§ 170.50 Motion in superior court to dismiss prosecutor's information.

1. At any time after arraignment in a local criminal court upon a prosecutor's information filed at the direction of a grand jury and before entry of a plea of guilty thereto or commencement of a trial thereof, the local criminal court wherein the prosecutor's information is filed may, upon motion of the defendant, dismiss such prosecutor's information or a count thereof upon the ground that:

(a) The evidence before the grand jury was not legally sufficient to support the charge; or

(b) The grand jury proceeding resulting in the filing of such prosecutor's information was defective.

2. The criteria and procedures for consideration and disposition of such motion are the same as those prescribed in sections 210.30 and 210.35, governing consideration and disposition of a motion to dismiss an indictment on the ground of insufficiency of grand jury evidence or of a defective grand jury proceeding; and, where appropriate, the general procedural rules prescribed in section 210.45 for consideration and disposition of a motion to dismiss an indictment are also applicable.

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