delegated or arresting officer OR A SHERIFF,
17 UNDERSHERIFF, OR DEPUTY SHERIFF OF THE CITY OF NEW YORK must without
18 unnecessary delay bring him before a local criminal court of the county
19 of arrest and must submit to such court a written statement reciting the
20 material facts concerning the issuance of the warrant, the offense
21 involved, and all other essential matters relating thereto. Upon the
22 submission of such statement, such court must release the defendant on
23 his own recognizance or fix bail for his appearance on a specified date
24 in the court in which the warrant is returnable. If the defendant is in
25 default of bail, the officer OR A SHERIFF, UNDERSHERIFF, OR DEPUTY SHER-
26 IFF OF THE CITY OF NEW YORK must retain custody of him but must without
27 unnecessary delay deliver him or cause him to be delivered to the custo-
28 dy of the delegating officer OR A SHERIFF, UNDERSHERIFF, OR DEPUTY SHER-
29 IFF OF THE CITY OF NEW YORK. Upon receiving such custody, the latter
30 must without unnecessary delay bring the defendant before the court in
31 which the warrant is returnable.

32 5. Whenever a police officer OR A SHERIFF, UNDERSHERIFF, OR DEPUTY
33 SHERIFF OF THE CITY OF NEW YORK is required pursuant to this section to
34 bring an arrested defendant before a town court in which a warrant of
35 arrest is returnable, and if such town court is not available at the
36 time, such officer OR A SHERIFF, UNDERSHERIFF, OR DEPUTY SHERIFF OF THE
37 CITY OF NEW YORK must, if a copy of the underlying accusatory instrument
38 has been attached to the warrant pursuant to section 120.40, instead
39 bring such defendant before any village court embraced, in whole or in
40 part, by such town, or any local criminal court of an adjoining town or
41 city of the same county or any village court embraced, in whole or in
42 part, by such adjoining town. When the court in which the warrant is
43 returnable is a village court which is not available at the time, the
44 officer must in such circumstances bring the defendant before the town
45 court of the town embracing such village or any other village court
46 within such town or, if such town court or village court is not avail-
47 able either, before the local criminal court of any town or city of the
48 same county which adjoins such embracing town or, before the local crim-
49 inal court of any village embraced in whole or in part by such adjoining
50 town. When the court in which the warrant is returnable is a city court
51 which is not available at the time, the officer must in such circum-
52 stances bring the defendant before the local criminal court of any
53 adjoining town or village embraced in whole or in part by such adjoining
54 town of the same county.

55 6. Before bringing a defendant arrested pursuant to a warrant before
56 the local criminal court in which such warrant is returnable, a police

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

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

20 8. Upon arresting a defendant, other than a juvenile offender, for any
21 offense pursuant to a warrant of arrest, a police officer OR A SHERIFF,
22 UNDERSHERIFF, OR DEPUTY SHERIFF OF THE CITY OF NEW YORK shall, upon the
23 defendant's request, permit the defendant to communicate by telephone
24 provided by the law enforcement facility where the defendant is held to
25 a phone number located anywhere in the United States or Puerto Rico, for
26 the purposes of obtaining counsel and informing a relative or friend
27 that he or she has been arrested, unless granting the call will compro-
28 mise an ongoing investigation or the prosecution of the defendant.

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

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

35 S 8. Subdivision 3 of section 140.50 of the criminal procedure law, as
36 amended by chapter 911 of the laws of 1972, is amended and a new subdivi-
37 sion 2-a is added to read as follows:

38 2-A. ANY PERSON WHO IS A SHERIFF, UNDERSHERIFF, OR DEPUTY SHERIFF OF
39 THE CITY OF NEW YORK AND WHO IS ENGAGED IN THE COURSE OF PERFORMING HIS
40 SPECIAL DUTIES MAY STOP A PERSON WITHIN THE CITY OF NEW YORK WHEN HE
41 REASONABLY SUSPECTS THAT SUCH PERSON IS COMMITTING, HAS COMMITTED, OR IS
42 ABOUT TO COMMIT EITHER (A) A FELONY OR (B) A MISDEMEANOR DEFINED IN THE
43 PENAL LAW, AND MAY DEMAND OF HIM HIS NAME, ADDRESS AND AN EXPLANATION OF
44 HIS CONDUCT.

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

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

4 1. An appearance ticket is a written notice issued and subscribed by a
5 police officer OR A SHERIFF, UNDERSHERIFF OR DEPUTY SHERIFF OF THE CITY
6 OF NEW YORK or other public servant authorized by state law or local law
7 enacted pursuant to the provisions of the municipal home rule law to
8 issue the same, directing a designated person to appear in a designated
9 local criminal court at a designated future time in connection with his
10 alleged commission of a designated offense. A notice conforming to such
11 definition constitutes an appearance ticket regardless of whether it is
12 referred to in some other provision of law as a summons or by any other
13 name or title.

14 S 10. Subdivision 2 of section 530.70 of the criminal procedure law,
15 as amended by chapter 10 of the laws of 2010, is amended to read as
16 follows:

17 2. A bench warrant may be addressed to: (a) any police officer whose
18 geographical area of employment embraces either the place where the
19 offense charged was allegedly committed or the locality of the court by
20 which the warrant is issued; or (b) any uniformed court officer for a
21 court in the city of New York, the county of Nassau, the county of
22 Suffolk or the county of Westchester or for any other court that is part
23 of the unified court system of the state for execution in the building
24 wherein such court officer is employed or in the immediate vicinity
25 thereof; OR (C) A SHERIFF, UNDERSHERIFF OR DEPUTY SHERIFF OF THE CITY OF
26 NEW YORK WHERE THE OFFENSE CHARGED WAS ALLEGEDLY COMMITTED WITHIN THE
27 CITY OF NEW YORK. A bench warrant must be executed in the same manner
28 as a warrant of arrest, as provided in section 120.80, and following the
29 arrest, such executing police officer or court officer OR A SHERIFF,
30 UNDERSHERIFF, OR DEPUTY SHERIFF OF THE CITY OF NEW YORK must without
31 unnecessary delay bring the defendant before the court in which it is
32 returnable; provided, however, if the court in which the bench warrant
33 is returnable is a city, town or village court, and such court is not
34 available, and the bench warrant is addressed to a police officer OR A
35 SHERIFF, UNDERSHERIFF, OR DEPUTY SHERIFF OF THE CITY OF NEW YORK, such
36 executing [police] officer must without unnecessary delay bring the
37 defendant before an alternate local criminal court, as provided in
38 subdivision five of section 120.90; or if the court in which the bench
39 warrant is returnable is a superior court, and such court is not avail-
40 able, and the bench warrant is addressed to a police officer OR A SHER-
41 IFF, UNDERSHERIFF, OR DEPUTY SHERIFF OF THE CITY OF NEW YORK, such
42 executing [police] officer may bring the defendant to the local correc-
43 tional facility of the county in which such court sits, to be detained
44 there until not later than the commencement of the next session of such
45 court occurring on the next business day.

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

48 S 570.34 Arrest of accused without warrant therefor.

49 The arrest of a person in this state may be lawfully made also by any
50 police officer, OR A SHERIFF, UNDERSHERIFF, OR DEPUTY SHERIFF OF THE
51 CITY OF NEW YORK or a private person, without a warrant, upon reasonable
52 information that the accused stands charged in the courts of another
53 state with a crime punishable by death or imprisonment for a term
54 exceeding one year; but when so arrested the accused must be taken
55 before a local criminal court with all practicable speed and complaint
56 must be made against him under oath setting forth the ground for the

1 arrest as in the preceding section; and, thereafter, his answers shall
2 be heard as if he had been arrested on a warrant.

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

5 (b) If in addition to the allegations specified in subdivision one,
6 the application contains further allegations demonstrating to the satis-
7 faction of the court reasonable cause to believe that (i) the witness
8 would be unlikely to respond to such an order, or (ii) after previously
9 having been served with such an order, he did not respond thereto, the
10 court may issue a warrant addressed to a police officer OR A SHERIFF,
11 UNDERSHERIFF OR DEPUTY SHERIFF OF THE CITY OF NEW YORK, directing such
12 officer to take such prospective witness into custody within the state
13 and to bring him before the court forthwith in order that a proceeding
14 may be conducted to determine whether he is to be adjudged a material
15 witness.

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

20 S 690.05 Search warrants; in general; definition.

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

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

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

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

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

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

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

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

51 (b) A request that the search warrant authorize the executing police
52 officer OR A SHERIFF, UNDERSHERIFF, OR DEPUTY SHERIFF OF THE CITY OF NEW
53 YORK to enter premises to be searched without giving notice of his
54 authority and purpose, upon the ground that there is reasonable cause to
55 believe that (i) the property sought may be easily and quickly destroyed
56 or disposed of, or (ii) the giving of such notice may endanger the life

1 or safety of the executing officer or another person, or (iii) in the
2 case of an application for a search warrant as defined in paragraph (b)
3 of subdivision two of section 690.05 for the purpose of searching for
4 and arresting a person who is the subject of a warrant for a felony, the
5 person sought is likely to commit another felony, or may endanger the
6 life or safety of the executing officer or another person.

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

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

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

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

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

37 S 18. Section 690.50 of the criminal procedure law, as amended by
38 chapter 424 of the laws of 1998, is amended to read as follows:
39 S 690.50 Search warrants; execution thereof.

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

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

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

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

4 3. In executing a search warrant directing or authorizing a search of
5 a person, a police officer OR A SHERIFF, UNDERSHERIFF, OR DEPUTY SHERIFF
6 OF THE CITY OF NEW YORK must give, or make reasonable effort to give,
7 such person notice of his authority and purpose and show him the warrant
8 or a copy thereof upon request. If such person, or another, thereafter
9 resists or refuses to permit the search, the officer may use as much
10 physical force, other than deadly physical force, as is necessary to
11 execute the warrant; and he may use deadly physical force if he reason-
12 ably believes such to be necessary to defend himself or a third person
13 from what he reasonably believes to be the use or imminent use of deadly
14 physical force.

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

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

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

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

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

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

54 18. "Law enforcement officer" means a police officer as defined in
55 subdivision thirty-four of section 1.20 of the criminal procedure law,

1 OR A PEACE OFFICER AS DEFINED BY SUBDIVISION TWO OF SECTION 2.10 OF THE
2 CRIMINAL PROCEDURE LAW.

3 S 21. Section 77-o of the domestic relations law, as added by chapter
4 386 of the laws of 2001, is amended to read as follows:

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

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

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

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

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

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

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

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