

# STATE OF NEW YORK

4461

2025-2026 Regular Sessions

## IN SENATE

February 5, 2025

Introduced by Sens. TEDISCO, BORRELLO, GRIFFO, HELMING, MATTERA, OBER-  
ACKER, O'MARA, ORTT, PALUMBO, STEC, WEIK -- 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 providing judges more discretion regarding securing orders and limiting the lengths of certain orders; to repeal certain provisions of the criminal procedure law relating thereto; to amend the criminal procedure law and the penal law, in relation to establishing new criminal discovery rules; to repeal article 245 of the criminal procedure law relating thereto; and to repeal certain provisions of the judiciary law and the executive law relating to securing orders and criminal discovery

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2 law is REPEALED.  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 subparagraph (viii) as amended and subparagraphs (ix), (x) and (xi) of  
8 paragraph (b) as added by section 1 of subpart B of part UU of chapter  
9 56 of the laws of 2022, is amended to read as follows:  
10 1. [~~a~~] Whenever a police officer is authorized pursuant to section  
11 140.10 of this title to arrest a person without a warrant for an offense  
12 other than a class A, B, C or D felony or a violation of section 130.25,  
13 former section 130.40, section 205.10, 205.17, 205.19 or 215.56 of the  
14 penal law, or other than where an arrest is required to be made pursuant  
15 to subdivision four of section 140.10 of this title, the officer [~~shall,~~  
16 ~~except as set out in paragraph (b) of this subdivision~~ *may*, subject to  
17 the provisions of subdivisions three and four of section 150.40 of this

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

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1 [~~title~~] article, instead issue to and serve upon such person an appear-  
2 ance 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.]~~

1 § 3. The criminal procedure law is amended by adding a new section  
2 150.30 to read as follows:

3 § 150.30 Appearance ticket; issuance and service thereof after arrest  
4 upon posting of pre-arraignment bail.

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

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

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

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

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

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

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

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

1 such other system for the posting of pre-arraignment bail by means of  
2 credit card or similar device as such person may deem appropriate.

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

18 § 7. Subdivisions 5, 6, 7 and 9 of section 500.10 of the criminal  
19 procedure law, subdivision 5 as amended by section 1 of subpart A of  
20 part VV of chapter 56 of the laws of 2023 and subdivisions 6, 7 and 9 as  
21 amended by section 1-e of part JJJ of chapter 59 of the laws of 2019,  
22 are amended to read as follows:

23 5. "Securing order" means an order of a court committing a principal  
24 to the custody of the sheriff or fixing bail, [~~where authorized,~~] or  
25 releasing the principal on the principal's own recognizance [~~or releas-~~  
26 ~~ing the principal under non-monetary conditions~~], or, as otherwise  
27 authorized under this title, ordering non-monetary conditions in  
28 conjunction with fixing bail.

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

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

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

39 § 8. Section 510.10 of the criminal procedure law, as amended by  
40 section 2 of part JJJ of chapter 59 of the laws of 2019, the opening  
41 paragraph as added and the opening paragraph of subdivision 1, subdivi-  
42 sion 3 and the opening paragraph of subdivision 4 as amended by section  
43 2 of subpart A of part VV of chapter 56 of the laws of 2023, subdivision  
44 1 as amended by section 1 of subpart C of part UU of chapter 56 of the  
45 laws of 2022, subdivision 4 as amended by section 2 of part UU of chap-  
46 ter 56 of the laws of 2020, and paragraphs (s) and (t) as amended and  
47 paragraph (u) of subdivision 4 as added by section 2 of subpart B of  
48 part UU of chapter 56 of the laws of 2022, is amended to read as  
49 follows:

50 § 510.10 Securing order; when required; alternatives available[~~, stand-~~  
51 ~~ard to be applied~~].

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

1 1. When a principal, whose future court attendance at a criminal  
2 action or proceeding is or may be required, initially comes under the  
3 control of a court, such court shall impose a securing order in accord-  
4 ance with this title. Except as otherwise required by law, the court  
5 shall make an individualized determination as to whether the principal  
6 poses a risk of flight to avoid prosecution, consider the kind and  
7 degree of control or restriction necessary to reasonably assure the  
8 principal's return to court, and select a securing order consistent with  
9 its determination under this subdivision. The court shall explain the  
10 basis for its determination and its choice of securing order on the  
11 record or in writing. In making a determination under this subdivision,  
12 the court must consider and take into account available information  
13 about the principal, including:

- 14 (a) The principal's activities and history;  
15 (b) If the principal is a defendant, the charges facing the principal;  
16 (c) (i) The principal's character, reputation, habits and mental  
17 condition;  
18 (ii) The principal's employment and financial resources;  
19 (iii) The principal's family ties and the length of the principal's  
20 residence if any in the community;  
21 (iv) The principal's criminal [conviction] record if any;  
22 ~~[(d)]~~ (v) The principal's record of previous adjudication as a juve-  
23 nile delinquent, as retained pursuant to section 354.1 of the family  
24 court act, or, of pending cases where fingerprints are retained pursuant  
25 to section 306.1 of such act, or a youthful offender, if any;  
26 ~~[(e)]~~ (vi) The principal's previous record, if any, in responding to  
27 court appearances when required or with respect to flight to avoid crim-  
28 inal prosecution;  
29 ~~[(f) If monetary bail is authorized, according to the restrictions set~~  
30 ~~forth in this title, the principal's individual financial circumstances,~~  
31 ~~and, in cases where bail is authorized, the principal's ability to post~~  
32 ~~bail without posing undue hardship, as well as his or her ability to~~  
33 ~~obtain a secured, unsecured, or partially secured bond;~~  
34 ~~[(g)]~~ (vii) Any violation by the principal of an order of protection  
35 issued by any court;  
36 ~~[(h)]~~ (viii) The principal's history of use or possession of a  
37 firearm;  
38 ~~[(i)]~~ (ix) Whether the charge is alleged to have caused serious harm  
39 to an individual or group of individuals; [and]  
40 ~~[(j)]~~ (x) If the principal is a defendant, the weight of the evidence  
41 against the principal in the pending criminal action and any other  
42 factor indicating probability or improbability of conviction; or, in the  
43 case of an application for [a securing order] bail or recognizance pend-  
44 ing appeal, the merit or lack of merit of the appeal; and  
45 (xi) If the principal is a defendant, the sentence which may be or has  
46 been imposed upon conviction.

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

52 3. In cases other than as described in subdivision four of this  
53 section, the court shall release the principal pending trial on the  
54 principal's own recognizance, unless the court finds on the record or in  
55 writing that release on the principal's own recognizance will not  
56 reasonably assure the principal's return to court. In such instances,

1 the court shall release the principal under non-monetary conditions as  
2 provided for in subdivision three-a of section 500.10 of this title that  
3 will reasonably assure the principal's return to court. The court shall  
4 explain its choice of securing order on the record or in writing.

5 4. Where the principal stands charged with a qualifying offense, the  
6 court, unless otherwise prohibited by law, may in its discretion release  
7 the principal pending trial on the principal's own recognizance or under  
8 non-monetary conditions, fix bail, or order non-monetary conditions in  
9 conjunction with fixing bail, or, where the defendant is charged with a  
10 qualifying offense which is a felony, the court may commit the principal  
11 to the custody of the sheriff. A principal stands charged with a quali-  
12 fying offense for the purposes of this subdivision when [~~he or she~~] the  
13 principal stands charged with:

14 (a) a felony enumerated in section 70.02 of the penal law, other than  
15 robbery in the second degree as defined in subdivision one of section  
16 160.10 of the penal law, provided, however, that burglary in the second  
17 degree as defined in subdivision two of section 140.25 of the penal law  
18 shall be a qualifying offense only where the defendant is charged with  
19 entering the living area of the dwelling;

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

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

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

27 (e) a sex trafficking offense defined in section 230.34 or 230.34-a of  
28 the penal law, or a felony sex offense defined in section 70.80 of the  
29 penal law, or a crime involving incest as defined in section 255.25,  
30 255.26 or 255.27 of such law, or a misdemeanor defined in article one  
31 hundred thirty of such law;

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

36 (g) money laundering in support of terrorism in the first degree as  
37 defined in section 470.24 of the penal law; money laundering in support  
38 of terrorism in the second degree as defined in section 470.23 of the  
39 penal law; money laundering in support of terrorism in the third degree  
40 as defined in section 470.22 of the penal law; money laundering in  
41 support of terrorism in the fourth degree as defined in section 470.21  
42 of the penal law; or a felony crime of terrorism as defined in article  
43 four hundred ninety of the penal law, other than the crime defined in  
44 section 490.20 of such law;

45 (h) criminal contempt in the second degree as defined in subdivision  
46 three of section 215.50 of the penal law, criminal contempt in the first  
47 degree as defined in subdivision (b), (c) or (d) of section 215.51 of  
48 the penal law or aggravated criminal contempt as defined in section  
49 215.52 of the penal law, and the underlying allegation of such charge of  
50 criminal contempt in the second degree, criminal contempt in the first  
51 degree or aggravated criminal contempt is that the defendant violated a  
52 duly served order of protection where the protected party is a member of  
53 the defendant's same family or household as defined in subdivision one  
54 of section 530.11 of this title;

55 (i) facilitating a sexual performance by a child with a controlled  
56 substance or alcohol as defined in section 263.30 of the penal law, use

1 of a child in a sexual performance as defined in section 263.05 of the  
2 penal law or luring a child as defined in subdivision one of section  
3 120.70 of the penal law, promoting an obscene sexual performance by a  
4 child as defined in section 263.10 of the penal law or promoting a sexu-  
5 al performance by a child as defined in section 263.15 of the penal law;  
6 (j) any crime that is alleged to have caused the death of another  
7 person;  
8 (k) criminal obstruction of breathing or blood circulation as defined  
9 in section 121.11 of the penal law, strangulation in the second degree  
10 as defined in section 121.12 of the penal law or unlawful imprisonment  
11 in the first degree as defined in section 135.10 of the penal law, and  
12 is alleged to have committed the offense against a member of the defend-  
13 ant's same family or household as defined in subdivision one of section  
14 530.11 of this title;  
15 (l) aggravated vehicular assault as defined in section 120.04-a of the  
16 penal law or vehicular assault in the first degree as defined in section  
17 120.04 of the penal law;  
18 (m) assault in the third degree as defined in section 120.00 of the  
19 penal law or arson in the third degree as defined in section 150.10 of  
20 the penal law, when such crime is charged as a hate crime as defined in  
21 section 485.05 of the penal law;  
22 (n) aggravated assault upon a person less than eleven years old as  
23 defined in section 120.12 of the penal law or criminal possession of a  
24 weapon on school grounds as defined in section 265.01-a of the penal  
25 law;  
26 (o) grand larceny in the first degree as defined in section 155.42 of  
27 the penal law, enterprise corruption as defined in section 460.20 of the  
28 penal law, or money laundering in the first degree as defined in section  
29 470.20 of the penal law;  
30 (p) failure to register as a sex offender pursuant to section one  
31 hundred sixty-eight-t of the correction law or endangering the welfare  
32 of a child as defined in subdivision one of section 260.10 of the penal  
33 law, where the defendant is required to maintain registration under  
34 article six-C of the correction law and designated a level three offen-  
35 der pursuant to subdivision six of section one hundred sixty-eight-l of  
36 the correction law;  
37 (q) a crime involving bail jumping under section 215.55, 215.56 or  
38 215.57 of the penal law, or a crime involving escaping from custody  
39 under section 205.05, 205.10 or 205.15 of the penal law;  
40 (r) any felony offense committed by the principal while serving a  
41 sentence of probation or while released to post release supervision;  
42 (s) a felony, where the defendant qualifies for sentencing on such  
43 charge as a persistent felony offender pursuant to section 70.10 of the  
44 penal law;  
45 (t) any felony or class A misdemeanor involving harm to an identifi-  
46 able person or property, or any charge of criminal possession of a  
47 firearm as defined in section 265.01-b of the penal law, where such  
48 charge arose from conduct occurring while the defendant was released on  
49 ~~[his or her]~~ the defendant's own recognizance, released under condi-  
50 tions, or had yet to be arraigned after the issuance of a desk appear-  
51 ance ticket for a separate felony or class A misdemeanor involving harm  
52 to an identifiable person or property, or any charge of criminal  
53 possession of a firearm as defined in section 265.01-b of the penal law,  
54 provided, however, that the prosecutor must show reasonable cause to  
55 believe that the defendant committed the instant crime and any underly-  
56 ing crime. For the purposes of this subparagraph, any of the underlying

1 crimes need not be a qualifying offense as defined in this subdivision.  
2 For the purposes of this paragraph, "harm to an identifiable person or  
3 property" shall include but not be limited to theft of or damage to  
4 property. However, based upon a review of the facts alleged in the accu-  
5 satory instrument, if the court determines that such theft is negligible  
6 and does not appear to be in furtherance of other criminal activity, the  
7 principal shall be released on ~~[his or her]~~ the principal's own recogni-  
8 zance or under appropriate non-monetary conditions; or

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

12 5. Notwithstanding the provisions of subdivisions three and four of  
13 this section, with respect to any charge for which bail or remand is not  
14 ordered, and for which the court would not or could not otherwise  
15 require bail or remand, a defendant may, at any time, request that the  
16 court set bail in a nominal amount requested by the defendant in the  
17 form specified in paragraph (a) of subdivision one of section 520.10 of  
18 this title; if the court is satisfied that the request is voluntary, the  
19 court shall set such bail in such amount.

20 6.] When a securing order is revoked or otherwise terminated in the  
21 course of an uncompleted action or proceeding but the principal's future  
22 court attendance still is or may be required and the principal is still  
23 under the control of a court, a new securing order must be issued. When  
24 the court revokes or otherwise terminates a securing order which commit-  
25 ted the principal to the custody of the sheriff, the court shall give  
26 written notification to the sheriff of such revocation or termination of  
27 the securing order.

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

33 § 510.20 Application for ~~[a change in securing order]~~ recognizance or  
34 bail; making and determination thereof in general.

35 1. Upon any occasion when a court ~~[has issued]~~ is required to issue a  
36 securing order with respect to a principal ~~[and the]~~, or at any time  
37 when a principal is confined in the custody of the sheriff as a result  
38 of the securing order or a previously issued securing order, the princi-  
39 pal may make an application for recognizance~~[, release under non-mone-~~  
40 ~~tary conditions, bail, a reduction of bail, or imposition of non-mone-~~  
41 ~~tary conditions in conjunction with bail or a reduction of]~~ or bail.

42 2. ~~[(a) The principal is entitled to representation by counsel in the~~  
43 ~~making and presentation of such application. If the principal is finan-~~  
44 ~~cially unable to obtain counsel, counsel shall be assigned to the prin-~~  
45 ~~cipal.~~

46 ~~(b)]~~ Upon such application, the principal must be accorded an opportu-  
47 nity to be heard~~[, present evidence]~~ and to contend that an order of  
48 recognizance~~[, release under non-monetary conditions]~~ or~~[, where author-~~  
49 ~~ized,]~~ bail, a reduction of bail, or imposition of non-monetary condi-  
50 tions in conjunction with bail or a reduction of bail, must or should  
51 issue, that the court should release the principal on the principal's  
52 own recognizance ~~[or under non-monetary conditions]~~ rather than fix  
53 bail, ~~[or where bail has been imposed, reduce the amount of bail]~~ and  
54 impose non-monetary conditions, where authorized under this title, and  
55 that if bail is ~~[authorized and]~~ fixed it should be in a suggested  
56 amount and form.

1 3. When an application for a change in securing order is brought under  
2 this section and one or more of the charge or charges on which such  
3 securing order was based have been dismissed and/or reduced such that  
4 the securing order is no longer supported by the provisions of section  
5 510.10 of this article, the court shall impose a new securing order in  
6 accordance with such section.

7 § 10. Section 510.30 of the criminal procedure law, as amended by  
8 section 5 of part JJJ of chapter 59 of the laws of 2019, and subdivision  
9 1 as amended by section 4 of subpart A of part VV of chapter 56 of the  
10 laws of 2023, is amended to read as follows:

11 § 510.30 Application for [~~securing order~~] recognizance or bail; rules of  
12 law and criteria controlling determination.

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

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

26 (a) With respect to any principal, [~~the court in all cases, unless~~  
27 ~~otherwise provided by law,~~] must impose a securing order in accordance  
28 with section 510.10 of this article, and shall explain the basis for its  
29 determination and choice of securing order on the record or in writing.

30 [~~2-~~] (b) Where the principal is a defendant-appellant in a pending  
31 appeal from a judgment of conviction, the court must also consider the  
32 likelihood of ultimate reversal of the judgment. A determination that  
33 the appeal is palpably without merit alone justifies, but does not  
34 require, a denial of the application, regardless of any determination  
35 made with respect to the factors specified in [~~subdivision one of this~~  
36 ~~section~~] paragraph (a) of this subdivision.

37 3. When bail or recognizance is ordered, the court shall inform the  
38 principal, if the principal is a defendant charged with the commission  
39 of a felony, that the release is conditional and that the court may  
40 revoke the order of release and may be authorized to commit the princi-  
41 pal to the custody of the sheriff in accordance with the provisions of  
42 subdivision two of section 530.60 of this [~~chapter~~] title if the princi-  
43 pal commits a subsequent felony while at liberty upon such order.

44 § 11. Section 510.40 of the criminal procedure law, as amended by  
45 section 6 of part JJJ of chapter 59 of the laws of 2019, subdivision 3  
46 and paragraph (b) of subdivision 4 as amended by section 5 of subpart A  
47 of part VV of chapter 56 of the laws of 2023, and paragraph (c) of  
48 subdivision 4 as amended by section 7 of part UU of chapter 56 of the  
49 laws of 2020, is amended to read as follows:

50 § 510.40 [~~Court notification to principal of conditions of release and~~  
51 ~~of alleged violations of conditions of release~~] Application  
52 for recognizance or bail; determination thereof, form of  
53 securing order and execution thereof.

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

1 (a) Grants the application and releases the principal on the principal's own recognizance; or

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

3 (c) Denies the application and commits the principal to, or retains  
4 the principal in, the custody of the sheriff.

5  
6 2. Upon ordering that a principal be released on the principal's own  
7 recognizance, [~~or released under non-monetary conditions, or, if bail~~  
8 ~~has been fixed, upon the posting of bail,~~] the court must direct the  
9 principal to appear in the criminal action or proceeding involved when-  
10 ever the principal's attendance may be required and to [~~be~~] render the  
11 principal at all times amenable to the orders and processes of the  
12 court. If such principal is in the custody of the sheriff or at liberty  
13 upon bail at the time of the order, the court must direct that the prin-  
14 cipal be discharged from such custody or, as the case may be, that the  
15 principal's bail be exonerated.

16 [~~2.~~] 3. Upon the issuance of an order fixing bail[~~, where authorized,~~]  
17 and upon the posting thereof, the court must examine the bail to deter-  
18 mine whether it complies with the order. If it does, the court must, in  
19 the absence of some factor or circumstance which in law requires or  
20 authorizes disapproval thereof, approve the bail and must issue a  
21 certificate of release, authorizing the principal to be at liberty, and,  
22 if the principal is in the custody of the sheriff at the time, directing  
23 the sheriff to discharge the principal therefrom. If the bail fixed is  
24 not posted, or is not approved after being posted, the court must order  
25 that the principal be committed to the custody of the sheriff. [~~In the~~  
26 ~~event of any such non-approval, the court shall explain promptly in~~  
27 ~~writing the reasons therefor.~~

28 ~~3. Non-monetary conditions of release shall be individualized and~~  
29 ~~established in writing by the court. At future court appearances, the~~  
30 ~~court shall consider a lessening of conditions or modification of condi-~~  
31 ~~tions to a less burdensome form based on the principal's compliance with~~  
32 ~~such conditions of release. In the event of alleged non-compliance with~~  
33 ~~the conditions of release in an important respect, pursuant to this~~  
34 ~~subdivision, additional conditions may be imposed by the court, on the~~  
35 ~~record or in writing, only after notice of the facts and circumstances~~  
36 ~~of such alleged non-compliance, reasonable under the circumstances,~~  
37 ~~affording the principal and the principal's attorney and the people an~~  
38 ~~opportunity to present relevant, admissible evidence, relevant witnesses~~  
39 ~~and to cross-examine witnesses, and a finding by clear and convincing~~  
40 ~~evidence that the principal violated a condition of release in an impor-~~  
41 ~~tant respect. Following such a finding, in determining whether to impose~~  
42 ~~additional conditions for non-compliance, the court shall consider and~~  
43 ~~may select conditions as provided for in subdivision three a of section~~  
44 ~~500.10 of this title that will reasonably assure the defendant's return~~  
45 ~~to court. The court shall explain on the record or in writing the~~  
46 ~~reasons for its determination and for any changes to the conditions~~  
47 ~~imposed.~~

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

55 (b) ~~The specific method of electronic monitoring of the principal's~~  
56 ~~location must be approved by the court. The procedure and method of such~~

~~1 electronic monitoring shall reflect the findings of the individualized  
2 determination warranting such imposition of electronic monitoring to  
3 reasonably assure the principal's return to court, and shall be unobtru-  
4 sive to the greatest extent practicable.~~

~~5 (c) Electronic monitoring of the location of a principal may be  
6 conducted only by a public entity under the supervision and control of a  
7 county or municipality or a non-profit entity under contract to the  
8 county, municipality or the state. A county or municipality shall be  
9 authorized to enter into a contract with another county or municipality  
10 in the state to monitor principals under non-monetary conditions of  
11 release in its county, but counties, municipalities and the state shall  
12 not contract with any private for profit entity for such purposes.  
13 Counties, municipalities and the state may contract with a private for  
14 profit entity to supply electronic monitoring devices or other items,  
15 provided that any interaction with persons under electronic monitoring  
16 or the data produced by such monitoring shall be conducted solely by  
17 employees of a county, municipality, the state, or a non-profit entity  
18 under contract with such county, municipality or the state.~~

~~19 (d) Electronic monitoring of a principal's location may be for a maxi-  
20 mum period of sixty days, and may be renewed for such period, after  
21 notice, an opportunity to be heard and a de novo, individualized deter-  
22 mination in accordance with this subdivision, which shall be explained  
23 on the record or in writing.~~

~~24 A defendant subject to electronic location monitoring under this  
25 subdivision shall be considered held or confined in custody for purposes  
26 of section 180.80 of this chapter and shall be considered committed to  
27 the custody of the sheriff for purposes of section 170.70 of the chap-  
28 ter, as applicable.~~

~~29 5. If a principal is released under non-monetary conditions, the court  
30 shall, on the record and in an individualized written document provided  
31 to the principal, notify the principal, in plain language and a manner  
32 sufficiently clear and specific.~~

~~33 (a) of any conditions to which the principal is subject, to serve as a  
34 guide for the principal's conduct; and~~

~~35 (b) that the possible consequences for violation of such a condition  
36 may include revocation of the securing order and the ordering of a more  
37 restrictive securing order.]~~

38 § 12. Sections 510.43 and 510.45 of the criminal procedure law are  
39 REPEALED.

40 § 13. Section 510.50 of the criminal procedure law, as amended by  
41 section 9 of part JJJ of chapter 59 of the laws of 2019, is amended to  
42 read as follows:

43 § 510.50 Enforcement of securing order.

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

53 [~~2. Except when the principal is charged with a new crime while at~~  
54 ~~liberty, absent relevant, credible evidence demonstrating that a princi-~~  
55 ~~pal's failure to appear for a scheduled court appearance was willful,~~  
56 ~~the court, prior to issuing a bench warrant for a failure to appear for~~

~~1 a scheduled court appearance, shall provide at least forty eight hours  
2 notice to the principal or the principal's counsel that the principal is  
3 required to appear, in order to give the principal an opportunity to  
4 appear voluntarily.]~~

5 § 14. Paragraph (b) of subdivision 2 of section 520.10 of the criminal  
6 procedure law, as amended by section 10 of part JJJ of chapter 59 of the  
7 laws of 2019, is amended to read as follows:

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

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

17 § 530.10 Order of recognizance [~~release under non-monetary conditions~~]  
18 or bail; in general.

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

24 1. A criminal action based upon such charge; or

25 2. An appeal taken by the defendant from a judgment of conviction or a  
26 sentence or from an order of an intermediate appellate court affirming  
27 or modifying a judgment of conviction or a sentence.

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

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

52 § 17. Subdivision 11 of section 530.12 of the criminal procedure law,  
53 as amended by section 15 of part JJJ of chapter 59 of the laws of 2019,  
54 is amended to read as follows:

55 11. If a defendant is brought before the court for failure to obey any  
56 lawful order issued under this section, or an order of protection issued

1 by a court of competent jurisdiction in another state, territorial or  
2 tribal jurisdiction, and if, after hearing, the court is satisfied by  
3 competent proof that the defendant has willfully failed to obey any such  
4 order, the court may:

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

8 (b) restore the case to the calendar when there has been an adjourn-  
9 ment in contemplation of dismissal and commit the defendant to custody;  
10 or

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

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

21 § 18. The opening paragraph of subdivision 1 of section 530.13 of the  
22 criminal procedure law, as amended by section 14 of part JJJ of chapter  
23 59 of the laws of 2019, is amended to read as follows:

24 When any criminal action is pending, and the court has not issued a  
25 temporary order of protection pursuant to section 530.12 of this arti-  
26 cle, the court, in addition to the other powers conferred upon it by  
27 this chapter, may for good cause shown issue a temporary order of  
28 protection in conjunction with any securing order committing the defend-  
29 ant to the custody of the sheriff or as a condition of a pre-trial  
30 release, or as a condition of release on bail or an adjournment in  
31 contemplation of dismissal. In addition to any other conditions, such an  
32 order may require that the defendant:

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

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

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

40 § 530.20 Order of recognizance or bail; by local criminal court when  
41 action is pending therein.

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

45 1. When the defendant is charged, by information, simplified informa-  
46 tion, prosecutor's information or misdemeanor complaint, with an offense  
47 or offenses of less than felony grade only, the court must order recog-  
48 nizance or bail.

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

52 (a) A city court, a town court or a village court may not order recog-  
53 nizance or bail when (i) the defendant is charged with a class A felony,  
54 or (ii) it appears that the defendant has two previous felony  
55 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 the 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 any or with a police department report with respect to the defendant's prior arrest record. If neither report is available, the court, with the consent of the district attorney, may dispense with this requirement; provided, however, that in an emergency, including but not limited to a substantial impairment in the ability of such division or police department to timely furnish such report, such consent shall not be required if, for reasons stated on the record, the court deems it unnecessary. When the court has been furnished with any such report or record, it shall furnish a copy thereof to counsel for the defendant or, if the defendant is not represented by counsel, to the defendant.

§ 21. The section heading and subdivisions 1 and 2 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, the closing paragraph of subdivision 1 as amended by section 7 of subpart A of part VV of chapter 56 of the laws of 2023, are amended to read as follows:

Order of recognizance~~[, release under non-monetary conditions]~~ or bail; 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 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~~[, or order non-monetary conditions in conjunction with fixing bail, including fixing bail in a lesser amount or in a less burdensome form, the determination for which shall be made in accordance with section 510.10 of this title. The court shall explain the basis for its determination and choice of securing order 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, ~~[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]~~ **has** been furnished with a report as described in subparagraph (ii) of paragraph (b) of subdivision two of section 530.20 of this article.

1 § 22. Section 530.40 of the criminal procedure law is REPEALED and a  
2 new section 530.40 is added to read as follows:

3 § 530.40 Order of recognizance or bail; by superior court when action is  
4 pending therein.

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

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

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

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

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

34 § 23. Subdivision 1 of section 530.45 of the criminal procedure law,  
35 as amended by section 9 of subpart A of part VV of chapter 56 of the  
36 laws of 2023, is amended to read as follows:

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

1 ~~non-monetary conditions, or issue a less restrictive securing order,~~  
2 than fixed by the court in which the conviction was entered.

3 § 24. Subdivision 2-a of section 530.45 of the criminal procedure law  
4 is REPEALED.

5 § 25. Section 530.50 of the criminal procedure law, as amended by  
6 chapter 264 of the laws of 2003, subdivision 1 as designated by section  
7 10 of part UU of chapter 56 of the laws of 2020, and subdivisions 2 and  
8 3 as amended by section 10 of subpart A of part VV of chapter 56 of the  
9 laws of 2023, is amended to read as follows:

10 § 530.50 Order of recognizance or bail; during pendency of appeal.

11 1. A judge who is otherwise authorized pursuant to section 460.50 or  
12 section 460.60 of this chapter to issue an order of recognizance or bail  
13 pending the determination of an appeal, may do so unless the defendant  
14 received a class A felony sentence or a sentence for any class B or  
15 class C felony offense defined in article one hundred thirty of the  
16 penal law committed or attempted to be committed by a person eighteen  
17 years of age or older against a person less than eighteen years of age.

18 2. [~~Notwithstanding the provisions of subdivision four of section  
19 510.10, paragraph (b) of subdivision one of section 530.20 and subdivi-  
20 sion four of section 530.40 of this title, when a defendant charged with  
21 an offense that is not such a qualifying offense applies, pending deter-  
22 mination of an appeal, for an order of recognizance or release on non-  
23 monetary conditions, where authorized, fixing bail, or ordering non mon-  
24 etary conditions in conjunction with fixing bail, a judge identified in  
25 subdivision two of section 460.50 or paragraph (a) of subdivision one of  
26 section 460.60 of this chapter may, in accordance with law, and except  
27 as otherwise provided by law, issue a securing order: releasing the  
28 defendant on the defendant's own recognizance or under non-monetary  
29 conditions where authorized, fixing bail, or ordering non-monetary  
30 conditions in conjunction with fixing bail, or remanding the defendant  
31 to the custody of the sheriff where authorized.~~

32 ~~3.~~] Where an appeal by the people has been taken from an order  
33 dismissing one or more counts of an accusatory instrument for failure to  
34 comply with a discovery order pursuant to subdivision twelve of section  
35 450.20 of this chapter and the defendant is charged with a qualifying  
36 offense in the remaining counts in the accusatory instrument, pending  
37 determination of an appeal, the defendant may apply for an order of  
38 recognizance or [~~release on non-monetary conditions, where authorized,~~  
39 fixing bail, or ordering non-monetary conditions in conjunction with  
40 fixing bail. A judge identified in subdivision two of section 460.50 of  
41 this chapter or paragraph (a) of subdivision one of section 460.60 of  
42 this chapter may, in accordance with law, and except as otherwise  
43 provided by law, issue a securing order releasing the defendant on the  
44 defendant's own recognizance [~~or under non-monetary conditions where  
45 authorized,~~ fixing bail, [~~or ordering non-monetary conditions in  
46 conjunction with fixing bail,~~ or remanding the defendant to the custody  
47 of the sheriff where authorized.

48 § 26. Section 530.60 of the criminal procedure law, as amended by  
49 section 20 of part JJJ of chapter 59 of the laws of 2019, the opening  
50 paragraph of paragraph (b), the closing paragraph of subparagraph (i) of  
51 paragraph (d), subparagraph (ii) of paragraph (d) of subdivision 2 as  
52 amended and subparagraph (iii) of paragraph (d) of subdivision 2 as  
53 added by section 11 of subpart A of part VV of chapter 56 of the laws of  
54 2023, is amended to read as follows:

55 § 530.60 [~~Certain modifications of a securing order~~] Order of recogni-  
56 zance or bail; revocation thereof.

1 1. Whenever in the course of a criminal action or proceeding a defend-  
2 ant is at liberty as a result of an order of recognizance[~~7, release~~  
3 ~~under non-monetary conditions~~] or bail issued pursuant to this chapter,  
4 and the court considers it necessary to review such order, [~~whether due~~  
5 ~~to a motion by the people or otherwise,~~] the court may, and [~~except as~~  
6 ~~provided in subdivision two of section 510.50 of this title concerning a~~  
7 ~~failure to appear in court,~~] by a bench warrant if necessary, require  
8 the defendant to appear before the court. Upon such appearance, the  
9 court, for good cause shown, may revoke the order of recognizance[~~7,~~  
10 ~~release under non-monetary conditions,~~] or bail. If the defendant is  
11 entitled to recognizance[~~7, release under non-monetary conditions,~~] or  
12 bail as a matter of right, the court must issue another such order. If  
13 the defendant is not, the court may either issue such an order or commit  
14 the defendant to the custody of the sheriff in accordance with this  
15 section.

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

20 2. (a) Whenever in the course of a criminal action or proceeding a  
21 defendant charged with the commission of a felony is at liberty as a  
22 result of an order of recognizance, [~~release under non-monetary condi-~~  
23 ~~tions~~] or bail issued pursuant to this article it shall be grounds for  
24 revoking such order that the court finds reasonable cause to believe the  
25 defendant committed one or more specified class A or violent felony  
26 offenses or intimidated a victim or witness in violation of section  
27 215.15, 215.16 or 215.17 of the penal law while at liberty.

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

37 (i) ~~persistently and willfully failed to appear after notice of sched-~~  
38 ~~uled appearances in the case before the court, or~~

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

42 (iii) ~~stands charged in such criminal action or proceeding with a~~  
43 ~~misdemeanor or violation and, after being so charged, intimidated a~~  
44 ~~victim or witness in violation of section 215.15, 215.16 or 215.17 of~~  
45 ~~the penal law or tampered with a witness in violation of section 215.11,~~  
46 ~~215.12 or 215.13 of the penal law, law while at liberty, or~~

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

49 (c) Before revoking an order of recognizance[~~7, release under non-mon-~~  
50 ~~etary conditions~~], or bail pursuant to this subdivision, the court must  
51 hold a hearing and shall receive any relevant, admissible evidence not  
52 legally privileged. The defendant may cross-examine witnesses and may  
53 present relevant, admissible evidence on [~~his~~] the defendant's own  
54 behalf. Such hearing may be consolidated with, and conducted at the same  
55 time as, a felony hearing conducted pursuant to article one hundred  
56 eighty of this chapter. A transcript of testimony taken before the grand

1 jury upon presentation of the subsequent offense shall be admissible as  
2 evidence during the hearing. The district attorney may move to introduce  
3 grand jury testimony of a witness in lieu of that witness' appearance at  
4 the hearing.

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

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

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

15 [~~(B)~~] **(ii)** Until the charges contained within the accusatory instru-  
16 ment have been reduced or dismissed such that no count remains which  
17 charges the defendant with commission of a felony; or

18 [~~(C)~~] **(iii)** Until reduction or dismissal of the charges contained  
19 within the accusatory instrument charging the subsequent offense such  
20 that no count remains which charges the defendant with commission of a  
21 class A or violent felony offense.

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

28 [~~(ii) Under subparagraph (i) of paragraph (b) of this subdivision,~~  
29 ~~revocation of a previously issued securing order shall result in the~~  
30 ~~issuance of a new securing order which may, if otherwise authorized by~~  
31 ~~law, permit the principal's release on recognizance or release under~~  
32 ~~non-monetary conditions, but shall also render the defendant eligible~~  
33 ~~for an order fixing bail, or ordering non-monetary conditions in~~  
34 ~~conjunction with fixing bail, provided, however, that in accordance with~~  
35 ~~the principles in this title the court must impose a new securing order~~  
36 ~~in accordance with subdivision one of section 510.10 of this title, and~~  
37 ~~in imposing such order, may consider the circumstances warranting such~~  
38 ~~revocation. Nothing in this subparagraph shall be interpreted as short-~~  
39 ~~ening the period of detention, or requiring or authorizing any less~~  
40 ~~restrictive form of a securing order, which may be imposed pursuant to~~  
41 ~~any other law; and~~

42 **(iii)** Under subparagraphs (ii), (iii), and (iv) of paragraph (b) of  
43 this subdivision, revocation of a previously issued securing order shall  
44 result in the issuance of a new securing order which may, if otherwise  
45 authorized by law, permit the principal's release on recognizance or  
46 release under non-monetary conditions, but shall also render the defend-  
47 ant eligible for an order fixing bail or ordering non-monetary condi-  
48 tions in conjunction with fixing bail. In issuing the new securing  
49 order, the court shall consider the kind and degree of control or  
50 restriction necessary to reasonably assure the principal's return to  
51 court and compliance with court conditions, and select a securing order  
52 consistent with its determination, taking into account the factors  
53 required to be considered under subdivision one of section 510.10 of  
54 this title, the circumstances warranting such revocation, and the nature  
55 and extent of the principal's noncompliance with previously ordered  
56 non-monetary conditions of the securing order subject to revocation

~~1 under this subdivision. Nothing in this subparagraph shall be interpret-~~  
~~2 ed as shortening the period of detention, or requiring or authorizing~~  
~~3 any less restrictive form of a securing order, which may be imposed~~  
~~4 pursuant to any other law.]~~

5 § 27. Paragraph (a) of subdivision 9 of section 216.05 of the criminal  
6 procedure law, as amended by chapter 435 of the laws of 2021, is amended  
7 to read as follows:

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

27 § 28. Section 410.60 of the criminal procedure law, as amended by  
28 section 23 of part JJJ of chapter 59 of the laws of 2019, is amended to  
29 read as follows:

30 § 410.60 Appearance before court.

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

47 § 29. Subdivision 3 of section 620.50 of the criminal procedure law,  
48 as amended by section 24 of part JJJ of chapter 59 of the laws of 2019,  
49 is amended to read as follows:

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

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

1 (b) If the bail is not posted, or if though posted it is not approved  
2 by the court, the witness must, as provided in subdivision [~~two~~] three  
3 of section 510.40 of this part, be committed to the custody of the sher-  
4 iff.

5 § 30. Article 245 of the criminal procedure law is REPEALED.

6 § 31. The criminal procedure law is amended by adding a new article  
7 240 to read as follows:

8 ARTICLE 240

9 DISCOVERY

10 Section 240.10 Definition of terms.

11 240.20 Upon demand of defendant.

12 240.30 Upon demand of prosecutor.

13 240.35 Refusal of demand.

14 240.40 Upon court order.

15 240.43 Disclosure of prior uncharged criminal, vicious or immor-  
16 al acts.

17 240.44 Upon pre-trial hearing.

18 240.45 Upon trial, of prior statements and criminal history of  
19 witnesses.

20 240.50 Protective orders.

21 240.60 Continuing duty to disclose.

22 240.70 Sanctions; fees.

23 240.75 Certain violations.

24 240.80 When demand, refusal and compliance made.

25 240.90 Motion procedure.

26 § 240.10 Definition of terms. The following definitions are applicable  
27 to this article:

28 1. "Demand to produce" means a written notice served by and on a  
29 party to a criminal action, without leave of the court, demanding to  
30 inspect property pursuant to this article and giving reasonable notice  
31 of the time at which the demanding party wishes to inspect the property  
32 designated.

33 2. "Attorneys' work product" means property to the extent that it  
34 contains the opinions, theories or conclusions of the prosecutor,  
35 defense counsel or members of their legal staffs.

36 3. "Property" means any existing tangible personal or real property,  
37 including, but not limited to, books, records, reports, memoranda,  
38 papers, photographs, tapes or other electronic recordings, articles of  
39 clothing, fingerprints, blood samples, fingernail scrapings or  
40 handwriting specimens, but excluding attorneys' work product.

41 4. "At the trial" means as part of the people's or the defendant's  
42 direct case.

43 § 240.20 Upon demand of defendant.

44 1. Except to the extent protected by court order, upon a demand to  
45 produce by a defendant against whom an indictment, superior court  
46 information, prosecutor's information, information, or simplified infor-  
47 mation charging a misdemeanor is pending, the prosecutor shall disclose  
48 to the defendant and make available for inspection, photographing,  
49 copying or testing, the following property:

50 (a) Any written, recorded or oral statement of the defendant, and of  
51 a co-defendant to be tried jointly, made, other than in the course of  
52 the criminal transaction, to a public servant engaged in law enforcement  
53 activity or to a person then acting under the public servant's direction  
54 or in cooperation with the public servant;

1 (b) Any transcript of testimony relating to the criminal action or  
2 proceeding pending against the defendant, given by the defendant, or by  
3 a co-defendant to be tried jointly, before any grand jury;

4 (c) Any written report or document, or portion thereof, concerning a  
5 physical or mental examination, or scientific test or experiment,  
6 relating to the criminal action or proceeding which was made by, or at  
7 the request or direction of a public servant engaged in law enforcement  
8 activity, or which was made by a person whom the prosecutor intends to  
9 call as a witness at trial, or which the people intend to introduce at  
10 trial;

11 (d) Any photograph or drawing relating to the criminal action or  
12 proceeding which was made or completed by a public servant engaged in  
13 law enforcement activity, or which was made by a person whom the  
14 prosecutor intends to call as a witness at trial, or which the people  
15 intend to introduce at trial;

16 (e) Any photograph, photocopy or other reproduction made by or at the  
17 direction of a police officer, peace officer or prosecutor of any  
18 property prior to its release pursuant to the provisions of section  
19 450.10 of the penal law, irrespective of whether the people intend to  
20 introduce at trial the property or the photograph, photocopy or other  
21 reproduction;

22 (f) Any other property obtained from the defendant, or a co-defendant  
23 to be tried jointly;

24 (g) Any tapes or other electronic recordings which the prosecutor  
25 intends to introduce at trial, irrespective of whether such recording  
26 was made during the course of the criminal transaction;

27 (h) Anything required to be disclosed, prior to trial, to the  
28 defendant by the prosecutor, pursuant to the constitution of this state  
29 or of the United States;

30 (i) The approximate date, time and place of the offense charged and of  
31 defendant's arrest;

32 (j) In any prosecution under section 156.05 or 156.10 of the penal  
33 law, the time, place and manner of notice given pursuant to subdivi-  
34 sion six of section 156.00 of such law; and

35 (k) In any prosecution commenced in a manner set forth in this  
36 subdivision alleging a violation of the vehicle and traffic law, in  
37 addition to any material required to be disclosed pursuant to this  
38 article, any other provision of law, or the constitution of this state  
39 or of the United States, any written report or document, or portion  
40 thereof, concerning a physical examination, a scientific test or  
41 experiment, including the most recent record of inspection, or  
42 calibration or repair of machines or instruments utilized to perform  
43 such scientific tests or experiments and the certification certificate,  
44 if any, held by the operator of the machine or instrument, which tests  
45 or examinations were made by or at the request or direction of a public  
46 servant engaged in law enforcement activity or which was made by a  
47 person whom the prosecutor intends to call as a witness at trial, or  
48 which the people intend to introduce at trial.

49 2. The prosecutor shall make a diligent, good faith effort to  
50 ascertain the existence of demanded property and to cause such property  
51 to be made available for discovery where it exists but is not within the  
52 prosecutor's possession, custody or control; provided, that the  
53 prosecutor shall not be required to obtain by subpoena duces tecum  
54 demanded material which the defendant may thereby obtain.

55 § 240.30 Upon demand of prosecutor.

1 1. Except to the extent protected by court order, upon a demand to  
2 produce by the prosecutor, a defendant against whom an indictment,  
3 superior court information, prosecutor's information, information, or  
4 simplified information charging a misdemeanor is pending shall disclose  
5 and make available for inspection, photographing, copying or testing,  
6 subject to constitutional limitations:

7 (a) any written report or document, or portion thereof, concerning a  
8 physical or mental examination, or scientific test, experiment, or  
9 comparisons, made by or at the request or direction of, the defendant,  
10 if the defendant intends to introduce such report or document at trial,  
11 or if the defendant has filed a notice of intent to proffer psychiatric  
12 evidence and such report or document relates thereto, or if such report  
13 or document was made by a person, other than defendant, whom defendant  
14 intends to call as a witness at trial; and

15 (b) any photograph, drawing, tape or other electronic recording which  
16 the defendant intends to introduce at trial.

17 2. The defense shall make a diligent good faith effort to make such  
18 property available for discovery where it exists but the property is not  
19 within its possession, custody or control, provided, that the defendant  
20 shall not be required to obtain by subpoena duces tecum demanded  
21 material that the prosecutor may thereby obtain.

22 § 240.35 Refusal of demand.

23 Notwithstanding the provisions of sections 240.20 and 240.30 of this  
24 article, the prosecutor or the defendant, as the case may be, may refuse  
25 to disclose any information which is reasonably believed not discovera-  
26 ble by a demand to produce, pursuant to section 240.20 or 240.30 of this  
27 article as the case may be, or for which such person reasonably believes  
28 a protective order would be warranted. Such refusal shall be made in a  
29 writing, which shall set forth the grounds of such belief as fully as  
30 possible, consistent with the objective of the refusal. The writing  
31 shall be served upon the demanding party and a copy shall be filed with  
32 the court.

33 § 240.40 Upon court order.

34 Notwithstanding the provisions of sections 240.20 and 240.30 of  
35 this article, the prosecutor or the defendant, as the case may be, may  
36 refuse to disclose any information which is reasonably believed not  
37 discoverable by a demand to produce, pursuant to section 240.20 or  
38 240.30 of this article as the case may be, or for which such person  
39 reasonably believes a protective order would be warranted. Such refusal  
40 shall be made in a writing, which shall set forth the grounds of such  
41 belief as fully as possible, consistent with the objective of the  
42 refusal. The writing shall be served upon the demanding party and a  
43 copy shall be filed with the court.

44 § 240.43 Disclosure of prior uncharged criminal, vicious or immoral  
45 acts.

46 1. Upon motion of a defendant against whom an indictment, superior  
47 court information, prosecutor's information, information, or simplified  
48 information charging a misdemeanor is pending, the court in which such  
49 accusatory instrument is pending: (a) must order discovery as to any  
50 material not disclosed upon a demand pursuant to section 240.20  
51 of this article, if it finds that the prosecutor's refusal to disclose  
52 such material is not justified; (b) must, unless it is satisfied that  
53 the people have shown good cause why such an order should not be  
54 issued, order discovery or any other order authorized by subdivision  
55 one of section 240.70 of this article as to any material not disclosed  
56 upon demand pursuant to section 240.20 of this article where the prose-

1 cutor has failed to serve a timely written refusal pursuant to  
2 section 240.35 of this article; (c) may order discovery with respect to  
3 any other property, which the people intend to introduce at the trial,  
4 upon a showing by the defendant that discovery with respect to such  
5 property is material to the preparation of the defense, and that the  
6 request is reasonable; and (d) where property in the people's  
7 possession, custody, or control that consists of a deoxyribonu-  
8 cleic acid ("DNA") profile obtained from probative biological material  
9 gathered in connection with the investigation or prosecution of the  
10 defendant and the defendant establishes that such profile complies with  
11 federal bureau of investigation or state requirements, whichever are  
12 applicable and as such requirements are applied to law enforcement  
13 agencies seeking a keyboard search or similar comparison, and that the  
14 data meets state DNA index system or national DNA index system criteria  
15 as such criteria are applied to law enforcement agencies seeking such a  
16 keyboard search or similar comparison, the court may order an entity  
17 that has access to the combined DNA index system or its successor system  
18 to compare such DNA profile against DNA databanks by keyboard searches,  
19 or a similar method that does not involve uploading, upon notice to both  
20 parties and the entity required to perform the search, upon a showing by  
21 the defendant that such a comparison is material to the presentation of  
22 the defense and that the request is reasonable. For purposes of this  
23 paragraph, a "keyboard search" shall mean a search of a DNA profile  
24 against the databank in which the profile that is searched is not  
25 uploaded to or maintained in the databank. Upon granting the motion  
26 pursuant to paragraph (c) of this subdivision, the court shall, upon  
27 motion of the people showing such to be material to the preparation of  
28 their case and that the request is reasonable, condition its order of  
29 discovery by further directing discovery by the people of property, of  
30 the same kind or character as that authorized to be inspected by the  
31 defendant, which is intended to be introduced at the trial.

32 2. Upon motion of the prosecutor, and subject to constitutional  
33 limitation, the court in which an indictment, superior court informa-  
34 tion, prosecutor's information, information, or simplified information  
35 charging a misdemeanor is pending: (a) must order discovery as to any  
36 property not disclosed upon a demand pursuant to section 240.30 of  
37 this article, if it finds that the defendant's refusal to disclose  
38 such material is not justified; and (b) may order the defendant to  
39 provide non-testimonial evidence. Such order may, among other things,  
40 require the defendant to:

41 (i) Appear in a line-up;  
42 (ii) Speak for identification by witness or potential witness;  
43 (iii) Be fingerprinted;  
44 (iv) Pose for photographs not involving reenactment of an event;  
45 (v) Permit the taking of samples of blood, hair or other materials  
46 from the defendant's body in a manner not involving an unreasonable  
47 intrusion thereof or a risk of serious physical injury thereto;  
48 (vi) Provide specimens of the defendant's handwriting;  
49 (vii) Submit to a reasonable physical or medical inspection of the  
50 defendant's body.

51 This subdivision shall not be construed to limit, expand, or otherwise  
52 affect the issuance of a similar court order, as may be authorized by  
53 law, before the filing of an accusatory instrument consistent with such  
54 rights as the defendant may derive from the constitution of this state  
55 or of the United States. This section shall not be construed to limit or  
56 otherwise affect the administration of a chemical test where other-

1 wise authorized pursuant to section one thousand one hundred ninety-  
2 four-a of the vehicle and traffic law.

3 3. An order pursuant to this section may be denied, limited or  
4 conditioned as provided in section 240.50 of this article.

5 § 240.44 Upon pre-trial hearing.

6 Subject to a protective order, at a pre-trial hearing held in a  
7 criminal court at which a witness is called to testify, each party,  
8 prior to the commencement of the direct examination of each of its  
9 witnesses, shall, upon request of the other party, make available to  
10 that party to the extent not previously disclosed:

11 1. Any written or recorded statement, including any testimony before a  
12 grand jury, made by such witness other than the defendant which relates  
13 to the subject matter of the witness's testimony.

14 2. A record of a judgment of conviction of such witness other than the  
15 defendant if the record of conviction is known by the prosecutor or  
16 defendant, as the case may be, to exist.

17 3. The existence of any pending criminal action against such witness  
18 other than the defendant if the pending criminal action is known by the  
19 prosecutor or defendant, as the case may be, to exist.

20 § 240.45 Upon trial, of prior statements and criminal history of  
21 witnesses.

22 1. After the jury has been sworn and before the prosecutor's opening  
23 address, or in the case of a single judge trial after commencement and  
24 before submission of evidence, the prosecutor shall, subject to a  
25 protective order, make available to the defendant:

26 (a) Any written or recorded statement, including any testimony before  
27 a grand jury and an examination videotaped pursuant to section 190.32 of  
28 this part, made by a person whom the prosecutor intends to call as a  
29 witness at trial, and which relates to the subject matter of the  
30 witness's testimony;

31 (b) A record of judgment of conviction of a witness the people intend  
32 to call at trial if the record of conviction is known by the prosecutor  
33 to exist;

34 (c) The existence of any pending criminal action against a witness  
35 the people intend to call at trial, if the pending criminal action is  
36 known by the prosecutor to exist.

37 The provisions of paragraphs (b) and (c) of this subdivision shall not  
38 be construed to require the prosecutor to fingerprint a witness or  
39 otherwise cause the division of criminal justice services or other law  
40 enforcement agency or court to issue a report concerning a witness.

41 2. After presentation of the people's direct case and before the  
42 presentation of the defendant's direct case, the defendant shall,  
43 subject to a protective order, make available to the prosecutor:

44 (a) any written or recorded statement made by a person other than the  
45 defendant whom the defendant intends to call as a witness at the trial,  
46 and which relates to the subject matter of the witness's testimony;

47 (b) a record of judgment of conviction of a witness, other than the  
48 defendant, the defendant intends to call at trial if the record of  
49 conviction is known by the defendant to exist;

50 (c) the existence of any pending criminal action against a witness,  
51 other than the defendant, the defendant intends to call at trial, if the  
52 pending criminal action is known by the defendant to exist.

53 § 240.50 Protective orders.

54 1. The court in which the criminal action is pending may, upon motion  
55 of either party, or of any affected person, or upon determination of a  
56 motion of either party for an order of discovery, or upon its own

1 initiative, issue a protective order denying, limiting, conditioning,  
2 delaying or regulating discovery pursuant to this article for good  
3 cause, including constitutional limitations, danger to the integrity of  
4 physical evidence or a substantial risk of physical harm, intimidation,  
5 economic reprisal, bribery or unjustified annoyance or embarrassment to  
6 any person or an adverse effect upon the legitimate needs of law  
7 enforcement, including the protection of the confidentiality of  
8 informants, or any other factor or set of factors which outweighs the  
9 usefulness of the discovery.

10 2. An order limiting, conditioning, delaying or regulating discovery  
11 may, among other things, require that any material copied or derived  
12 therefrom be maintained in the exclusive possession of the attorney for  
13 the discovering party and be used for the exclusive purpose of preparing  
14 for the defense or prosecution of the criminal action.

15 3. A motion for a protective order shall suspend discovery of the  
16 particular matter in dispute.

17 4. Notwithstanding any other provision of this article, the personal  
18 residence address of a police officer or correction officer shall not be  
19 required to be disclosed except pursuant to an order issued by a court  
20 following a finding of good cause.

21 § 240.60 Continuing duty to disclose.

22 If, after complying with the provisions of this article or an order  
23 pursuant thereto, a party finds, either before or during trial, addi-  
24 tional material subject to discovery or covered by such order, the  
25 party shall promptly comply with the demand or order, refuse to comply  
26 with the demand where refusal is authorized, or apply for a protective  
27 order.

28 § 240.70 Sanctions; fees.

29 1. If, during the course of discovery proceedings, the court finds  
30 that a party has failed to comply with any of the provisions of this  
31 article, the court may order such party to permit discovery of the prop-  
32 erty not previously disclosed, grant a continuance, issue a protective  
33 order, prohibit the introduction of certain evidence or the calling of  
34 certain witnesses or take any other appropriate action.

35 2. The failure of the prosecution to call as a witness a person speci-  
36 fied in subdivision one of section 240.20 of this article or of any  
37 party to introduce disclosed material at the trial shall not, by itself,  
38 constitute grounds for any sanction or for adverse comment thereupon by  
39 any party in summation to the jury or at any other point.

40 3. A fee for copies of records required to be disclosed may be  
41 charged. Such fee shall not exceed twenty-five cents per photocopy not  
42 in excess of nine inches by fourteen inches, or the actual cost of  
43 reproducing any other record, except when a different fee is otherwise  
44 prescribed by law.

45 § 240.75 Certain violations.

46 The failure of the prosecutor or any agent of the prosecutor to  
47 disclose statements that are required to be disclosed under subdivision  
48 one of section 240.44 of this article or paragraph (a) of subdivision  
49 one of section 240.45 of this article shall not constitute grounds for  
50 any court to order a new pre-trial hearing or set aside a  
51 conviction, or reverse, modify or vacate a judgment of conviction in the  
52 absence of a showing by the defendant that there is a reasonable  
53 possibility that the non-disclosure materially contributed to the  
54 result of the trial or other proceeding; provided, however, that nothing  
55 in this section shall affect or limit any right the defendant

1 may have to a re-opened pre-trial hearing when such statements were  
2 disclosed before the close of evidence at trial.

3 § 240.80 When demand, refusal and compliance made.

4 1. A demand to produce shall be made within thirty days after  
5 arraignment and before the commencement of trial. If the defendant is  
6 not represented by counsel, and has requested an adjournment to obtain  
7 counsel or to have counsel assigned, the thirty-day period shall  
8 commence, for purposes of a demand by the defendant, on the date counsel  
9 initially appears on the defendant's behalf. However, the court may  
10 direct compliance with a demand to produce that, for good cause shown,  
11 could not have been made within the time specified.

12 2. A refusal to comply with a demand to produce shall be made within  
13 fifteen days of the service of the demand to produce, but for good cause  
14 may be made thereafter.

15 3. Absent a refusal to comply with a demand to produce, compliance  
16 with such demand shall be made within fifteen days of the service of the  
17 demand or as soon thereafter as practicable.

18 § 240.90 Motion procedure.

19 1. A motion by a prosecutor for discovery shall be made within  
20 forty-five days after arraignment, but for good cause shown may be made  
21 at any time before commencement of trial.

22 2. A motion by a defendant for discovery shall be made as prescribed  
23 in section 255.20 of this title.

24 3. Where the interests of justice so require, the court may permit a  
25 party to a motion for an order of discovery or a protective order, or  
26 other affected person, to submit papers or to testify ex parte or in  
27 camera. Any such papers and transcript of such testimony shall be  
28 sealed, but shall constitute a part of the record on appeal.

29 § 32. Subdivision 9 of section 65.20 of the criminal procedure law, as  
30 amended by section 4 of part LLL of chapter 59 of the laws of 2019, is  
31 amended to read as follows:

32 9. (a) Prior to the commencement of the hearing conducted pursuant to  
33 subdivision six of this section, the district attorney shall, subject to  
34 a protective order, comply with the provisions of subdivision one of  
35 section [~~245-20~~] 240.45 of this chapter as they concern any witness whom  
36 the district attorney intends to call at the hearing and the child  
37 witness.

38 (b) Before a defendant calls a witness at such hearing, [~~he or she~~]  
39 the defendant must, subject to a protective order, comply with the  
40 provisions of subdivision [~~four~~] two of section [~~245-20~~] 240.45 of this  
41 chapter as they concern all the witnesses the defendant intends to call  
42 at such hearing.

43 § 33. Subdivision 5 of section 200.95 of the criminal procedure law,  
44 as amended by section 5 of part LLL of chapter 59 of the laws of 2019,  
45 is amended to read as follows:

46 5. Court ordered bill of particulars. Where a prosecutor has timely  
47 served a written refusal pursuant to subdivision four of this section  
48 and upon motion, made in writing, of a defendant, who has made a request  
49 for a bill of particulars and whose request has not been complied with  
50 in whole or in part, the court must, to the extent a protective order is  
51 not warranted, order the prosecutor to comply with the request if it is  
52 satisfied that the items of factual information requested are authorized  
53 to be included in a bill of particulars, and that such information is  
54 necessary to enable the defendant adequately to prepare or conduct [~~his~~]  
55 the defense and, if the request was untimely, a finding of good cause  
56 for the delay. Where a prosecutor has not timely served a written

1 refusal pursuant to subdivision four of this section the court must,  
2 unless it is satisfied that the people have shown good cause why such an  
3 order should not be issued, issue an order requiring the prosecutor to  
4 comply or providing for any other order authorized by [~~section 245.80 of~~  
5 ~~this part~~] subdivision one of section 240.70 of this part.

6 § 34. Paragraph (c) of subdivision 1 of section 255.10 of the criminal  
7 procedure law, as amended by section 6 of part LLL of chapter 59 of the  
8 laws of 2019, is amended to read as follows:

9 (c) granting discovery pursuant to article [~~245~~] two hundred forty; or

10 § 35. Subdivision 1 of section 255.20 of the criminal procedure law,  
11 as amended by section 7 of part LLL of chapter 59 of the laws of 2019,  
12 is amended to read as follows:

13 1. Except as otherwise expressly provided by law, whether the defend-  
14 ant is represented by counsel or elects to proceed pro se, all pre-trial  
15 motions shall be served or filed within forty-five days after arraign-  
16 ment and before commencement of trial, or within such additional time as  
17 the court may fix upon application of the defendant made prior to entry  
18 of judgment. In an action in which [~~either (a) material or information~~  
19 ~~has been disclosed pursuant to paragraph (m) or (n) of subdivision one~~  
20 ~~of section 245.20 of this title, (b)~~] an eavesdropping warrant and  
21 application have been furnished pursuant to section 700.70 of this chap-  
22 ter, or [~~(e)~~] a notice of intention to introduce evidence has been  
23 served pursuant to section 710.30 of this chapter, such period shall be  
24 extended until forty-five days after the last date of such service. If  
25 the defendant is not represented by counsel and has requested an  
26 adjournment to obtain counsel or to have counsel assigned, such forty-  
27 five day period shall commence on the date counsel initially appears on  
28 defendant's behalf.

29 § 36. Section 340.30 of the criminal procedure law, as amended by  
30 section 8 of part LLL of chapter 59 of the laws of 2019, is amended to  
31 read as follows:

32 § 340.30 Pre-trial discovery and notices of defenses.

33 The provisions of article two hundred [~~forty-five~~] forty of this part,  
34 concerning pre-trial discovery by a defendant under indictment in a  
35 superior court, and article two hundred fifty of this part, concerning  
36 pre-trial notice to the people by a defendant under indictment in a  
37 superior court who intends to advance a trial defense of mental disease  
38 or defect or of alibi, apply to a prosecution of an information in a  
39 local criminal court.

40 § 37. Subdivision 14 of section 400.27 of the criminal procedure law,  
41 as amended by section 9 of part LLL of chapter 59 of the laws of 2019,  
42 is amended to read as follows:

43 14. (a) At a reasonable time prior to the sentencing proceeding or a  
44 [~~mental retardation~~] competency hearing:

45 (i) the prosecutor shall, unless previously disclosed and subject to a  
46 protective order, make available to the defendant the statements and  
47 information specified in subdivision one of section [~~245.20~~] 240.45 of  
48 this part and make available for inspection, photographing, copying or  
49 testing the property specified in subdivision one of section [~~245.20~~]  
50 240.20 of this part; and

51 (ii) the defendant shall, unless previously disclosed and subject to a  
52 protective order, make available to the prosecution the statements and  
53 information specified in subdivision [~~four~~] two of section [~~245.20~~]  
54 240.20 of this part and make available for inspection, photographing,  
55 copying or testing, subject to constitutional limitations, the reports,

1 documents and other property specified in [~~section 245.20~~] subdivision  
2 one of section 240.30 of this part.

3 (b) Where a party refuses to make disclosure pursuant to this section,  
4 the provisions of [~~section 245.70, 245.75 and/or 245.80~~] sections  
5 240.35, 240.40 and 240.50 of this part shall apply.

6 (c) If, after complying with the provisions of this section or an  
7 order pursuant thereto, a party finds either before or during a sentenc-  
8 ing proceeding or [~~mental retardation~~] competency hearing, additional  
9 material subject to discovery or covered by court order, the party shall  
10 promptly make disclosure or apply for a protective order.

11 (d) If the court finds that a party has failed to comply with any of  
12 the provisions of this section, the court may [~~employ~~] enter any of the  
13 [~~remedies or sanctions~~] orders specified in subdivision one of section  
14 [~~245.80~~] 240.70 of this part.

15 § 38. The opening paragraph of paragraph (b) of subdivision 1 of  
16 section 440.30 of the criminal procedure law, as amended by section 10  
17 of part LLL of chapter 59 of the laws of 2019, is amended to read as  
18 follows:

19 In conjunction with the filing or consideration of a motion to vacate  
20 a judgment pursuant to section 440.10 of this article by a defendant  
21 convicted after a trial, in cases where the court has ordered an eviden-  
22 tiary hearing upon such motion, the court may order that the people  
23 produce or make available for inspection property, as defined in subdi-  
24 vision three of section 240.10 of this part, in its possession, custody,  
25 or control that was secured in connection with the investigation or  
26 prosecution of the defendant upon credible allegations by the defendant  
27 and a finding by the court that such property, if obtained, would be  
28 probative to the determination of defendant's actual innocence, and that  
29 the request is reasonable. The court shall deny or limit such a request  
30 upon a finding that such a request, if granted, would threaten the  
31 integrity or chain of custody of property or the integrity of the proc-  
32 esses or functions of a laboratory conducting DNA testing, pose a risk  
33 of harm, intimidation, embarrassment, reprisal, or other substantially  
34 negative consequences to any person, undermine the proper functions of  
35 law enforcement including the confidentiality of informants, or on the  
36 basis of any other factor identified by the court in the interests of  
37 justice or public safety. The court shall further ensure that any prop-  
38 erty produced pursuant to this paragraph is subject to a protective  
39 order, where appropriate. The court shall deny any request made pursuant  
40 to this paragraph where:

41 § 39. Subdivision 3 of section 610.20 of the criminal procedure law,  
42 as amended by section 3 of part LLL of chapter 59 of the laws of 2019,  
43 is amended to read as follows:

44 3. An attorney for a defendant in a criminal action or proceeding, as  
45 an officer of a criminal court, may issue a subpoena of such court,  
46 subscribed by [~~himself~~] such attorney, for the attendance in such court  
47 of any witness whom the defendant is entitled to call in such action or  
48 proceeding. An attorney for a defendant may not issue a subpoena duces  
49 tecum of the court directed to any department, bureau or agency of the  
50 state or of a political subdivision thereof, or to any officer or repre-  
51 sentative thereof, [~~unless the subpoena is indorsed by the court and~~  
52 ~~provides at least three days for the production of the requested materi-~~  
53 ~~als. In the case of an emergency, the court may by order dispense with~~  
54 ~~the three-day production period~~]. Such a subpoena duces tecum may be  
55 issued in behalf of a defendant upon order of a court pursuant to the

1 rules applicable to civil cases as provided in section twenty-three  
2 hundred seven of the civil practice law and rules.

3 § 40. Subdivision 4 of section 610.20 of the criminal procedure law is  
4 REPEALED.

5 § 41. Subdivision 10 of section 450.10 of the penal law, as amended by  
6 section 11 of part LLL of chapter 59 of the laws of 2019, is amended to  
7 read as follows:

8 10. Where there has been a failure to comply with the provisions of  
9 this section, and where the district attorney does not demonstrate to  
10 the satisfaction of the court that such failure has not caused the  
11 defendant prejudice, the court shall instruct the jury that it may  
12 consider such failure in determining the weight to be given such  
13 evidence and may also impose any other sanction set forth in subdivision  
14 one of section [~~245.80~~] 240.70 of the criminal procedure law; provided,  
15 however, that unless the defendant has convinced the court that such  
16 failure has caused [~~him~~] the defendant undue prejudice, the court shall  
17 not preclude the district attorney from introducing into evidence the  
18 property, photographs, photocopies, or other reproductions of the prop-  
19 erty or, where appropriate, testimony concerning its value and condi-  
20 tion, where such evidence is otherwise properly authenticated and admis-  
21 sible under the rules of evidence. Failure to comply with any one or  
22 more of the provisions of this section shall not for that reason alone  
23 be grounds for dismissal of the accusatory instrument.

24 § 42. Section 460.80 of the penal law, as amended by section 12 of  
25 part LLL of chapter 59 of the laws of 2019, is amended to read as  
26 follows:

27 § 460.80 Court ordered disclosure.

28 Notwithstanding the provisions of article two hundred [~~forty-five~~]  
29 forty of the criminal procedure law, when forfeiture is sought pursuant  
30 to section 460.30 of this article, the court may order discovery of any  
31 property not otherwise disclosed which is material and reasonably neces-  
32 sary for preparation by the defendant with respect to the forfeiture  
33 proceeding pursuant to such section. The court may issue a protective  
34 order denying, limiting, conditioning, delaying or regulating such  
35 discovery where a danger to the integrity of physical evidence or a  
36 substantial risk of physical harm, intimidation, economic reprisal,  
37 bribery or unjustified annoyance or embarrassment to any person or an  
38 adverse effect upon the legitimate needs of law enforcement, including  
39 the protection of the confidentiality of informants, or any other factor  
40 or set of factors outweighs the usefulness of the discovery.

41 § 43. Subdivision 5 of section 480.10 of the penal law, as amended by  
42 section 13 of part LLL of chapter 59 of the laws of 2019, is amended to  
43 read as follows:

44 5. In addition to information required to be disclosed pursuant to  
45 article two hundred [~~forty-five~~] forty of the criminal procedure law,  
46 when forfeiture is sought pursuant to this article, and following the  
47 defendant's arraignment on the special forfeiture information, the court  
48 shall order discovery of any information not otherwise disclosed which  
49 is material and reasonably necessary for preparation by the defendant  
50 with respect to a forfeiture proceeding brought pursuant to this arti-  
51 cle. Such material shall include those portions of the grand jury  
52 minutes and such other information which pertain solely to the special  
53 forfeiture information and shall not include information which pertains  
54 to the criminal charges. Upon application of the prosecutor, the court  
55 may issue a protective order pursuant to section [~~245.70~~] 240.40 of the

1 criminal procedure law with respect to any information required to be  
2 disclosed pursuant to this subdivision.  
3 § 44. Subdivision 5 of section 216 of the judiciary law is REPEALED.  
4 § 45. Section 837-u of the executive law is REPEALED.  
5 § 46. This act shall take effect immediately; provided, however, that  
6 the amendments to subdivision 9 of section 65.20 of the criminal proce-  
7 dure law made by section thirty-two of this act shall not affect the  
8 repeal of such section and shall be deemed repealed therewith.