

19

PART JJJ

20 Section 1. Section 150.10 of the criminal procedure law is amended by  
21 adding a new subdivision 3 to read as follows:

22 3. Before issuing an appearance ticket a police officer or other  
23 public servant must inform the arrestee that they may provide their  
24 contact information for the purposes of receiving a court notification  
25 to remind them of their court appearance date from the court or a certi-  
26 fied pretrial services agency. Such contact information may include one  
27 or more phone numbers, a residential address or address at which the  
28 arrestee receives mail, or an email address. The contact information  
29 shall be recorded and be transmitted to the local criminal court as  
30 required by section 150.80 of this article.

31 § 1-a. Subdivision 1 of section 150.20 of the criminal procedure law,  
32 as amended by chapter 550 of the laws of 1987, is amended to read as  
33 follows:

34 1. (a) Whenever a police officer is authorized pursuant to section  
35 140.10 of this title to arrest a person without a warrant for an offense  
36 other than a class A, B, C or D felony or a violation of section 130.25,  
37 130.40, 205.10, 205.17, 205.19 or 215.56 of the penal law, he [may]  
38 shall, except as set out in paragraph (b) of this subdivision, subject  
39 to the provisions of subdivisions three and four of section 150.40 of  
40 this title, instead issue to and serve upon such person an appearance  
41 ticket.

42 (b) An officer is not required to issue an appearance ticket if:

43 (i) the person has one or more outstanding local criminal court or  
44 superior court warrants;

45 (ii) the person has failed to appear in court proceedings in the last  
46 two years;

47 (iii) the person has been given a reasonable opportunity to make their  
48 verifiable identity and a method of contact known, and has been unable  
49 or unwilling to do so, so that a custodial arrest is necessary to  
50 subject the individual to the jurisdiction of the court. For the  
51 purposes of this section, an officer may rely on various factors to  
52 determine a person's identity, including but not limited to personal  
53 knowledge of such person, such person's self-identification, or photo-  
54 graphic identification. There is no requirement that a person present

1 photographic identification in order to be issued an appearance ticket  
2 in lieu of arrest where the person's identity is otherwise verifiable;  
3 however, if offered by such person, an officer shall accept as evidence  
4 of identity the following: a valid driver's license or non-driver iden-  
5 tification card issued by the commissioner of motor vehicles, the feder-  
6 al government, any United States territory, commonwealth or possession,  
7 the District of Columbia, a state government or municipal government  
8 within the United States or a provincial government of the dominion of  
9 Canada; a valid passport issued by the United States government or any  
10 other country; an identification card issued by the armed forces of the  
11 United States; a public benefit card, as defined in paragraph (a) of  
12 subdivision one of section 158.00 of the penal law;

13 (iv) the person is charged with a crime between members of the same  
14 family or household, as defined in subdivision one of section 530.11 of  
15 this chapter;

16 (v) the person is charged with a crime defined in article 130 of the  
17 penal law;

18 (vi) it reasonably appears the person should be brought before the  
19 court for consideration of issuance of an order of protection, pursuant  
20 to section 530.13 of this chapter, based on the facts of the crime or  
21 offense that the officer has reasonable cause to believe occurred;

22 (vii) the person is charged with a crime for which the court may  
23 suspend or revoke his or her driver license;

24 (viii) it reasonably appears to the officer, based on the observed  
25 behavior of the individual in the present contact with the officer and  
26 facts regarding the person's condition that indicates a sign of distress  
27 to such a degree that the person would face harm without immediate  
28 medical or mental health care, that bringing the person before the court  
29 would be in such person's interest in addressing that need; provided,  
30 however, that before making the arrest, the officer shall make all  
31 reasonable efforts to assist the person in securing appropriate  
32 services.

33 § 1-b. Section 150.30 of the criminal procedure law is REPEALED.

34 § 1-c. Subdivision 1 of section 150.40 of the criminal procedure law  
35 is amended to read as follows:

36 1. An appearance ticket must be made returnable at a date as soon as  
37 possible, but in no event later than twenty days from the date of issu-  
38 ance, or at a later date, with the court's permission due to enrollment  
39 in a pre-arraignment diversion program. The appearance ticket shall be  
40 made returnable in a local criminal court designated in section 100.55  
41 of this title as one with which an information for the offense in ques-  
42 tion may be filed.

43 § 1-d. The criminal procedure law is amended by adding a new section  
44 150.80 to read as follows:

45 § 150.80 Court appearance reminders.

46 1. A police officer or other public servant who has issued and served  
47 an appearance ticket must, within twenty-four hours of issuance, file or  
48 cause to be filed with the local criminal court the appearance ticket  
49 and any contact information made available pursuant to subdivision three  
50 of section 150.10 of this article.

51 2. Upon receipt of the appearance ticket and any contact information  
52 made available pursuant to subdivision three of section 150.10 of this  
53 article, the local criminal court shall issue a court appearance remind-  
54 er and notify the arrestee of their court appearances by text message,  
55 telephone call, electronic mail, or first class mail. The local criminal  
56 court may partner with a certified pretrial services agency or agencies

1 in that county to provide such notification and shall include a copy of  
2 the appearance ticket.

3 3. A local criminal court is not required to issue a court appearance  
4 reminder if the appearance ticket requires the arrestee's appearance  
5 within seventy-two hours of its issuance, or no contact information has  
6 been provided.

7 § 1-e. Subdivisions 1, 2, 4, 5, 6, 7 and 9 of section 500.10 of the  
8 criminal procedure law are amended and a new subdivision 3-a is added to  
9 read as follows:

10 1. "Principal" means a defendant in a criminal action or proceeding,  
11 or a person adjudged a material witness therein, or any other person so  
12 involved therein that ~~he~~ the principal may by law be compelled to  
13 appear before a court for the purpose of having such court exercise  
14 control over ~~his~~ the principal's person to secure ~~his~~ the princi-  
15 pal's future attendance at the action or proceeding when required, and  
16 who in fact either is before the court for such purpose or has been  
17 before it and been subjected to such control.

18 2. "Release on own recognizance." A court releases a principal on  
19 ~~his~~ the principal's own recognizance when, having acquired control  
20 over ~~his~~ the principal's person, it permits ~~him~~ the principal to be  
21 at liberty during the pendency of the criminal action or proceeding  
22 involved upon condition that ~~he~~ the principal will appear thereat  
23 whenever ~~his~~ the principal's attendance may be required and will at  
24 all times render ~~himself~~ the principal amenable to the orders and  
25 processes of the court.

26 3-a. "Release under non-monetary conditions." A court releases a prin-  
27 cipal under non-monetary conditions when, having acquired control over a  
28 person, it authorizes the person to be at liberty during the pendency of  
29 the criminal action or proceeding involved under conditions ordered by  
30 the court, which shall be the least restrictive conditions that will  
31 reasonably assure the principal's return to court. Such conditions may  
32 include, among other conditions reasonable under the circumstances:  
33 that the principal be in contact with a pretrial services agency serving  
34 principals in that county; that the principal abide by reasonable, spec-  
35 ified restrictions on travel that are reasonably related to an actual  
36 risk of flight from the jurisdiction; that the principal refrain from  
37 possessing a firearm, destructive device or other dangerous weapon;  
38 that, when it is shown pursuant to subdivision four of section 510.45 of  
39 this title that no other realistic monetary condition or set of non-mon-  
40 etary conditions will suffice to reasonably assure the person's return  
41 to court, the person be placed in reasonable pretrial supervision with a  
42 pretrial services agency serving principals in that county; that, when  
43 it is shown pursuant to paragraph (a) of subdivision four of section  
44 510.40 of this title that no other realistic non-monetary condition or  
45 set of non-monetary conditions will suffice to reasonably assure the  
46 principal's return to court, the principal's location be monitored with  
47 an approved electronic monitoring device, in accordance with such subdi-  
48 vision four of section 510.40 of this title. A principal shall not be  
49 required to pay for any part of the cost of release on non-monetary  
50 conditions.

51 4. "Commit to the custody of the sheriff." A court commits a principal  
52 to the custody of the sheriff when, having acquired control over ~~his~~  
53 the principal's person, it orders that ~~he~~ the principal be confined in  
54 the custody of the sheriff during the pendency of the criminal action or  
55 proceeding involved.

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1 5. "Securing order" means an order of a court committing a principal  
 2 to the custody of the sheriff[~~;~~] or fixing bail, where authorized, or  
 3 releasing [~~him on his~~] the principal on the principal's own recognizance  
 4 or releasing the principal under non-monetary conditions.

5 6. "Order of recognizance or bail" means a securing order releasing a  
 6 principal on [~~his~~] the principal's own recognizance or under non-mone-  
 7 tary conditions or, where authorized, fixing bail.

8 7. "Application for recognizance or bail" means an application by a  
 9 principal that the court, instead of committing [~~him~~] the principal to  
 10 or retaining [~~him~~] the principal in the custody of the sheriff, either  
 11 release [~~him on his own~~] the principal on the principal's own recogni-  
 12 zance [~~or~~], release under non-monetary conditions, or, where authorized,  
 13 fix bail.

14 9. "Bail" means cash bail [~~or~~], a bail bond or money paid with a cred-  
 15 it card.

16 § 1-f. Section 500.10 of the criminal procedure law is amended by  
 17 adding two new subdivisions 21 and 22 to read as follows:

18 21. "Qualifies for electronic monitoring," for purposes of subdivision  
 19 four of section 510.40 of this title, means a person charged with a  
 20 felony, a misdemeanor crime of domestic violence, a misdemeanor defined  
 21 in article one hundred thirty of the penal law, a crime and the circum-  
 22 stances of paragraph (b) of subdivision two of section 530.60 of this  
 23 title apply, or any misdemeanor where the defendant stands previously  
 24 convicted, within the past five years, of a violent felony offense as  
 25 defined in section 70.02 of the penal law. For the purposes of this  
 26 subdivision, in calculating such five year period, any period of time  
 27 during which the defendant was incarcerated for any reason between the  
 28 time of the commission of any such previous crime and the time of  
 29 commission of the present crime shall be excluded and such five year  
 30 period shall be extended by a period or periods equal to the time served  
 31 under such incarceration.

32 22. "Misdemeanor crime of domestic violence," for purposes of subdivi-  
 33 sion twenty-one of this section, means a misdemeanor under the penal law  
 34 provisions and circumstances described in subdivision one of section  
 35 530.11 of this title.

36 § 2. Section 510.10 of the criminal procedure law, as amended by chap-  
 37 ter 459 of the laws of 1984, is amended to read as follows:

38 § 510.10 Securing order; when required; alternatives available; standard  
 39 to be applied.

40 1. When a principal, whose future court attendance at a criminal  
 41 action or proceeding is or may be required, [~~initially~~] comes under the  
 42 control of a court, such court [~~must~~] shall, in accordance with this  
 43 title, by a securing order[~~;~~~~either~~] release [~~him~~] the principal on  
 44 [~~his~~] the principal's own recognizance, release the principal under  
 45 non-monetary conditions, or, where authorized, fix bail or commit [~~him~~]  
 46 the principal to the custody of the sheriff. In all such cases, except  
 47 where another type of securing order is shown to be required by law, the  
 48 court shall release the principal pending trial on the principal's own  
 49 recognizance, unless it is demonstrated and the court makes an individ-  
 50 ualized determination that the principal poses a risk of flight to avoid  
 51 prosecution. If such a finding is made, the court must select the least  
 52 restrictive alternative and condition or conditions that will reasonably  
 53 assure the principal's return to court. The court shall explain its  
 54 choice of release, release with conditions, bail or remand on the record  
 55 or in writing.

1 2. A principal is entitled to representation by counsel under this  
2 chapter in preparing an application for release, when a securing order  
3 is being considered and when a securing order is being reviewed for  
4 modification, revocation or termination. If the principal is financially  
5 unable to obtain counsel, counsel shall be assigned to the principal.

6 3. In cases other than as described in subdivision four of this  
7 section the court shall release the principal pending trial on the prin-  
8 cipal's own recognizance, unless the court finds on the record or in  
9 writing that release on the principal's own recognizance will not  
10 reasonably assure the principal's return to court. In such instances,  
11 the court shall release the principal under non-monetary conditions,  
12 selecting the least restrictive alternative and conditions that will  
13 reasonably assure the principal's return to court. The court shall  
14 explain its choice of alternative and conditions on the record or in  
15 writing.

16 4. Where the principal stands charged with a qualifying offense, the  
17 court, unless otherwise prohibited by law, may in its discretion release  
18 the principal pending trial on the principal's own recognizance or under  
19 non-monetary conditions, fix bail, or, where the defendant is charged  
20 with a qualifying offense which is a felony, the court may commit the  
21 principal to the custody of the sheriff. A principal stands charged with  
22 a qualifying offense for the purposes of this subdivision when he or she  
23 stands charged with:

24 (a) a felony enumerated in section 70.02 of the penal law, other than  
25 burglary in the second degree as defined in subdivision two of section  
26 140.25 of the penal law or robbery in the second degree as defined in  
27 subdivision one of section 160.10 of the penal law;

28 (b) a crime involving witness intimidation under section 215.15 of the  
29 penal law;

30 (c) a crime involving witness tampering under section 215.11, 215.12  
31 or 215.13 of the penal law;

32 (d) a class A felony defined in the penal law, other than in article  
33 two hundred twenty of such law with the exception of section 220.77 of  
34 such law;

35 (e) a felony sex offense defined in section 70.80 of the penal law or  
36 a crime involving incest as defined in section 255.25, 255.26 or 255.27  
37 of such law, or a misdemeanor defined in article one hundred thirty of  
38 such law;

39 (f) conspiracy in the second degree as defined in section 105.15 of  
40 the penal law, where the underlying allegation of such charge is that  
41 the defendant conspired to commit a class A felony defined in article  
42 one hundred twenty-five of the penal law;

43 (g) money laundering in support of terrorism in the first degree as  
44 defined in section 470.24 of the penal law; money laundering in support  
45 of terrorism in the second degree as defined in section 470.23 of the  
46 penal law; or a felony crime of terrorism as defined in article four  
47 hundred ninety of the penal law, other than the crime defined in section  
48 490.20 of such law;

49 (h) criminal contempt in the second degree as defined in subdivision  
50 three of section 215.50 of the penal law, criminal contempt in the first  
51 degree as defined in subdivision (b), (c) or (d) of section 215.51 of  
52 the penal law or aggravated criminal contempt as defined in section  
53 215.52 of the penal law, and the underlying allegation of such charge of  
54 criminal contempt in the second degree, criminal contempt in the first  
55 degree or aggravated criminal contempt is that the defendant violated a  
56 duly served order of protection where the protected party is a member of

1 the defendant's same family or household as defined in subdivision one  
2 of section 530.11 of this article; or

3 (i) facilitating a sexual performance by a child with a controlled  
4 substance or alcohol as defined in section 263.30 of the penal law, use  
5 of a child in a sexual performance as defined in section 263.05 of the  
6 penal law or luring a child as defined in subdivision one of section  
7 120.70 of the penal law.

8 5. Notwithstanding the provisions of subdivisions three and four of  
9 this section, with respect to any charge for which bail or remand is not  
10 ordered, and for which the court would not or could not otherwise  
11 require bail or remand, a defendant may, at any time, request that the  
12 court set bail in a nominal amount requested by the defendant in the  
13 form specified in paragraph (a) of subdivision one of section 520.10 of  
14 this title; if the court is satisfied that the request is voluntary, the  
15 court shall set such bail in such amount.

16 6. When a securing order is revoked or otherwise terminated in the  
17 course of an uncompleted action or proceeding but the principal's future  
18 court attendance still is or may be required and [he] the principal is  
19 still under the control of a court, a new securing order must be issued.  
20 When the court revokes or otherwise terminates a securing order which  
21 committed the principal to the custody of the sheriff, the court shall  
22 give written notification to the sheriff of such revocation or termi-  
23 nation of the securing order.

24 § 3. Section 510.20 of the criminal procedure law is amended to read  
25 as follows:

26 § 510.20 Application for [~~recognizance or bail; making and determi-~~  
27 nation thereof in general] a change in securing order.

28 1. Upon any occasion when a court [~~is required to issue] has issued a~~  
29 securing order with respect to a principal[~~, or at any time when a] and~~  
30 the principal is confined in the custody of the sheriff as a result of  
31 the securing order or a previously issued securing order, [he] the prin-  
32 cipal may make an application for recognizance, release under non-mone-  
33 tary conditions or bail.

34 2. (a) The principal is entitled to representation by counsel in the  
35 making and presentation of such application. If the principal is finan-  
36 cially unable to obtain counsel, counsel shall be assigned to the prin-  
37 cipal.

38 (b). Upon such application, the principal must be accorded an opportu-  
39 nity to be heard, present evidence and to contend that an order of  
40 recognizance, release under non-monetary conditions or, where author-  
41 ized, bail must or should issue, that the court should release [~~him or~~  
42 his] the principal on the principal's own recognizance or under non-mon-  
43 etary conditions rather than fix bail, and that if bail is authorized  
44 and fixed it should be in a suggested amount and form.

45 § 4. Intentionally omitted.

46 § 5. Section 510.30 of the criminal procedure law, subparagraph (v) of  
47 paragraph (a) of subdivision 2 as amended by chapter 920 of the laws of  
48 1982, subparagraph (vi) of paragraph (a) of subdivision 2 as renumbered  
49 by chapter 447 of the laws of 1977, subparagraph (vii) as added and  
50 subparagraphs (viii) and (ix) of paragraph (a) of subdivision 2 as  
51 renumbered by section 1 of part D of chapter 491 of the laws of 2012,  
52 and subdivision 3 as added by chapter 788 of the laws of 1981, is  
53 amended to read as follows:

54 § 510.30 Application for [~~recognizance or bail] securing order; rules of~~  
55 law and criteria controlling determination.

1 ~~1. [Determinations of applications for recognizance or bail are not in~~  
2 ~~all cases discretionary but are subject to rules, prescribed in article~~  
3 ~~five hundred thirty and other provisions of law relating to specific~~  
4 ~~kinds of criminal actions and proceedings, providing (a) that in some~~  
5 ~~circumstances such an application must as a matter of law be granted,~~  
6 ~~(b) that in others it must as a matter of law be denied and the princi-~~  
7 ~~pal committed to or retained in the custody of the sheriff, and (c) that~~  
8 ~~in others the granting or denial thereof is a matter of judicial~~  
9 ~~discretion.~~

10 ~~2. To the extent that the issuance of an order of recognizance or bail~~  
11 ~~and the terms thereof are matters of discretion rather than of law, an~~  
12 ~~application is determined on the basis of the following factors and~~  
13 ~~criteria:~~

14 ~~(a)]~~ With respect to any principal, the court in all cases, unless  
15 otherwise provided by law, must ~~[consider the]~~ impose the least restric-  
16 tive kind and degree of control or restriction that is necessary to  
17 secure ~~[his court attendance]~~ the principal's return to court when  
18 required. In determining that matter, the court must, on the basis of  
19 available information, consider and take into account[+  
20 ~~(i) The principal's character, reputation, habits and mental condi-~~  
21 ~~tion;~~  
22 ~~(ii) His employment and financial resources; and~~  
23 ~~(iii) His family ties and the length of his residence if any in the~~  
24 ~~community; and~~  
25 ~~(iv) His]~~ information about the principal that is relevant to the  
26 principal's return to court, including:  
27 (a) The principal's activities and history;  
28 (b) If the principal is a defendant, the charges facing the principal;  
29 (c) The principal's criminal conviction record if any; [and  
30 ~~(v) His]~~ (d) The principal's record of previous adjudication as a  
31 juvenile delinquent, as retained pursuant to section 354.2 of the family  
32 court act, or, of pending cases where fingerprints are retained pursuant  
33 to section 306.1 of such act, or a youthful offender, if any; [and  
34 ~~(vi) His]~~ (e) The principal's previous record ~~[if any in responding to~~  
35 ~~court appearances when required or]~~ with respect to flight to avoid  
36 criminal prosecution; [and  
37 ~~(vii)]~~ (f) If monetary bail is authorized, according to the  
38 restrictions set forth in this title, the principal's individual finan-  
39 cial circumstances, and, in cases where bail is authorized, the princi-  
40 pal's ability to post bail without posing undue hardship, as well as his  
41 or her ability to obtain a secured, unsecured, or partially secured  
42 bond;  
43 (g). Where the principal is charged with a crime or crimes against a  
44 member or members of the same family or household as that term is  
45 defined in subdivision one of section 530.11 of this title, the follow-  
46 ing factors:  
47 ~~[(A)]~~ (i) any violation by the principal of an order of protection  
48 issued by any court for the protection of a member or members of the  
49 same family or household as that term is defined in subdivision one of  
50 section 530.11 of this title, whether or not such order of protection is  
51 currently in effect; and  
52 ~~[(B)]~~ (ii) the principal's history of use or possession of a firearm;  
53 and  
54 ~~[(viii)]~~ (h) If ~~[he]~~ the principal is a defendant, ~~[the weight of the~~  
55 ~~evidence against him in the pending criminal action and any other factor~~  
56 ~~indicating probability or improbability of conviction; or,]~~ in the case

1 of an application for ~~[bail or recognizance]~~ a securing order pending  
 2 appeal, the merit or lack of merit of the appeal ~~;~~ and  
 3 ~~(ix) If he is a defendant, the sentence which may be or has been~~  
 4 ~~imposed upon conviction].~~

5 ~~(b)~~ 2. Where the principal is a defendant-appellant in a pending  
 6 appeal from a judgment of conviction, the court must also consider the  
 7 likelihood of ultimate reversal of the judgment. A determination that  
 8 the appeal is palpably without merit alone justifies, but does not  
 9 require, a denial of the application, regardless of any determination  
 10 made with respect to the factors specified in ~~[paragraph (a)]~~ subdivi-  
 11 sion one of this section.

12 3. When bail or recognizance is ordered, the court shall inform the  
 13 principal, if ~~[he]~~ the principal is a defendant charged with the commis-  
 14 sion of a felony, that the release is conditional and that the court may  
 15 revoke the order of release and may be authorized to commit the princi-  
 16 pal to the custody of the sheriff in accordance with the provisions of  
 17 subdivision two of section 530.60 of this chapter if ~~[he]~~ the principal  
 18 commits a subsequent felony while at liberty upon such order.

19 § 6. Section 510.40 of the criminal procedure law is amended to read  
 20 as follows:

21 § 510.40 ~~[Application for recognizance or bail; determination thereof;~~  
 22 ~~form of securing order and execution thereof]~~ Court notifi-  
 23 cation to principal of conditions of release and of alleged  
 24 violations of conditions of release.

25 1. ~~[An application for recognizance or bail must be determined by a~~  
 26 ~~securing order which either:~~

27 ~~(a) Grants the application and releases the principal on his own~~  
 28 ~~recognizance; or~~

29 ~~(b) Grants the application and fixes bail; or~~

30 ~~(c) Denies the application and commits the principal to, or retains~~  
 31 ~~him in, the custody of the sheriff.~~

32 2. Upon ordering that a principal be released on ~~[his]~~ the princi-  
 33 pal's own recognizance, or released under non-monetary conditions, or,  
 34 if bail has been fixed, upon the posting of bail, the court must direct  
 35 ~~[him]~~ the principal to appear in the criminal action or proceeding  
 36 involved whenever ~~[his]~~ the principal's attendance may be required and  
 37 to ~~[render himself]~~ be at all times amenable to the orders and processes  
 38 of the court. If such principal is in the custody of the sheriff or at  
 39 liberty upon bail at the time of the order, the court must direct that  
 40 ~~[he]~~ the principal be discharged from such custody or, as the case may  
 41 be, that ~~[his]~~ the principal's bail be exonerated.

42 ~~[3-]~~ 2. Upon the issuance of an order fixing bail, where authorized,  
 43 and upon the posting thereof, the court must examine the bail to deter-  
 44 mine whether it complies with the order. If it does, the court must, in  
 45 the absence of some factor or circumstance which in law requires or  
 46 authorizes disapproval thereof, approve the bail and must issue a  
 47 certificate of release, authorizing the principal to be at liberty, and,  
 48 if ~~[he]~~ the principal is in the custody of the sheriff at the time,  
 49 directing the sheriff to discharge ~~[him]~~ the principal therefrom. If  
 50 the bail fixed is not posted, or is not approved after being posted, the  
 51 court must order that the principal be committed to the custody of the  
 52 sheriff. In the event of any such non-approval, the court shall explain  
 53 promptly in writing the reasons therefor.

54 3. Non-monetary conditions of release shall be individualized and  
 55 established in writing by the court. At future court appearances, the  
 56 court shall consider a lessening of conditions or modification of condi-

1 tions to a less burdensome form based on the principal's compliance with  
2 such conditions of release. In the event of alleged non-compliance with  
3 the conditions of release in an important respect, pursuant to this  
4 subdivision, additional conditions may be imposed by the court, on the  
5 record or in writing, only after notice of the facts and circumstances  
6 of such alleged non-compliance, reasonable under the circumstances,  
7 affording the principal and the principal's attorney and the people an  
8 opportunity to present relevant, admissible evidence, relevant witnesses  
9 and to cross-examine witnesses, and a finding by clear and convincing  
10 evidence that the principal violated a condition of release in an impor-  
11 tant respect. Following such a finding, in determining whether to  
12 impose additional conditions for non-compliance, the court shall consid-  
13 er and may select conditions consistent with the court's obligation to  
14 impose the least restrictive condition or conditions that will reason-  
15 ably assure the defendant's return to court. The court shall explain on  
16 the record or in writing the reasons for its determination and for any  
17 changes to the conditions imposed.

18 4. (a) Electronic monitoring of a principal's location may be ordered  
19 only if the court finds, after notice, an opportunity to be heard and an  
20 individualized determination explained on the record or in writing, that  
21 the defendant qualifies for electronic monitoring in accordance with  
22 subdivision twenty-one of section 500.10 of this title, and no other  
23 realistic non-monetary condition or set of non-monetary conditions will  
24 suffice to reasonably assure a principal's return to court.

25 (b) The specific method of electronic monitoring of the principal's  
26 location must be approved by the court. It must be the least restric-  
27 tive procedure and method that will reasonably assure the principal's  
28 return to court, and unobtrusive to the greatest extent practicable.

29 (c) Electronic monitoring of the location of a principal may be  
30 conducted only by a public entity under the supervision and control of a  
31 county or municipality or a non-profit entity under contract to the  
32 county, municipality or the state. A county or municipality shall be  
33 authorized to enter into a contract with another county or municipality  
34 in the state to monitor principals under non-monetary conditions of  
35 release in its county, but counties, municipalities and the state shall  
36 not contract with any private for-profit entity for such purposes.

37 (d) Electronic monitoring of a principal's location may be for a maxi-  
38 mum period of sixty days, and may be renewed for such period, after  
39 notice, an opportunity to be heard and a de novo, individualized deter-  
40 mination in accordance with this subdivision, which shall be explained  
41 on the record or in writing.

42 A defendant subject to electronic location monitoring under this  
43 subdivision shall be considered held or confined in custody for purposes  
44 of section 180.80 of this chapter and shall be considered committed to  
45 the custody of the sheriff for purposes of section 170.70 of the chap-  
46 ter, as applicable.

47 5. If a principal is released under non-monetary conditions, the court  
48 shall, on the record and in an individualized written document provided  
49 to the principal, notify the principal, in plain language and a manner  
50 sufficiently clear and specific:

51 (a) of any conditions to which the principal is subject, to serve as a  
52 guide for the principal's conduct; and

53 (b) that the possible consequences for violation of such a condition  
54 may include revocation of the securing order and the ordering of a more  
55 restrictive securing order.

1 § 7. The criminal procedure law is amended by adding a new section  
2 510.43 to read as follows:

3 § 510.43 Court appearances: additional notifications.

4 The court or, upon direction of the court, a certified pretrial  
5 services agency, shall notify all principals released under non-monetary  
6 conditions and on recognizance of all court appearances in advance by  
7 text message, telephone call, electronic mail or first class mail. The  
8 chief administrator of the courts shall, pursuant to subdivision one of  
9 section 10.40 of this chapter, develop a form which shall be offered to  
10 the principal at court appearances. On such form, which upon completion  
11 shall be retained in the court file, the principal may select one such  
12 preferred manner of notice.

13 § 8. The criminal procedure law is amended by adding a new section  
14 510.45 to read as follows:

15 § 510.45 Pretrial services agencies.

16 1. The office of court administration shall certify and regularly  
17 review for recertification one or more pretrial services agencies in  
18 each county to monitor principals released under non-monetary condi-  
19 tions. Such office shall maintain a listing on its public website iden-  
20 tifying by county each pretrial services agency so certified in the  
21 state.

22 2. Every such agency shall be a public entity under the supervision  
23 and control of a county or municipality or a non-profit entity under  
24 contract to the county, municipality or the state. A county or munici-  
25 pality shall be authorized to enter into a contract with another county  
26 or municipality in the state to monitor principals under non-monetary  
27 conditions of release in its county, but counties, municipalities and  
28 the state shall not contract with any private for-profit entity for such  
29 purposes.

30 3. (a) Any questionnaire, instrument or tool used with a principal in  
31 the process of considering or determining the principal's possible  
32 release on recognizance, release under non-monetary conditions or on  
33 bail, or used with a principal in the process of considering or deter-  
34 mining a condition or conditions of release or monitoring by a pretrial  
35 services agency, shall be promptly made available to the principal and  
36 the principal's counsel upon written request. Any such blank form ques-  
37 tionnaire, instrument or tool regularly used in the county for such  
38 purpose or a related purpose shall be made available to any person  
39 promptly upon request.

40 (b) Any such questionnaire, instrument or tool used to inform determi-  
41 nations on release or conditions of release shall be:

42 (i) designed and implemented in a way that ensures the results are  
43 free from discrimination on the basis of race, national origin, sex, or  
44 any other protected class; and

45 (ii) empirically validated and regularly revalidated, with such vali-  
46 dation and revalidation studies and all underlying data, except personal  
47 identifying information for any defendant, publicly available upon  
48 request.

49 4. Supervision by a pre-trial services agency may be ordered as a  
50 non-monetary condition pursuant to this title only if the court finds,  
51 after notice, an opportunity to be heard and an individualized determi-  
52 nation explained on the record or in writing, that no other realistic  
53 non-monetary condition or set of non-monetary conditions will suffice to  
54 reasonably assure the principal's return to court.

55 5. Each pretrial service agency certified by the office of court  
56 administration pursuant to this section shall at the end of each year

1 prepare and file with such office an annual report, which the office  
2 shall compile, publish on its website and make available upon request to  
3 members of the public. Such reports shall not include any personal iden-  
4 tifying information for any individual defendants. Each such report, in  
5 addition to other relevant information, shall set forth, disaggregated  
6 by each county served:

7 (a) the number of defendants supervised by the agency;

8 (b) the length of time (in months) each such person was supervised by  
9 the agency prior to acquittal, dismissal, release on recognizance, revo-  
10 cation of release on conditions, and sentencing;

11 (c) the race, ethnicity, age and sex of each person supervised;

12 (d) the crimes with which each person supervised was charged;

13 (e) the number of persons supervised for whom release conditions were  
14 modified by the court, describing generally for each person or group of  
15 persons the type and nature of the condition or conditions added or  
16 removed;

17 (f) the number of persons supervised for whom release under conditions  
18 was revoked by the court, and the basis for such revocations; and

19 (g) the court disposition in each supervised case, including sentenc-  
20 ing information.

21 § 9. Section 510.50 of the criminal procedure law is amended to read  
22 as follows:

23 § 510.50 Enforcement of securing order.

24 1. When the attendance of a principal confined in the custody of the  
25 sheriff is required at the criminal action or proceeding at a particular  
26 time and place, the court may compel such attendance by directing the  
27 sheriff to produce [~~him~~] the principal at such time and place. If the  
28 principal is at liberty on [~~his~~] the principal's own recognizance or  
29 non-monetary conditions or on bail, [~~his~~] the principal's attendance  
30 may be achieved or compelled by various methods, including notification  
31 and the issuance of a bench warrant, prescribed by law in provisions  
32 governing such matters with respect to the particular kind of action or  
33 proceeding involved.

34 2. Except when the principal is charged with a new crime while at  
35 liberty, absent relevant, credible evidence demonstrating that a princi-  
36 pal's failure to appear for a scheduled court appearance was willful,  
37 the court, prior to issuing a bench warrant for a failure to appear for  
38 a scheduled court appearance, shall provide at least forty-eight hours  
39 notice to the principal or the principal's counsel that the principal is  
40 required to appear, in order to give the principal an opportunity to  
41 appear voluntarily.

42 § 10. Paragraph (b) of subdivision 2 of section 520.10 of the criminal  
43 procedure law, as amended by chapter 784 of the laws of 1972, is amended  
44 to read as follows:

45 (b) The court [~~may~~] shall direct that the bail be posted in any one of  
46 [~~two~~] three or more of the forms specified in subdivision one of this  
47 section, designated in the alternative, and may designate different  
48 amounts varying with the forms[;], except that one of the forms shall be  
49 either an unsecured or partially secured surety bond, as selected by the  
50 court.

51 § 11. Section 530.10 of the criminal procedure law is amended to read  
52 as follows:

53 § 530.10 Order of recognizance release under non-monetary conditions or  
54 bail; in general.

55 Under circumstances prescribed in this article, a court, upon applica-  
56 tion of a defendant charged with or convicted of an offense, is required

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1 ~~[or authorized to order bail or recognizance]~~ to issue a securing order  
2 for ~~[the release or prospective release of]~~ such defendant during the  
3 pendency of either:

- 4 1. A criminal action based upon such charge; or
- 5 2. An appeal taken by the defendant from a judgment of conviction or  
6 a sentence or from an order of an intermediate appellate court affirming  
7 or modifying a judgment of conviction or a sentence.

8 § 12. Subdivision 4 of section 530.11 of the criminal procedure law,  
9 as added by chapter 186 of the laws of 1997, is amended to read as  
10 follows:

11 4. When a person is arrested for an alleged family offense or an  
12 alleged violation of an order of protection or temporary order of  
13 protection or arrested pursuant to a warrant issued by the supreme or  
14 family court, and the supreme or family court, as applicable, is not in  
15 session, such person shall be brought before a local criminal court in  
16 the county of arrest or in the county in which such warrant is return-  
17 able pursuant to article one hundred twenty of this chapter. Such local  
18 criminal court may issue any order authorized under subdivision eleven  
19 of section 530.12 of this article, section one hundred fifty-four-d or  
20 one hundred fifty-five of the family court act or subdivision three-b of  
21 section two hundred forty or subdivision two-a of section two hundred  
22 fifty-two of the domestic relations law, in addition to discharging  
23 other arraignment responsibilities as set forth in this chapter. In  
24 making such order, the local criminal court shall consider de novo the  
25 ~~[bail]~~ recommendation and securing order, if any, made by the supreme or  
26 family court as indicated on the warrant or certificate of warrant.  
27 Unless the petitioner or complainant requests otherwise, the court, in  
28 addition to scheduling further criminal proceedings, if any, regarding  
29 such alleged family offense or violation allegation, shall make such  
30 matter returnable in the supreme or family court, as applicable, on the  
31 next day such court is in session.

32 § 13. Paragraph (a) of subdivision 8 of section 530.13 of the criminal  
33 procedure law, as added by chapter 388 of the laws of 1984, is amended  
34 to read as follows:

35 (a) revoke an order of recognizance, release under non-monetary condi-  
36 tions or bail and commit the defendant to custody; or

37 § 14. The opening paragraph of subdivision 1 of section 530.13 of the  
38 criminal procedure law, as amended by chapter 137 of the laws of 2007,  
39 is amended to read as follows:

40 When any criminal action is pending, and the court has not issued a  
41 temporary order of protection pursuant to section 530.12 of this arti-  
42 cle, the court, in addition to the other powers conferred upon it by  
43 this chapter, may for good cause shown issue a temporary order of  
44 protection in conjunction with any securing order ~~[committing the~~  
45 ~~defendant to the custody of the sheriff or as a condition of a pre trial~~  
46 ~~release, or as a condition of release on bail]~~ or an adjournment in  
47 contemplation of dismissal. In addition to any other conditions, such an  
48 order may require that the defendant:

49 § 15. Subdivision 11 of section 530.12 of the criminal procedure law,  
50 as amended by chapter 498 of the laws of 1993, the opening paragraph as  
51 amended by chapter 597 of the laws of 1998, paragraph (a) as amended by  
52 chapter 222 of the laws of 1994, paragraph (d) as amended by chapter 644  
53 of the laws of 1996, is amended to read as follows:

54 11. If a defendant is brought before the court for failure to obey any  
55 lawful order issued under this section, or an order of protection issued  
56 by a court of competent jurisdiction in another state, territorial or

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1 tribal jurisdiction, and if, after hearing, the court is satisfied by  
2 competent proof that the defendant has willfully failed to obey any such  
3 order, the court may:

4 (a) revoke an order of recognizance or release under non-monetary  
5 conditions or revoke an order of bail or order forfeiture of such bail  
6 and commit the defendant to custody; or

7 (b) restore the case to the calendar when there has been an adjourn-  
8 ment in contemplation of dismissal and commit the defendant to custody;  
9 or

10 (c) revoke a conditional discharge in accordance with section 410.70  
11 of this chapter and impose probation supervision or impose a sentence of  
12 imprisonment in accordance with the penal law based on the original  
13 conviction; or

14 (d) revoke probation in accordance with section 410.70 of this chapter  
15 and impose a sentence of imprisonment in accordance with the penal law  
16 based on the original conviction. In addition, if the act which consti-  
17 tutes the violation of the order of protection or temporary order of  
18 protection is a crime or a violation the defendant may be charged with  
19 and tried for that crime or violation.

20 § 16. Section 530.20 of the criminal procedure law, as amended by  
21 chapter 531 of the laws of 1975, subparagraph (ii) of paragraph (b) of  
22 subdivision 2 as amended by chapter 218 of the laws of 1979, is amended  
23 to read as follows:

24 § 530.20 [~~Order of recognizance or bail~~] Securing order by local crimi-  
25 nal court when action is pending therein.

26 When a criminal action is pending in a local criminal court, such  
27 court, upon application of a defendant, [~~must or may order recognizance~~  
28 ~~or bail~~] shall proceed as follows:

29 1. [~~When the defendant is charged, by information, simplified informa-~~  
30 ~~tion, prosecutor's information or misdemeanor complaint, with an offense~~  
31 ~~or offenses of less than felony grade only, the court must order recog-~~  
32 ~~nizance or bail.~~] (a) In cases other than as described in paragraph (b)  
33 of this subdivision the court shall release the principal pending trial  
34 on the principal's own recognizance, unless the court finds on the  
35 record or in writing that release on the principal's own recognizance  
36 will not reasonably assure the principal's return to court. In such  
37 instances, the court shall release the principal under non-monetary  
38 conditions, selecting the least restrictive alternative and conditions  
39 that will reasonably assure the principal's return to court. The court  
40 shall explain its choice of alternative and conditions on the record or  
41 in writing.

42 (b) Where the principal stands charged with a qualifying offense, the  
43 court, unless otherwise prohibited by law, may in its discretion release  
44 the principal pending trial on the principal's own recognizance or under  
45 non-monetary conditions, fix bail, or, where the defendant is charged  
46 with a qualifying offense which is a felony, the court may commit the  
47 principal to the custody of the sheriff. The court shall explain its  
48 choice of release, release with conditions, bail or remand on the record  
49 or in writing. A principal stands charged with a qualifying offense when  
50 he or she stands charged with:

51 (i) a felony enumerated in section 70.02 of the penal law, other than  
52 burglary in the second degree as defined in subdivision two of section  
53 140.25 of the penal law or robbery in the second degree as defined in  
54 subdivision one of section 160.10 of the penal law;

55 (ii) a crime involving witness intimidation under section 215.15 of  
56 the penal law;

1 (iii) a crime involving witness tampering under section 215.11, 215.12  
2 or 215.13 of the penal law;

3 (iv) a class A felony defined in the penal law, other than in article  
4 two hundred twenty of such law with the exception of section 220.77 of  
5 such law;

6 (v) a felony sex offense defined in section 70.80 of the penal law or  
7 a crime involving incest as defined in section 255.25, 255.26 or 255.27  
8 of such law, or a misdemeanor defined in article one hundred thirty of  
9 such law;

10 (vi) conspiracy in the second degree as defined in section 105.15 of  
11 the penal law, where the underlying allegation of such charge is that  
12 the defendant conspired to commit a class A felony defined in article  
13 one hundred twenty-five of the penal law;

14 (vii) money laundering in support of terrorism in the first degree as  
15 defined in section 470.24 of the penal law; money laundering in support  
16 of terrorism in the second degree as defined in section 470.23 of the  
17 penal law; or a felony crime of terrorism as defined in article four  
18 hundred ninety of the penal law, other than the crime defined in section  
19 490.20 of such law;

20 (viii) criminal contempt in the second degree as defined in subdivi-  
21 sion three of section 215.50 of the penal law, criminal contempt in the  
22 first degree as defined in subdivision (b), (c) or (d) of section 215.51  
23 of the penal law or aggravated criminal contempt as defined in section  
24 215.52 of the penal law, and the underlying allegation of such charge of  
25 criminal contempt in the second degree, criminal contempt in the first  
26 degree or aggravated criminal contempt is that the defendant violated a  
27 duly served order of protection where the protected party is a member of  
28 the defendant's same family or household as defined in subdivision one  
29 of section 530.11 of this article; or

30 (ix) facilitating a sexual performance by a child with a controlled  
31 substance or alcohol as defined in section 263.30 of the penal law, use  
32 of a child in a sexual performance as defined in section 263.05 of the  
33 penal law or luring a child as defined in subdivision one of section  
34 120.70 of the penal law.

35 (d) Notwithstanding the provisions of paragraphs (a) and (b) of this  
36 subdivision, with respect to any charge for which bail or remand is not  
37 ordered, and for which the court would not or could not otherwise  
38 require bail or remand, a defendant may, at any time, request that the  
39 court set bail in a nominal amount requested by the defendant in the  
40 form specified in paragraph (a) of subdivision one of section 520.10 of  
41 this title; if the court is satisfied that the request is voluntary, the  
42 court shall set such bail in such amount.

43 2. When the defendant is charged, by felony complaint, with a felony,  
44 the court may, in its discretion, order recognizance, release under  
45 non-monetary conditions, or, where authorized, bail or commit the  
46 defendant to the custody of the sheriff except as otherwise provided in  
47 subdivision one of this section or this subdivision:

48 (a) A city court, a town court or a village court may not order recog-  
49 nizance or bail when (i) the defendant is charged with a class A felony,  
50 or (ii) ~~it appears that~~ the defendant has two previous felony  
51 convictions;

52 (b) No local criminal court may order recognizance, release under  
53 non-monetary conditions or bail with respect to a defendant charged with  
54 a felony unless and until:

55 (i) The district attorney has been heard in the matter or, after  
56 knowledge or notice of the application and reasonable opportunity to be

1 heard, has failed to appear at the proceeding or has otherwise waived  
2 his right to do so; and

3 (ii) The court [~~has~~] and counsel for the defendant have been furnished  
4 with a report of the division of criminal justice services concerning  
5 the defendant's criminal record, if any, or with a police department  
6 report with respect to the defendant's prior arrest and conviction  
7 record, if any. If neither report is available, the court, with the  
8 consent of the district attorney, may dispense with this requirement;  
9 provided, however, that in an emergency, including but not limited to a  
10 substantial impairment in the ability of such division or police depart-  
11 ment to timely furnish such report, such consent shall not be required  
12 if, for reasons stated on the record, the court deems it unnecessary.  
13 When the court has been furnished with any such report or record, it  
14 shall furnish a copy thereof to counsel for the defendant or, if the  
15 defendant is not represented by counsel, to the defendant.

16 § 17. The section heading and subdivisions 1 and 2 of section 530.30  
17 of the criminal procedure law, subdivision 2 as amended by chapter 762  
18 of the laws of 1971, are amended to read as follows:

19 Order of recognizance, release under non-monetary conditions or bail; by  
20 superior court judge when action is pending in local criminal  
21 court.

22 1. When a criminal action is pending in a local criminal court, other  
23 than one consisting of a superior court judge sitting as such, a judge  
24 of a superior court holding a term thereof in the county, upon applica-  
25 tion of a defendant, may order recognizance, release under non-monetary  
26 conditions or, where authorized, bail when such local criminal court:

27 (a) Lacks authority to issue such an order, pursuant to [~~paragraph (a)~~  
28 ~~of subdivision two~~] the relevant provisions of section 530.20 of this  
29 article; or

30 (b) Has denied an application for recognizance, release under non-mon-  
31 etary conditions or bail; or

32 (c) Has fixed bail, where authorized, which is excessive; or

33 (d) Has set a securing order of release under non-monetary conditions  
34 which are more restrictive than necessary to reasonably assure the  
35 defendant's return to court.

36 In such case, such superior court judge may vacate the order of such  
37 local criminal court and release the defendant on [~~his own~~] recognizance  
38 or under non-monetary conditions, or where authorized, fix bail in a  
39 lesser amount or in a less burdensome form, whichever are the least  
40 restrictive alternative and conditions that will reasonably assure the  
41 defendant's return to court. The court shall explain its choice of  
42 alternative and conditions on the record or in writing.

43 2. Notwithstanding the provisions of subdivision one of this section,  
44 when the defendant is charged with a felony in a local criminal court, a  
45 superior court judge may not order recognizance, release under non-mone-  
46 tary conditions or, where authorized, bail unless and until the district  
47 attorney has had an opportunity to be heard in the matter and such judge  
48 [~~has~~] and counsel for the defendant have been furnished with a report as  
49 described in subparagraph (ii) of paragraph (b) of subdivision two of  
50 section 530.20 of this article.

51 § 18. Section 530.40 of the criminal procedure law, subdivision 3 as  
52 amended by chapter 264 of the laws of 2003, and subdivision 4 as amended  
53 by chapter 762 of the laws of 1971, is amended to read as follows:

54 § 530.40 Order of recognizance, release under non-monetary conditions or  
55 bail; by superior court when action is pending therein.

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1 When a criminal action is pending in a superior court, such court,  
2 upon application of a defendant, must or may order recognizance or bail  
3 as follows:

4 1. When the defendant is charged with an offense or offenses of less  
5 than felony grade only, the court must, unless otherwise provided by  
6 law, order recognizance or ~~ba~~ release under non-monetary conditions  
7 in accordance with this section.

8 2. When the defendant is charged with a felony, the court may, unless  
9 otherwise provided by law in its discretion, order recognizance ~~or~~,  
10 release under non-monetary conditions or, where authorized, bail. In any  
11 such case in which an indictment (a) has resulted from an order of a  
12 local criminal court holding the defendant for the action of the grand  
13 jury, or (b) was filed at a time when a felony complaint charging the  
14 same conduct was pending in a local criminal court, and in which such  
15 local criminal court or a superior court judge has issued an order of  
16 recognizance ~~or~~, release under non-monetary conditions or, where  
17 authorized, bail which is still effective, the superior court's order  
18 may be in the form of a direction continuing the effectiveness of the  
19 previous order.

20 3. In cases other than as described in subdivision four of this  
21 section the court shall release the principal pending trial on the prin-  
22 cipal's own recognizance, unless the court finds on the record or in  
23 writing that release on the principal's own recognizance will not  
24 reasonably assure the principal's return to court. In such instances,  
25 the court shall release the principal under non-monetary conditions,  
26 selecting the least restrictive alternative and conditions that will  
27 reasonably assure the principal's return to court. The court shall  
28 explain its choice of alternative and conditions on the record or in  
29 writing.

30 4. Where the principal stands charged with a qualifying offense, the  
31 court, unless otherwise prohibited by law, may in its discretion release  
32 the principal pending trial on the principal's own recognizance or under  
33 non-monetary conditions, fix bail, or, where the defendant is charged  
34 with a qualifying offense which is a felony, the court may commit the  
35 principal to the custody of the sheriff. The court shall explain its  
36 choice of release, release with conditions, bail or remand on the record  
37 or in writing. A principal stands charged with a qualifying offense for  
38 the purposes of this subdivision when he or she stands charged with:

39 (a) a felony enumerated in section 70.02 of the penal law, other than  
40 burglary in the second degree as defined in subdivision two of section  
41 140.25 of the penal law or robbery in the second degree as defined in  
42 subdivision one of section 160.10 of the penal law;

43 (b) a crime involving witness intimidation under section 215.15 of the  
44 penal law;

45 (c) a crime involving witness tampering under section 215.11, 215.12  
46 or 215.13 of the penal law;

47 (d) a class A felony defined in the penal law, other than in article  
48 two hundred twenty of such law with the exception of section 220.77 of  
49 such law;

50 (e) a felony sex offense defined in section 70.80 of the penal law or  
51 a crime involving incest as defined in section 255.25, 255.26 or 255.27  
52 of such law, or a misdemeanor defined in article one hundred thirty of  
53 such law;

54 (f) conspiracy in the second degree as defined in section 105.15 of  
55 the penal law, where the underlying allegation of such charge is that

1 the defendant conspired to commit a class A felony defined in article  
2 one hundred twenty-five of the penal law;

3 (g) money laundering in support of terrorism in the first degree as  
4 defined in section 470.24 of the penal law; money laundering in support  
5 of terrorism in the second degree as defined in section 470.23 of the  
6 penal law; or a felony crime of terrorism as defined in article four  
7 hundred ninety of the penal law, other than the crime defined in section  
8 490.20 of such law;

9 (h) criminal contempt in the second degree as defined in subdivision  
10 three of section 215.50 of the penal law, criminal contempt in the first  
11 degree as defined in subdivision (b), (c) or (d) of section 215.51 of  
12 the penal law or aggravated criminal contempt as defined in section  
13 215.52 of the penal law, and the underlying allegation of such charge of  
14 criminal contempt in the second degree, criminal contempt in the first  
15 degree or aggravated criminal contempt is that the defendant violated a  
16 duly served order of protection where the protected party is a member of  
17 the defendant's same family or household as defined in subdivision one  
18 of section 530.11 of this article; or

19 (i) facilitating a sexual performance by a child with a controlled  
20 substance or alcohol as defined in section 263.30 of the penal law, use  
21 of a child in a sexual performance as defined in section 263.05 of the  
22 penal law or luring a child as defined in subdivision one of section  
23 120.70 of the penal law.

24 5. Notwithstanding the provisions of subdivisions three and four of  
25 this section, with respect to any charge for which bail or remand is not  
26 ordered, and for which the court would not or could not otherwise  
27 require bail or remand, a defendant may, at any time, request that the  
28 court set bail in a nominal amount requested by the defendant in the  
29 form specified in paragraph (a) of subdivision one of section 520.10 of  
30 this title; if the court is satisfied that the request is voluntary, the  
31 court shall set such bail in such amount.

32 6. Notwithstanding the provisions of [~~subdivision two~~] subdivisions  
33 two, three and four of this section, a superior court may not order  
34 recognizance, release under non-monetary conditions or, where author-  
35 ized, bail, or permit a defendant to remain at liberty pursuant to an  
36 existing order, after [~~he~~] the defendant has been convicted of either:  
37 (a) a class A felony or (b) any class B or class C felony as defined in  
38 article one hundred thirty of the penal law committed or attempted to be  
39 committed by a person eighteen years of age or older against a person  
40 less than eighteen years of age. In either case the court must commit or  
41 remand the defendant to the custody of the sheriff.

42 [~~4-~~] 7. Notwithstanding the provisions of [~~subdivision two~~] subdivi-  
43 sions two, three and four of this section, a superior court may not  
44 order recognizance, release under non-monetary conditions or, where  
45 authorized, bail when the defendant is charged with a felony unless and  
46 until the district attorney has had an opportunity to be heard in the  
47 matter and such court [~~has~~] and counsel for the defendant have been  
48 furnished with a report as described in subparagraph (ii) of paragraph  
49 (b) of subdivision two of section 530.20 of this article.

50 § 19. Subdivision 1 of section 530.45 of the criminal procedure law,  
51 as amended by chapter 264 of the laws of 2003, is amended to read as  
52 follows:

53 1. When the defendant is at liberty in the course of a criminal action  
54 as a result of a prior order of recognizance, release under non-monetary  
55 conditions or bail and the court revokes such order and then [~~either~~],  
56 where authorized, fixes no bail or fixes bail in a greater amount or in

1 a more burdensome form than was previously fixed and remands or commits  
2 defendant to the custody of the sheriff, or issues a more restrictive  
3 securing order, a judge designated in subdivision two of this section,  
4 upon application of the defendant following conviction of an offense  
5 other than a class A felony or a class B or class C felony offense as  
6 defined in article one hundred thirty of the penal law committed or  
7 attempted to be committed by a person eighteen years of age or older  
8 against a person less than eighteen years of age, and before sentencing,  
9 may issue a securing order and ~~[either]~~ release the defendant on ~~[his]~~  
10 the defendant's own recognizance, release the defendant under non-mone-  
11 tary conditions, or, where authorized, fix bail~~[r]~~ or fix bail in a  
12 lesser amount or in a less burdensome form, or issue a less restrictive  
13 securing order, than fixed by the court in which the conviction was  
14 entered.

15 § 20. Section 530.60 of the criminal procedure law, subdivision 1 as  
16 amended by chapter 565 of the laws of 2011, subdivision 2 as added by  
17 chapter 788 of the laws of 1981 and paragraph (a) of subdivision 2 as  
18 amended by chapter 794 of the laws of 1986, is amended to read as  
19 follows:

20 § 530.60 ~~[Order of recognizance or bail; revocation thereof]~~ Certain  
21 modifications of a securing order.

22 1. Whenever in the course of a criminal action or proceeding a defend-  
23 ant is at liberty as a result of an order of recognizance, release under  
24 non-monetary conditions or bail issued pursuant to this chapter, and the  
25 court considers it necessary to review such order, ~~[it]~~ whether due to a  
26 motion by the people or otherwise, the court may, and except as provided  
27 in subdivision two of section 510.50 of this title concerning a failure  
28 to appear in court, by a bench warrant if necessary, require the defend-  
29 ant to appear before the court. Upon such appearance, the court, for  
30 good cause shown, may revoke the order of recognizance, release under  
31 non-monetary conditions, or bail. If the defendant is entitled to recog-  
32 nizance, release under non-monetary conditions, or bail as a matter of  
33 right, the court must issue another such order. If ~~[he or she]~~ the  
34 defendant is not, the court may either issue such an order or commit the  
35 defendant to the custody of the sheriff in accordance with this section.

36 Where the defendant is committed to the custody of the sheriff and is  
37 held on a felony complaint, a new period as provided in section 180.80  
38 of this chapter shall commence to run from the time of the defendant's  
39 commitment under this subdivision.

40 2. (a) Whenever in the course of a criminal action or proceeding a  
41 defendant charged with the commission of a felony is at liberty as a  
42 result of an order of recognizance, release under non-monetary condi-  
43 tions or bail issued pursuant to this article it shall be grounds for  
44 revoking such order that the court finds reasonable cause to believe the  
45 defendant committed one or more specified class A or violent felony  
46 offenses or intimidated a victim or witness in violation of ~~[sections]~~  
47 section 215.15, 215.16 or 215.17 of the penal law while at liberty.

48 (b) Except as provided in paragraph (a) of this subdivision or any  
49 other law, whenever in the course of a criminal action or proceeding a  
50 defendant charged with the commission of an offense is at liberty as a  
51 result of an order of recognizance, release under non-monetary condi-  
52 tions or bail issued pursuant to this article it shall be grounds for  
53 revoking such order and fixing bail in such criminal action or proceed-  
54 ing when the court has found, by clear and convincing evidence, that the  
55 defendant:

1 (i) persistently and willfully failed to appear after notice of sched-  
2 uled appearances in the case before the court; or  
3 (ii) violated an order of protection in the manner prohibited by  
4 subdivision (b), (c) or (d) of section 215.51 of the penal law while at  
5 liberty; or  
6 (iii) stands charged in such criminal action or proceeding with a  
7 misdemeanor or violation and, after being so charged, intimidated a  
8 victim or witness in violation of section 215.15, 215.16 or 215.17 of  
9 the penal law or tampered with a witness in violation of section 215.11,  
10 215.12 or 215.13 of the penal law, law while at liberty; or  
11 (iv) stands charged in such action or proceeding with a felony and,  
12 after being so charged, committed a felony while at liberty.  
13 (c) Before revoking an order of recognizance, release under non-mone-  
14 tary conditions, or bail pursuant to this subdivision, the court must  
15 hold a hearing and shall receive any relevant, admissible evidence not  
16 legally privileged. The defendant may cross-examine witnesses and may  
17 present relevant, admissible evidence on his own behalf. Such hearing  
18 may be consolidated with, and conducted at the same time as, a felony  
19 hearing conducted pursuant to article one hundred eighty of this chap-  
20 ter. A transcript of testimony taken before the grand jury upon presen-  
21 tation of the subsequent offense shall be admissible as evidence during  
22 the hearing. The district attorney may move to introduce grand jury  
23 testimony of a witness in lieu of that witness' appearance at the hear-  
24 ing.  
25 ~~(b)~~ (d) Revocation of an order of recognizance, release under non-  
26 monetary conditions or bail and a new securing order fixing bail or  
27 commitment, as specified in this paragraph and pursuant to this subdivi-  
28 sion shall be for the following periods~~[-either]~~:  
29 (i) Under paragraph (a) of this subdivision, revocation of the order  
30 of recognizance, release under non-monetary conditions or, as the case  
31 may be, bail, and a new securing order fixing bail or committing the  
32 defendant to the custody of the sheriff shall be as follows:  
33 ~~(i)~~ (A) For a period not to exceed ninety days exclusive of any  
34 periods of adjournment requested by the defendant; or  
35 ~~(ii)~~ (B) Until the charges contained within the accusatory instru-  
36 ment have been reduced or dismissed such that no count remains which  
37 charges the defendant with commission of a felony; or  
38 ~~(iii)~~ (C) Until reduction or dismissal of the charges contained  
39 within the accusatory instrument charging the subsequent offense such  
40 that no count remains which charges the defendant with commission of  
41 a class A or violent felony offense.  
42 Upon expiration of any of the three periods specified within this  
43 ~~paragraph~~ subparagraph, whichever is shortest, the court may grant or  
44 deny release upon an order of bail or recognizance in accordance with  
45 the provisions of this article. Upon conviction to an offense the  
46 provisions of article five hundred thirty of this chapter shall  
47 apply~~[-]~~; and  
48 ~~(i)~~ (ii) Under paragraph (b) of this subdivision, revocation of the  
49 order of recognizance, release under non-monetary conditions or, as the  
50 case may be, bail shall result in the issuance of a new securing order  
51 which may, if otherwise authorized by law, permit the principal's  
52 release on recognizance or release under non-monetary conditions, but  
53 shall also render the defendant eligible for an order fixing bail  
54 provided, however, that in accordance with the principles in this title  
55 the court must select the least restrictive alternative and condition or  
56 conditions that will reasonably assure the principal's return to court.

1 Nothing in this subparagraph shall be interpreted as shortening the  
2 period of detention, or requiring or authorizing any less restrictive  
3 form of a securing order, which may be imposed pursuant to any other  
4 law.

5 (e) Notwithstanding the provisions of paragraph (a) or (b) of this  
6 subdivision a defendant, against whom a felony complaint has been filed  
7 which charges the defendant with commission of a class A or violent  
8 felony offense or violation of section 215.15, 215.16 or 215.17 of the  
9 penal law committed while he was at liberty as specified therein, may be  
10 committed to the custody of the sheriff pending a revocation hearing for  
11 a period not to exceed seventy-two hours. An additional period not to  
12 exceed seventy-two hours may be granted by the court upon application of  
13 the district attorney upon a showing of good cause or where the failure  
14 to commence the hearing was due to the defendant's request or occurred  
15 with his consent. Such good cause must consist of some compelling fact  
16 or circumstance which precluded conducting the hearing within the  
17 initial prescribed period.

18 § 21. Paragraph (a) of subdivision 9 of section 216.05 of the criminal  
19 procedure law, as amended by chapter 258 of the laws of 2015, is amended  
20 to read as follows:

21 (a) If at any time during the defendant's participation in the judi-  
22 cial diversion program, the court has reasonable grounds to believe that  
23 the defendant has violated a release condition in an important respect  
24 or has willfully failed to appear before the court as requested, the  
25 court except as provided in subdivision two of section 510.50 of this  
26 chapter regarding a failure to appear, shall direct the defendant to  
27 appear or issue a bench warrant to a police officer or an appropriate  
28 peace officer directing him or her to take the defendant into custody  
29 and bring the defendant before the court without unnecessary delay;  
30 provided, however, that under no circumstances shall a defendant who  
31 requires treatment for opioid abuse or dependence be deemed to have  
32 violated a release condition on the basis of his or her participation in  
33 medically prescribed drug treatments under the care of a health care  
34 professional licensed or certified under title eight of the education  
35 law, acting within his or her lawful scope of practice. The relevant  
36 provisions of [~~subdivision one of~~] section 530.60 of this chapter relat-  
37 ing to [~~revocation of recognizance or bail~~] issuance of securing orders  
38 shall apply to such proceedings under this subdivision.

39 § 22. The opening paragraph of section 240.44 of the criminal proce-  
40 dure law, as added by chapter 558 of the laws of 1982, is amended to  
41 read as follows:

42 Subject to a protective order, at a pre-trial hearing held in a crim-  
43 inal court at which a witness is called to testify, each party, [~~at the~~  
44 ~~conclusion~~] prior to the commencement of the direct examination of each  
45 of its witnesses, shall, upon request of the other party, make available  
46 to that party to the extent not previously disclosed:

47 § 23. Section 410.60 of the criminal procedure law, as amended by  
48 chapter 652 of the laws of 2008, is amended to read as follows:  
49 § 410.60 Appearance before court.

50 A person who has been taken into custody pursuant to section 410.40 or  
51 section 410.50 of this article for violation of a condition of a  
52 sentence of probation or a sentence of conditional discharge must forth-  
53 with be brought before the court that imposed the sentence. Where a  
54 violation of probation petition and report has been filed and the person  
55 has not been taken into custody nor has a warrant been issued, an  
56 initial court appearance shall occur within ten business days of the

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1 court's issuance of a notice to appear. If the court has reasonable  
2 cause to believe that such person has violated a condition of the  
3 sentence, it may commit [~~him~~] such person to the custody of the sheriff  
4 [~~or~~], fix bail, release such person under non-monetary conditions or  
5 release such person on [~~his~~] such person's own recognizance for future  
6 appearance at a hearing to be held in accordance with section 410.70 of  
7 this article. If the court does not have reasonable cause to believe  
8 that such person has violated a condition of the sentence, it must  
9 direct that [~~he~~] such person be released.

10 § 24. Subdivision 3 of section 620.50 of the criminal procedure law is  
11 amended to read as follows:

12 3. A material witness order must be executed as follows:

13 (a) If the bail is posted and approved by the court, the witness  
14 must, as provided in subdivision [~~three~~] two of section 510.40 of this  
15 part, be released and be permitted to remain at liberty; provided that,  
16 where the bail is posted by a person other than the witness himself, he  
17 may not be so released except upon his signed written consent thereto;

18 (b) If the bail is not posted, or if though posted it is not approved  
19 by the court, the witness must, as provided in subdivision [~~three~~] two  
20 of section 510.40 of this part, be committed to the custody of the sher-  
21 iff.

22 § 25. This act shall take effect on January 1, 2020.