STATE OF NEW YORK

5441

2021-2022 Regular Sessions

IN ASSEMBLY

February 16, 2021

Introduced by M. of A. QUART, ROZIC, SIMON, BARRON, KIM, HYNDMAN, SEAWRIGHT, COOK, GLICK, HUNTER, TAYLOR, LAVINE, RODRIGUEZ, DICKENS, DILAN, STIRPE, CARROLL, VANEL, BENEDETTO, PEOPLES-STOKES, WEPRIN, HEVESI, DE LA ROSA, PRETLOW, ABINANTI, BICHOTTE HERMELYN, PHEFFER AMATO, JOYNER, NIOU, ENGLEBRIGHT, WALKER, OTIS, GALEF, GOTTFRIED, L. ROSENTHAL -- Multi-Sponsored by -- M. of A. EPSTEIN, LUPARDO -- read once and referred to the Committee on Codes

AN ACT to amend the criminal procedure law, the general business law, the insurance law and the judiciary law, in relation to recognizance procedures and bail reform; and to repeal certain provisions of such laws and of the penal law relating thereto

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

Section 1. Legislative intent. The purpose of this legislation is to reform the process by which courts in the state of New York evaluate applications by criminal defendants who seek release on their own recognizance. New York's current bail statute has been applied in a manner that has led to unsatisfactory levels of pre-trial detention. The purpose of this legislation is to ensure decarceration and release of criminal cases by applying a rebuttable presumption of recognizance. Courts in New York must consider only admissible evidence at recognizance hearings and must apply the least restrictive measures to ensure an individual's return to court.

§ 2. The title heading of title P of the criminal procedure law is amended to read as follows:

PROCEDURES FOR SECURING ATTENDANCE
AT CRIMINAL ACTIONS AND PROCEEDINGS
OF DEFENDANTS AND WITNESSES UNDER
CONTROL OF COURT--RECOGNIZANCE[~~,~~
~~BAIL~~] AND COMMITMENT

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

LBD07046-02-1

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

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

§ 4. Subdivisions 3, 6 and 7 of section 500.10 of the criminal procedure law, subdivisions 6 and 7 as amended by section 1-e of part JJJ of chapter 59 of the laws of 2019, are amended to read as follows:

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.~~] **"Recognizance hearing." A hearing before the court where the principal appears for the purposes of the court considering recognizance or committing the principal to the custody of the sheriff.**

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

7. "Application for recognizance [~~or bail~~]" means an application by a principal [~~that~~] **to** the court[~~, instead of committing the principal to or retaining the principal in~~] **that the principal be released instead of committed to** the custody of the sheriff[~~, either release the principal on the principal's own recognizance, release under non-monetary conditions, or, where authorized, fix bail~~].

§ 5. Subdivisions 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18 and 19 of section 500.10 of the criminal procedure law are REPEALED and subdivisions 20, 21 and 22 are renumbered subdivisions 8, 9 and 10.

§ 6. 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

§ 7. Subdivision 1 of section 510.10 of the criminal procedure law, as amended by section 2 of part JJJ of chapter 59 of the laws of 2019, is amended to read as follows:

1. When a principal, whose future court attendance at a criminal action or proceeding is or may be required, **initially** comes under the control of a court, such court shall, in accordance with this title, by a securing order **either** release the principal on the principal's own recognizance, release the principal under non-monetary conditions, or, where authorized[~~, fix bail or~~] commit the principal to the custody of the sheriff. In all such cases, except where another type of securing order is shown to be required by law, the court shall release the principal pending trial on the principal's own recognizance, unless it is demonstrated and the court makes an individualized determination that the principal poses a risk of flight to avoid prosecution. If such a finding is made, the court must select the least restrictive alternative and condition or conditions that will reasonably assure the principal's return to court. The court shall explain its choice of release, release with conditions[~~, bail~~] or remand on the record or in writing.

§ 8. The opening paragraph and paragraph (t) of subdivision 4 of section 510.10 of the criminal procedure law, the opening paragraph as amended and paragraph (t) as added by section 2 of part UU of chapter 56 of the laws of 2020, are amended to read as follows:

Where the principal stands charged with a qualifying offense, 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, 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. A principal stands charged with a qualifying offense for the purposes of this subdivision when he or she stands charged with:

(t) any felony or class A misdemeanor involving harm to an identifiable person [~~or property~~], where such charge arose from conduct occurring while the defendant was released on [~~his or her~~] **the defendant's** own recognizance or released under conditions 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.~~]

§ 9. Section 510.10 of the criminal procedure law is amended to add a new subdivision 7 to read as follows:

7. The court shall inform the principal that the conditions of the securing order are subject to modification consistent with the provisions of section 510.25 of this article.

§ 10. Section 510.20 of the criminal procedure law, as amended by section 3 of part JJJ of chapter 59 of the laws of 2019, 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, release under non-monetary conditions [~~or 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[~~,~~] **or** release under non-monetary conditions [~~or, where authorized, bail must or should issue, that the court should release the principal on the principal's own recognizance or under non-monetary conditions rather than fix bail, and that if bail is authorized and fixed it should be in a suggested amount and form~~] **be issued**.

3. The court shall make a pre-trial release decision for the principal without unnecessary delay, but in no case later than forty-eight hours after the principal's initial commitment to jail.

§ 11. The criminal procedure law is amended by adding three new sections 510.25, 510.26 and 510.27 to read as follows:

§ 510.25 Prosecutor; motion.

The prosecutor may file with the court at any time, including at any time before or after the principal's release from custody, a motion seeking the pre-trial detention of the principal for which the prosecutor shall present evidence to the court demonstrating that:

1. The principal will not appear in court as required; or

2. The principal will obstruct or attempt to obstruct justice or the criminal process; or

3. The principal would threaten, injure or intimidate a prospective witness or juror.

§ 510.26 Prosecutor; motion; evidentiary standard.

A motion to the court seeking pre-trial detention pursuant to section 510.25 of this article shall set forth admissible evidence as defined by this chapter. There shall be a rebuttable presumption that the principal be detained pending trial if the court, upon consideration of the admissible evidence, determines by a preponderance of the evidence that:

1. None of the pre-trial supervision services available would ensure the principal's appearance in court when required; or

2. The principal would injure or intimidate a prospective witness or juror if released on the principal's own recognizance.

§ 510.27 Motion for rehearing; securing order.

1. The parties, after a determination by the court at a recognizance hearing, at any time before trial, may submit a motion to the court seeking to vacate or modify the securing order. A motion seeking to vacate or modify a securing order shall include admissible evidence showing a change of circumstances with respect to the conditions set forth in section 510.25 of this article.

2. The court shall determine by a preponderance of the evidence presented whether the securing order should be vacated or modified.

3. The court shall reopen a recognizance hearing upon its own application, at any time before trial, if the court finds that information exists that was not known to the prosecutor or principal at the time of the recognizance hearing that has a material bearing on the conditions set forth in section 510.25 of this article. The court shall make this information known to the prosecutor and principal prior to the recognizance hearing.

§ 12. Subdivision 1 of section 510.30 of the criminal procedure law, as amended by section 5 of part JJJ of chapter 59 of the laws of 2019, is amended to read as follows:

1. With respect to any principal, the court in all cases, unless otherwise provided by law, must impose the least restrictive kind and degree of control or restriction that is necessary to secure the principal's return to court when required. In determining that matter, the court must, on the basis of available information, consider and take into account information about the principal that is relevant to the principal's return to court, including:

(a) The principal's activities and history;

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

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

(d) [~~The principal's record of previous adjudication as a juvenile delinquent, as retained pursuant to section 354.2 of the family court act, or, of pending cases where fingerprints are retained pursuant to section 306.1 of such act, or a youthful offender, if any;~~

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

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

~~(g)~~] (e) Where the principal is charged with a crime or crimes against a member or members of the same family or household as that term is defined in subdivision one of section 530.11 of this title, the following factors:

(i) any violation by the principal of an order of protection issued by any court for the protection of a member or members of the same family or household as that term is defined in subdivision one of section 530.11 of this title, whether or not such order of protection is currently in effect; and

(ii) the principal's history of use or possession of a firearm; and

[~~(h)~~] **(f)** If the principal is a defendant, in the case of an application for a securing order pending appeal, the merit or lack of merit of the appeal.

§ 13. Section 510.40 of the criminal procedure law, as amended by section 6 of part JJJ of chapter 59 of the laws of 2019, 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 consistent with the court's obligation to impose the least restrictive condition or conditions 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.

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

(b) The specific method of electronic monitoring of the principal's location must be approved by the court. It must be the least restrictive procedure and method that will reasonably assure the principal's return to court, and unobtrusive to the greatest extent practicable.

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

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

A defendant subject to electronic location monitoring under this subdivision shall be considered held or confined in custody for purposes of section 180.80 of this chapter and shall be considered committed to the custody of the sheriff for purposes of section 170.70 of the chapter, as applicable.

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

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

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

§ 14. 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.

§ 15. The criminal procedure law is amended by adding a new section 510.60 to read as follows:

§ 510.60 Statistical reports.

The division of criminal justice services shall compile and publish data on the disposition of all recognizance hearings in all courts, disaggregated by county and including the following information:

1. The aggregate number of recognizance hearings;

2. The aggregate number of defendants and principals who were heard at recognizance hearings;

3. The race, ethnicity, age and sex of each defendant or principal;

4. The crimes each defendant or principal were charged with; and

5. The disposition of each hearing whether for recognizance or commitment.

§ 16. Articles 520 and 540 of the criminal procedure law are REPEALED.

§ 17. 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

§ 18. The section heading of 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:

Order of recognizance release under non-monetary conditions or [~~bail~~] **securing orders**; in general.

§ 19. The opening paragraph of subdivision 1 of section 530.12 of the criminal procedure law, as amended by chapter 526 of the laws of 2013, is 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~~] or an adjournment in contemplation of dismissal.

§ 20. Subdivision 9 of section 530.12 of the criminal procedure law, as amended by section 81 of subpart B of part C of chapter 62 of the laws of 2011, is amended to read as follows:

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

§ 21. Paragraph (a) of subdivision 11 of section 530.12 of the criminal procedure law, as amended by section 15 of part JJJ of chapter 59 of the laws of 2019, is amended to read as follows:

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

§ 22. Paragraph (a) of subdivision 8 of section 530.13 of the criminal procedure law, as amended by section 13 of part JJJ of chapter 59 of the laws of 2019, is amended to read as follows:

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

§ 23. Paragraph (b) of subdivision 1 of section 530.20 of the criminal procedure law, as amended by section 3 of part UU of chapter 56 of the laws of 2020, is amended to read as follows:

(b) Where the principal stands charged with a qualifying offense, 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, 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 release, release with conditions, [~~bail~~] or remand on the record or in writing. A principal stands charged with a qualifying offense when he or she 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~~] **when** 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; or

(xx) any felony or class A misdemeanor involving harm to an identifiable person [~~or property~~], where such charge arose from conduct occur-

ring while the defendant was released on [~~his or her~~] **the defendant's** own recognizance or released under conditions 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.

§ 24. Section 530.30 of the criminal procedure law, the section heading, subdivision 1 and subdivision 2 as amended by section 17 of part JJJ of chapter 59 of the laws of 2019, is amended to read as follows:

§ 530.30 Order of recognizance, release under non-monetary conditions or [~~bail~~] **securing order**; 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[~~,~~] **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[~~,~~] **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,~~] whichever are the least restrictive alternative and conditions that will reasonably assure the defendant's return to court. The court shall explain its choice of alternative and conditions 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[~~,~~] **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 of section 530.20 of this article.

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

§ 25. 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 4 as amended by section 4 of part UU of chapter 56 of the laws of 2020, is amended to read as follows:

§ 530.40 Order of recognizance, release under non-monetary conditions or [~~bail~~] **securing order**; 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~~] **release under non-monetary conditions** 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[~~,~~] **or** release under non-monetary conditions [~~**or, where authorized, bail**~~]. 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[~~,~~] **or** release under non-monetary conditions [~~**or, where authorized, bail**~~] 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, unless the court finds on the record or in writing that release on the principal's own recognizance will not reasonably assure the principal's return to court. In such instances, the court shall release the principal under non-monetary conditions, selecting the least restrictive alternative and conditions that will reasonably assure the principal's return to court. The court shall explain its choice of alternative and conditions on the record or in writing.

4. Where the principal stands charged with a qualifying offense, 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, 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 release, release with conditions[~~**, bail**~~] or remand on the record or in writing. A principal stands charged with a qualifying offense for the purposes of this subdivision when [~~**he or she**~~] **the 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~~] **when** 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-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 offen-

der 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; or

(t) any felony or class A misdemeanor involving harm to an identifiable person [~~or property~~], where such charge arose from conduct occurring while the defendant was released on [~~his or her~~] **the defendant's** own recognizance or released under conditions 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.

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.~~

~~6.~~] Notwithstanding the provisions of subdivisions two, three and four of this section, a superior court may not order recognizance, release under non-monetary conditions [~~or, where authorized, bail,~~] or permit a defendant to remain at liberty pursuant to an existing order, after the defendant has been convicted of either: (a) a class A felony or (b) any class B or class C felony as 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. In either case the court must commit or remand the defendant to the custody of the sheriff.

[~~7.~~] **6.** Notwithstanding the provisions of subdivisions two, three and four of this section, a superior court may not order recognizance[~~,~~] **or** release under non-monetary conditions [~~or, where authorized, bail~~] when the defendant is charged with a felony unless and until the district attorney has had an opportunity to be heard in the matter and such court and counsel for the defendant have been furnished with a report as described in subparagraph (ii) of paragraph (b) of subdivision two of section 530.20 of this article.

§ 26. The section heading and subdivision 1 of section 530.45 of the criminal procedure law, the section heading as added by chapter 435 of the laws of 1974 and subdivision 1 as amended by section 19 of part JJJ of chapter 59 of the laws of 2019, are amended to read as follows:

Order of recognizance or [~~bail~~] **securing order**; after conviction and before sentence.

1. When the defendant is at liberty in the course of a criminal action as a result of a prior order of recognizance[~~,~~] **or** release under non-monetary conditions [~~or bail~~] and the court revokes such order and then, where authorized, [~~fixes no bail or fixes bail in a greater amount or in~~

~~a more burdensome form than was previously fixed and~~] remands or commits defendant to the custody of the sheriff, or issues a more restrictive securing order, a judge designated in subdivision two of this section, upon application of the defendant following conviction of an offense other than a class A felony or a class B or class C felony offense as 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, and before sentencing, may issue a securing order and release the defendant on the defendant's own recognizance, release the defendant under non-monetary conditions, [~~or, where authorized, fix bail or fix bail in a lesser amount or in a less burdensome form,~~] or issue a less restrictive securing order, than fixed by the court in which the conviction was entered.

§ 27. Subdivision 2-a of section 530.45 of the criminal procedure law, as added by section 9 of part UU of chapter 56 of the laws of 2020, is amended to read as follows:

2-a. Notwithstanding the provisions of subdivision four of section 510.10, paragraph (b) of subdivision one of section 530.20 and subdivision four of section 530.40 of this title, when a defendant charged with an offense that is not such a qualifying offense is convicted, whether by guilty plea or verdict, in such criminal action or proceeding of an offense that is not a qualifying offense, the court may, in accordance with law, issue a securing order: releasing the defendant on the defendant's own recognizance or under non-monetary conditions [~~where authorized, fix bail~~], or remand the defendant to the custody of the sheriff where authorized.

§ 28. Subdivision 6 of section 530.45 of the criminal procedure law, as added by chapter 435 of the laws of 1974, is amended to read as follows:

6. Where the defendant is at liberty during the pendency of an appeal as a result of an order issued pursuant to this section, the intermediate appellate court, upon affirmance of the judgment, must by appropriate certificate remit the case to the criminal court in which such judgment was entered. The criminal court must, upon at least two days notice to the defendant[~~, his surety~~] and his attorney, promptly direct the defendant to surrender himself to the criminal court in order that execution of the judgment be commenced or resumed, and if necessary the criminal court may issue a bench warrant to secure his appearance.

§ 29. Section 530.50 of the criminal procedure law, as amended by chapter 264 of the laws of 2003, subdivision 1 as designated and subdivision 2 as added by section 10 of part UU of chapter 56 of the laws of 2020, is amended to read as follows:

§ 530.50 Order of recognizance or [~~bail~~] securing order; during pendency of appeal.

1. A judge who is otherwise authorized pursuant to section 460.50 or section 460.60 to issue an order of recognizance [~~or bail~~] 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, paragraph (b) of subdivision one of section 530.20 and subdivision four of section 530.40 of this title, 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, [~~or 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 remanding the defendant to the custody of the sheriff where authorized.

§ 30. Section 530.60 of the criminal procedure law, as amended by section 20 of part JJJ of chapter 59 of the laws of 2019, 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, release under non-monetary conditions [~~or bail~~] issued pursuant to this chapter, and the court considers it necessary to review such order, whether due to a motion by the people or otherwise, the court may, and except as provided in subdivision two of section 510.50 of this title concerning a failure to appear in court, by a bench warrant if necessary, require the defendant to appear before the court. Upon such appearance, the court, for good cause shown, may revoke the order of recognizance[~~,~~] **or** release under non-monetary conditions[~~, or bail~~]. If the defendant is entitled to recognizance[~~,~~] **or** release under non-monetary conditions[~~, or bail~~] as a matter of right, the court must issue another such order. If the defendant is not, the court may either issue such an order or commit the defendant to the custody of the sheriff in accordance with this section.

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

2. (a) Whenever in the course of a criminal action or proceeding a defendant charged with the commission of a felony is at liberty as a result of an order of recognizance[~~,~~] **or** release under non-monetary conditions [~~or bail issued pursuant to this article~~] it shall be grounds for revoking such order that the court finds reasonable cause to believe the defendant committed one or more specified class A or violent felony offenses or intimidated a victim or witness in violation of section 215.15, 215.16 or 215.17 of the penal law while at liberty.

(b) Except as provided in paragraph (a) of this subdivision or any other law, whenever in the course of a criminal action or proceeding a defendant charged with the commission of an offense is at liberty as a result of an order of recognizance[~~,~~] **or** release under non-monetary conditions [~~or bail issued pursuant to this article~~] it shall be grounds for revoking such order [~~and fixing bail~~] in such criminal action or proceeding when the court has found, by clear and convincing evidence, that the defendant:

(i) persistently and willfully failed to appear after notice of scheduled appearances in the case before the court; or

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

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

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

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

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

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

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

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

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

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

(ii) Under paragraph (b) of this subdivision, revocation of the order of recognizance[~~,~~] or release under non-monetary conditions [~~or, as the case may be, bail~~] shall result in the issuance of a new securing order which may, if otherwise authorized by law, permit the principal's release on recognizance or release under non-monetary conditions, [~~but shall also render the defendant eligible for an order fixing bail~~] provided, however, that in accordance with the principles in this title the court must select the least restrictive alternative and condition or conditions that will reasonably assure the principal's return to court. Nothing in this subparagraph shall be interpreted as shortening the period of detention, or requiring or authorizing any less restrictive form of a securing order, which may be imposed pursuant to any other law.

(e) Notwithstanding the provisions of paragraph (a) or (b) of this subdivision a defendant, against whom a felony complaint has been filed which charges the defendant with commission of a class A or violent felony offense or violation of section 215.15, 215.16 or 215.17 of the penal law committed while he was at liberty as specified therein, may be committed to the custody of the sheriff pending a revocation hearing for

a period not to exceed seventy-two hours. An additional period not to exceed seventy-two hours may be granted by the court upon application of the district attorney upon a showing of good cause or where the failure to commence the hearing was due to the defendant's request or occurred with [~~his~~] the defendant's consent. Such good cause must consist of some compelling fact or circumstance which precluded conducting the hearing within the initial prescribed period.

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

Order of recognizance or [~~bail~~] securing order; bench warrant.

§ 32. Section 530.80 of the criminal procedure law is REPEALED.

§ 33. The opening paragraph of subdivision 2 of section 30.30 of the criminal procedure law, as amended by section 1 of part KKK of chapter 59 of the laws of 2019, is amended to read as follows:

Except as provided in subdivision three of this section, where a defendant has been committed to the custody of the sheriff or the office of children and family services in a criminal action [~~he or she~~] the defendant must be released on [~~bail or on his or her~~] the defendant's own recognizance, upon such conditions as may be just and reasonable, if the people are not ready for trial in that criminal action within:

§ 34. Subparagraph (ii) of paragraph (c) of subdivision 4 of section 30.30 of the criminal procedure law, as amended by section 1 of part KKK of chapter 59 of the laws of 2019, is amended to read as follows:

(ii) where the defendant has either escaped from custody or has failed to appear when required after having previously been released on [~~bail or on his~~] the defendant's own recognizance, and provided the defendant is not in custody on another matter, the period extending from the day the court issues a bench warrant pursuant to section 530.70 of this chapter because of the defendant's failure to appear in court when required, to the day the defendant subsequently appears in the court pursuant to a bench warrant or voluntarily or otherwise; or

§ 35. Subdivision 3 of section 120.90 of the criminal procedure law, as amended by chapter 424 of the laws of 1998, is amended to read as follows:

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, if [~~he~~] the police officer be one to whom the warrant is addressed, must inform the defendant that [~~he~~] the defendant has a right to appear before a local criminal court of the county of arrest for the purpose of being released on [~~his~~] the defendant's own recognizance or [~~having bail fixed~~] under non-monetary conditions. If the defendant does not desire to [~~avail himself of~~] exercise such right, the officer must request [~~him~~] the defendant to endorse such fact upon the warrant, and upon such endorsement the officer must without unnecessary delay bring [~~him~~] the defendant before the court in which the warrant is returnable. If the defendant does desire to [~~avail himself of~~] exercise such right, or if [~~he~~] the defendant refuses to make the aforementioned endorsement, the officer must without unnecessary delay bring [~~him~~] the defendant before a local criminal court of the county of arrest. Such court must release the defendant on [~~his~~] the defendant's own recognizance [~~or fix bail~~] for [~~his~~] the defendant's appearance on a specified date in the court in which the warrant is returnable. [~~If the defendant is in default of bail, the officer must without unnecessary delay bring him before the court in which the warrant is returnable.~~]

§ 36. Subdivision 4 of section 120.90 of the criminal procedure law, as amended by chapter 424 of the laws of 1998, is amended to read as follows:

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, if [~~he~~] **the police officer** 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~~] **the defendant** to the custody of the officer by whom he was delegated to execute such warrant. If the delegating officer receives custody of the defendant during such period, [~~he~~] **the delegating officer** must proceed as provided in subdivision three. Otherwise, the delegated officer must inform the defendant that [~~he~~] **the defendant** has a right to appear before a local criminal court for the purpose of being released on [~~his~~] **the defendant's** own recognizance or [~~having bail fixed~~] **under non-monetary conditions**. If the defendant does not desire to [~~avail himself of~~] **exercise** such right, the officer must request [~~him~~] **the defendant** to make, sign and deliver to him a written statement of such fact, and if the defendant does so, the officer must retain custody of [~~him~~] **the defendant** but must without unnecessary delay deliver [~~him~~] **the defendant** or cause [~~him~~] **the defendant** to be delivered to the custody of the delegating police officer. If the defendant does desire to [~~avail himself of~~] **exercise** such right, or if [~~he~~] **the defendant** refuses to make and deliver the aforementioned statement, the delegated or arresting officer must without unnecessary delay bring [~~him~~] **the defendant** 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~~] **the defendant's** own recognizance or [~~fix bail~~] **under non-monetary conditions** for [~~his~~] **the defendant's** appearance on a specified date in the court in which the warrant is returnable. [~~If the defendant is in default of bail, the officer 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. Upon receiving such custody, the latter must without unnecessary delay bring the defendant before the court in which the warrant is returnable.~~]

§ 37. Subdivision 6 of section 120.90 of the criminal procedure law, as amended by section 16 of part WWW of chapter 59 of the laws of 2017, is amended to read as follows:

6. Before bringing a defendant arrested pursuant to a warrant before the local criminal court or youth part of a superior court in which such warrant is returnable, a police officer 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 before such court but, following [~~his~~] **the defendant's** 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~~] **the defendant's** own recognizance or [~~on bail~~] **under non-monetary conditions** for [~~his~~] **the defendant's** 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~~] **the defendant** be fingerprinted by the appro-

priate officer or agency, and that [~~he~~] the defendant appear at an appropriate designated time and place for such purpose.

§ 38. Subdivision 2 of section 140.20 of the criminal procedure law, as amended by chapter 550 of the laws of 1987, is amended to read as follows:

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

~~(a) A police officer may issue and serve an appearance ticket upon the arrested person and release him from custody, as prescribed in subdivision two of section 150.20; or~~

~~(b) The desk officer in charge at a police 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 section. Instead, a police officer must issue and serve an appearance ticket upon the arrested person and release the arrested person from custody, as prescribed in subdivision two of section 150.20.

§ 39. Subdivision 3 of section 140.20 of the criminal procedure law, as amended by chapter 550 of the laws of 1987, is amended to read as follows:

3. 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, 130.40, 205.10, 205.17[~~,~~] or 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~~] the arrested 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.

§ 40. Subdivision 3 of section 140.40 of the criminal procedure law, as amended by chapter 550 of the laws of 1987, 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, 130.40, 205.10, 205.17[~~,~~] or 205.19 [~~or 215.56~~] of the penal law, the arrested person [~~need~~] must not be brought before a local criminal court, as provided in subdivision one[~~, and the procedure may instead be as follows:~~

~~(a) An appropriate police officer may issue and serve an appearance ticket upon the arrested person and release him 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 section. Instead, an appropriate police officer must issue and serve an

appearance ticket upon the arrested person and release the arrested person from custody, as prescribed in subdivision two of section 150.20.

§ 41. Subdivision 2 of section 150.20 of the criminal procedure law, as amended by chapter 550 of the laws of 1987, is amended to read as follows:

2. (a) Whenever a police officer has arrested a person without a warrant for an offense other than a class A, B, C or D felony or a violation of section 130.25, 130.40, 205.10, 205.17[~~,~~] or 205.19 [~~or 215.56~~] of the penal law pursuant to section 140.10, or (b) whenever a peace officer, who is not authorized by law to issue an appearance ticket, has arrested a person for an offense other than a class A, B, C or D felony or a violation of section 130.25, 130.40, 205.10, 205.17[~~,~~] or 205.19 [~~or 215.56~~] of the penal law pursuant to section 140.25, and has requested a police officer to issue and serve upon such arrested person an appearance ticket pursuant to subdivision four of section 140.27, or (c) whenever a person has been arrested for an offense other than a class A, B, C or D felony or a violation of section 130.25, 130.40, 205.10, 205.17[~~,~~] or 205.19 [~~or 215.56~~] of the penal law and has been delivered to the custody of an appropriate police officer pursuant to section 140.40, such police officer may, instead of bringing such person before a local criminal court and promptly filing or causing the arresting peace officer or arresting person to file a local criminal court accusatory instrument therewith, issue to and serve upon such person an appearance ticket. [~~The issuance and service of an appearance ticket under such circumstances may be conditioned upon a deposit of pre-arraignment bail, as provided in section 150.30.~~]

§ 42. Subdivision 2 of section 150.75 of the criminal procedure law, as added by chapter 360 of the laws of 1977, is amended to read as follows:

2. Whenever the defendant is arrested without a warrant, an appearance ticket shall promptly be issued and served upon him, as provided in this article. [~~The issuance and service of the appearance ticket may be made conditional upon the posting of pre-arraignment bail as provided in section 150.30 of this chapter but only if the appropriate police officer (a) is unable to ascertain the defendant's identity or residence address; or (b) reasonably suspects that the identification or residence address given by the defendant is not accurate; or (c) reasonably suspects that the defendant does not reside within the state.~~] No warrant of arrest shall be issued unless the defendant has failed to appear in court as required by the terms of the appearance ticket or by the court.

§ 43. The section heading of section 170.10 of the criminal procedure law is amended to read as follows:

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

§ 44. Subdivision 7 of section 170.10 of the criminal procedure law is amended to read as follows:

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, issue a securing order either releasing the defendant on [~~his~~] the defendant's own recognizance or [~~fixing bail~~] under non-monetary conditions for his 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~~] the defendant's own recognizance.

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

2. Such order stays the proceedings in the local criminal court pending submission of the charge to the grand jury. Upon the subsequent filing of an indictment in the superior court, the proceedings in the local criminal court terminate and the defendant must be required to appear for arraignment upon the indictment in the manner prescribed in subdivisions one and two of section 210.10. Upon the subsequent filing of a grand jury dismissal of the charge, the proceedings in the local criminal court terminate and the superior court must, if the defendant is not at liberty on [~~his~~] **the defendant's** own recognizance, discharge him from custody [~~or exonerate his bail, as the case may be~~].

§ 46. Subdivision 3 of 170.50 of the criminal procedure law is amended to read as follows:

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

§ 47. The section heading of section 180.10 of the criminal procedure law is amended to read as follows:

Proceedings upon felony complaint; arraignment; defendant's rights[~~,~~] **and** court's instructions [~~and bail matters~~].

§ 48. Subdivision 6 of section 180.10 of the criminal procedure law is amended to read as follows:

6. Upon the arraignment, the court, unless it intends immediately thereafter to dismiss the felony complaint and terminate the action, must issue a securing order which, as provided in subdivision two of section 530.20, either releases the defendant on his own recognizance [~~or fixes bail~~] or commits him to the custody of the sheriff for his future appearance in such action.

§ 49. Subdivision 4 of section 180.70 of the criminal procedure law is amended to read as follows:

4. If there is not reasonable cause to believe that the defendant committed any offense, the court must dismiss the felony complaint and discharge the defendant from custody if [~~he~~] **the defendant** is in custody[~~, or, if he is at liberty on bail, it must exonerate the bail~~].

§ 50. Subdivision 2 of section 190.75 of the criminal procedure law is amended to read as follows:

2. If the defendant was previously held for the action of the grand jury by a local criminal court, the superior court to which such dismissal is presented must order the defendant released from custody if [~~he~~] **the defendant** is in the custody of the sheriff[~~, or, if he is at liberty on bail, it must exonerate the bail~~].

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

2. If a felony complaint against the defendant was pending in a local criminal court or if the defendant was previously held by a local crimi-

nal court for the action of the grand jury, and if the defendant is at liberty on [~~his or her~~] the defendant's own recognizance [~~or on bail pursuant to a previous court order issued in the same criminal action~~], the superior court must, upon at least two days notice to the defendant [~~and his or her surety, to any person other than the defendant who posted cash bail~~] and to any attorney who would be entitled to notice under circumstances prescribed in subdivision one, direct the defendant to appear before the superior court for arraignment on a specified date. If the defendant fails to appear on such date, the court may issue a bench warrant [~~and, in addition, may forfeit the bail, if any~~]. Upon taking the defendant into custody pursuant to such bench warrant, the executing police officer must without unnecessary delay bring the defendant before such superior court for arraignment. If such superior court is not available, the executing police officer may bring the defendant to the local correctional facility of the county in which such superior 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.

§ 52. The section heading of section 210.15 of the criminal procedure law is amended to read as follows:

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

§ 53. Subdivision 6 of section 210.15 of the criminal procedure law is amended to read as follows:

6. Upon the arraignment, the court, unless it intends to make a final disposition of the action immediately thereafter, must, as provided in section 530.40, issue a securing order, releasing the defendant on his own recognizance [~~or fixing bail~~] or committing [~~him~~] the defendant to the custody of the sheriff for [~~his~~] the defendant's future appearance in such action.

§ 54. Subdivision 8 of section 210.45 of the criminal procedure law is amended to read as follows:

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

§ 55. Subdivision 9 of section 210.45 of the criminal procedure law is amended to read as follows:

9. When the court dismisses the entire indictment but authorizes resubmission of the charge or charges to a grand jury, such authorization is, for purposes of this subdivision, deemed to constitute an order holding the defendant for the action of a grand jury with respect to such charge or charges. Such order must be accompanied by a securing order either releasing the defendant on [~~his~~] the defendant's own recognizance [~~or fixing bail~~] or committing [~~him~~] the defendant to the custody of the sheriff pending resubmission of the case to the grand jury and the grand jury's disposition thereof. Such securing order remains in effect until the first to occur of any of the following:

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

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

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

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

Upon the termination of the effectiveness of the securing order pursuant to paragraph (a), (c) or (d), the court must immediately order that the defendant be discharged from custody if he is in the custody of the sheriff[~~, or if he is at liberty on bail it must exonerate the bail~~]. Although expiration of the period of time specified in paragraph (d) without any resubmission or grand jury disposition of the case terminates the effectiveness of the securing order, it does not terminate the effectiveness of the order authorizing resubmission.

§ 56. Subdivision 6 of section 216.05 of the criminal procedure law, as added by section 4 of part AAA of chapter 56 of the laws of 2009, is amended to read as follows:

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

§ 57. Paragraph (c) of subdivision 9 of section 216.05 of the criminal procedure law, as added by section 4 of part AAA of chapter 56 of the laws of 2009, is amended to read as follows:

(c) If the court determines that the defendant has violated a condition of [~~his or her~~] the defendant's release under the judicial diversion program, the court may modify the conditions thereof, reconsider the order of recognizance [~~or bail~~] pursuant to subdivision two of section 510.30 of this chapter, or terminate the defendant's participation in the judicial diversion program; and when applicable proceed with the defendant's sentencing in accordance with the agreement. Notwithstanding any provision of law to the contrary, the court may impose any sentence authorized for the crime of conviction in accordance with the plea agreement, or any lesser sentence authorized to be imposed on a felony drug offender pursuant to paragraph (b) or (c) of subdivision two of section 70.70 of the penal law taking into account the length of time the defendant spent in residential treatment and how best to continue treatment while the defendant is serving that sentence. In determining what action to take for a violation of a release condition, the court shall consider all relevant circumstances, including the views of the prosecutor, the defense and the alcohol or substance abuse treatment provider, and the extent to which persons who ultimately successfully complete a drug treatment regimen sometimes relapse by not abstaining from alcohol or substance abuse or by failing to comply fully with all requirements imposed by a treatment program. The court shall also consider using a system of graduated and appropriate responses or sanctions designed to address such inappropriate behaviors, protect

public safety and facilitate, where possible, successful completion of the alcohol or substance abuse treatment program.

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

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

§ 59. 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 is in the custody of the sheriff[~~, or, if he is at liberty on bail, it must exonerate the bail~~].

§ 60. Subdivision 3 of section 330.20 of the criminal procedure law, as added by chapter 548 of the laws of 1980, is amended to read as follows:

3. Examination order; place of examination. Upon issuing an examination order, the court must, except as otherwise provided in this subdivision, direct that the defendant be committed to a secure facility designated by the commissioner as the place for such psychiatric examination. The sheriff must hold the defendant in custody pending such designation by the commissioner, and when notified of the designation, the sheriff must promptly deliver the defendant to such secure facility. When the defendant is not in custody at the time of such verdict or plea, because [~~he~~] **the defendant** was previously released on [~~bail or on his~~] **the defendant's** own recognizance, the court, in its discretion, may direct that such examination be conducted on an out-patient basis, and at such time and place as the commissioner shall designate. If, however, the commissioner informs the court that confinement of the defendant is necessary for an effective examination, the court must direct that the defendant be confined in a facility designated by the commissioner until the examination is completed.

§ 61. 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.

§ 62. 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~~] the defendant pursuant to this article.

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

§ 64. Subdivision 1 of section 460.50 of the criminal procedure law, as amended by chapter 884 of the laws of 1971, is 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 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~~] the defendant's own recognizance or [~~fixing bail pursuant to the provisions of article five hundred thirty~~] under non-monetary conditions. 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~~] the defendant's own recognizance or [~~upon the posting of bail~~] under non-monetary conditions.

§ 65. Subdivision 6 of section 460.50 of the criminal procedure law, as added by chapter 168 of the laws of 1981, is amended to read as follows:

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 and five of this section, the intermediate appellate court 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~~] the defendant's own recognizance or [~~fixing bail pursuant to the provisions of article five hundred thirty~~] under non-monetary conditions. 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~~] the defendant's own recognizance or [~~upon the posting of bail~~] under non-monetary conditions.

§ 66. Subparagraph (ii) of paragraph (a) of subdivision 1 of section 460.60 of the criminal procedure law, as amended by chapter 168 of the laws of 1981, is amended to read as follows:

(ii) either releasing the defendant on [~~his~~] the defendant's own recognizance or [~~continuing bail as previously determined or fixing bail pursuant to the provisions of article five hundred thirty~~] under non-monetary conditions. Such an order is effective immediately and 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~~] the defendant's own recognizance or [~~upon the posting of bail~~] under non-monetary conditions.

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

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

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

§ 68. Subdivision 2 of section 550.10 of the criminal procedure law is amended to read as follows:

2. If the defendant has been arraigned in the action and, by virtue of a securing order, is either in the custody of the sheriff or at liberty within the state on [~~his~~] **the defendant's** own recognizance [~~or on bail, his~~]**, the defendant's** attendance may be secured as follows:

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

(b) If the defendant is at liberty within the state as a result of an order releasing [~~him~~] **the defendant** on [~~his~~] **the defendant's** own recognizance [~~or on bail~~], the court may secure [~~his~~] **the defendant's** attendance by notification or by the issuance of a bench warrant.

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

§ 570.36 Commitment to await requisition[~~; bail~~].

If from the examination before the local criminal court it appears that the person held is the person charged with having committed the crime alleged, and, except in cases arising under section 570.14 or 570.16, that [~~he~~] **the accused** has fled from justice, the local criminal court must, by a warrant reciting the accusation, commit [~~him~~] **the accused** to the county jail for such a time not exceeding thirty days and specified in the warrant, as will enable the arrest of the accused to be made under a warrant of the governor on a requisition of the executive authority of the state having jurisdiction of the offense[~~, unless the accused gives bail as provided in the next section,~~] or until [~~he shall be~~] **the accused has been** legally discharged.

§ 70. Section 570.38 of the criminal procedure law is REPEALED.

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

§ 570.40 Extension of time of commitment; adjournment.

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

§ 72. Section 570.42 of the criminal procedure law is REPEALED.

§ 73. Section 570.52 of the criminal procedure law is amended to read as follows:

§ 570.52 Fugitives from this state; duty of governor.

Whenever the governor of this state shall demand a person charged with **a** crime or with escaping from confinement or breaking the terms of [~~his bail,~~] **the person's** probation or parole in this state from the executive authority of any other state, or from the chief justice or an associate justice of the supreme court of the District of Columbia authorized to receive such demand under the laws of the United States, [~~he~~] **the governor** shall issue a warrant under the seal of this state to some agent commanding [~~him~~] **the agent** receive the person so charged, if

delivered to him **or her**, and convey [~~him~~] **such person** to the proper officer of the county in this state in which the offense was committed.

§ 74. Subdivision 2 of section 570.54 of the criminal procedure law, as amended by section 84 of subpart B of part C of chapter 62 of the laws of 2011, is amended to read as follows:

2. When there is required the return to this state of a person who has been convicted of a crime in this state and has escaped from confinement or broken the terms of [~~his or her bail,~~] **the person's** probation or parole, the district attorney of the county in which the offense was committed, the warden of the institution or sheriff of the county, from which escape was made, or the commissioner of the state department of corrections and community supervision or [~~his or her~~] **the commissioner's** designee shall present to the governor a written application for a requisition for the return of such person, in which application shall be stated the name of the person, the crime of which [~~he or she~~] **the person** was convicted, the circumstances of [~~his or her~~] **the person's** escape from confinement or of the breach of the terms of [~~his or her bail,~~] **the person's** probation or parole, the state in which [~~he or she~~] **the person** is believed to be, including the location of the person therein at the time the application is made.

§ 75. Section 570.56 of the criminal procedure law, as amended by section 85 of subpart B of part C of chapter 62 of the laws of 2011, is amended to read as follows:

§ 570.56 Expense of extradition.

The expenses of extradition must be borne by the county from which the application for a requisition comes or, where the application is made by the attorney general, by the county in which the offense was committed. In the case of extradition of a person who has been convicted of a crime in this state and has escaped from a state prison or reformatory, the expense of extradition shall be borne by the department of corrections and community supervision. Where a person has broken the terms of [~~his or her~~] **the person's** parole from a state prison or reformatory, the expense of extradition shall be borne by the state department of corrections and community supervision. Where a person has broken the terms of [~~his or her bail or~~] **the person's** probation, the expense of extradition shall be borne by the county. Where a person has been convicted but not yet confined to a prison, or has been sentenced for a felony to a county jail or penitentiary and escapes, the expenses of extradition shall be charged to the county from whose custody the escape is effected. Nothing in this section shall preclude a county or the department of corrections and community supervision, as the case may be, from collecting the expenses involved in extradition from the person who was extradited.

§ 76. Section 620.10 of the criminal procedure law is amended to read as follows:

§ 620.10 Material witness order; defined.

A material witness order is a court order [~~(a)~~] adjudging a person a material witness in a pending criminal action and [~~(b) fixing bail~~] **setting any non-monetary conditions determined by the court to be required** to secure [~~his~~] **the witness'** future attendance thereat.

§ 77. Subdivision 2 of section 620.40 of the criminal procedure law is amended to read as follows:

2. If the proceeding is adjourned at the prospective witness' instance, for the purpose of obtaining counsel or otherwise, the court must order [~~him~~] **the prospective witness** to appear upon the adjourned date. The court may further [~~fix bail~~] **set non-monetary conditions** to

secure [~~his~~] the prospective witness' appearance upon such date or until the proceeding is completed [~~and, upon default thereof~~] or if no non-monetary conditions are determined to be reliably able to secure the prospective witness' appearance, may commit [~~him~~] the prospective witness to the custody of the sheriff for such period.

§ 78. Section 620.50 of the criminal procedure law, subdivision 3 as amended by section 24 of part JJJ of chapter 59 of the laws of 2019, is amended to read as follows:

§ 620.50 Material witness order; hearing, determination and execution of order.

1. The hearing upon the application must be conducted as follows:

(a) The applicant has the burden of proving by a preponderance of the evidence all facts essential to support a material witness order, and any testimony so adduced must be given under oath;

(b) The prospective witness may testify under oath or may make an unsworn statement;

(c) The prospective witness may call witnesses in [~~his~~] the prospective witness' behalf, and the court must cause process to be issued for any such witness whom [~~he~~] the prospective witness reasonably wishes to call, and any testimony so adduced must be given under oath;

(d) Upon the hearing, evidence tending to demonstrate that the prospective witness does or does not possess information material to the criminal action in issue, or that [~~he~~] the prospective witness will or will not be amenable or respond to a subpoena at the time [~~his~~] the prospective witness' attendance will be sought, is admissible even though it consists of hearsay.

2. If the court is satisfied after such hearing that there is reasonable cause to believe that the prospective witness (a) possesses information material to the pending action or proceeding, and (b) will not be amenable or respond to a subpoena at a time when [~~his~~] the prospective witness' attendance will be sought, it may issue a material witness order, adjudging [~~him~~] such prospective witness a material witness and [~~fixing bail~~] setting any non-monetary conditions determined to be necessary by the court to secure [~~his~~] the witness' future attendance.

[~~3. A material witness order must be executed as follows:~~

~~(a) If the bail is posted and approved by the court, the witness must, as provided in subdivision two of section 510.40 of this part, be released and be permitted to remain at liberty; provided that, where the bail is posted by a person other than the witness himself, he may not be so released except upon his signed written consent thereto;~~

~~(b) If the bail is not posted, or if though posted it is not approved by the court, the witness must, as provided in subdivision two of section 510.40 of this part, be committed to the custody of the sheriff.~~]

§ 79. Section 620.60 of the criminal procedure law is amended to read as follows:

§ 620.60 Material witness order; vacation, modification and amendment thereof.

1. At any time after a material witness order has been issued the court must, upon application of such witness, with notice to the party upon whose application the order was issued, and with opportunity to be heard, make inquiry whether by reason of new or changed facts or circumstances the material witness order is no longer necessary or warranted, or, if it is, whether the original [~~bail~~] non-monetary conditions currently [~~appears~~] appear excessive. Upon making any such determination, the court must vacate the order. If its determination is that

the order is no longer necessary or warranted, it must[~~, as the situation requires, either~~] discharge the witness from custody [~~or exonerate the bail~~]. If its determination is that the [~~bail is~~] **non-monetary conditions are** excessive, it must issue a new order [~~fixing bail in a lesser amount or on less burdensome terms~~] **setting less restrictive non-monetary conditions**.

2. At any time when a witness is at liberty [~~upon bail~~] **under non-monetary conditions** pursuant to a material witness order, the court may, upon application of the party upon whose application the order was issued, with notice to the witness if possible and to [~~his~~] **the witness'** attorney if any and opportunity to be heard, make inquiry whether, by reason of new or changed facts or circumstances, the original [~~bail is~~] **non-monetary conditions are** no longer sufficient to secure the future attendance of the witness at the pending action. Upon making such a determination, the court must vacate the order and issue a new order [~~fixing bail in a greater amount or on terms~~] **setting non-monetary conditions** more likely to secure the future attendance of the witness.

§ 80. Section 620.70 of the criminal procedure law is amended to read as follows:

§ 620.70 Material witness order; compelling attendance of witness who fails to appear.

If a witness at liberty [~~on bail~~] **under non-monetary conditions** pursuant to a material witness order cannot be found or notified at the time [~~his~~] **the witness'** appearance [~~as a witness~~] is required, or if after notification [~~he~~] **the witness** fails to appear in such action or proceeding as required, the court may issue a warrant, addressed to a police officer, directing such officer to take such witness into custody anywhere within the state and to bring [~~him~~] **the witness** to the court forthwith.

§ 81. Subdivision 3 of section 640.10 of the criminal procedure law is amended to read as follows:

3. Witness from another state subpoenaed to testify in this state. If a person in any state, which by its laws has made provision for commanding persons within its borders to attend and testify in criminal prosecutions, or grand jury investigations commenced or about to commence, in this state, is a material witness in a prosecution pending in a court of record in this state, or in a grand jury investigation which has commenced or is about to commence, a judge of such court may issue a certificate under the seal of the court stating these facts and specifying the number of days the witness will be required. This certificate shall be presented to a judge of a court of record in the county in which the witness is found.

If said certificate recommends that the witness be taken into immediate custody and delivered to an officer of this state to assure [~~his~~] **the witness'** attendance in this state, such judge may direct that such witness be forthwith brought before [~~him~~] **the judge**; and the judge being satisfied of the desirability of such custody and delivery, for which determination said certificate shall be prima facie proof, may order that said witness be forthwith taken into custody and delivered to an officer of this state, which order shall be sufficient authority to such officer to take such witness into custody and hold [~~him~~] **the witness** unless and until [~~he~~] **the witness** may be released by [~~bail~~] **non-monetary conditions**, recognizance, or order of the judge issuing the certificate.

If the witness is summoned to attend and testify in this state [~~he~~] **the witness** shall be tendered the sum of [~~ten~~] **fifty** cents a mile for each mile and [~~five dollars~~] **one hundred dollars** for each day that [~~he~~]

the witness is required to travel and attend as a witness. Such fees shall be a proper charge upon the county in which such criminal prosecution or grand jury investigation is pending. A witness who has appeared in accordance with the provisions of the subpoena shall not be required to remain within this state a longer period of time than the period mentioned in the certificate, unless otherwise ordered by the court. If such witness fails without good cause to attend and testify as directed in this subpoena, [~~he~~] the witness shall be punished in the manner provided for the punishment of any witness who disobeys a subpoena issued from a court of record in this state.

§ 82. Subdivision 5 of section 705.00 of the criminal procedure law, as added by chapter 744 of the laws of 1988, is amended to read as follows:

5. "Designated crime" means any crime included within the definition of a "designated offense" in subdivision eight of section 700.05 of this chapter, any criminal act as defined in subdivision one of section 460.10 of the penal law, [~~bail jumping in the first and second degree as defined in sections 215.57 and 215.56 of such law~~], or aggravated harassment as defined in subdivisions one and two of section 240.30 of such law.

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

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

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

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

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

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

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

1. When a superior court, following a hearing conducted pursuant to subdivision three or four of section 730.30 of this article, is satisfied that the defendant is not an incapacitated person, the criminal action against [~~him or her~~] the defendant must proceed. If it is satisfied that the defendant is an incapacitated person, or if no motion for such a hearing is made, it must adjudicate [~~him or her~~] the defendant an incapacitated person, and must issue a final order of observation or an order of commitment. When the indictment does not charge a felony or

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

§ 87. Subdivision 1 of section 70 of the general business law, as amended by chapter 115 of the laws of 2015, is amended to read as follows:

1. The department of state shall have the power to issue licenses to private investigators. Nothing in this article shall prevent a private investigator licensed hereunder from performing the services of a watch, guard or patrol agency [~~or bail enforcement agent~~] as defined herein; however, a watch, guard or patrol agency [~~or bail enforcement agent~~] may not perform the services of a private investigator as defined herein.

§ 88. Section 70-a of the general business law, as added by chapter 115 of the laws of 2015, is amended to read as follows:

§ 70-a. [~~Bail enforcement agents and watch~~] **Watch**, guard or patrol agencies. 1. The department of state shall have the power to issue separate licenses to [~~bail enforcement agents and to~~] watch, guard or patrol agencies. Nothing in this article shall prevent a private investigator licensed hereunder from performing the services of a watch,

guard or patrol agency [~~or bail enforcement agent~~] as defined in this article; however, a watch, guard or patrol agency [~~or bail enforcement agent~~] may not perform the services of a private investigator as defined in this article.

2. No person, firm, company, partnership, limited liability company or corporation shall engage in the business of [~~bail enforcement agents or~~] the business of watch, guard or patrol agency, or advertise his, their or its business to be that of [~~bail enforcement agent or~~] watch, guard or patrol agency, notwithstanding the name or title used in describing such agency or notwithstanding the fact that other functions and services may also be performed for fee, hire or reward, without having first obtained from the department of state a license so to do, as hereinafter provided, for each bureau, agency, sub-agency, office and branch office to be owned, conducted, managed or maintained by such person, firm, company, partnership, limited liability company or corporation for the conduct of such business.

3. Any person, firm, company, partnership or corporation who violates any provision of this section shall be guilty of a class B misdemeanor.

§ 89. Subdivisions 1-a and 4 of section 71 of the general business law are REPEALED.

§ 90. The opening paragraph of section 72 of the general business law, as amended by chapter 562 of the laws of 2000, is amended to read as follows:

Any person, firm, partnership, limited liability company or corporation intending to conduct the business of private investigator, business of [~~bail enforcement agent or the business of~~] watch, guard or patrol agency, and any person, firm, partnership, limited liability company or corporation intending to conduct the business of furnishing or supplying information as to the personal character of any person or firm, or as to the character or kind of the business and occupation of any person, firm or corporation, society or association or any person or group of persons, or intending to own, conduct, manage or maintain a bureau or agency for the above mentioned purposes, or while engaged in other lawful business activities also intending to engage in any one or more of the activities set forth in section seventy-one of this article except exclusively as to the financial rating, standing, and credit responsibility of persons, firms, companies or corporations or as to personal habits and financial responsibility of applicants for insurance indemnity bonds or commercial credit or of claimants under insurance policies shall, for each such bureau or agency and for each and every sub-agency, office and branch office to be owned, conducted, managed or maintained by such person, firm, partnership, limited liability company or corporation for the conduct of such business, file in the office of the department of state a written application, on forms provided by the department containing such information and documentation, including fingerprints, as the secretary of state may require by rule and regulation.

§ 91. Subdivisions 1-a and 1-b of section 72 of the general business law are REPEALED.

§ 92. Subdivision 1 of section 73 of the general business law, as amended by chapter 562 of the laws of 2000, is amended to read as follows:

1. The secretary of state shall have the power to enforce the provisions of this article and article seven-A of this chapter and upon complaint of any person, or on [~~his~~] **the secretary of state's** own initiative, to investigate any violation thereof or to investigate the busi-

ness, business practices and business methods of any person, firm, limited liability company, partnership or corporation applying for or holding a license as a private investigator[~~, bail enforcement agent~~] or watch, guard or patrol agency, if in the opinion of the secretary of state such investigation is warranted. Each such applicant or licensee shall be obliged, on request of the secretary of state, to supply such information, books, papers or records as may be required concerning his, **her,** their or its business, business practices or business methods, or proposed business practices or methods. Failure to comply with a lawful request of **the** secretary shall be a ground for denying an application for a license, or for revoking, suspending, or failing to renew a license issued under this article.

§ 93. Subdivision 1 of section 74 of the general business law, as amended by chapter 562 of the laws of 2000, paragraph (b) as further amended by section 104 of part A of chapter 62 of the laws of 2011, is amended to read as follows:

1. (a) The application shall be accompanied by a non-refundable fee, payable to the department of state for the use of the state, for each certificate of license, as hereinbelow enumerated, issued to the applicant, if the applicant be an individual, of four hundred dollars for a license as private investigator [~~or bail enforcement agent~~] or a fee of three hundred dollars for a license as watch, guard or patrol agency, or if the applicant be a firm, partnership, limited liability company or corporation, a fee of five hundred dollars for a license as private investigator [~~or bail enforcement agent~~] or a fee of four hundred dollars for a license as watch, guard or patrol agency.

(b) When the application shall have been examined and such further inquiry and investigation made as the secretary of state shall deem proper, and when the secretary of state shall be satisfied therefrom of the good character, competency and integrity of such applicant, or, if the applicant be a firm or partnership, the individual members thereof, or if the applicant be a limited liability company, the individual members thereof, or if the applicant be a corporation, the president, secretary, treasurer and all other officers and all directors thereof, and each stockholder owning ten per centum or more of the stock and a period to ten days from the date of the filing of the application shall have passed, the department of state shall issue and deliver to such applicant a certificate of license to conduct such business and to own, conduct or maintain a bureau, agency, sub-agency, office or branch office for the conduct of such business on the premises stated in such application upon the applicant's executing, delivering and filing in the office of such department a surety company bond in the sum of ten thousand dollars[~~; provided however, that an applicant for a license as a bail enforcement agent shall execute, deliver and file with the office of such department a surety company bond in the sum of five hundred thousand dollars, conditioned for the faithful and honest conduct of such business by such applicant, which surety bond must be written by a company recognized and approved by the superintendent of financial services of the state, and approved by the department of state with respect to its form, manner of execution and sufficiency provided, further, however, before a license is issued to a non-resident the applicant must file with the secretary of state a written consent to the jurisdiction of the courts of New York (i) in any case or cases arising from any contract for the performance of private investigative services as private investigator, bail enforcement agent or watch, guard or patrol agency, made within the state or to be performed, wholly or in~~

~~part, within the state or in any way connected with the conduct of business within the state, and (ii) in any case or cases arising from any tort occurring within the state or occurring in connection with the business of the licensee within the state.~~] The license as private investigator[~~, bail enforcement agent~~] or watch, guard or patrol agency granted pursuant to this article shall last for a period of two years, but shall be revocable at all times by the department of state for cause shown. Such bond shall be taken in the name of the people of the state of New York, and any person injured by the violation of any of the provisions of this article or by the wilful, malicious and wrongful act of the principal or employee may bring an action against such principal, employee or both on said bond in his own name to recover damages suffered by reason of such wilful, malicious and wrongful act. In each and every suit, or prosecution arising out of this article, the agency of any employee as to the employment and as to acting in the course of his employment, shall be presumed. The license certificate shall be in a form to be prescribed by the secretary of state and shall specify the full name of the applicant, the location of the principal office or place of business and the location of the bureau, agency, sub-agency, office or branch office for which the license is issued, the date on which it is issued, the date on which it will expire and the names and residences of the applicant or applicants filing the statement required by section seventy-two of this article upon which the license is issued and in the event of a change of any such address or residence the department of state shall be duly notified in writing of such change within twenty-four hours thereafter, and failure to give such notification shall be sufficient cause for revocation of such license. No such license as private investigator, [~~bail enforcement agent~~] or watch, guard or patrol agency shall be issued to a person under the age of twenty-five years.

(c) The secretary of state shall receive a non-refundable examination fee of fifteen dollars from each person who takes an examination to qualify for application for licensure pursuant to this article. Fees paid to the department of state pursuant to this article shall be deposited in the business and licensing services account established pursuant to section ninety-seven-y of the state finance law.

§ 94. Section 74-a of the general business law is REPEALED.

§ 95. Section 80 of the general business law, as amended by chapter 562 of the laws of 2000, is amended to read as follows:

§ 80. License certificates, pocket cards or badges. Upon the issuing of a license as hereinbefore provided the department of state shall issue to each person, partner, member of a limited liability company or officer of a corporation making and filing a statement required by section seventy-two of this article a pocket card of such size and design as the department of state may prescribe, which card shall contain a photograph of the licensee, the name and business address of the licensee and the imprint or impress of the seal of the department of state which pocket card shall be evidence of due authorization pursuant to the terms of this article. All persons to whom such license certificates or pocket cards shall have been issued shall be responsible for the safe keeping of the same, and shall not lend, enable, let or allow any other person to have, hold, use or display such certificate or pocket card; and any person so parting with such a license certificate or pocket card or displaying the same without authority, or who shall display any license certificate or pocket card purporting to authorize the holder thereof to act as a private investigator[~~, bail enforcement~~

~~agent~~] or watch, guard or patrol agency, unless the same shall have been duly issued pursuant to the provisions of this article, shall be guilty of a misdemeanor. Failure to comply with the provisions of this section shall be sufficient cause for revocation of such license, and all such certificates or pocket cards shall be returned to the department of state within seventy-two hours after the holder thereof has received notice in writing of the expiration or revocation of such license. It shall be unlawful for a holder of a license or anyone else to distribute, possess, use or display any license certificate, pocket card, badge, shield or any other indicia of a license status pursuant to this article except as set forth in this article. Any person who is a licensee hereunder or an officer or authorized employee of any other person, firm, limited liability company or corporation, whether or not licensed hereunder, while performing the services of a watchman, guard or private patrolman, may wear on his outer clothing a rectangular metal or woven insignia approved by the department of state, which insignia shall not be larger than three inches high nor four inches wide with an inscription thereon containing the word "watchman", "guard", "patrol" or "special service" and the name of such licensee or employer. It shall be unlawful for any employer, whether or not licensed hereunder, to wear or distribute to his, their or its employees any employment identification except as authorized in this article and approved by the secretary of state. Any person violating any provision of this section shall be guilty of a misdemeanor.

§ 96. Subdivision 1 of section 81 of the general business law, as amended by section 14 of part LL of chapter 56 of the laws of 2010, is amended to read as follows:

1. The holder of any license certificate issued pursuant to this article may employ to assist [~~him~~] **the holder** in [~~his~~] **the holder's** work of private detective or investigator [~~or bail enforcement agent~~] as described in section seventy-one of this article and in the conduct of such business as many persons as he may deem necessary, and shall at all times during such employment be legally responsible for the good conduct in the business of each and every person so employed.

No holder of any unexpired license certificate issued pursuant to this article shall knowingly employ in connection with his or its business in any capacity whatsoever, any person who has been convicted of a felony or any of the offenses specified in subdivision two of section seventy-four of this article, and who has not subsequent to such conviction received executive pardon therefor removing this disability, or received a certificate of relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the correction law to remove the disability under this section because of such a conviction, or any person whose private detective or investigator's license [~~or bail enforcement agent's license~~] was revoked or application for such license was denied by the department of state or by the authorities of any other state or territory because of conviction of any of such offenses. Should the holder of an unexpired license certificate falsely state or represent that a person is or has been in his employ, such false statement or misrepresentation shall be sufficient cause for the revocation of such license. Any person falsely stating or representing that he is or has been a detective or employed by a detective agency [~~or that he is or has been a bail enforcement agent or employed by a bail enforcement agency~~] shall be guilty of a misdemeanor.

§ 97. Section 83 of the general business law, as amended by chapter 127 of the laws of 2015, is amended to read as follows:

§ 83. Application of article. Nothing in this article shall apply to any detective or officer belonging to the police force of the state, or any county, city, town or village thereof, appointed or elected by due authority of law, or to any person in the employ of any police force or police department of the state, or of any county, city, town or village thereof while engaged in the performance of their official duties; nor to any person, firm, limited liability company, partnership, corporation, or any bureau or agency, whose business is exclusively the furnishing of information as to the business and financial standing, and credit responsibility of persons, firms, or corporations, or as to the personal habits and financial responsibility of applicants for insurance, indemnity bonds or commercial credit or of claimants under insurance policies, nor to any person licensed as a certified public accountant while engaged in the practice of public accountancy as defined in article one hundred forty-nine of the education law or any firm, limited liability company, partnership or corporation registered as a certified public accounting firm by the commissioner of education while performing services regulated under article one hundred forty-nine of the education law or Part 70 of the regulations of the commissioner of education; and whose business does not embrace other activities described in section seventy-one of this article; or whose business is licensed by the commissioner of labor under the provisions of section twenty-four-a or subdivision three-b of section fifty of the workers' compensation law or whose business is representing employers or groups of employers insured under the workers' compensation law in the state insurance fund; nor to any corporation duly authorized by the state to operate a central burglar or fire alarm protection business; nor to any person while engaged in the business of adjuster for an insurance company nor to any public adjuster licensed by the superintendent of financial services under the insurance law nor to any person regularly employed as special agent, detective or investigator exclusively by one employer in connection with the affairs of that employer only nor to any charitable or philanthropic society or association duly incorporated under the laws of the state and which is organized and maintained for the public good and not for private profit, nor shall anything in this article contained be construed to affect in any way attorneys or counselors at law in the regular practice of their profession, but such exemption shall not enure to the benefit of any employee or representative of such attorney or counselor at law who is not employed solely, exclusively and regularly by such attorney or counselor at law. No person, firm, limited liability company, partnership, corporation or any bureau or agency exempted hereunder from the application of this article shall perform any manner of private investigator[~~, bail enforcement agent~~] or watch, guard or patrol agency service as described in section seventy-one of this article, for any other person, firm, limited liability company, partnership, corporation, bureau or agency whether for fee, hire, reward, other compensation, remuneration, or consideration or as an accommodation without fee, reward or remuneration or by a reciprocal arrangement whereby such services are exchanged on request of parties thereto. The commission of a single act prohibited by this article shall constitute a violation thereof.

Nothing in this article shall be construed to affect or prohibit the right of any person to form or become affiliated with or to continue as a member of any union, association, society or organization of his own choosing.

§ 98. Subdivision 1 of section 84 of the general business law, as amended by chapter 84 of the laws of 2001, is amended to read as follows:

1. It is unlawful for the holder of a license, issued under this article, or for any employee of such licensee, knowingly to commit any of the following acts within or without the state of New York: to incite, encourage, or aid in the incitement or encouragement of any person or persons who have become a party to any strike, to do unlawful acts against the person or property of any one, or to incite, stir up, create or aid in the inciting of discontent or dissatisfaction among the employees of any person, firm, limited liability company or corporation with the intention of having them strike; to interfere or prevent lawful and peaceful picketing during strikes; to interfere with, restrain, or coerce employees in the exercise of their right to form, join or assist any labor organization of their own choosing; to interfere or hinder the lawful or peaceful collective bargaining between employees and employers; to pay, offer, or give any money, gratuity, favor, consideration, or other thing of value, directly or indirectly, to any person for any verbal or written report of the lawful activities of employees in the exercise of their right of self-organization, to form, join, or assist labor organizations and to bargain collectively through representatives of their own choosing; to advertise for, recruit, furnish or replace or offer to furnish or replace for hire or reward, within or without the state of New York, any help or labor, skilled or unskilled, or to furnish or offer to furnish armed guards, other than armed guards theretofore regularly employed for the protection of payrolls, property or premises, for service upon property which is being operated in anticipation of or during the course or existence of a strike, or furnish armed guards upon the highways, for persons involved in labor disputes or to furnish or offer to furnish to employers or their agents, any arms, munitions, tear gas implements, or any other weapons; or to send letters or literature to employers offering to eliminate labor unions or distribute or circulate any list of members of a labor organization, or to advise any person of the membership of an individual in a labor organization for the express purpose of preventing those so listed or named from obtaining or retaining employment. The violation of any of the provisions of this section shall constitute a misdemeanor and shall be punishable by a fine of not less than five hundred dollars, or one year's imprisonment or both. It is unlawful for the holder of a license to collect or offer or attempt to collect or directly or indirectly engage in the business of collecting of debts or claims of any kind, excepting that the taking possession, on behalf of a secured party having the right to do so under section 9--609 of the uniform commercial code, of property in the possession of a debtor who has defaulted in the performance of a security agreement secured by such property, shall not be considered a violation of this section and excepting further that the secretary of state may grant exemption from this prohibition in the collection of debts to licensees who are principally engaged in the business of credit investigation and credit reporting. It is unlawful for the holder of a license to furnish or perform any services described in subdivisions one and two of section seventy-one of this article on a contingent or percentage basis or to make or enter into any agreement for furnishing services of any kind or character, by the terms or conditions of which agreement the compensation to be paid for such services to the holder of a license is partially or wholly contingent or based upon a percentage of the amount of money or property recovered or

dependent in any way upon the result achieved. It shall be unlawful for a holder of a license to use, display, cause to be printed or distributed, cards, letter-heads, circulars, brochures or any other advertising material or advertisement in which any name or indicia of the license status of the licensee is set forth in any manner other than the name under which the licensee is duly licensed. It is unlawful for a licensed private investigator [~~or bail enforcement agent~~] to own, have or possess or in any manner to wear, exhibit or display, a shield or badge of any material, kind, nature or description, in the performance of any of the activities as private investigator [~~or bail enforcement agent~~], as distinguished from watch, guard or patrol agency, under this article. It is unlawful for a licensed private investigator [~~or bail enforcement agent~~] to issue to any person employed by such licensee, a badge or shield of any material, kind, nature or description, and it is unlawful for any person employed by such licensee to possess, carry or display a badge or shield of any description provided that any licensed private investigator [~~or bail enforcement agent~~] who also engages in the business of watch, guard or patrol agency may possess, use or display or issue to employees in the conduct of such business, a rectangular metal or woven insignia to be worn on the outer clothing and approved by the department of state, which insignia shall not be larger than three inches high or four inches wide with an inscription thereon containing the word "watchman", "guard", "patrol" or "special service" and the name of the licensee. It shall be unlawful for any licensee to publish or cause to be published any advertisement, letter-head, circular, statement or phrase of any sort which suggests that the licensee is an official police or investigative agency or any other agency instrumentality of the state of New York or any of its political subdivisions. It shall be unlawful for any licensee to make any statement which would reasonably cause another person to believe that the licensee is a police officer or official investigator of the state of New York or any of its political subdivisions. It shall be unlawful for a licensee to offer, by radio, television, newspaper advertisement or any other means of communication, to perform services at any location which is merely the location of a telephone answer service unless full disclosure of that fact is made in the advertisement.

§ 99. Subsection (a) of section 1107 of the insurance law is REPEALED and subsections (b) and (c) are relettered subsections (a) and (b).

§ 100. Article 68 of the insurance law is REPEALED.

§ 101. Paragraph (j) of subdivision 2 of section 212 of the judiciary law is REPEALED.

§ 102. Section 481 of the judiciary law, as added by chapter 1031 of the laws of 1965, is amended to read as follows:

§ 481. Aiding, assisting or abetting the solicitation of persons or the procurement of a retainer for or on behalf of an attorney. It shall be unlawful for any person in the employ of or in any capacity attached to any hospital, sanitarium, police department, prison or court[~~, or for a person authorized to furnish bail bonds,~~] to communicate directly or indirectly with any attorney or person acting on his behalf for the purpose of aiding, assisting or abetting such attorney in the solicitation of legal business or the procurement through solicitation of a retainer, written or oral, or any agreement authorizing the attorney to perform or render legal services.

§ 103. Paragraph 2 of subdivision A of section 753 of the judiciary law is REPEALED.

§ 104. Section 798 of the judiciary law, as amended by chapter 708 of the laws of 1986, is amended to read as follows:

§ 798. Remitting fines and penalties and discharging recognizances. Upon the application of a person, who has been fined by a court, or of a person whose recognizance has become forfeited, [~~or of his surety or of a person who has posted cash bail, or bail by credit card or similar device which has been forfeited,~~] the county court of the county in which the term of the court was held, where the fine was imposed, or the recognizance taken, may, except as otherwise prescribed in section seven hundred and ninety-nine; upon good cause shown, and upon such terms as it deems just, make an order, remitting the fine, wholly or partly, or the forfeiture of the recognizance, or part of the penalty thereof; or it may discharge the recognizance. If a fine so remitted has been paid, the county treasurer, or other officer, in whose hands the money remains, must pay the same, or the part remitted, according to the order.

§ 105. Sections 215.55, 215.56 and 215.57 of the penal law are REPEALED.

§ 106. This act shall take effect immediately.