STATE OF NEW YORK

2832

2021-2022 Regular Sessions

IN SENATE

January 25, 2021

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

AN ACT to amend the criminal procedure law, in relation to the issuance of temporary orders of protection when an action is pending in a local criminal court

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

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

Order of recognizance, release under non-monetary conditions or bail **or issuance of a temporary order of protection**; 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, release under non-monetary conditions or, where authorized, bail **or issue a new temporary order of protection** 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, 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

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

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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; or

(e) Has denied a request to modify or limit a temporary order of protection issued pursuant to subdivision one of section 530.12 of this article or subdivision one of section 530.13 of this article. In such case, such superior court judge may vacate or modify the order of the local criminal court unless the prosecutor shows, by clear and convincing evidence, that the temporary order of protection is necessary to protect such designated witness or complainant from intimidation or injury and issue a new temporary order of protection. The superior court judge shall state on the record the reasons for maintaining or vacating the temporary order of protection.

§ 2. This act shall take effect immediately.