

STATE OF NEW YORK

4754

2025-2026 Regular Sessions

IN ASSEMBLY

February 6, 2025

Introduced by M. of A. BRABENEC -- read once and referred to the Committee on Codes

AN ACT to amend the criminal procedure law and the penal law, in relation to providing judges more discretion regarding securing orders and limiting the lengths of certain orders and increasing the lengths of certain prison sentences; to repeal certain provisions of the criminal procedure law, the judiciary law, the executive law and the penal law relating thereto; to repeal certain provisions of the executive law relating to the use of force by law enforcement; and to repeal certain provisions of the criminal procedure law relating to discovery and motions to vacate judgments

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

1 Section 1. Subdivision 3 of section 150.10 of the criminal procedure
2 law is REPEALED.
3 § 2. Subdivision 1 of section 150.20 of the criminal procedure law, as
4 amended by section 1-a of part JJJ of chapter 59 of the laws of 2019,
5 paragraph (a) as separately amended by section 1 of subpart B of part VV
6 of chapter 56 of the laws of 2023 and chapter 23 of the laws of 2024,
7 and subparagraph (viii) of paragraph (b) as amended and subparagraphs
8 (ix), (x), and (xi) of paragraph (b) as added by section 1 of subpart B
9 of part UU of chapter 56 of the laws of 2022, is amended to read as
10 follows:
11 1. [~~(a)~~] Whenever a police officer is authorized pursuant to section
12 140.10 of this title to arrest a person without a warrant for an offense
13 other than a class A, B, C or D felony or a violation of section 130.25,
14 former section 130.40, section 205.10, 205.17, 205.19 or 215.56 of the
15 penal law, or other than where an arrest is required to be made pursuant
16 to subdivision four of section 140.10 of this title, the officer [~~shall,~~
17 ~~except as set out in paragraph (b) of this subdivision,~~ may, subject to

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

LBD02443-01-5

1 the provisions of subdivisions three and four of section 150.40 of this
2 title, instead issue to and serve upon such person an appearance ticket.

3 ~~[(b) An officer is not required to issue an appearance ticket if:~~

4 ~~(i) the person has one or more outstanding local criminal court or~~
5 ~~superior court warrants;~~

6 ~~(ii) the person has failed to appear in court proceedings in the last~~
7 ~~two years;~~

8 ~~(iii) the person has been given a reasonable opportunity to make their~~
9 ~~verifiable identity and a method of contact known, and has been unable~~
10 ~~or unwilling to do so, so that a custodial arrest is necessary to~~
11 ~~subject the individual to the jurisdiction of the court. For the~~
12 ~~purposes of this section, an officer may rely on various factors to~~
13 ~~determine a person's identity, including but not limited to personal~~
14 ~~knowledge of such person, such person's self-identification, or photo-~~
15 ~~graphic identification. There is no requirement that a person present~~
16 ~~photographic identification in order to be issued an appearance ticket~~
17 ~~in lieu of arrest where the person's identity is otherwise verifiable;~~
18 ~~however, if offered by such person, an officer shall accept as evidence~~
19 ~~of identity the following: a valid driver's license or non-driver iden-~~
20 ~~tification card issued by the commissioner of motor vehicles, the feder-~~
21 ~~al government, any United States territory, commonwealth or possession,~~
22 ~~the District of Columbia, a state government or municipal government~~
23 ~~within the United States or a provincial government of the dominion of~~
24 ~~Canada; a valid passport issued by the United States government or any~~
25 ~~other country; an identification card issued by the armed forces of the~~
26 ~~United States; a public benefit card, as defined in paragraph (a) of~~
27 ~~subdivision one of section 158.00 of the penal law;~~

28 ~~(iv) the person is charged with a crime between members of the same~~
29 ~~family or household, as defined in subdivision one of section 530.11 of~~
30 ~~this chapter;~~

31 ~~(v) the person is charged with a crime defined in article 130 of the~~
32 ~~penal law;~~

33 ~~(vi) it reasonably appears the person should be brought before the~~
34 ~~court for consideration of issuance of an order of protection, pursuant~~
35 ~~to section 530.13 of this chapter, based on the facts of the crime or~~
36 ~~offense that the officer has reasonable cause to believe occurred;~~

37 ~~(vii) the person is charged with a crime for which the court may~~
38 ~~suspend or revoke his or her driver license;~~

39 ~~(viii) it reasonably appears to the officer, based on the observed~~
40 ~~behavior of the individual in the present contact with the officer and~~
41 ~~facts regarding the person's condition that indicates a sign of distress~~
42 ~~to such a degree that the person would face harm without immediate~~
43 ~~medical or mental health care, that bringing the person before the court~~
44 ~~would be in such person's interest in addressing that need; provided,~~
45 ~~however, that before making the arrest, the officer shall make all~~
46 ~~reasonable efforts to assist the person in securing appropriate~~
47 ~~services;~~

48 ~~(ix) the person is eighteen years of age or older and charged with~~
49 ~~criminal possession of a weapon on school grounds as defined in section~~
50 ~~265.01-a of the penal law;~~

51 ~~(x) the person is eighteen years of age or older and charged with a~~
52 ~~hate crime as defined in section 485.05 of the penal law; or~~

53 ~~(xi) the offense is a qualifying offense pursuant to paragraph (t) of~~
54 ~~subdivision four of section 510.10 of this chapter, or pursuant to para-~~
55 ~~graph (t) of subdivision four of section 530.40 of this chapter.]~~

§ 3. The criminal procedure law is amended by adding a new section 150.30 to read as follows:

§ 150.30 Appearance ticket; issuance and service thereof after arrest upon posting of pre-arraignment bail.

1. Issuance and service of an appearance ticket by a police officer following an arrest without a warrant, as prescribed in subdivision two of section 150.20 of this article, may be made conditional upon the posting of a sum of money, known as pre-arraignment bail. In such case, the bail becomes forfeit upon failure of such person to comply with the directions of the appearance ticket. The person posting such bail must complete and sign a form which states (a) the name, residential address and occupation of each person posting cash bail; and (b) the title of the criminal action or proceeding involved; and (c) the offense or offenses which are the subjects of the action or proceeding involved, and the status of such action or proceeding; and (d) the name of the principal and the nature of the principal's involvement in or connection with such action or proceeding; and (e) the date of the principal's next appearance in court; and (f) an acknowledgement that the cash bail will be forfeited if the principal does not comply with the directions of the appearance ticket; and (g) the amount of money posted as cash bail. Such pre-arraignment bail may be posted as provided in subdivision two or three of this section.

2. A desk officer in charge at a police station, county jail, or police headquarters, or any of such officer's superior officers, may in such place, fix pre-arraignment bail, in an amount prescribed in this subdivision, and upon the posting thereof must issue and serve an appearance ticket upon the arrested person, give a receipt for the bail, and release such person from custody. Such pre-arraignment bail may be fixed in the following amounts:

(a) If the arrest was for a class E felony, any amount not exceeding seven hundred fifty dollars.

(b) If the arrest was for a class A misdemeanor, any amount not exceeding five hundred dollars.

(c) If the arrest was for a class B misdemeanor or an unclassified misdemeanor, any amount not exceeding two hundred fifty dollars.

(d) If the arrest was for a petty offense, any amount not exceeding one hundred dollars.

3. A police officer, who has arrested a person without a warrant pursuant to subdivision two of section 150.20 of this article for a traffic infraction, may, where such officer reasonably believes that such arrested person is not licensed to operate a motor vehicle by this state or any state covered by a reciprocal compact guaranteeing appearance as is provided in section five hundred seventeen of the vehicle and traffic law, fix pre-arraignment bail in the amount of fifty dollars; provided, however, such bail shall be posted by means of a credit card or similar device. Upon the posting thereof, said officer must issue and serve an appearance ticket upon the arrested person, give a receipt for the bail, and release such person from custody.

4. The chief administrator of the courts shall establish a system for the posting of pre-arraignment bail by means of credit card or similar device, as is provided by section two hundred twelve of the judiciary law. The head of each police department or police force and of any state department, agency, board, commission or public authority having police officers who fix pre-arraignment bail as provided herein may elect to use the system established by the chief administrator or may establish such other system for the posting of pre-arraignment bail by means of

1 credit card or similar device as the chief administrator may deem appro-
2 priate.

3 § 4. Subdivision 1 of section 150.40 of the criminal procedure law, as
4 amended by section 8 of part UU of chapter 56 of the laws of 2020, is
5 amended to read as follows:

6 1. An appearance ticket must be made returnable [~~at a date as soon as~~
7 ~~possible, but in no event later than twenty days from the date of issu-~~
8 ~~ance; or at the next scheduled session of the appropriate local criminal~~
9 ~~court if such session is scheduled to occur more than twenty days from~~
10 ~~the date of issuance; or at a later date, with the court's permission~~
11 ~~due to enrollment in a pre-arraignment diversion program. The appearance~~
12 ~~ticket shall be made returnable]~~ in a local criminal court designated in
13 section 100.55 of this title as one with which an information for the
14 offense in question may be filed.

15 § 5. Section 150.80 of the criminal procedure law is REPEALED.

16 § 6. Subdivision 2 of section 245.30 of the criminal procedure law is
17 REPEALED.

18 § 7. Subdivision 9 of section 440.10 of the criminal procedure law is
19 REPEALED.

20 § 8. Subparagraph (iii) of paragraph (i) and paragraph (j) of subdivi-
21 sion 1 of section 440.10 of the criminal procedure law, subparagraph
22 (iii) of paragraph (i) as amended by chapter 629 of the laws of 2021 and
23 paragraph (j) as amended by chapter 131 of the laws of 2019, are amended
24 to read as follows:

25 (iii) when a motion is filed under this paragraph, the court may, upon
26 the consent of the petitioner and all of the state and local prosecuto-
27 rial agencies that prosecuted each matter, consolidate into one proceed-
28 ing a motion to vacate judgments imposed by distinct or multiple crimi-
29 nal courts[~~;~~ ~~or~~

30 ~~(j) The judgment is a conviction for a class A or unclassified misde-~~
31 ~~meanor entered prior to the effective date of this paragraph and satis-~~
32 ~~fies the ground prescribed in paragraph (h) of this subdivision. There~~
33 ~~shall be a rebuttable presumption that a conviction by plea to such an~~
34 ~~offense was not knowing, voluntary and intelligent, based on ongoing~~
35 ~~collateral consequences, including potential or actual immigration~~
36 ~~consequences, and there shall be a rebuttable presumption that a~~
37 ~~conviction by verdict constitutes cruel and unusual punishment under~~
38 ~~section five of article one of the state constitution based on such~~
39 ~~consequences]; or~~

40 § 9. Subdivisions 3-a, 3-b, 21 and 22 of section 500.10 of the crimi-
41 nal procedure law are REPEALED.

42 § 10. Subdivisions 5, 6, 7 and 9 of section 500.10 of the criminal
43 procedure law, subdivision 5 as amended by section 1 of subpart A of
44 part VV of chapter 56 of the laws of 2023 and subdivisions 6, 7, and 9
45 as amended by section 1-e of part JJJ of chapter 59 of the laws of 2019,
46 are amended to read as follows:

47 5. "Securing order" means an order of a court committing a principal
48 to the custody of the sheriff, or fixing bail, [~~where authorized,~~] or
49 releasing the principal on the principal's own recognizance [~~or releas-~~
50 ~~ing the principal under non-monetary conditions, or, as otherwise~~
51 ~~authorized under this title, ordering non-monetary conditions in~~
52 ~~conjunction with fixing bail].~~

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

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

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

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

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

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

~~1.]~~ When a principal, whose future court attendance at a criminal action or proceeding is or may be required, initially comes under the control of a court, such court shall ~~[impose]~~, by a securing order ~~[in accordance with this title]~~, either release the principal on the principal's own recognizance, fix bail, or commit the principal to the custody of the sheriff. ~~[Except as otherwise required by law, the court shall make an individualized determination as to whether the principal poses a risk of flight to avoid prosecution, consider the kind and degree of control or restriction necessary to reasonably assure the principal's return to court, and select a securing order consistent with its determination under this subdivision. The court shall explain the basis for its determination and its choice of securing order on the record or in writing. In making a determination under this subdivision, the court must consider and take into account available information about the principal, 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 354.1 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) Any violation by the principal of an order of protection issued by any court;~~
- ~~(h) The principal's history of use or possession of a firearm;~~

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

~~(j) 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.~~

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

~~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 as provided for in subdivision three a of section 500.10 of this title that will reasonably assure the principal's return to court. The court shall explain its choice of securing order 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 order non-monetary conditions in conjunction with fixing bail, or, where the defendant is charged with a qualifying offense which is a felony, the court may commit the principal to the custody of the sheriff. A principal stands charged with a qualifying offense for the purposes of this subdivision when he or she stands charged with:~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(t) any felony or class A misdemeanor involving harm to an identifiable person or property, or any charge of criminal possession of a firearm as defined in section 265.01 b of the penal law, where such charge arose from conduct occurring while the defendant was released on his or her own recognizance, released under conditions, or had yet to be arraigned after the issuance of a desk appearance ticket for a separate felony or class A misdemeanor involving harm to an identifiable person or property, or any charge of criminal possession of a firearm as defined in section 265.01 b of the penal law, provided, however, that the prosecutor must show reasonable cause to believe that the defendant committed the instant crime and any underlying crime. For the purposes of this subparagraph, any of the underlying crimes need not be a qualifying offense as defined in this subdivision. For the purposes of this paragraph, "harm to an identifiable person or property" shall include but not be limited to theft of or damage to property. However, based upon a review of the facts alleged in the accusatory instrument, if the court determines that such theft is negligible and does not appear to be in furtherance of other criminal activity, the principal shall be released on his or her own recognizance or under appropriate non-monetary conditions; or~~

~~(u) criminal possession of a weapon in the third degree as defined in subdivision three of section 265.02 of the penal law or criminal sale of a firearm to a minor as defined in section 265.16 of the penal law.~~

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

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

§ 510.20 Application for [~~a change in securing order~~] recognizance or bail; making and determination thereof in general.

1. Upon any occasion when a court [~~has issued~~] is required to issue a securing order with respect to a principal [~~and the~~], or at any time when a 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[, ~~a reduction of bail, or imposition of non-monetary conditions in conjunction with bail or a reduction of bail~~].

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

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

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

§ 13. Section 510.30 of the criminal procedure law, as amended by section 5 of part JJJ of chapter 59 of the laws of 2019 and subdivision 1 as amended by section 4 of subpart A of part VV of chapter 56 of the laws of 2023, is amended to read as follows:

§ 510.30 Application for ~~[securing order]~~ recognizance or bail; rules of law and criteria controlling determination.

1. Determinations of applications for recognizance or bail are not in all cases discretionary but are subject to rules, prescribed in article five hundred thirty of this title and other provisions of law relating to specific kinds of criminal actions and proceedings, providing (a) that in some circumstances such an application must as a matter of law be granted, (b) that in others it must as a matter of law be denied and the principal committed to or retained in the custody of the sheriff, and (c) that in others the granting or denial thereof is a matter of judicial discretion.

2. To the extent that the issuance of an order of recognizance or bail and the terms thereof are matters of discretion rather than of law, an application is determined on the basis of the following factors and criteria:

(a) With respect to any principal, the court [in all cases, unless otherwise provided by law,] must [impose a securing order in accordance with section 510.10 of this article, and shall explain the basis for its determination and choice of securing order on the record or in writing] consider the kind and degree of control or restriction that is necessary to secure the principal's court attendance when required. In determining that matter, the court must, on the basis of available information, consider and take into account:

(i) The principal's character, reputation, habits and mental condition;

(ii) The principal's employment and financial resources;

(iii) The principal's family ties and the length of the principal's residence if any in the community;

(iv) The principal's criminal record if any;

(v) The principal's record of previous adjudication as a juvenile delinquent, as retained pursuant to section 354.2 of the family court

1 act, or, of pending cases where fingerprints are retained pursuant to
2 section 306.1 of such act, or a youthful offender, if any;

3 (vi) The principal's previous record if any in responding to court
4 appearances when required or with respect to flight to avoid criminal
5 prosecution;

6 (vii) Where the principal is charged with a crime or crimes against a
7 member or members of the same family or household as that term is
8 defined in subdivision one of section 530.11 of this title, the follow-
9 ing factors:

10 (A) any violation by the principal of an order of protection issued by
11 any court for the protection of a member or members of the same family
12 or household as that term is defined in subdivision one of section
13 530.11 of this title, whether or not such order of protection is
14 currently in effect; and

15 (B) the principal's history of use or possession of a firearm;

16 (viii) If the principal is a defendant, the weight of the evidence
17 against such principal in the pending criminal action and any other
18 factor indicating probability or improbability of conviction; or, in the
19 case of an application for bail or recognizance pending appeal, the
20 merit or lack of merit of the appeal; and

21 (ix) If the principal is a defendant, the sentence which may be or has
22 been imposed upon conviction.

23 ~~[2-]~~ (b) Where the principal is a defendant-appellant in a pending
24 appeal from a judgment of conviction, the court must also consider the
25 likelihood of ultimate reversal of the judgment. A determination that
26 the appeal is palpably without merit alone justifies, but does not
27 require, a denial of the application, regardless of any determination
28 made with respect to the factors specified in ~~paragraph (a) of this~~
29 subdivision ~~[one of this section]~~.

30 3. When bail or recognizance is ordered, the court shall inform the
31 principal, if the principal is a defendant charged with the commission
32 of a felony, that the release is conditional and that the court may
33 revoke the order of release and ~~[may be authorized]~~ to commit the prin-
34 cipal to the custody of the sheriff in accordance with the provisions of
35 subdivision two of section 530.60 of this ~~[chapter]~~ title if the princi-
36 pal commits a subsequent felony while at liberty upon such order.

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

43 § 510.40 ~~[Court notification to principal of conditions of release and~~
44 ~~of alleged violations of conditions of release]~~ Application
45 for recognizance or bail; determination thereof, form of
46 securing order and execution thereof.

47 1. An application for recognizance or bail must be determined by a
48 securing order which either:

49 (a) Grants the application and releases the principal on their own
50 recognizance; or

51 (b) Grants the application and fixes bail; or

52 (c) Denies the application and commits the principal to, or retains
53 them in, the custody of the sheriff.

54 2. Upon ordering that a principal be released on the principal's own
55 recognizance, ~~[or released under non-monetary conditions, or, if bail~~
56 ~~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-] 3.~~ 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].~~ 4. Non-monetary conditions of release shall be individualized and established in writing by the court. At future court appearances, the court shall consider a lessening of conditions or modification of conditions to a less burdensome form based on the principal's compliance with such conditions of release. In the event of alleged non-compliance with the conditions of release in an important respect, pursuant to this subdivision, additional conditions may be imposed by the court, on the record or in writing, only after notice of the facts and circumstances of such alleged non-compliance, reasonable under the circumstances, affording the principal and the principal's attorney and the people an opportunity to present relevant, admissible evidence, relevant witnesses and to cross-examine witnesses, and a finding by clear and convincing evidence that the principal violated a condition of release in an important respect. Following such a finding, in determining whether to impose additional conditions for non-compliance, the court shall consider and may select conditions as provided for in subdivision three-a of section 500.10 of this title that will reasonably assure the defendant's return to court. The court shall explain on the record or in writing the reasons for its determination and for any changes to the conditions imposed.

~~[4-] 5.~~ (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. The procedure and method of such electronic monitoring shall reflect the findings of the individualized determination warranting such imposition of electronic monitoring to reasonably assure the principal's return to court, and shall be 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

1 authorized to enter into a contract with another county or municipality
2 in the state to monitor principals under non-monetary conditions of
3 release in its county, but counties, municipalities and the state shall
4 not contract with any private for-profit entity for such purposes.
5 Counties, municipalities and the state may contract with a private for-
6 profit entity to supply electronic monitoring devices or other items,
7 provided that any interaction with persons under electronic monitoring
8 or the data produced by such monitoring shall be conducted solely by
9 employees of a county, municipality, the state, or a non-profit entity
10 under contract with such county, municipality or the state.

11 (d) Electronic monitoring of a principal's location may be for a maxi-
12 mum period of sixty days, and may be renewed for such period, after
13 notice, an opportunity to be heard and a de novo, individualized deter-
14 mination in accordance with this subdivision, which shall be explained
15 on the record or in writing.

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

21 ~~[5-]~~ 6. If a principal is released under non-monetary conditions, the
22 court shall, on the record and in an individualized written document
23 provided to the principal, notify the principal, in plain language and a
24 manner sufficiently clear and specific:

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

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

30 § 15. Sections 510.43 and 510.45 of the criminal procedure law are
31 REPEALED.

32 § 16. Section 510.50 of the criminal procedure law, as amended by
33 section 9 of part JJJ of chapter 59 of the laws of 2019, is amended to
34 read as follows:

35 § 510.50 Enforcement of securing order.

36 ~~[1-]~~ When the attendance of a principal confined in the custody of the
37 sheriff is required at the criminal action or proceeding at a particular
38 time and place, the court may compel such attendance by directing the
39 sheriff to produce the principal at such time and place. If the princi-
40 pal is at liberty on the principal's own recognizance ~~[or non-monetary~~
41 ~~conditions]~~ or on bail, the principal's attendance may be achieved or
42 compelled by various methods, including notification and the issuance of
43 a bench warrant, prescribed by law in provisions governing such matters
44 with respect to the particular kind of action or proceeding involved.

45 ~~[2- Except when the principal is charged with a new crime while at~~
46 ~~liberty, absent relevant, credible evidence demonstrating that a princi-~~
47 ~~pal's failure to appear for a scheduled court appearance was willful,~~
48 ~~the court, prior to issuing a bench warrant for a failure to appear for~~
49 ~~a scheduled court appearance, shall provide at least forty-eight hours~~
50 ~~notice to the principal or the principal's counsel that the principal is~~
51 ~~required to appear, in order to give the principal an opportunity to~~
52 ~~appear voluntarily.]~~

53 § 17. Paragraph (b) of subdivision 2 of section 520.10 of the criminal
54 procedure law, as amended by section 10 of part JJJ of chapter 59 of the
55 laws of 2019, is amended to read as follows:

(b) The court ~~[shall]~~ may direct that the bail be posted in any one of ~~[three]~~ two or more of the forms specified in subdivision one of this section, designated in the alternative, and may designate different amounts varying with the forms~~[, except that one of the forms shall be either an unsecured or partially secured surety bond, as selected by the court].~~

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

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

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

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

§ 19. Subdivision 4 of section 530.11 of the criminal procedure law, as amended by section 12 of part JJJ of chapter 59 of the laws of 2019, is amended to read as follows:

4. When a person is arrested for an alleged family offense or an alleged violation of an order of protection or temporary order of protection or arrested pursuant to a warrant issued by the supreme or family court, and the supreme or family court, as applicable, is not in session, such person shall be brought before a local criminal court in the county of arrest or in the county in which such warrant is returnable pursuant to article one hundred twenty of this chapter. Such local criminal court may issue any order authorized under subdivision eleven of section 530.12 of this article, section one hundred fifty-four-d or one hundred fifty-five of the family court act or subdivision three-b of section two hundred forty or subdivision two-a of section two hundred fifty-two of the domestic relations law, in addition to discharging other arraignment responsibilities as set forth in this chapter. In making such order, the local criminal court shall consider ~~[de novo]~~ bail recommendation ~~[and securing order]~~, if any, made by the supreme or family court as indicated on the warrant or certificate of warrant. Unless the petitioner or complainant requests otherwise, the court, in addition to scheduling further criminal proceedings, if any, regarding such alleged family offense or violation allegation, shall make such matter returnable in the supreme or family court, as applicable, on the next day such court is in session.

§ 20. 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:

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

(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

(b) restore the case to the calendar when there has been an adjournment in contemplation of dismissal and commit the defendant to custody; or

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

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

§ 21. The opening paragraph of subdivision 1 of section 530.13 of the criminal procedure law, as amended by section 14 of part JJJ of chapter 59 of the laws of 2019, is amended to read as follows:

When any criminal action is pending, and the court has not issued a temporary order of protection pursuant to section 530.12 of this article, the court, in addition to the other powers conferred upon it by this chapter, may for good cause shown 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 a pre-trial release, or as a condition of release on bail or an adjournment in contemplation of dismissal. In addition to any other conditions, such an order may require that the defendant:

§ 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. Section 530.20 of the criminal procedure law is REPEALED and a new section 530.20 is added to read as follows:

§ 530.20 Order of recognizance or bail; by local criminal court when action is pending therein.

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

1. When the defendant is charged, by information, simplified information, prosecutor's information or misdemeanor complaint, with an offense or offenses of less than felony grade only, the court must order recognizance or bail.

2. When the defendant is charged, by felony complaint, with a felony, the court may, in its discretion, order recognizance or bail except as otherwise provided in this subdivision:

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

(b) No local criminal court may order recognizance or bail with respect to a defendant charged with a felony unless and until:

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

(ii) The court has been furnished with a report of the division of criminal justice services concerning the defendant's criminal record if

1 any or with a police department report with respect to the defendant's
2 prior arrest record. If neither report is available, the court, with the
3 consent of the district attorney, may dispense with this requirement;
4 provided, however, that in an emergency, including but not limited to a
5 substantial impairment in the ability of such division or police depart-
6 ment to timely furnish such report, such consent shall not be required
7 if, for reasons stated on the record, the court deems it unnecessary.
8 When the court has been furnished with any such report or record, it
9 shall furnish a copy thereof to counsel for the defendant or, if the
10 defendant is not represented by counsel, to the defendant.

11 § 24. The section heading and subdivisions 1 and 2 of section 530.30
12 of the criminal procedure law, as amended by section 17 of part JJJ of
13 chapter 59 of the laws of 2019 and the closing paragraph of subdivision
14 1 as amended by section 7 of subpart A of part VV of chapter 56 of the
15 laws of 2023, are amended to read as follows:

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

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

23 (a) Lacks authority to issue such an order, pursuant to [~~the relevant~~
24 ~~provisions~~] paragraph (a) of subdivision two of section 530.20 of this
25 article; or

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

28 (c) Has fixed bail[~~, where authorized,~~] which is excessive[~~; or~~

29 ~~(d) Has set a securing order of release under non-monetary conditions~~
30 ~~which are more restrictive than necessary to reasonably assure the~~
31 ~~defendant's return to court].~~

32 In such case, such superior court judge may vacate the order of such
33 local criminal court and release the defendant on their own recognizance
34 or [~~under non-monetary conditions, or where authorized,~~] fix bail in a
35 lesser amount or in a less burdensome form[~~, or order non-monetary~~
36 ~~conditions in conjunction with fixing bail, including fixing bail in a~~
37 ~~lesser amount or in a less burdensome form, the determination for which~~
38 ~~shall be made in accordance with section 510.10 of this title. The court~~
39 ~~shall explain the basis for its determination and choice of securing~~
40 ~~order on the record or in writing].~~

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

49 § 25. Section 530.40 of the criminal procedure law is REPEALED and a
50 new section 530.40 is added to read as follows:

51 § 530.40 Order of recognizance or bail; by superior court when action is
52 pending therein.

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

1 1. When the defendant is charged with an offense or offenses of less
2 than felony grade only, the court must order recognizance or bail.

3 2. When the defendant is charged with a felony, the court may, in its
4 discretion, order recognizance or bail. In any such case in which an
5 indictment (a) has resulted from an order of a local criminal court
6 holding the defendant for the action of the grand jury, or (b) was filed
7 at a time when a felony complaint charging the same conduct was pending
8 in a local criminal court, and in which such local criminal court or a
9 superior court judge has issued an order of recognizance or bail which
10 is still effective, the superior court's order may be in the form of a
11 direction continuing the effectiveness of the previous order.

12 3. Notwithstanding the provisions of subdivision two of this section,
13 a superior court may not order recognizance or bail, or permit a defend-
14 ant to remain at liberty pursuant to an existing order, after the
15 defendant has been convicted of either: (a) a class A felony or (b) any
16 class B or class C felony as defined in article one hundred thirty of
17 the penal law committed or attempted to be committed by a person eigh-
18 teen years of age or older against a person less than eighteen years of
19 age. In either case the court must commit or remand the defendant to the
20 custody of the sheriff.

21 4. Notwithstanding the provisions of subdivision two of this section,
22 a superior court may not order recognizance or bail when the defendant
23 is charged with a felony unless and until the district attorney has had
24 an opportunity to be heard in the matter and such court has been
25 furnished with a report as described in subparagraph (ii) of paragraph
26 (b) of subdivision two of section 530.20 of this article.

27 § 26. Subdivision 1 of section 530.45 of the criminal procedure law,
28 as amended by section 9 of subpart A of part VV of chapter 56 of the
29 laws of 2023, is amended to read as follows:

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

51 § 27. Subdivision 2-a of section 530.45 of the criminal procedure law
52 is REPEALED.

53 § 28. Section 530.50 of the criminal procedure law, as amended by
54 chapter 264 of the laws of 2003, subdivision 1 as designated by section
55 10 of part UU of chapter 56 of the laws of 2020, and subdivisions 2 and

3 as amended by section 10 of subpart A of part VV of chapter 56 of the laws of 2023, is amended to read as follows:

§ 530.50 Order of recognizance or bail; during pendency of appeal.

[~~1.~~] A judge who is otherwise authorized pursuant to section 460.50 or [section] 460.60 of this chapter to issue an order of recognizance or bail 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, fixing bail, or ordering non-monetary conditions in conjunction with fixing bail, a judge identified in subdivision two of section 460.50 or paragraph (a) of subdivision one of section 460.60 of this chapter may, in accordance with law, and except as otherwise provided by law, issue a securing order: releasing the defendant on the defendant's own recognizance or under non-monetary conditions where authorized, fixing bail, or ordering non-monetary conditions in conjunction with fixing bail, or remanding the defendant to the custody of the sheriff where authorized.~~

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

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

§ 530.60 [~~Certain modifications of a securing order~~] Order of recognizance or bail; revocation thereof.

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~~] it 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,

1 require the defendant to appear before the court. Upon such appearance,
2 the court, for good cause shown, may revoke the order of recognizance[~~, release under non-monetary conditions,~~] or bail. If the defendant is
3 entitled to recognizance[~~, release under non-monetary conditions,~~] or
4 bail as a matter of right, the court must issue another such order. If
5 the defendant is not, the court may either issue such an order or commit
6 the defendant to the custody of the sheriff [~~in accordance with this~~
7 ~~section~~].

8
9 Where the defendant is committed to the custody of the sheriff and is
10 held on a felony complaint, a new period as provided in section 180.80
11 of this chapter shall commence to run from the time of the defendant's
12 commitment under this subdivision.

13 2. (a) Whenever in the course of a criminal action or proceeding a
14 defendant charged with the commission of a felony is at liberty as a
15 result of an order of recognizance, [~~release under non-monetary condi-~~
16 ~~tions~~] or bail issued pursuant to this article it shall be grounds for
17 revoking such order that the court finds reasonable cause to believe the
18 defendant committed one or more specified class A or violent felony
19 offenses or intimidated a victim or witness in violation of section
20 215.15, 215.16 or 215.17 of the penal law while at liberty.

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

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

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

35 ~~(iii) stands charged in such criminal action or proceeding with a~~
36 ~~misdeemeanor or violation and, after being so charged, intimidated a~~
37 ~~victim or witness in violation of section 215.15, 215.16 or 215.17 of~~
38 ~~the penal law or tampered with a witness in violation of section 215.11,~~
39 ~~215.12 or 215.13 of the penal law, law while at liberty; or~~

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

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

54 [(d)] (b) Revocation of an order of recognizance[~~, release under non-~~
55 ~~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, either:

~~[(i) Under paragraph (a) of this subdivision, revocation of the order of recognizance, 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)]~~ (i) For a period not to exceed ninety days exclusive of any periods of adjournment requested by the defendant; or

~~[(B)]~~ (ii) 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)]~~ (iii) 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]~~ paragraph, whichever is shortest, the court may grant or deny release upon an order of bail or recognizance in accordance with the provisions of this article. Upon conviction to an offense the provisions of this article [~~five hundred thirty of this chapter~~] shall apply[.].

~~[(ii) Under subparagraph (i) of paragraph (b) of this subdivision, revocation of a previously issued securing order 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, or ordering non-monetary conditions in conjunction with fixing bail, provided, however, that in accordance with the principles in this title the court must impose a new securing order in accordance with subdivision one of section 510.10 of this title, and in imposing such order, may consider the circumstances warranting such revocation. 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; and~~

~~(iii) Under subparagraphs (ii), (iii), and (iv) of paragraph (b) of this subdivision, revocation of a previously issued securing order 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 or ordering non-monetary conditions in conjunction with fixing bail. In issuing the new securing order, the court shall consider the kind and degree of control or restriction necessary to reasonably assure the principal's return to court and compliance with court conditions, and select a securing order consistent with its determination, taking into account the factors required to be considered under subdivision one of section 510.10 of this title, the circumstances warranting such revocation, and the nature and extent of the principal's noncompliance with previously ordered non-monetary conditions of the securing order subject to revocation under this subdivision. 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)]~~ (c) Notwithstanding the provisions of paragraph (a) [~~or (b)~~] of this subdivision a defendant, against whom a felony complaint has been

1 filed which charges the defendant with commission of a class A or
2 violent felony offense [~~or violation of section 215.15, 215.16 or 215.17~~
3 ~~of the penal law~~] committed while [~~he was~~] they were at liberty as spec-
4 ified therein, may be committed to the custody of the sheriff pending a
5 revocation hearing for a period not to exceed seventy-two hours. An
6 additional period not to exceed seventy-two hours may be granted by the
7 court upon application of the district attorney upon a showing of good
8 cause or where the failure to commence the hearing was due to the
9 defendant's request or occurred with [~~his~~] their consent. Such good
10 cause must consist of some compelling fact or circumstance which
11 precluded conducting the hearing within the initial prescribed period.

12 § 30. Paragraph (a) of subdivision 9 of section 216.05 of the criminal
13 procedure law, as amended by chapter 435 of the laws of 2021, is amended
14 to read as follows:

15 (a) If at any time during the defendant's participation in the judi-
16 cial diversion program, the court has reasonable grounds to believe that
17 the defendant has violated a release condition [~~in an important respect~~]
18 or has [~~willfully~~] failed to appear before the court as requested, the
19 court [~~except as provided in subdivision two of section 510.50 of this~~
20 ~~chapter regarding a failure to appear,~~] shall direct the defendant to
21 appear or issue a bench warrant to a police officer or an appropriate
22 peace officer directing [~~him or her~~] them to take the defendant into
23 custody and bring the defendant before the court without unnecessary
24 delay; provided, however, that under no circumstances shall a defendant
25 who requires treatment for opioid use be deemed to have violated a
26 release condition on the basis of [~~his or her~~] their participation in
27 medically prescribed drug treatments under the care of a health care
28 professional licensed or certified under title eight of the education
29 law, acting within [~~his or her~~] their lawful scope of practice. The
30 [~~relevant~~] provisions of subdivision one of section 530.60 of this chap-
31 ter relating to [~~issuance of securing orders~~] revocation of recognizance
32 or bail shall apply to such proceedings under this subdivision.

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

36 § 410.60 Appearance before court.

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

53 § 32. Subdivision 3 of section 620.50 of the criminal procedure law,
54 as amended by section 24 of part JJJ of chapter 59 of the laws of 2019,
55 is amended to read as follows:

56 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]~~ three 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]~~ themselves, ~~[he]~~ they may not be so released except upon ~~[his]~~ their 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]~~ three of section 510.40 of this part, be committed to the custody of the sheriff.

§ 33. Subdivision 1-a of section 70.15 of the penal law is REPEALED.

§ 34. Subdivisions 1 and 3 of section 70.15 of the penal law, as amended by section 1 of part 00 of chapter 55 of the laws of 2019, are amended to read as follows:

1. Class A misdemeanor. A sentence of imprisonment for a class A misdemeanor shall be a definite sentence. When such a sentence is imposed the term shall be fixed by the court, and shall not exceed ~~[three hundred sixty four days]~~ one year; provided, however, that a sentence of imprisonment imposed upon a conviction of criminal possession of a weapon in the fourth degree as defined in subdivision one of section 265.01 of this chapter must be for a period of no less than one year when the conviction was the result of a plea of guilty entered in satisfaction of an indictment or any count thereof charging the defendant with the class C felony offense of criminal possession of a weapon in the second degree as defined in subdivision three of section 265.03 of this chapter, except that the court may impose any other sentence authorized by law upon a person who has not been previously convicted in the five years immediately preceding the commission of the offense for a felony or a class A misdemeanor defined in this chapter, if the court having regard to the nature and circumstances of the crime and to the history and character of the defendant, finds on the record that such sentence would be unduly harsh and that the alternative sentence would be consistent with public safety and does not deprecate the seriousness of the crime.

3. Unclassified misdemeanor. A sentence of imprisonment for an unclassified misdemeanor shall be a definite sentence. When such a sentence is imposed the term shall be fixed by the court, and shall be in accordance with the sentence specified in the law or ordinance that defines the crime ~~[but, in any event, it shall not exceed three hundred sixty four days]~~.

§ 35. Subdivision 5 of section 216 of the judiciary law is REPEALED.

§ 36. Sections 837-t and 837-u of the executive law are REPEALED.

§ 37. Paragraph (d) of subdivision 4 of section 840 of the executive law is REPEALED.

§ 38. This act shall take effect immediately.