§ 170.55 Adjournment in contemplation of dismissal.

1. Upon or after arraignment in a local criminal court upon an information, a simplified information, a prosecutor's information or a misdemeanor complaint, and before entry of a plea of guilty thereto or commencement of a trial thereof, the court may, upon motion of the people or the defendant and with the consent of the other party, or upon the court's own motion with the consent of both the people and the defendant, order that the action be "adjourned in contemplation of dismissal," as prescribed in subdivision two.

2. An adjournment in contemplation of dismissal is an adjournment of the action without date ordered with a view to ultimate dismissal of the accusatory instrument in furtherance of justice. Upon issuing such an order, the court must release the defendant on his own recognizance. Upon application of the people, made at any time not more than six months, or in the case of a family offense as defined in subdivision one of section 530.11 of this chapter, one year, after the issuance of such order, the court may restore the case to the calendar upon a determination that dismissal of the accusatory instrument would not be in furtherance of justice, and the action must thereupon proceed. If the case is not so restored within such six months or one year period, the accusatory instrument is, at the expiration of such period, deemed to have been dismissed by the court in furtherance of justice.

3. In conjunction with an adjournment in contemplation of dismissal the court may issue a temporary order of protection pursuant to section 530.12 or 530.13 of this chapter, requiring the defendant to observe certain specified conditions of conduct.

4. Where the local criminal court information, simplified information, prosecutor's information, or misdemeanor complaint charges a crime or violation between spouses or between parent and child, or between members of the same family or household, as the term "members of the same family or household" is defined in subdivision one of section 530.11 of this chapter, the court may as a condition of an adjournment in contemplation of dismissal order, require that the defendant

participate in an educational program addressing the issues of spousal abuse and family violence.

5. The court may grant an adjournment in contemplation of dismissal on condition that the defendant participate in dispute resolution and comply with any award or settlement resulting therefrom.

6. The court may as a condition of an adjournment in contemplation of dismissal order, require the defendant to perform services for a public or not-for-profit corporation, association, institution or agency. Such condition may only be imposed where the defendant has consented to the amount and conditions of such service. The court may not impose such conditions in excess of the length of the adjournment.

6-a. The court may, as a condition of an authorized adjournment in contemplation of dismissal, where the defendant has been charged with an offense and the elements of such offense meet the criteria of an "eligible offense" and such person qualified as an "eligible person" as such terms are defined in section four hundred fifty-eight-l of the social services law, require the defendant to participate in an education reform program in accordance with section four hundred fifty-eight-l of the social services law.

7. The court may, as a condition of an adjournment in contemplation of dismissal order, where a defendant is under twenty-one years of age and is charged with (a) a misdemeanor or misdemeanors other than section eleven hundred ninety-two of the vehicle and traffic law, in which the record indicates the consumption of alcohol by the defendant may have been a contributing factor, or (b) a violation of paragraph (a) of subdivision one of section sixty-five-b of the alcoholic beverage control law, require the defendant to attend an alcohol awareness program established pursuant to subdivision (a) of section 19.07 of the mental hygiene law.

8. The granting of an adjournment in contemplation of dismissal shall not be deemed to be a conviction or an admission of guilt. No person shall suffer any disability or forfeiture as a result of such an order.

Upon the dismissal of the accusatory instrument pursuant to this section, the arrest and prosecution shall be deemed a nullity and the defendant shall be restored, in contemplation of law, to the status he occupied before his arrest and prosecution.

9. Notwithstanding any other provision of this section, a court may not issue an order adjourning an action in contemplation of dismissal if the offense is for a violation of the vehicle and traffic law related to the operation of a motor vehicle (except one related to parking, stopping or standing), or a violation of a local law, rule or ordinance related to the operation of a motor vehicle (except one related to parking, stopping or standing), if such offense was committed by the holder of a commercial learner's permit or a commercial driver's license or was committed in a commercial motor vehicle, as defined in subdivision four of section five hundred one-a of the vehicle and traffic law.