§ 20.40 Geographical jurisdiction of offenses; jurisdiction of counties.

A person may be convicted in an appropriate criminal court of a particular county, of an offense of which the criminal courts of this state have jurisdiction pursuant to section 20.20, committed either by his or her own conduct or by the conduct of another for which he or she is legally accountable pursuant to section 20.00 of the penal law, when:

1. Conduct occurred within such county sufficient to establish:

(a) An element of such offense; or

(b) An attempt or a conspiracy to commit such offense; or

2. Even though none of the conduct constituting such offense may have occurred within such county:

(a) The offense committed was a result offense and the result occurred in such county; or

(b) The offense committed was one of homicide and the victim's body or a part thereof was found in such county; or

(c) Such conduct had, or was likely to have, a particular effect upon such county or a political subdivision or part thereof, and was performed with intent that it would, or with knowledge that it was likely to, have such particular effect therein; or

(d) The offense committed was attempt, conspiracy or criminal solicitation to commit a crime in such county; or

(e) The offense committed was criminal facilitation of a felony committed in such county; or

3. The offense committed was one of omission to perform a duty imposed by law, which duty either was required to be or could properly have been performed in such county. In such case, it is immaterial whether such person was within or outside such county at the time of the omission; or

4. Jurisdiction of such offense is accorded to the courts of such county pursuant to any of the following rules:

(a) An offense of abandonment of a child or non-support of a child may be prosecuted in (i) any county in which such child resided during the period of abandonment or non-support, or (ii) any county in which such

person resided during such period, or (iii) any county in which such person was present during such period, provided that he was arrested for such offense in such county or the criminal action therefor was commenced while he was present therein.

(b) An offense of bigamy may be prosecuted either in the county in which such offense was committed or in (i) any county in which bigamous cohabitation subsequently occurred, or (ii) any county in which such person was present after the commission of the offense, provided that he was arrested for such offense in such county or the criminal action therefor was commenced while he was present therein.

(c) An offense committed within five hundred yards of the boundary of a particular county, and in an adjoining county of this state, may be prosecuted in either such county.

(d) An offense committed anywhere on the Hudson river southward of the northern boundary of New York City, or anywhere on New York bay between Staten Island and Long Island, may be prosecuted in any of the five counties of New York City.

(e) An offense committed upon any bridge or in any tunnel having terminals in different counties may be prosecuted in any terminal county.

(f) An offense committed on board a railroad train, aircraft or omnibus operating as a common carrier may be prosecuted in any county through or over which such common carrier passed during the particular trip, or in any county in which such trip terminated or was scheduled to terminate.

(g) An offense committed in a private vehicle during a trip thereof extending through more than one county may be prosecuted in any county through which such vehicle passed in the course of such trip.

(h) An offense committed on board a vessel navigating or lying in any river, canal or lake flowing through or situated within this state, may be prosecuted in any county bordering upon such body of water, or in which it is located, or through which it passes; and if such offense was committed upon a vessel operating as a common carrier, it may be prosecuted in any county bordering upon any body of water upon which such vessel navigated or passed during the particular trip.

(i) An offense committed in the Atlantic Ocean within two nautical miles from the shore at high water mark may be prosecuted in an

appropriate court of the county the shore line of which is closest to the point where the offense was committed. A crime committed more than two nautical miles from the shore but within the boundary of this state may be prosecuted in the supreme court of the county the shore line of which is closest to the point where the crime was committed.

(j) An offense of forgery may be prosecuted in any county in which the defendant, or another for whose conduct the defendant is legally accountable pursuant to section 20.00 of the penal law, possessed the instrument.

(k) An offense of offering of a false instrument for filing, or of larceny by means of a false pretense therein, may be prosecuted (i) in any county in which such instrument was executed, in whole or in part, or (ii) in any county in which any of the goods or services for which payment or reimbursement is sought by means of such instrument were purported to have been provided.

(l) An offense of identity theft or unlawful possession of personal identifying information and all criminal acts committed as part of the same criminal transaction as defined in subdivision two of section 40.10 of this chapter may be prosecuted (i) in any county in which part of the offense took place regardless of whether the defendant was actually present in such county, or (ii) in the county in which the person who suffers financial loss resided at the time of the commission of the offense, or (iii) in the county where the person whose personal identifying information was used in the commission of the offense resided at the time of the commission of the offense. The law enforcement agency of any such county shall take a police report of the matter and provide the complainant with a copy of such report at no charge.

(m) An offense under the tax law or the penal law of filing a false or fraudulent return, report, document, declaration, statement, or filing, or of tax evasion, fraud, or larceny resulting from the filing of a false or fraudulent return, report, document, declaration, or filing in connection with the payment of taxes to the state or a political subdivision of the state, may be prosecuted in any county in which an underlying transaction reflected, reported or required to be reflected or reported, in whole or part, on such return, report, document, declaration, statement, or filing occurred.

(n) (i) An organized retail theft crime, where the defendant knows that such crime is a part of a coordinated plan, scheme or venture of organized retail theft crimes committed by two or more persons, may be prosecuted in any county in which such defendant committed at least one such organized retail theft crime; provided, however, that the county of prosecution is contiguous to another county in which one or more of such other organized retail theft crimes was committed. Multiple organized retail theft crimes committed by the same defendant may be joined in one indictment if authorized and appropriate in accordance with the provisions of section 200.20 of this chapter, provided, however, that notwithstanding section 200.40 of this chapter, no more than one defendant may be charged in the same indictment or prosecuted as part of the same trial under this paragraph. For purposes of this paragraph, the five counties that comprise New York city shall be deemed contiguous with each other.

(ii) For purposes of this paragraph, "organized retail theft crime" shall mean the crime of larceny, including by trick, fraud, embezzlement, stealing or false pretenses, of retail merchandise in quantities that would not normally be purchased for personal use or consumption, for the purposes of reselling, trading, or otherwise reentering such retail merchandise in commerce.