§ 620.20 Material witness order; when authorized; by what courts issuable; duration thereof.

1. A material witness order may be issued upon the ground that there is reasonable cause to believe that a person whom the people or the defendant desire to call as a witness in a pending criminal action:

(a) Possesses information material to the determination of such action; and

(b) Will not be amenable or responsive to a subpoena at a time when his attendance will be sought.

2. A material witness order may be issued only when:

(a) An indictment has been filed in a superior court and is currently pending therein; or

(b) A grand jury proceeding has been commenced and is currently pending; or

(c) A felony complaint has been filed with a local criminal court and is currently pending therein.

3. The following courts may issue material witness orders under the indicated circumstances:

(a) When an indictment has been filed, or a grand jury proceeding has been commenced, or a defendant has been held by a local criminal court for the action of a grand jury, a material witness order may be issued only by the superior court in which such indictment is pending or by which such grand jury has been or is to be impaneled;

(b) When a felony complaint is currently pending in a district court or in the New York City criminal court or before a superior court judge sitting as a local criminal court, a material witness order may be issued either by such court or by the superior court which would have jurisdiction of the case upon a holding of the defendant for the action of the grand jury;

(c) When a felony complaint is currently pending in a city court or a town court or a village court, a material witness order may be issued only by the superior court which would have jurisdiction of the case upon a holding of the defendant for the action of the grand jury.

4. Unless vacated pursuant to section 620.60, a material witness order remains in effect during the following periods of time under the indicated circumstances:

(a) An order issued by a superior court under the circumstances prescribed in paragraph (a) of subdivision three remains in effect during the pendency of the criminal action in such superior court;

(b) An order issued by a district court or the New York City criminal court or a superior court judge sitting as a local criminal court, under circumstances prescribed in paragraph (b) of subdivision three, remains in effect (i) until the disposition of the felony complaint pending in such court, and (ii) if the defendant is held for the action of a grand jury, during the pendency of the grand jury proceeding, and (iii) if an indictment results, for a period of ten days following the filing of such indictment, and (iv) if within such ten day period such order is indorsed by the superior court in which the indictment is pending, during the pendency of the action in such superior court. Upon such indorsement, the order is deemed to be that of the superior court.

(c) An order issued by a superior court under circumstances prescribed in paragraph (c) of subdivision three remains in effect (i) until the disposition of the felony complaint pending in the city, town or village court, and (ii) if the defendant is held for the action of the grand jury, during the pendency of the action in the superior court.