§ 307.3. Rules of court authorizing release before filing of petition. 1. The agency responsible for operating a detention facility pursuant to section two hundred eighteen-a of the county law, five hundred ten-a of the executive law or other applicable provisions of law, shall release a child in custody before the filing of a petition to the custody of his parents or other person legally responsible for his care, or if such legally responsible person is unavailable, to a person with whom he resides, when the events occasioning the taking into custody do not appear to involve allegations that the child committed a delinquent act.

2. When practicable such agency may release a child before the filing of a petition to the custody of his parents or other person legally responsible for his care, or if such legally responsible person is unavailable, to a person with whom he resides, when the events occasioning the taking into custody appear to involve allegations that the child committed a delinquent act.

3. If a child is released under this section, the child and the person legally responsible for his care shall be issued a family court appearance ticket in accordance with section 307.1.

4. If the agency for any reason does not release a child under this section, such child shall be brought before the appropriate family court, or when such family court is not in session, to the most accessible magistrate, if any, designated by the appellate division of the supreme court in the applicable department; provided, however, that if such family court is not in session and if a magistrate is not available, such youth shall be brought before such family court within seventy-two hours or the next day the court is in session, whichever is sooner. Such agency shall thereupon file an application for an order pursuant to section 307.4 of this part and shall forthwith serve a copy of the application upon the appropriate presentment agency. Nothing in this subdivision shall preclude the adjustment of suitable cases pursuant to section 308.1.