§ 410.40 Notice to appear, warrant.

1. Notice to appear. The court may at any time order that a person who is under a sentence of probation or of conditional discharge appear before it. Such order may be in the form of a written notice, specifying the time and place of appearance, mailed to or served personally upon the defendant as the court may direct. In the absence of a warrant issued pursuant to subdivision two of this section, where a probation officer has submitted a violation petition and report, the court shall promptly consider such petition and, where the court issues a notice to appear, the court shall direct that the defendant appear within ten business days of the court's order. When the order is in the form of such a notice, failure to appear as ordered without reasonable cause therefor constitutes a violation of the conditions of the sentence irrespective of whether such requirement is specified as a condition thereof.

2. Warrant. (a) Where the probation officer has requested that a probation warrant be issued, the court shall, within seventy-two hours of its receipt of the request, issue or deny the warrant or take any other lawful action including issuance of a notice to appear pursuant to subdivision one of this section. If at any time during the period of a sentence of probation or of conditional discharge the court has reasonable grounds to believe that the defendant has violated a condition of the sentence, the court may issue a warrant to a police officer or to an appropriate peace officer directing him or her to take the defendant into custody and bring the defendant before the court without unnecessary delay; provided, however, if the court in which the warrant is returnable is a superior court, and such court is not available, and the warrant is addressed to a police officer or appropriate probation officer certified as a peace officer, such executing officer may unless otherwise specified under paragraph (b) of this subdivision, bring the defendant to the local correctional facility of the county in which such court sits, to be detained there until not later than the commencement of the next session of such court occurring on the next business day; or if the court in which the warrant is returnable is a local criminal court, and such court is not available,

and the warrant is addressed to a police officer or appropriate probation officer certified as a peace officer, such executing officer must without unnecessary delay bring the defendant before an alternate local criminal court, as provided in subdivision five of section 120.90 of this chapter. A court which issues such a warrant may attach thereto a summary of the basis for the warrant. In any case where a defendant arrested upon the warrant is brought before a local criminal court other than the court in which the warrant is returnable, such local criminal court shall consider such summary before issuing a securing order with respect to the defendant.

(b) If the court in which the warrant is returnable is a superior court, and such court is not available, and the warrant is addressed to a police officer or appropriate probation officer certified as a peace officer, such executing officer shall, where a defendant is sixteen years of age or younger who allegedly commits an offense or a violation of his or her probation or conditional discharge imposed for an offense on or after October first, two thousand eighteen, or where a defendant is seventeen years of age or younger who allegedly commits an offense or a violation of his or her probation or conditional discharge imposed for an offense on or after October first, two thousand nineteen, bring the defendant without unnecessary delay before the youth part, provided, however that if the youth part is not in session, the defendant shall be brought before the most accessible magistrate designated by the appellate division.