§ 230.20 Removal of action; removal from county court to supreme court and change of venue; upon motion of party.

1. At any time within the period provided by section 255.20, the appellate division of the department embracing the county, upon motion of either the defendant or the people, may, for good cause shown, order that the indictment and action be removed from the county court to the supreme court at a term held or to be held in the same county.

2. At any time within the period provided by section 255.20, the appellate division of the department embracing the county in which the superior court is located may, upon motion of either the defendant or the people demonstrating reasonable cause to believe that a fair and impartial trial cannot be had in such county, order either:

(a) that the indictment and action be removed from such superior court to a designated superior court of or located in another county; or

(b) that the commissioner of jurors of such county, in consultation with the appropriate administrative judge of the judicial district in which the county is located, expand the pool of jurors to encompass prospective jurors from the jury lists of counties that are within the judicial district in which, and that are geographically contiguous with the county in which, such superior court is located.

In making such determination the appellate division shall consider, among other factors, the hardship on potential jurors and the potential depletion of a county's qualified juror list that may result from an order expanding the jury pool. An order of removal under paragraph (a) herein must, if the defendant is in custody at the time, include a provision for transfer of custody by the sheriff or other appropriate public servant of the county of confinement to the sheriff or other appropriate public servant of the county to which the action has been removed. If the order is issued upon motion of the people, the appellate division may impose such conditions as it deems equitable and appropriate to insure that the removal does not subject the defendant to an unreasonable burden in making his defense. Any additional cost to the people incurred in complying with the order must be borne by the county from which the action originated.

3. Any motion made pursuant to this section must be based upon papers stating the grounds therefor, and must be made within the period provided by section 255.20 and upon five days notice thereof together with service of the moving papers upon, as the case may be, (a) the district attorney or (b) either the defendant or his counsel. In any case, the motion must be made returnable either during the appellate division term during which such moving papers are served or during the next term thereof.

4. If the appellate division grants the motion and orders a removal of the action, a certified copy of such order must be filed with the clerk of the superior court in which the indictment is pending. Such clerk must thereupon transmit such instrument, together with the pertinent papers and proceedings of the action, including all undertakings for appearances of the defendant and of the witnesses, or a certified copy or copies of the same, to the term of the superior court to which the action has been removed. Such latter court must then proceed to conduct the action to judgment or other final disposition.