**§ 530.45 Order of recognizance or bail; after conviction and before sentence.**

1. When the defendant is at liberty in the course of a criminal action as a result of a prior securing order and the court revokes such order and then, where authorized, fixes no bail, fixes bail in a greater amount or in a more burdensome form than was previously fixed, or, in conjunction with the imposition of non-monetary conditions, fixes bail in a greater amount or in a more burdensome form than was previously fixed and remands or commits defendant to the custody of the sheriff, or issues a more restrictive securing order, a judge designated in subdivision two of this section, upon application of the defendant following conviction of an offense other than a class A felony or a class B or class C felony offense as defined in article one hundred thirty of the penal law committed or attempted to be committed by a person eighteen years of age or older against a person less than eighteen years of age, and before sentencing, may issue a securing order and release the defendant on the defendant's own recognizance, release the defendant under non-monetary conditions, or, where authorized, fix bail, which may be in conjunction with the imposition of non-monetary conditions, fix bail in a lesser amount or in a less burdensome form, which may be in conjunction with the imposition of non-monetary conditions, or issue a less restrictive securing order, than fixed by the court in which the conviction was entered.

2. An order as prescribed in subdivision one may be issued by the following judges in the indicated situations:

(a) If the criminal action was pending in supreme court or county court, such order may be issued by a justice of the appellate division of the department in which the conviction was entered.

(b) If the criminal action was pending in a local criminal court, such order may be issued by a judge of a superior court holding a term thereof in the county in which the conviction was entered.

2-a. Notwithstanding the provisions of subdivision four of section 510.10, paragraph (b) of subdivision one of section 530.20 and subdivision four of section 530.40 of this title, when a defendant

charged with an offense that is not such a qualifying offense is convicted, whether by guilty plea or verdict, in such criminal action or proceeding of an offense that is not a qualifying offense, the court may, in accordance with law, issue a securing order: releasing the defendant on the defendant's own recognizance or under non-monetary conditions where authorized, fix bail, or ordering non-monetary conditions in conjunction with fixing bail, or remand the defendant to the custody of the sheriff where authorized.

3. An application for an order specified in this section must be made upon reasonable notice to the people, and the people must be accorded adequate opportunity to appear in opposition thereto. Not more than one application may be made pursuant to this section. Defendant must allege in his application that he intends to take an appeal to an intermediate appellate court immediately after sentence is pronounced.

4. Notwithstanding the provisions of subdivision one, if within thirty days after sentence the defendant has not taken an appeal to an intermediate appellate court from the judgment or sentence, the operation of such order terminates and the defendant must surrender himself to the criminal court in which the judgment was entered in order that execution of the judgment be commenced.

5. Notwithstanding the provisions of subdivision one, if within one hundred twenty days after the filing of the notice of appeal such appeal has not been brought to argument in or submitted to the intermediate appellate court, the operation of such order terminates and the defendant must surrender himself to the criminal court in which the judgment was entered in order that execution of the judgment be commenced or resumed; except that this subdivision does not apply where the intermediate appellate court has (a) extended the time for argument or submission of the appeal to a date beyond the specified period of one hundred twenty days, and (b) upon application of the defendant, expressly ordered that the operation of the order continue until the date of the determination of the appeal or some other designated future date or occurrence.

6. Where the defendant is at liberty during the pendency of an appeal as a result of an order issued pursuant to this section, the intermediate appellate court, upon affirmance of the judgment, must by appropriate certificate remit the case to the criminal court in which such judgment was entered. The criminal court must, upon at least two days notice to the defendant, his surety and his attorney, promptly direct the defendant to surrender himself to the criminal court in order that execution of the judgment be commenced or resumed, and if necessary the criminal court may issue a bench warrant to secure his appearance.