

STATE OF NEW YORK

7337

2025-2026 Regular Sessions

IN SENATE

April 10, 2025

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

AN ACT to amend the executive law, in relation to law enforcement officer grant funds (Part A); to amend the criminal procedure law, in relation to providing judges more discretion regarding securing orders and limiting the lengths of certain orders; and to repeal certain provisions of the criminal procedure law, the judiciary law and the executive law relating thereto (Part B); to amend the criminal procedure law, in relation to requiring affirmative consent for the disclosure of contact information of witnesses to a defendant (Part C); and to amend the criminal procedure law, in relation to consideration of the death penalty for the commission of certain provisions of murder in the first degree (Part D)

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

1 Section 1. This act enacts into law components of legislation relating
2 to certain criminal justice reform in the state of New York. Each
3 component is wholly contained within a Part identified as Parts A
4 through D. The effective date for each particular provision contained
5 within such Part is set forth in the last section of such Part. Any
6 provision in any section contained within a Part, including the effective
7 date of the Part, which makes reference to a section "of this act",
8 when used in connection with that particular component, shall be
9 deemed to mean and refer to the corresponding section of the Part in
10 which it is found. Section three of this act sets forth the general
11 effective date of this act.

12 PART A

13 Section 1. The executive law is amended by adding a new section 844 to
14 read as follows:

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

LBD11608-01-5

1 § 844. Law enforcement officer grant funds. 1. Within amounts appro-
2 priated for such purpose, in the years two thousand twenty-six, two
3 thousand twenty-seven and two thousand twenty-eight, one hundred million
4 dollars shall be available and allocated each year pursuant to subdivi-
5 sions two and three of this section and shall be paid to cover all
6 expenses related to hiring law enforcement officers, including any bene-
7 fits provided to such officers through employment with their respective
8 law enforcement agency.

9 2. Eighty million dollars of the funds allocated pursuant to subdivi-
10 sion one of this section shall be available to law enforcement agencies
11 for the purpose of hiring new police officers or re-hiring police offi-
12 cers who have been laid off, hiring members of the armed forces to serve
13 as law enforcement officers in crime prevention, and supporting non-hir-
14 ing initiatives, such as training law enforcement officers in crime
15 prevention, community policing techniques, and developing technologies
16 that support crime prevention strategies. Eligible law enforcement
17 agencies shall be eligible for up to ninety percent of the costs associ-
18 ated with such hiring or non-hiring initiatives; provided, however that
19 such law enforcement agencies shall commit to employing such officers
20 for at least five years, retaining such officers for at least two addi-
21 tional years after the three years of grant funding expires.

22 3. Twenty million dollars of the funds allocated pursuant to subdivi-
23 sion one of this section shall be available to law enforcement agencies
24 for the purchase of equipment, such as firearms, riot gear, and protec-
25 tive vests; provided, however, that such grant funds shall not be
26 expended on the purchase or maintenance of police cruisers or other
27 vehicles used by law enforcement agencies.

28 4. The commissioner, in cooperation with the attorney general and the
29 superintendent of state police, shall establish eligibility criteria and
30 the application process for the grants provided for pursuant to this
31 section. Grant information and application forms shall be made avail-
32 able through the New York state grants gateway.

33 § 2. This act shall take effect immediately.

34 PART B

35 Section 1. Subdivision 3 of section 150.10 of the criminal procedure
36 law is REPEALED.

37 § 2. Subdivision 1 of section 1.20 of the criminal procedure law, as
38 amended by chapter 450 of the laws of 2019, is amended to read as
39 follows:

40 1. "Accusatory instrument" means[~~+(a)~~] an indictment, an indictment
41 ordered reduced pursuant to subdivision one-a of section 210.20 of this
42 [~~chapter~~] part, an information, a simplified information, a prosecutor's
43 information, a superior court information, a misdemeanor complaint or a
44 felony complaint. Every accusatory instrument, regardless of the person
45 designated therein as accuser, constitutes an accusation on behalf of
46 the state as plaintiff and must be entitled "the people of the state of
47 New York" against a designated person, known as the defendant[~~, and~~

48 ~~(b) an appearance ticket issued for a parking infraction when (i) such~~
49 ~~ticket is based on personal knowledge or information and belief of the~~
50 ~~police officer or other public servant who issues the ticket, (ii) the~~
51 ~~police officer or other public servant who issues such ticket verifies~~
52 ~~that false statements made therein are punishable as a class A misdemea-~~
53 ~~nor, (iii) the infraction or infractions contained therein are stated in~~
54 ~~detail and not in conclusory terms so as to provide the defendant with~~

~~sufficient notice including, but not limited, to the applicable provision of law allegedly violated, and the date, time and particular place of the alleged infraction, and (iv) such ticket contains: (1) the license plate designation of the ticketed vehicle, (2) the license plate type of the ticketed vehicle, (3) the expiration of the ticketed vehicle's registration, (4) the make or model of the ticketed vehicle, and (5) the body type of the ticketed vehicle, provided, however, that where the plate type or the expiration date are not shown on either the registration plates or sticker of a vehicle or where the registration sticker is covered, faded, defaced or mutilated so that it is unreadable, the plate type or the expiration date may be omitted, provided, further, however, that such condition must be so described and inserted on the instrument].~~

§ 3. Subdivision 1 of section 150.20 of the criminal procedure law, as amended by section 1-a of part JJJ of chapter 59 of the laws of 2019, paragraph (a) as separately amended by section 1 of subpart B of part VV of chapter 56 of the laws of 2023 and chapter 23 of the laws of 2024, subparagraph (viii) of paragraph (b) as amended and subparagraphs (ix), (x) and (xi) of paragraph (b) as added by section 1 of subpart B of part UU of chapter 56 of the laws of 2022, is amended to read as follows:

1. [~~(a)~~] Whenever a police officer is authorized pursuant to section 140.10 of this title to arrest a person without a warrant for an offense other than a class A, B, C or D felony or a violation of section 130.25, former section 130.40, section 205.10, 205.17, 205.19 or 215.56 of the penal law, or other than where an arrest is required to be made pursuant to subdivision four of section 140.10 of this title, the officer [~~shall, except as set out in paragraph (b) of this subdivision~~] **may**, subject to the provisions of subdivisions three and four of section 150.40 of this [~~title~~] **article**, instead issue to and serve upon such person an appearance ticket.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 release such person from custody. Such pre-arraignment bail may be fixed
2 in the following amounts:

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

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

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

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

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

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

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

34 1. An appearance ticket must be made returnable [~~at a date as soon as~~
35 ~~possible, but in no event later than twenty days from the date of issu-~~
36 ~~ance, or at the next scheduled session of the appropriate local criminal~~
37 ~~court if such session is scheduled to occur more than twenty days from~~
38 ~~the date of issuance, or at a later date, with the court's permission~~
39 ~~due to enrollment in a pre-arraignment diversion program. The appearance~~
40 ~~ticket shall be made returnable] in a local criminal court designated in
41 section 100.55 of this title as one with which an information for the
42 offense in question may be filed.~~

43 § 6. Subdivision 1 of section 150.50 of the criminal procedure law, as
44 amended by chapter 450 of the laws of 2019, is amended to read as
45 follows:

46 1. A police officer or other public servant who has issued and served
47 an appearance ticket must, at or before the time such appearance ticket
48 is returnable, file or cause to be filed with the local criminal court
49 in which it is returnable a local criminal court accusatory instrument
50 charging the person named in such appearance ticket with the offense
51 specified therein[~~, provided, however, that no separate accusatory~~
52 ~~instrument shall be required to be filed for an appearance ticket issued~~
53 ~~for a parking infraction which conforms to the requirements set forth in~~
54 ~~paragraph (b) of subdivision one of section 1.20 of this chapter]. Noth-
55 ing herein contained shall authorize the use of a simplified information
56 when not authorized by law.~~

1 § 7. Section 150.80 of the criminal procedure law is REPEALED.

2 § 8. Subdivisions 3-a, 3-b, 21 and 22 of section 500.10 of the criminal
3 procedure law are REPEALED.

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

9 5. "Securing order" means an order of a court committing a principal
10 to the custody of the sheriff or fixing bail, [~~where authorized,~~] or
11 releasing the principal on the principal's own recognizance [~~or releasing
12 the principal under non-monetary conditions, or, as otherwise
13 authorized under this title, ordering non-monetary conditions in
14 conjunction with fixing bail~~].

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

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

23 9. "Bail" means cash bail[~~7~~] or a bail bond [~~or money paid with a
24 credit card~~].

25 § 10. Section 510.10 of the criminal procedure law, as amended by
26 section 2 of part JJJ of chapter 59 of the laws of 2019, the opening
27 paragraph as added and the opening paragraph of subdivision 1, subdivi-
28 sion 3 and the opening paragraph of subdivision 4 as amended by section
29 2 of subpart A of part VV of chapter 56 of the laws of 2023, subdivision
30 1 as amended by section 1 of subpart C of part UU of chapter 56 of the
31 laws of 2022, subdivision 4 as amended by section 2 of part UU of chap-
32 ter 56 of the laws of 2020 and paragraphs (s) and (t) of subdivision 4
33 as amended and paragraph (u) of subdivision 4 as added by section 2 of
34 subpart B of part UU of chapter 56 of the laws of 2022, is amended to
35 read as follows:

36 § 510.10 Securing order; when required[~~, alternatives available, stand-
37 ard to be applied~~].

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

42 1. When a principal, whose future court attendance at a criminal
43 action or proceeding is or may be required, initially comes under the
44 control of a court, such court shall [impose] by a securing order [~~in
45 accordance with this title. Except as otherwise required by law, the
46 court shall make an individualized determination as to whether the prin-
47 cipal poses a risk of flight to avoid prosecution, consider the kind and
48 degree of control or restriction necessary to reasonably assure the
49 principal's return to court, and select a securing order consistent with
50 its determination under this subdivision. The court shall explain the
51 basis for its determination and its choice of securing order on the
52 record or in writing. In making a determination under this subdivision,
53 the court must consider and take into account available information
54 about the principal, including:~~

55 ~~(a) The principal's activities and history;~~

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

- ~~(c) The principal's criminal conviction record if any;~~
~~(d) The principal's record of previous adjudication as a juvenile delinquent, as retained pursuant to section 354.1 of the family court act, or, of pending cases where fingerprints are retained pursuant to section 306.1 of such act, or a youthful offender, if any;~~
~~(e) The principal's previous record with respect to flight to avoid criminal prosecution;~~
~~(f) If monetary bail is authorized, according to the restrictions set forth in this title, the principal's individual financial circumstances, and, in cases where bail is authorized, the principal's ability to post bail without posing undue hardship, as well as his or her ability to obtain a secured, unsecured, or partially secured bond;~~
~~(g) Any violation by the principal of an order of protection issued by any court;~~
~~(h) The principal's history of use or possession of a firearm;~~
~~(i) Whether the charge is alleged to have caused serious harm to an individual or group of individuals; and~~
~~(j) If the principal is a defendant, in the case of an application for a securing order pending appeal, the merit or lack of merit of the appeal.~~

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

~~3. In cases other than as described in subdivision four of this section, the court shall release the principal pending trial on the principal's own recognizance, unless the court finds on the record or in writing that release on the principal's own recognizance will not reasonably assure the principal's return to court. In such instances, the court shall release the principal under non-monetary conditions as provided for in subdivision three a of section 500.10 of this title that will reasonably assure the principal's return to court. The court shall explain its choice of securing order on the record or in writing.~~

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

- ~~(a) a felony enumerated in section 70.02 of the penal law, other than robbery in the second degree as defined in subdivision one of section 160.10 of the penal law, provided, however, that burglary in the second degree as defined in subdivision two of section 140.25 of the penal law shall be a qualifying offense only where the defendant is charged with entering the living area of the dwelling;~~
~~(b) a crime involving witness intimidation under section 215.15 of the penal law;~~
~~(c) a crime involving witness tampering under section 215.11, 215.12 or 215.13 of the penal law;~~
~~(d) a class A felony defined in the penal law, provided that for class A felonies under article two hundred twenty of the penal law, only class A-I felonies shall be a qualifying offense;~~

1 ~~(e) a sex trafficking offense defined in section 230.34 or 230.34-a of~~
2 ~~the penal law, or a felony sex offense defined in section 70.80 of the~~
3 ~~penal law, or a crime involving incest as defined in section 255.25,~~
4 ~~255.26 or 255.27 of such law, or a misdemeanor defined in article one~~
5 ~~hundred thirty of such law;~~

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

10 ~~(g) money laundering in support of terrorism in the first degree as~~
11 ~~defined in section 470.24 of the penal law; money laundering in support~~
12 ~~of terrorism in the second degree as defined in section 470.23 of the~~
13 ~~penal law; money laundering in support of terrorism in the third degree~~
14 ~~as defined in section 470.22 of the penal law; money laundering in~~
15 ~~support of terrorism in the fourth degree as defined in section 470.21~~
16 ~~of the penal law; or a felony crime of terrorism as defined in article~~
17 ~~four hundred ninety of the penal law, other than the crime defined in~~
18 ~~section 490.20 of such law;~~

19 ~~(h) criminal contempt in the second degree as defined in subdivision~~
20 ~~three of section 215.50 of the penal law, criminal contempt in the first~~
21 ~~degree as defined in subdivision (b), (c) or (d) of section 215.51 of~~
22 ~~the penal law or aggravated criminal contempt as defined in section~~
23 ~~215.52 of the penal law, and the underlying allegation of such charge of~~
24 ~~criminal contempt in the second degree, criminal contempt in the first~~
25 ~~degree or aggravated criminal contempt is that the defendant violated a~~
26 ~~duly served order of protection where the protected party is a member of~~
27 ~~the defendant's same family or household as defined in subdivision one~~
28 ~~of section 530.11 of this title;~~

29 ~~(i) facilitating a sexual performance by a child with a controlled~~
30 ~~substance or alcohol as defined in section 263.30 of the penal law, use~~
31 ~~of a child in a sexual performance as defined in section 263.05 of the~~
32 ~~penal law or luring a child as defined in subdivision one of section~~
33 ~~120.70 of the penal law, promoting an obscene sexual performance by a~~
34 ~~child as defined in section 263.10 of the penal law or promoting a sexu-~~
35 ~~al performance by a child as defined in section 263.15 of the penal law;~~

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

38 ~~(k) criminal obstruction of breathing or blood circulation as defined~~
39 ~~in section 121.11 of the penal law, strangulation in the second degree~~
40 ~~as defined in section 121.12 of the penal law or unlawful imprisonment~~
41 ~~in the first degree as defined in section 135.10 of the penal law, and~~
42 ~~is alleged to have committed the offense against a member of the defend-~~
43 ~~ant's same family or household as defined in subdivision one of section~~
44 ~~530.11 of this title;~~

45 ~~(l) aggravated vehicular assault as defined in section 120.04-a of the~~
46 ~~penal law or vehicular assault in the first degree as defined in section~~
47 ~~120.04 of the penal law;~~

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

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

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

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

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

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

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

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

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

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

~~6.] fix bail or commit the principal to the custody of the sheriff.~~

When a securing order is revoked or otherwise terminated in the course of an uncompleted action or proceeding but the principal's future court attendance still is or may be required and the principal is still under the control of a court, a new securing order must be issued. When the court revokes or otherwise terminates a securing order which committed

1 the principal to the custody of the sheriff, the court shall give writ-
2 ten notification to the sheriff of such revocation or termination of the
3 securing order.

4 2. The court shall release the principal on personal recognizance or
5 on bail unless the court makes an individualized determination that: (a)
6 the principal poses a risk of flight to avoid prosecution; (b) the prin-
7 icipal poses a risk of failing to appear in court based on the princi-
8 pal's record of a prior criminal conviction or failure to appear in
9 prior court proceedings; or (c) the principal poses a risk of endanger-
10 ing the safety of any other person or the community. If the court finds
11 that the principal poses a risk of flight or a risk of failure to appear
12 but does not pose a risk of endangering the safety of any other person
13 or the community, the court shall release the principal subject to the
14 lowest reasonable bail and/or the least restrictive further condition or
15 combination of conditions that will reasonably ensure the appearance of
16 the principal considering the nature and circumstances of the charged
17 offense, the weight of the evidence, the history and characteristics of
18 the principal, and the nature and seriousness of the danger posed by the
19 principal's release. If the court determines that no condition or combi-
20 nation of conditions will reasonably assure the appearance of the prin-
21 icipal and the safety of any other person of the community, the court
22 shall order detention without bail.

23 3. If the principal is arrested during the interim period while await-
24 ing a preliminary hearing or trial, the court shall revoke or otherwise
25 terminate the securing order and issue a new securing order taking into
26 account the subsequent arrest.

27 4. (a) All securing orders issued under this section where the princi-
28 pal is incarcerated solely because of said order shall be reviewed and
29 re-evaluated by the court no later than:

30 (i) every four weeks thereafter where a class A misdemeanor is the
31 highest grade offense;

32 (ii) every six weeks thereafter where a class E felony is the highest
33 grade offense;

34 (iii) every eight weeks thereafter where a class D felony is the high-
35 est grade offense;

36 (iv) every ten weeks thereafter where a class C felony is the highest
37 grade offense; or

38 (v) every twelve weeks thereafter where a class B felony is the high-
39 est grade offense.

40 (b) Upon such review or re-evaluation, the court shall reconsider
41 whether the principal should be released on personal recognizance or
42 upon posting reduced bail in the interests of justice after considering
43 the length of time the principal has already been incarcerated, the
44 likely sentence that would be imposed if the principal were found guilty
45 or plead guilty to the charged offense, the nature and circumstances of
46 the charged offense, the weight of the evidence, the history and charac-
47 teristics of the principal, the nature and seriousness of the danger
48 posed by the principal's release, and whether the principal should be
49 released subject to a further condition, or combination of conditions,
50 that reasonably justifies the release of the principal on personal
51 recognizance or reduced bail, and such other factors in the interests of
52 justice as reasonably determined by the court based on an individualized
53 determination as to whether and to what extent that the principal
54 continues to pose a risk of flight to avoid prosecution, continues to
55 pose a risk of failing to appear in court based on the principal's
56 record of a prior criminal conviction or failure to appear in prior

1 court proceedings, or continues to pose a risk of endangering the safety
2 of any other person or the community. If the court determines that no
3 condition or combination of conditions will reasonably ensure the
4 appearance of the principal and the safety of any other person of the
5 community, the court shall continue to detain the principal without bail
6 or without a reduction in the amount of the bail.

7 § 11. Section 510.20 of the criminal procedure law, as amended by
8 section 3 of part JJJ of chapter 59 of the laws of 2019 and subdivision
9 1 and paragraph (b) of subdivision 2 as amended and subdivision 3 as
10 added by section 3 of subpart A of part VV of chapter 56 of the laws of
11 2023, is amended to read as follows:

12 § 510.20 Application for [~~a change in securing order~~] recognizance or
13 bail; making and determination thereof in general.

14 1. Upon any occasion when a court [~~has issued~~] is required to issue a
15 securing order with respect to a principal [~~and the~~], or at any time
16 when a principal is confined in the custody of the sheriff as a result
17 of the securing order or a previously issued securing order, the princi-
18 pal may make an application for recognizance[~~, release under non-mone-~~
19 ~~tary conditions, bail, a reduction of bail, or imposition of non-mone-~~
20 ~~tary conditions in conjunction with bail or a reduction of~~] or bail.

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

25 ~~(b)]~~ Upon such application, the principal must be accorded an opportu-
26 nity to be heard[~~, present evidence~~] and to contend that an order of
27 recognizance[~~, release under non-monetary conditions~~] or[~~, where author-~~
28 ~~ized, bail, a reduction of bail, or imposition of non-monetary condi-~~
29 ~~tions in conjunction with bail or a reduction of~~] bail[~~,~~] must or should
30 issue, that the court should release the principal on the principal's
31 own recognizance [~~or under non-monetary conditions~~] rather than fix
32 bail, or where bail has been imposed, reduce the amount of bail and
33 impose non-monetary conditions, where authorized under this title, and
34 that if bail is [~~authorized and~~] fixed it should be in a suggested
35 amount and form.

36 3. When an application for a change in securing order is brought under
37 this section and one or more of the charge or charges on which such
38 securing order was based have been dismissed and/or reduced such that
39 the securing order is no longer supported by the provisions of section
40 510.10 of this article, the court shall impose a new securing order in
41 accordance with such section.

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

46 § 510.30 Application for [~~securing order~~] recognizance or bail; rules of
47 law and criteria controlling determination.

48 1. [~~With respect to any principal, the court in all cases, unless~~
49 ~~otherwise provided by law, must impose a securing order in accordance~~
50 ~~with section 510.10 of this article, and shall explain the basis for its~~
51 ~~determination and choice of securing order on the record or in writing.]~~
52 Determinations of applications for recognizance or bail shall not be in
53 all cases discretionary but shall be subject to rules, prescribed in
54 article five hundred thirty of this title and other provisions of law
55 relating to specific kinds of criminal actions and proceedings, provid-
56 ing (a) that in some circumstances such an application shall as a matter

1 of law be granted, (b) that in others it shall as a matter of law be
2 denied and the principal committed to or retained in the custody of the
3 sheriff, and (c) that in others the granting or denial thereof shall be
4 a matter of judicial discretion.

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

9 (a) With respect to any principal, the court shall consider the kind
10 and degree of control or restriction that is necessary to secure the
11 principal's return to court when required. In determining that matter,
12 the court shall, on the basis of available information, consider and
13 take into account:

14 (i) The principal's character, reputation, habits and mental condi-
15 tion;

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

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

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

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

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

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

31 (A) any violation by the principal of an order of protection issued by
32 any court for the protection of a member or members of the same family
33 or household as that term is defined in subdivision one of section
34 530.11 of this title, whether or not such order of protection is
35 currently in effect; and

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

37 (viii) If the principal is a defendant, the weight of the evidence
38 against them in the pending criminal action and any other factor indi-
39 cating probability of conviction; or, in the case of an application for
40 bail or recognizance pending appeal, the merit or lack of merit of the
41 appeal; and

42 (ix) If they are a defendant, the sentence which may be or has been
43 imposed upon conviction.

44 ~~[2-]~~ (b) Where the principal is a defendant-appellant in a pending
45 appeal from a judgment of conviction, the court must also consider the
46 likelihood of ultimate reversal of the judgment. A determination that
47 the appeal is palpably without merit alone justifies, but does not
48 require, a denial of the application, regardless of any determination
49 made with respect to the factors specified in paragraph (a) of this
50 subdivision ~~[one of this section]~~.

51 3. When bail or recognizance is ordered, the court shall inform the
52 principal, if the principal is a defendant charged with the commission
53 of a felony, that the release is conditional and that the court may
54 revoke the order of release and ~~[may be authorized]~~ to commit the prin-
55 cipal to the custody of the sheriff in accordance with the provisions of

1 subdivision two of section 530.60 of this [~~chapter~~] title if the principal commits a subsequent felony while at liberty upon such order.

2
3 § 13. Section 510.40 of the criminal procedure law, as amended by
4 section 6 of part JJJ of chapter 59 of the laws of 2019, subdivision 3
5 and paragraph (b) of subdivision 4 as amended by section 5 of subpart A
6 of part VV of chapter 56 of the laws of 2023, paragraph (c) of subdivision
7 4 as amended by section 7 of part UU of chapter 56 of the laws of
8 2020, is amended to read as follows:

9 § 510.40 [~~Court notification to principal of conditions of release and~~
10 ~~of alleged violations of conditions of release~~] Application
11 for recognizance or bail; determination thereof, form of
12 securing order and execution thereof.

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

15 (a) Grants the application and releases the principal on their own
16 recognizance; or

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

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

20 2. Upon ordering that a principal be released on the principal's own
21 recognizance, [~~or released under non-monetary conditions, or, if bail~~
22 ~~has been fixed, upon the posting of bail,~~] the court must direct the
23 principal to appear in the criminal action or proceeding involved when-
24 ever the principal's attendance may be required and to [~~be~~] render the
25 principal at all times amenable to the orders and processes of the
26 court. If such principal is in the custody of the sheriff or at liberty
27 upon bail at the time of the order, the court must direct that the prin-
28 cipal be discharged from such custody or, as the case may be, that the
29 principal's bail be exonerated.

30 [~~2-~~] 3. Upon the issuance of an order fixing bail[~~, where authorized,~~]
31 and upon the posting thereof, the court must examine the bail to deter-
32 mine whether it complies with the order. If it does, the court must, in
33 the absence of some factor or circumstance which in law requires or
34 authorizes disapproval thereof, approve the bail and must issue a
35 certificate of release, authorizing the principal to be at liberty, and,
36 if the principal is in the custody of the sheriff at the time, directing
37 the sheriff to discharge the principal therefrom. If the bail fixed is
38 not posted, or is not approved after being posted, the court must order
39 that the principal be committed to the custody of the sheriff. [~~In the~~
40 ~~event of any such non-approval, the court shall explain promptly in~~
41 ~~writing the reasons therefor.~~

42 ~~3. Non-monetary conditions of release shall be individualized and~~
43 ~~established in writing by the court. At future court appearances, the~~
44 ~~court shall consider a lessening of conditions or modification of condi-~~
45 ~~tions to a less burdensome form based on the principal's compliance with~~
46 ~~such conditions of release. In the event of alleged non-compliance with~~
47 ~~the conditions of release in an important respect, pursuant to this~~
48 ~~subdivision, additional conditions may be imposed by the court, on the~~
49 ~~record or in writing, only after notice of the facts and circumstances~~
50 ~~of such alleged non-compliance, reasonable under the circumstances,~~
51 ~~affording the principal and the principal's attorney and the people an~~
52 ~~opportunity to present relevant, admissible evidence, relevant witnesses~~
53 ~~and to cross-examine witnesses, and a finding by clear and convincing~~
54 ~~evidence that the principal violated a condition of release in an impor-~~
55 ~~tant respect. Following such a finding, in determining whether to impose~~
56 ~~additional conditions for non-compliance, the court shall consider and~~

~~1 may select conditions as provided for in subdivision three a of section
2 500.10 of this title that will reasonably assure the defendant's return
3 to court. The court shall explain on the record or in writing the
4 reasons for its determination and for any changes to the conditions
5 imposed.~~

~~6 4. (a) Electronic monitoring of a principal's location may be ordered
7 only if the court finds, after notice, an opportunity to be heard and an
8 individualized determination explained on the record or in writing, that
9 the defendant qualifies for electronic monitoring in accordance with
10 subdivision twenty-one of section 500.10 of this title, and no other
11 realistic non-monetary condition or set of non-monetary conditions will
12 suffice to reasonably assure a principal's return to court.~~

~~13 (b) The specific method of electronic monitoring of the principal's
14 location must be approved by the court. The procedure and method of such
15 electronic monitoring shall reflect the findings of the individualized
16 determination warranting such imposition of electronic monitoring to
17 reasonably assure the principal's return to court, and shall be unobtru-
18 sive to the greatest extent practicable.~~

~~19 (c) Electronic monitoring of the location of a principal may be
20 conducted only by a public entity under the supervision and control of a
21 county or municipality or a non-profit entity under contract to the
22 county, municipality or the state. A county or municipality shall be
23 authorized to enter into a contract with another county or municipality
24 in the state to monitor principals under non-monetary conditions of
25 release in its county, but counties, municipalities and the state shall
26 not contract with any private for-profit entity for such purposes.
27 Counties, municipalities and the state may contract with a private for-
28 profit entity to supply electronic monitoring devices or other items,
29 provided that any interaction with persons under electronic monitoring
30 or the data produced by such monitoring shall be conducted solely by
31 employees of a county, municipality, the state, or a non-profit entity
32 under contract with such county, municipality or the state.~~

~~33 (d) Electronic monitoring of a principal's location may be for a maxi-
34 mum period of sixty days, and may be renewed for such period, after
35 notice, an opportunity to be heard and a de novo, individualized deter-
36 mination in accordance with this subdivision, which shall be explained
37 on the record or in writing.~~

~~38 A defendant subject to electronic location monitoring under this
39 subdivision shall be considered held or confined in custody for purposes
40 of section 180.80 of this chapter and shall be considered committed to
41 the custody of the sheriff for purposes of section 170.70 of the chap-
42 ter, as applicable.~~

~~43 5. If a principal is released under non-monetary conditions, the court
44 shall, on the record and in an individualized written document provided
45 to the principal, notify the principal, in plain language and a manner
46 sufficiently clear and specific:~~

~~47 (a) of any conditions to which the principal is subject, to serve as a
48 guide for the principal's conduct; and~~

~~49 (b) that the possible consequences for violation of such a condition
50 may include revocation of the securing order and the ordering of a more
51 restrictive securing order.]~~

52 § 14. Sections 510.43 and 510.45 of the criminal procedure law are
53 REPEALED.

54 § 15. Section 510.50 of the criminal procedure law, as amended by
55 section 9 of part JJJ of chapter 59 of the laws of 2019, is amended to
56 read as follows:

1 § 510.50 Enforcement of securing order.

2 [~~1.~~] When the attendance of a principal confined in the custody of the
3 sheriff is required at the criminal action or proceeding at a particular
4 time and place, the court may compel such attendance by directing the
5 sheriff to produce the principal at such time and place. If the princi-
6 pal is at liberty on the principal's own recognizance [~~or non-monetary~~
7 ~~conditions~~] or on bail, the principal's attendance may be achieved or
8 compelled by various methods, including notification and the issuance of
9 a bench warrant, prescribed by law in provisions governing such matters
10 with respect to the particular kind of action or proceeding involved.

11 [~~2. Except when the principal is charged with a new crime while at~~
12 ~~liberty, absent relevant, credible evidence demonstrating that a princi-~~
13 ~~pal's failure to appear for a scheduled court appearance was willful,~~
14 ~~the court, prior to issuing a bench warrant for a failure to appear for~~
15 ~~a scheduled court appearance, shall provide at least forty-eight hours~~
16 ~~notice to the principal or the principal's counsel that the principal is~~
17 ~~required to appear, in order to give the principal an opportunity to~~
18 ~~appear voluntarily.~~]

19 § 16. Paragraph (b) of subdivision 2 of section 520.10 of the criminal
20 procedure law, as amended by section 10 of part JJJ of chapter 59 of the
21 laws of 2019, is amended to read as follows:

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

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

31 § 530.10 Order of recognizance [~~release under non-monetary conditions~~]
32 or bail; in general.

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

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

39 2. An appeal taken by the defendant from a judgment of conviction or a
40 sentence or from an order of an intermediate appellate court affirming
41 or modifying a judgment of conviction or a sentence.

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

45 4. When a person is arrested for an alleged family offense or an
46 alleged violation of an order of protection or temporary order of
47 protection or arrested pursuant to a warrant issued by the supreme or
48 family court, and the supreme or family court, as applicable, is not in
49 session, such person shall be brought before a local criminal court in
50 the county of arrest or in the county in which such warrant is return-
51 able pursuant to article one hundred twenty of this chapter. Such local
52 criminal court may issue any order authorized under subdivision eleven
53 of section 530.12 of this article, section one hundred fifty-four-d or
54 one hundred fifty-five of the family court act or subdivision three-b of
55 section two hundred forty or subdivision two-a of section two hundred
56 fifty-two of the domestic relations law, in addition to discharging

1 other arraignment responsibilities as set forth in this chapter. In
2 making such order, the local criminal court shall consider [~~de-novo~~] the
3 bail recommendation [~~and securing order~~], if any, made by the supreme or
4 family court as indicated on the warrant or certificate of warrant.
5 Unless the petitioner or complainant requests otherwise, the court, in
6 addition to scheduling further criminal proceedings, if any, regarding
7 such alleged family offense or violation allegation, shall make such
8 matter returnable in the supreme or family court, as applicable, on the
9 next day such court is in session.

10 § 19. Subdivision 11 of section 530.12 of the criminal procedure law,
11 as amended by section 15 of part JJJ of chapter 59 of the laws of 2019,
12 is amended to read as follows:

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

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

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

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

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

35 § 20. The opening paragraph of subdivision 1 of section 530.13 of the
36 criminal procedure law, as amended by section 14 of part JJJ of chapter
37 59 of the laws of 2019, is amended to read as follows:

38 When any criminal action is pending, and the court has not issued a
39 temporary order of protection pursuant to section 530.12 of this arti-
40 cle, the court, in addition to the other powers conferred upon it by
41 this chapter, may for good cause shown issue a temporary order of
42 protection in conjunction with any securing order committing the defend-
43 ant to the custody of the sheriff or as a condition of a pre-trial
44 release, or as a condition of release on bail or an adjournment in
45 contemplation of dismissal. In addition to any other conditions, such an
46 order may require that the defendant:

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

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

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

54 § 530.20 Order of recognizance or bail; by local criminal court when
55 action is pending therein.

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

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

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

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

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

17 (i) The district attorney has been heard in the matter or, after know-
18 ledge or notice of the application and reasonable opportunity to be
19 heard, has failed to appear at the proceeding or has otherwise waived
20 the right to do so; and

21 (ii) The court has been furnished with a report of the division of
22 criminal justice services concerning the defendant's criminal record if
23 any or with a police department report with respect to the defendant's
24 prior arrest record. If neither report is available, the court, with the
25 consent of the district attorney, may dispense with this requirement;
26 provided, however, that in an emergency, including but not limited to a
27 substantial impairment in the ability of such division or police depart-
28 ment to timely furnish such report, such consent shall not be required
29 if, for reasons stated on the record, the court deems it unnecessary.
30 When the court has been furnished with any such report or record, it
31 shall furnish a copy thereof to counsel for the defendant or, if the
32 defendant is not represented by counsel, to the defendant.

33 3. The court shall make an individualized determination if: (a) the
34 defendant poses a risk of flight to avoid prosecution; (b) the defendant
35 poses a risk of failing to appear in court based on the defendant's
36 record of a prior criminal conviction or failure to appear in prior
37 court proceedings; or (c) the defendant poses a risk of endangering the
38 safety of any other person or the community. If the court finds that the
39 defendant poses a risk of flight or a risk of failure to appear but does
40 not pose a risk of endangering the safety of any other person or the
41 community, the court shall release the defendant subject to the lowest
42 reasonable bail and/or the least restrictive further condition or combi-
43 nation of conditions that will reasonably ensure the appearance of the
44 defendant considering the nature and circumstances of the charged
45 offense, the weight of the evidence, the history and characteristics of
46 the defendant, and the nature and seriousness of the danger posed by the
47 defendant's release. If the court determines that no condition or combi-
48 nation of conditions will reasonably assure the appearance of the
49 defendant and the safety of any other person of the community, the court
50 shall order detention without bail.

51 4. If the defendant is arrested during the interim period while await-
52 ing a preliminary hearing or trial, the court shall revoke or otherwise
53 terminate the previous order and issue a new order taking into account
54 the subsequent arrest.

1 5. (a) All orders issued under this section where the defendant is
 2 incarcerated solely because of said order shall be reviewed and re-eval-
 3 uated by the court no later than:

4 (i) every four weeks thereafter where a class A misdemeanor is the
 5 highest grade offense;

6 (ii) every six weeks thereafter where a class E felony is the highest
 7 grade offense;

8 (iii) every eight weeks thereafter where a class D felony is the high-
 9 est grade offense;

10 (iv) every ten weeks thereafter where a class C felony is the highest
 11 grade offense; or

12 (v) every twelve weeks thereafter where a class B felony is the high-
 13 est grade offense.

14 (b) Upon such review or re-evaluation, the court shall reconsider
 15 whether the defendant should be released on personal recognizance or
 16 upon posting reduced bail in the interests of justice after considering
 17 the length of time the defendant has already been incarcerated, the
 18 likely sentence that would be imposed if the defendant were found guilty
 19 or pled guilty to the charged offense, the nature and circumstances of
 20 the charged offense, the weight of the evidence, the history and charac-
 21 teristics of the defendant, the nature and seriousness of the danger
 22 posed by the defendant's release, and whether the principal should be
 23 released subject to a further condition, or combination of conditions,
 24 that reasonably justifies the release of the defendant on personal
 25 recognizance or reduced bail, and such other factors in the interests of
 26 justice as reasonably determined by the court based on an individualized
 27 determination as to whether and to what extent that the defendant
 28 continues to pose a risk of flight to avoid prosecution, continues to
 29 pose a risk of failing to appear in court based on the defendant's
 30 record of a prior criminal conviction or failure to appear in prior
 31 court proceedings, or continues to pose a risk of endangering the safety
 32 of any other person or the community. If the court determines that no
 33 condition or combination of conditions will reasonably ensure the
 34 appearance of the defendant and the safety of any other person of the
 35 community, the court shall continue to detain the defendant without bail
 36 or without a reduction in the amount of the bail.

37 § 23. The section heading and subdivisions 1 and 2 of section 530.30
 38 of the criminal procedure law, as amended by section 17 of part JJJ of
 39 chapter 59 of the laws of 2019 and the closing paragraph of subdivision
 40 1 as amended by section 7 of subpart A of part VV of chapter 56 of the
 41 laws of 2023, are amended to read as follows:

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

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

50 (a) Lacks authority to issue such an order, pursuant to the relevant
 51 provisions of section 530.20 of this article; or

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

54 (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 their own 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.

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

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

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

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

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

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

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

5. The court shall make an individualized determination if: (a) the defendant poses a risk of flight to avoid prosecution; (b) the defendant poses a risk of failing to appear in court based on the defendant's

1 record of a prior criminal conviction or failure to appear in prior
2 court proceedings; or (c) the defendant poses a risk of endangering the
3 safety of any other person or the community. If the court finds that the
4 defendant poses a risk of flight or a risk of failure to appear but does
5 not pose a risk of endangering the safety of any other person or the
6 community, the court shall release the defendant subject to the lowest
7 reasonable bail and/or the least restrictive further condition or combi-
8 nation of conditions that will reasonably ensure the appearance of the
9 defendant considering the nature and circumstances of the charged
10 offense, the weight of the evidence, the history and characteristics of
11 the defendant, and the nature and seriousness of the danger posed by the
12 defendant's release. If the court determines that no condition or combi-
13 nation of conditions will reasonably assure the appearance of the
14 defendant and the safety of any other person of the community, the court
15 shall order detention without bail.

16 6. If the defendant is arrested during the interim period while await-
17 ing a preliminary hearing or trial, the court shall revoke or otherwise
18 terminate the previous order and issue a new order taking into account
19 the subsequent arrest.

20 7. (a) All orders issued under this section where the defendant is
21 incarcerated solely because of said order shall be reviewed and re-eval-
22 uated by the court no later than:

23 (i) every four weeks thereafter where a class A misdemeanor is the
24 highest grade offense;

25 (ii) every six weeks thereafter where a class E felony is the highest
26 grade offense;

27 (iii) every eight weeks thereafter where a class D felony is the high-
28 est grade offense;

29 (iv) every ten weeks thereafter where a class C felony is the highest
30 grade offense; or

31 (v) every twelve weeks thereafter where a class B felony is the high-
32 est grade offense.

33 (b) Upon such review or re-evaluation, the court shall reconsider
34 whether the defendant should be released on personal recognizance or
35 upon posting reduced bail in the interests of justice after considering
36 the length of time the defendant has already been incarcerated, the
37 likely sentence that would be imposed if the defendant were found guilty
38 or pled guilty to the charged offense, the nature and circumstances of
39 the charged offense, the weight of the evidence, the history and charac-
40 teristics of the defendant, the nature and seriousness of the danger
41 posed by the defendant's release, and whether the principal should be
42 released subject to a further condition, or combination of conditions,
43 that reasonably justifies the release of the defendant on personal
44 recognizance or reduced bail, and such other factors in the interests of
45 justice as reasonably determined by the court based on an individualized
46 determination as to whether and to what extent that the defendant
47 continues to pose a risk of flight to avoid prosecution, continues to
48 pose a risk of failing to appear in court based on the defendant's
49 record of a prior criminal conviction or failure to appear in prior
50 court proceedings, or continues to pose a risk of endangering the safety
51 of any other person or the community. If the court determines that no
52 condition or combination of conditions will reasonably ensure the
53 appearance of the defendant and the safety of any other person of the
54 community, the court shall continue to detain the defendant without bail
55 or without a reduction in the amount of the bail.

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

4 1. When the defendant is at liberty in the course of a criminal action
5 as a result of a prior [~~securing~~] order of recognizance or bail and the
6 court revokes such order and then[~~, where authorized,~~] either fixes no
7 bail[~~7~~] or fixes bail in a greater amount or in a more burdensome form
8 than was previously fixed[~~, or, in conjunction with the imposition of~~
9 ~~non-monetary conditions, fixes bail in a greater amount or in a more~~
10 ~~burdensome form than was previously fixed~~] and remands or commits
11 defendant to the custody of the sheriff, [~~or issues a more restrictive~~
12 ~~securing order,~~] a judge designated in subdivision two of this section,
13 upon application of the defendant following conviction of an offense
14 other than a class A felony or a class B or class C felony offense as
15 defined in article one hundred thirty of the penal law committed or
16 attempted to be committed by a person eighteen years of age or older
17 against a person less than eighteen years of age, and before sentencing,
18 may issue a securing order and either release the defendant on the
19 defendant's own recognizance, [~~release the defendant under non-monetary~~
20 ~~conditions, or, where authorized,~~] fix bail[~~, which may be in conjunc-~~
21 ~~tion with the imposition of non-monetary conditions,~~] or fix bail in a
22 lesser amount or in a less burdensome form[~~, which may be in conjunction~~
23 ~~with the imposition of non-monetary conditions, or issue a less restric-~~
24 ~~tive securing order,~~] than fixed by the court in which the conviction
25 was entered.

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

28 § 27. Section 530.50 of the criminal procedure law, as amended by
29 chapter 264 of the laws of 2003, subdivision 1 as designated by section
30 10 of part UU of chapter 56 of the laws of 2020 and subdivisions 2 and 3
31 as amended by section 10 of subpart A of part VV of chapter 56 of the
32 laws of 2023, is amended to read as follows:

33 § 530.50 Order of recognizance or bail; during pendency of appeal.

34 1. A judge who is otherwise authorized pursuant to section 460.50 or
35 [~~section~~] 460.60 of this chapter to issue an order of recognizance or
36 bail pending the determination of an appeal, may do so unless the
37 defendant received a class A felony sentence or a sentence for any class
38 B or class C felony offense defined in article one hundred thirty of the
39 penal law committed or attempted to be committed by a person eighteen
40 years of age or older against a person less than eighteen years of age.

41 2. [~~Notwithstanding the provisions of subdivision four of section~~
42 ~~510.10, paragraph (b) of subdivision one of section 530.20 and subdivi-~~
43 ~~sion four of section 530.40 of this title, when a defendant charged with~~
44 ~~an offense that is not such a qualifying offense applies, pending deter-~~
45 ~~mination of an appeal, for an order of recognizance or release on non-~~
46 ~~monetary conditions, where authorized, fixing bail, or ordering non-mon-~~
47 ~~etary conditions in conjunction with fixing bail, a judge identified in~~
48 ~~subdivision two of section 460.50 or paragraph (a) of subdivision one of~~
49 ~~section 460.60 of this chapter may, in accordance with law, and except~~
50 ~~as otherwise provided by law, issue a securing order; releasing the~~
51 ~~defendant on the defendant's own recognizance or under non-monetary~~
52 ~~conditions where authorized, fixing bail, or ordering non-monetary~~
53 ~~conditions in conjunction with fixing bail, or remanding the defendant~~
54 ~~to the custody of the sheriff where authorized.~~

55 ~~3.]~~ Where an appeal by the people has been taken from an order
56 dismissing one or more counts of an accusatory instrument for failure to

1 comply with a discovery order pursuant to subdivision twelve of section
2 450.20 of this chapter and the defendant is charged with a qualifying
3 offense in the remaining counts in the accusatory instrument, pending
4 determination of an appeal, the defendant may apply for an order of
5 recognizance or release on non-monetary conditions, where authorized, or
6 fixing bail, [~~or ordering non-monetary conditions in conjunction with~~
7 ~~fixing bail~~]. A judge identified in subdivision two of section 460.50 of
8 this chapter or paragraph (a) of subdivision one of section 460.60 of
9 this chapter may, in accordance with law, and except as otherwise
10 provided by law, issue a securing order releasing the defendant on the
11 defendant's own recognizance or under non-monetary conditions where
12 authorized, fixing bail, [~~or ordering non-monetary conditions in~~
13 ~~conjunction with fixing bail~~], or remanding the defendant to the custody
14 of the sheriff where authorized.

15 § 28. Section 530.60 of the criminal procedure law, as amended by
16 section 20 of part JJJ of chapter 59 of the laws of 2019 and the opening
17 paragraph of paragraph (b), the closing paragraph of subparagraph (i) of
18 paragraph (d) and subparagraph (ii) of paragraph (d) of subdivision 2 as
19 amended and subparagraph (iii) of paragraph (d) of subdivision 2 as
20 added by section 11 of subpart A of part VV of chapter 56 of the laws of
21 2023, is amended to read as follows:

22 § 530.60 [~~Certain modifications of a securing order~~] Order of recogni-
23 zance or bail; revocation thereof.

24 1. Whenever in the course of a criminal action or proceeding a defend-
25 ant is at liberty as a result of an order of recognizance[~~, release~~
26 ~~under non-monetary conditions~~] or bail issued pursuant to this chapter,
27 and the court considers it necessary to review such order, [~~whether due~~
28 ~~to a motion by the people or otherwise~~], the court may, and [~~except as~~
29 ~~provided in subdivision two of section 510.50 of this title concerning a~~
30 ~~failure to appear in court~~], by a bench warrant if necessary, require
31 the defendant to appear before the court. Upon such appearance, the
32 court, for good cause shown, may revoke the order of recognizance[~~,~~
33 ~~release under non-monetary conditions~~] or bail. If the defendant is
34 entitled to recognizance[~~, release under non-monetary conditions~~], or
35 bail as a matter of right, the court must issue another such order. If
36 the defendant is not, the court may either issue such an order or commit
37 the defendant to the custody of the sheriff in accordance with this
38 section.

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

43 2. (a) Whenever in the course of a criminal action or proceeding a
44 defendant charged with the commission of a felony is at liberty as a
45 result of an order of recognizance, [~~release under non-monetary condi-~~
46 ~~tions~~] or bail issued pursuant to this article it shall be grounds for
47 revoking such order that the court finds reasonable cause to believe the
48 defendant committed one or more specified class A or violent felony
49 offenses or intimidated a victim or witness in violation of section
50 215.15, 215.16 or 215.17 of the penal law while at liberty.

51 [~~(b) Except as provided in paragraph (a) of this subdivision or any~~
52 ~~other law, whenever in the course of a criminal action or proceeding a~~
53 ~~defendant charged with the commission of an offense is at liberty as a~~
54 ~~result of a securing order issued pursuant to this article it shall be~~
55 ~~grounds for revoking such order and imposing a new securing order in~~
56 ~~accordance with paragraph (d) of this subdivision, the basis for which~~

~~shall be made on the record or in writing, in such criminal action or proceeding when the court has found, by clear and convincing evidence, that the defendant:~~

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

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

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

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

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

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

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

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

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

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

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

~~(ii) Under subparagraph (i) of paragraph (b) of this subdivision, revocation of a previously issued securing order shall result in the issuance of a new securing order which may, if otherwise authorized by law, permit the principal's release on recognizance or release under non-monetary conditions, but shall also render the defendant eligible for an order fixing bail, or ordering non-monetary conditions in~~

1 ~~conjunction with fixing bail, provided, however, that in accordance with~~
2 ~~the principles in this title the court must impose a new securing order~~
3 ~~in accordance with subdivision one of section 510.10 of this title, and~~
4 ~~in imposing such order, may consider the circumstances warranting such~~
5 ~~revocation. Nothing in this subparagraph shall be interpreted as short-~~
6 ~~ening the period of detention, or requiring or authorizing any less~~
7 ~~restrictive form of a securing order, which may be imposed pursuant to~~
8 ~~any other law; and~~

9 ~~(iii) Under subparagraphs (ii), (iii), and (iv) of paragraph (b) of~~
10 ~~this subdivision, revocation of a previously issued securing order shall~~
11 ~~result in the issuance of a new securing order which may, if otherwise~~
12 ~~authorized by law, permit the principal's release on recognizance or~~
13 ~~release under non-monetary conditions, but shall also render the defend-~~
14 ~~ant eligible for an order fixing bail or ordering non-monetary condi-~~
15 ~~tions in conjunction with fixing bail. In issuing the new securing~~
16 ~~order, the court shall consider the kind and degree of control or~~
17 ~~restriction necessary to reasonably assure the principal's return to~~
18 ~~court and compliance with court conditions, and select a securing order~~
19 ~~consistent with its determination, taking into account the factors~~
20 ~~required to be considered under subdivision one of section 510.10 of~~
21 ~~this title, the circumstances warranting such revocation, and the nature~~
22 ~~and extent of the principal's noncompliance with previously ordered~~
23 ~~non-monetary conditions of the securing order subject to revocation~~
24 ~~under this subdivision. Nothing in this subparagraph shall be interpret-~~
25 ~~ed as shortening the period of detention, or requiring or authorizing~~
26 ~~any less restrictive form of a securing order, which may be imposed~~
27 ~~pursuant to any other law].~~

28 ~~[(e)]~~ (c) Notwithstanding the provisions of paragraph (a) ~~[or (b)]~~ of
29 this subdivision a defendant, against whom a felony complaint has been
30 filed which charges the defendant with commission of a class A or
31 violent felony offense ~~[or violation of section 215.15, 215.16 or 215.17~~
32 ~~of the penal law]~~ committed while ~~[he was]~~ they were at liberty as spec-
33 ified therein, may be committed to the custody of the sheriff pending a
34 revocation hearing for a period not to exceed seventy-two hours. An
35 additional period not to exceed seventy-two hours may be granted by the
36 court upon application of the district attorney upon a showing of good
37 cause or where the failure to commence the hearing was due to the
38 defendant's request or occurred with ~~[his]~~ their consent. Such good
39 cause must consist of some compelling fact or circumstance which
40 precluded conducting the hearing within the initial prescribed period.

41 § 29. Paragraph (a) of subdivision 9 of section 216.05 of the criminal
42 procedure law, as amended by chapter 435 of the laws of 2021, is amended
43 to read as follows:

44 (a) If at any time during the defendant's participation in the judi-
45 cial diversion program, the court has reasonable grounds to believe that
46 the defendant has violated a release condition ~~[in an important respect]~~
47 or has ~~[willfully]~~ failed to appear before the court as requested, the
48 court ~~[except as provided in subdivision two of section 510.50 of this~~
49 ~~chapter regarding a failure to appear,]~~ shall direct the defendant to
50 appear or issue a bench warrant to a police officer or an appropriate
51 peace officer directing ~~[him or her]~~ such police officer to take the
52 defendant into custody and bring the defendant before the court without
53 unnecessary delay; provided, however, that under no circumstances shall
54 a defendant who requires treatment for opioid use be deemed to have
55 violated a release condition on the basis of ~~[his or her]~~ such defend-
56 ant's participation in medically prescribed drug treatments under the

1 care of a health care professional licensed or certified under title
2 eight of the education law, acting within [~~his or her~~] their lawful
3 scope of practice. The [~~relevant~~] provisions of subdivision one of
4 section 530.60 of this chapter relating to [~~issuance of securing orders~~]
5 revocation of recognizance or bail shall apply to such proceedings under
6 this subdivision.

7 § 30. Section 410.60 of the criminal procedure law, as amended by
8 section 23 of part JJJ of chapter 59 of the laws of 2019, is amended to
9 read as follows:

10 § 410.60 Appearance before court.

11 A person who has been taken into custody pursuant to section 410.40 or
12 [~~section~~] 410.50 of this article for violation of a condition of a
13 sentence of probation or a sentence of conditional discharge must forth-
14 with be brought before the court that imposed the sentence. Where a
15 violation of probation petition and report has been filed and the person
16 has not been taken into custody nor has a warrant been issued, an
17 initial court appearance shall occur within ten business days of the
18 court's issuance of a notice to appear. If the court has reasonable
19 cause to believe that such person has violated a condition of the
20 sentence, it may commit such person to the custody of the sheriff[~~,~~] or
21 fix bail[~~, release such person under non-monetary conditions~~] or release
22 such person on such person's own recognizance for future appearance at a
23 hearing to be held in accordance with section 410.70 of this article. If
24 the court does not have reasonable cause to believe that such person has
25 violated a condition of the sentence, it must direct that such person be
26 released.

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

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

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

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

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

42 § 33. Section 837-u of the executive law is REPEALED.

43 § 34. This act shall take effect immediately.

44 PART C

45 Section 1. Paragraph (c) of subdivision 1 of section 245.20 of the
46 criminal procedure law, as amended by section 2 of part HHH of chapter
47 56 of the laws of 2020, is amended to read as follows:

48 (c) The names and adequate contact information for all persons other
49 than law enforcement personnel whom the prosecutor knows to have
50 evidence or information relevant to any offense charged or to any poten-
51 tial defense thereto who have given affirmative consent for such disclo-
52 sure of their contact information or have been denied a protective order
53 pursuant to section 245.70 of this article, including a designation by
54 the prosecutor as to which of those persons may be called as witnesses.

1 Affirmative consent to disclose contact information shall be requested
 2 by law enforcement personnel conducting the initial interview of persons
 3 who have evidence or information relevant to any offense charged or to
 4 any potential defense thereto. A person who does not provide affirmative
 5 consent for disclosure of their contact information shall provide good
 6 cause for such denial, and the prosecution shall make a motion for a
 7 protective order pursuant to section 245.70 of this article on the
 8 behalf of such person. Nothing in this paragraph shall require the
 9 disclosure of physical addresses; provided, however, upon a motion and
 10 good cause shown the court may direct the disclosure of a physical
 11 address. Information under this subdivision relating to the identity of
 12 a 911 caller, the victim or witness of an offense defined under article
 13 one hundred thirty or section 230.34 or 230.34-a of the penal law, any
 14 other victim or witness of a crime where the defendant has substantiated
 15 affiliation with a criminal enterprise as defined in subdivision three
 16 of section 460.10 of the penal law, or a confidential informant may be
 17 withheld, and redacted from discovery materials, without need for a
 18 motion pursuant to section 245.70 of this article; but the prosecution
 19 shall notify the defendant in writing that such information has not been
 20 disclosed, unless the court rules otherwise for good cause shown.
 21 § 2. This act shall take effect immediately.

22

PART D

23 Section 1. Subdivisions 1 and 10 of section 400.27 of the criminal
 24 procedure law, as added by chapter 1 of the laws of 1995, are amended to
 25 read as follows:

26 1. Upon [~~the~~] conviction of a defendant for the offense of murder in
 27 the first degree as defined by subparagraph (i), (ii), (ii-a) or (iii)
 28 of paragraph (a) of subdivision one of section 125.27 of the penal law,
 29 the court shall promptly conduct a separate sentencing proceeding to
 30 determine whether the defendant shall be sentenced to death or to life
 31 imprisonment without parole pursuant to subdivision five of section
 32 70.00 of the penal law. Nothing in this section shall be deemed to
 33 preclude the people at any time from determining that the death penalty
 34 shall not be sought in a particular case, in which case the separate
 35 sentencing proceeding shall not be conducted and the court may sentence
 36 such defendant to life imprisonment without parole or to a sentence of
 37 imprisonment for the class A-I felony of murder in the first degree
 38 other than a sentence of life imprisonment without parole.

39 10. (a) At the conclusion of all the evidence, the people and the
 40 defendant may present argument in summation for or against the sentence
 41 sought by the people. The people may deliver the first summation and the
 42 defendant may then deliver the last summation. Thereafter, the court
 43 shall deliver a charge to the jury on any matters appropriate in the
 44 circumstances. In its charge, the court must instruct the jury that with
 45 respect to each count of murder in the first degree, as defined in
 46 subparagraph (i), (ii), (ii-a) or (iii) of paragraph (a) of subdivision
 47 one of section 125.27 of the penal law, the jury should consider whether
 48 or not a sentence of death should be imposed and whether or not a
 49 sentence of life imprisonment without parole should be imposed[~~and~~].

50 (b) The court must instruct the jury that the jury must be unanimous
 51 with respect to either sentence. The court must also instruct the jury
 52 that in the event the jury fails to reach unanimous agreement with
 53 respect to the sentence, the court will sentence the defendant to a term

1 of imprisonment with a minimum term of between twenty and twenty-five
2 years and a maximum term of life.

3 (c) Following the court's charge, the jury shall retire to consider
4 the sentence to be imposed. Unless inconsistent with the provisions of
5 this section, the provisions of sections 310.10, 310.20 and 310.30 of
6 this part shall govern the deliberations of the jury.

7 § 2. This act shall take effect immediately and shall apply to
8 offenses committed on or after such effective date.

9 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-
10 sion, section or part of this act shall be adjudged by any court of
11 competent jurisdiction to be invalid, such judgment shall not affect,
12 impair, or invalidate the remainder thereof, but shall be confined in
13 its operation to the clause, sentence, paragraph, subdivision, section
14 or part thereof directly involved in the controversy in which such judg-
15 ment shall have been rendered. It is hereby declared to be the intent of
16 the legislature that this act would have been enacted even if such
17 invalid provisions had not been included herein.

18 § 3. This act shall take effect immediately provided, however, that
19 the applicable effective date of Parts A through D of this act shall be
20 as specifically set forth in the last section of such Parts.