

Pre-Trial Detention Amendments

1 AN ACT to amend the criminal procedure law, in relation to eliminating bail and granting courts
2 discretion to impose conditions of release or remand defendants based upon public safety
3 considerations.

4

5 The People of the State of New York, represented in Senate and Assembly, do enact as follows:

6

7 Section 1. Section 500.10 of the criminal procedure law, as added by section 1-e of part JJJ of
8 chapter 59 of the laws of 2019, is amended to read as follows: is amended to read as follows:

9 § 500.10 Recognizance, [bail] and commitment; definitions of terms.

10 As used in this title, and in this chapter generally, the following terms have the following meanings:

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

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

22 ~~[3. "Fix bail." A court fixes bail when, having acquired control over the person of a principal, it~~
23 ~~designates a sum of money and stipulates that, if bail in such amount is posted on behalf of the~~
24 ~~principal and approved, it will permit him to be at liberty during the pendency of the criminal~~
25 ~~action or proceeding involved.]~~

26 3-a. "Release under [non-monetary] conditions." A court releases a principal under [non-
27 monetary] conditions when, having acquired control over a person, it authorizes the person to be
28 at liberty during the pendency of the criminal action or proceeding involved under conditions
29 ordered by the court, which shall be the least restrictive conditions that will reasonably assure the
30 principal's return to court and reasonably assure the principal's compliance with court conditions.

31 A principal shall not be required to pay for any part of the cost of release on non-monetary

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1 conditions. Such conditions may include, among other conditions reasonable under the
2 circumstances:

3 (a) that the principal be in contact with a pretrial services agency serving principals in that
4 county;

5 (b) that the principal abide by reasonable, specified restrictions of travel that are reasonably
6 related to an actual risk of flight from the jurisdiction, or that the principal surrender his or her
7 passport;

8 (c) that the principal refrain from possessing a firearm, destructive device or other dangerous
9 weapon;

10 (d) that, when it is shown pursuant to subdivision four of section 510.45 of this title that no
11 other realistic ~~[non-monetary]~~ condition or set of ~~[non-monetary]~~ conditions will suffice to
12 reasonably assure the person's return to court, the person be placed in reasonable pretrial
13 supervision with a pretrial services agency serving principals in that county;

14 (e) that the principal refrain from associating with certain persons who are connected with the
15 instant charge, including, when appropriate specified victims, witnesses, or co-defendants;

16 (f) that the principal be referred to a pretrial services agency for placement in mandatory
17 programming, including counseling, treatment, and intimate partner violence intervention
18 programs. Where applicable, the court may direct the principal be removed to a hospital pursuant
19 to section 9.43 of the mental hygiene law;

20 (g) that the principal makes diligent efforts to maintain employment, housing, or enrollment in
21 school or educational programming;

22 (h) that the principal obey an order of protection issued by the court, including an order issued
23 pursuant to section 530.11 of this title;

24 (i) that the principal obey conditions set by the court addressed to the safety of a victim of a
25 family offense as defined in section 530.11 of this title including conditions that may be requested
26 by or on behalf of the victim; and

27 (j) that, when it is shown pursuant to paragraph (a) of subdivision four of section 510.40 of this
28 title that no other realistic ~~[non-monetary]~~ condition or set of ~~[non-monetary]~~ conditions will
29 suffice to reasonably assure the principal's return to court, the principal's location be monitored
30 with an approved electronic monitoring device, in accordance with such subdivision four of section
31 510.40 of this title.

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1 3-b. Subdivision three-a of this section presents a non-exclusive list of conditions that may be
2 considered and imposed by law, singularly or in combination, when reasonable under the
3 circumstances of the defendant, the case, and the situation of the defendant. The court need not
4 necessarily order one or more specific conditions first before ordering one or more or additional
5 conditions.

6 4. "Commit to the custody of the sheriff." A court commits a principal to the custody of the sheriff
7 when, having acquired control over the principal's person, it orders that the principal be confined
8 in the custody of the sheriff during the pendency of the criminal action or proceeding involved.

9 5. "Securing order" means an order of a court committing a principal to the custody of the sheriff
10 ~~[or fixing bail, where authorized,]~~ or releasing the principal on the principals of recognizance or
11 releasing the principal under ~~[non-monetary]~~ conditions.

12 6. "Order of recognizance ~~[or bail]~~" means a securing order releasing a principal on the principal's
13 own recognizance or under ~~[non-monetary]~~ conditions ~~[or, where authorized, fixing bail]~~.

14 7. "Application for recognizance ~~[or bail]~~" means an application by a principal that the court,
15 instead of committing the principal to or retaining the principal in the custody of the sheriff, either
16 release the principal on the principal's own recognizance~~[,]~~ or release under ~~[non-monetary]~~
17 conditions~~[, or, where authorized, fix bail]~~.

18 ~~[8. "Post bail" means to deposit bail in the amount and form fixed by the court, with the court or~~
19 ~~with some other authorized public servant or agency.~~

20 ~~9. "Bail" means cash bail, a bail bond or money paid with a credit card.~~

21 ~~10. "Cash bail" means a sum of money, in the amount designated in an order fixing bail, posted~~
22 ~~by a principal or by another person on his behalf with a court or other authorized public servant or~~
23 ~~agency, upon the condition that such money will become forfeit to the people of the state of New~~
24 ~~York if the principal does not comply with the directions of a court requiring his attendance at the~~
25 ~~criminal action or proceeding involved or does not otherwise render himself amenable to the orders~~
26 ~~and processes of the court.~~

27 ~~11. "Obligor" means a person who executes a bail bond on behalf of a principal and thereby~~
28 ~~assumes the undertaking described therein. The principal himself may be an obligor.~~

29 ~~12. "Surety" means an obligor who is not a principal.~~

30 ~~13. "Bail bond" means a written undertaking, executed by one or more obligors, that the principal~~
31 ~~designated in such instrument will, while at liberty as a result of an order fixing bail and of the~~

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1 ~~posting of the bail bond in satisfaction thereof, appear in a designated criminal action or proceeding~~
2 ~~when his attendance is required and otherwise render himself amenable to the orders and processes~~
3 ~~of the court, and that in the event that he fails to do so the obligor or obligors will pay to the people~~
4 ~~of the state of New York a specified sum of money, in the amount designated in the order fixing~~
5 ~~bail.~~

6 ~~14. "Appearance bond" means a bail bond in which the only obligor is the principal.~~

7 ~~15. "Surety bond" means a bail bond in which the obligor or obligors consist of one or more~~
8 ~~sureties or of one or more sureties and the principal.~~

9 ~~16. "Insurance company bail bond" means a surety bond, executed in the form prescribed by the~~
10 ~~superintendent of financial services, in which the surety obligor is a corporation licensed by the~~
11 ~~superintendent of financial services to engage in the business of executing bail bonds.~~

12 ~~17. "Secured bail bond" means a bail bond secured by either:~~

13 ~~(a) Personal property which is not exempt from execution and which, over and above all~~
14 ~~liabilities and encumbrances, has a value equal to or greater than the total amount of the~~
15 ~~undertaking; or~~

16 ~~(b) Real property having a value of at least twice the total amount of the undertaking. For~~
17 ~~purposes of this paragraph, value of real property is determined by either:~~

18 ~~(i) dividing the last assessed value of such property by the last given equalization rate or in a~~
19 ~~special assessing unit, as defined in article eighteen of the real property tax law, the appropriate~~
20 ~~class ratio established pursuant to section twelve hundred two of such law of the assessing~~
21 ~~municipality wherein the property is situated and by deducting from the resulting figure the total~~
22 ~~amount of any liens or other encumbrances upon such property; or~~

23 ~~(ii) the value of the property as indicated in a certified appraisal report submitted by a state~~
24 ~~certified general real estate appraiser duly licensed by the department of state as provided in section~~
25 ~~one hundred sixty j of the executive law, and by deducting from the appraised value the total~~
26 ~~amount of any liens or other encumbrances upon such property. A lien report issued by a title~~
27 ~~insurance company licensed under article sixty four of the insurance law, that guarantees the~~
28 ~~correctness of a lien search conducted by it, shall be presumptive proof of liens upon the property.~~

29 ~~18. "Partially secured bail bond" means a bail bond secured only by a deposit of a sum of money~~
30 ~~not exceeding ten percent of the total amount of the undertaking.~~

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1 ~~19. "Unsecured bail bond" means a bail bond, other than an insurance company bail bond, not~~
2 ~~secured by any deposit of or lien upon property.]~~

3 [20] 8. "Court" includes, where appropriate, a judge authorized to act as described in a particular
4 statute, though not as a court.

5 [24] 9. "Qualifies for electronic monitoring," for purposes of subdivision four of section 510.40
6 of this title, means a person charged with a felony, a misdemeanor crime of domestic violence, a
7 misdemeanor defined in article one hundred thirty of the penal law, a crime and the circumstances
8 of paragraph (b) of subdivision two of section 530.60 of this title applies, or any misdemeanor
9 where the defendant stands previously convicted, within the past five years, of a violent felony
10 offense as defined in section 70.02 of the penal law. For the purposes of this subdivision, in
11 calculating such five-year period, any period of time during which the defendant was incarcerated
12 for any reason between the time of the commission of any such previous crime and the time of
13 commission of the present crime shall be excluded and such five-year period shall be extended by
14 a period or periods equal to the time served under such incarceration.

15 [22] 10. "Misdemeanor crime of domestic violence," for purposes of subdivision twenty-one of
16 this section, means a misdemeanor under the penal law provisions and circumstances described in
17 subdivision one of Section 530.11 of this title.

18 § 2. Section 510.10 of the criminal procedure law, as added by section 2 of part JJJ of Chapter 59
19 of the laws of 2019, is amended to read as follows:

20 § 510.10 Securing order; when required; alternatives available; standard to be applied.

21 1. When a principal, whose future court attendance at a criminal action or proceeding is or may be
22 required, comes under the control of a court, such court shall, in accordance with this title, by a
23 securing order release the principal on the principal's own recognizance, release the principal under
24 [non-monetary] conditions~~[, or, where authorized, fix bail]~~ or commit the principal to the custody
25 of the sheriff. In all such cases, except where another type of securing order is shown to be required
26 by law, the court shall release the principal pending trial on the principal's own recognizance,
27 unless it is demonstrated and the court makes an individualized determination that the principal
28 poses a risk of flight to avoid prosecution or it is demonstrated that no conditions or combination
29 of conditions can reasonably assure the safety of any person or the community. If such a finding
30 is made, the court must select the ~~[least restrictive alternative and]~~ condition or conditions that will
31 reasonably assure the principal's return to court or will reasonably assure the safety of any person

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1 or persons or the community. If no conditions or combination of conditions can assure the
2 principal's return to court or assure the safety of any person and the community, then the court
3 may commit the principal to the custody of the sheriff. The court shall explain its choice of release,
4 release with conditions [~~-,bail~~] or remand on the record or in writing.

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

9 3. In cases other than as described in subdivision four of this section the court shall release the
10 principal pending trial on the principal's own recognizance, unless the court finds on the record or
11 in writing that:

12 (a) release on the principal's own recognizance will not reasonably assure the principal's return
13 to court. In such instances, the court shall release the principal under the [~~non-monetary~~] condition
14 or conditions [~~selecting the least restrictive alternative and conditions~~] that will reasonably assure
15 the principal's return to court. The court shall explain its choice of alternative and conditions on
16 the record or in writing[~~-~~]; or

17 (b) release on the principal's own recognizance will not reasonably assure the safety of any
18 person or the community. In such instances, the court may in its discretion release the principal
19 pending trial on the principal's own recognizance or under conditions, or commit the principal to
20 the custody of the sheriff, selecting the alternative that will reasonably assure the safety of such
21 person or the community. The court shall explain its choice of alternative and conditions on the
22 record or in writing.

23 4. Where the principal stands charged with a qualifying offense, the court, unless otherwise
24 prohibited by law, may in its discretion release the principal pending trial on the principal's own
25 recognizance or under [~~non-monetary~~] conditions[~~-,fix-bail,~~] or, where the defendant is charged
26 with a qualifying offense which is a felony, the court may commit the principal to the custody of
27 the sheriff. A principal stands charged with a qualifying offense for the purposes of this subdivision
28 when he or she stands charged with:

29 (a) a felony enumerated in section 70.02 of the penal law, other than robbery in the second
30 degree as defined in subdivision one of section 160.10 of the penal law, provided, however, that
31 burglary in the second degree as defined in subdivision two of section 140.25 of the penal law

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1 shall be a qualifying offense only where the defendant is charged with entering the living area of
2 the dwelling;

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

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

6 (d) a class A felony defined in the penal law, provided that for class A felonies under article
7 two hundred twenty of the penal law, only class A-I felonies shall be a qualifying offense;

8 (e) a sex trafficking offense defined in section 230.34 or 230.34-a of the penal law, or a felony
9 sex offense defined in section 70.80 of the penal law, or a crime involving incest as defined in
10 section 255.25, 255.26 or 255.27 of such law, or a misdemeanor defined in article one hundred
11 thirty of such law;

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

15 (g) money laundering in support of terrorism in the first degree as defined in section 470.24 of
16 the penal law; money laundering in support of terrorism in the second degree as defined in section
17 470.23 of the penal law; money laundering in support of terrorism in the third degree as defined
18 in section 470.22 of the penal law; money laundering in support of terrorism in the fourth degree
19 as defined in section 470.21 of the penal law; or a felony crime of terrorism as defined in article
20 four hundred ninety of the penal law, other than the crime defined in section 490.20 of such law;

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

28 (i) facilitating a sexual performance by a child with a controlled substance or alcohol as defined
29 in section 263.30 of the penal law, use of a child in a sexual performance as defined in section
30 263.05 of the penal law or luring a child as defined in subdivision one of section 120.70 of the
31 penal law, promoting an obscene sexual performance by a child as defined in section 263.10 of the

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1 penal law or promoting a sexual performance by a child as defined in section 263.15 of the penal
2 law;

3 (j) any crime that is alleged to have caused the death of another person;

4 (k) criminal obstruction of breathing or blood circulation as defined in section 121.11 of the
5 penal law, strangulation in the second degree as defined in section 121.12 of the penal law or
6 unlawful imprisonment in the first degree as defined in section 135.10 of the penal law, and is
7 alleged to have committed the offense against a member of the defendant's same family or
8 household as defined in subdivision one of section 530.11 of this title;

9 (l) aggravated vehicular assault as defined in section 120.04-a of the penal law or vehicular
10 assault in the first degree as defined in section 120.04 of the penal law;

11 (m) assault in the third degree as defined in section 120.00 of the penal law or arson in the third
12 degree as defined in section 150.10 of the penal law, when such crime is charged as a hate crime
13 as defined in section 485.05 of the penal law;

14 (n) aggravated assault upon a person less than eleven years old as defined in section 120.12 of
15 the penal law or criminal possession of a weapon on school grounds as defined in section 265.01-
16 a of the penal law;

17 (o) grand larceny in the first degree as defined in section 155.42 of the penal law, enterprise
18 corruption as defined in section 460.20 of the penal law, or money laundering in the first degree
19 as defined in section 470.20 of the penal law;

20 (p) failure to register as a sex offender pursuant to section one hundred sixty-eight-t of the
21 correction law or endangering the welfare of a child as defined in subdivision one of section 260.10
22 of the penal law, where the defendant is required to maintain registration under article six-C of the
23 correction law and designated a level three offender pursuant to subdivision six of section one
24 hundred sixty-eight-l of the correction law;

25 (q) a crime involving bail jumping under section 215.55, 215.56 or 215.57 of the penal law, or
26 a crime involving escaping from custody under section 205.05, 205.10 or 205.15 of the penal law;

27 (r) any felony offense committed by the principal while serving a sentence of probation or while
28 released to post release supervision;

29 (s) a felony, where the defendant qualifies for sentencing on such charge as a persistent felony
30 offender pursuant to section 70.10 of the penal law; or

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1 (t) any felony or class A misdemeanor involving harm to an identifiable person or property,
2 where such charge arose from conduct occurring while the defendant was released on his or her
3 own recognizance or released under conditions for a separate felony or class A misdemeanor
4 involving harm to an identifiable person or property, provided, however, that the prosecutor must
5 show reasonable cause to believe that the defendant committed the instant crime and any
6 underlying crime. For the purposes of this subparagraph, any of the underlying crimes need not be
7 a qualifying offense as defined in this subdivision[.]

8 (u) any crime in violation of article two hundred sixty-five of the penal law; or

9 (v) any other felony offense and the principal has been convicted of one or more felony offenses
10 within the immediate preceding ten years, exclusive of time spent in jail or prison.

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

17 ~~[6]~~ 5. When a securing order is revoked or otherwise terminated in the course of an uncompleted
18 action or proceeding, but the principal's future court attendance still is or may be required and the
19 principal is still under the control of a court, a new securing order must be issued. When the court
20 revokes or otherwise terminates a securing order which committed the principal to the custody of
21 the sheriff, the court shall give written notification to the sheriff of such revocation or termination
22 of the securing order.

23 § 3. Section 510.20 of the criminal procedure law, as added by section 2 of part JJJ of Chapter 59
24 of the laws of 2019, is amended to read as follows:

25 § 510.20 Application for a change in securing order.

26 1. Upon any occasion when a court has issued a securing order with respect to a principal and the
27 principal is confined in the custody of the sheriff as a result of the securing order or a previously
28 issued securing order, the principal may make an application for recognizance[.] or release under
29 ~~[non-monetary]~~ conditions ~~[or bail]~~.

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1 2. (a) The principal is entitled to representation by counsel in the making and presentation of such
2 application. If the principal is financially unable to obtain counsel, counsel shall be assigned to the
3 principal.

4 (b) Upon such application, the principal must be accorded an opportunity to be heard,
5 present evidence and to contend that an order of recognizance[;] or release under ~~[non-monetary]~~
6 conditions should be entered ~~[or, where authorized, bail must or should issue, that the court should~~
7 ~~release the principal on the principal's own recognizance or under non-monetary conditions rather~~
8 ~~than fix bail, and that if bail is authorized and fixed it should be in a suggested amount and form].~~

9 § 4. Section 510.30 of the criminal procedure law as added by section 2 of part JJJ of Chapter 59
10 of the laws of 2019, is amended to read as follows:

11 § 510.30 Application for securing order; rules of law and criteria controlling determination.

12 1. With respect to any principal, the court in all cases, unless otherwise provided by law, must
13 impose the ~~[least restrictive kind and]~~ degree of control or restriction that is necessary to secure
14 the principal's return to court or reasonably assure the safety of a person or the community when
15 required. In determining ~~[that matter]~~ those matters, the court must, on the basis of available
16 information, consider and take into account information about the principal that is relevant to the
17 principal's return to court or assuring the safety of a person or the community, including:

18 (a) The principal's activities and history, including but not limited to, whether such principal has
19 a history of violence;

20 (b) If the principal is a defendant, the charges facing the principal, including but not limited to,
21 the use or threatened use of physical force by such principal;

22 (c) The principal's criminal conviction record if any;

23 (d) The principal's record of previous adjudication as a juvenile delinquent, as retained pursuant
24 to section 354.2 of the family court act, or, of pending cases where fingerprints are retained
25 pursuant to section 306.1 of such act, or a youthful offender, if any;

26 (e) The principal's previous record with respect to flight to avoid criminal prosecution;

27 ~~[(f) If monetary bail is authorized, according to the restrictions set forth in this title, the principal's~~
28 ~~individual financial circumstances, and, in cases where bail is authorized, the principal's ability to~~
29 ~~post bail without posing undue hardship, as well as his or her ability to obtain a secured, unsecured,~~
30 ~~or partially secured bond;]~~

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1 ~~(g)~~ (f) Where the principal is charged with a crime or crimes against a member or members of
2 the same family or household as that term is defined in subdivision one of section 530.11 of this
3 title, the following factors:

4 (i) any violation by the principal of an order of protection issued by any court for the protection
5 of a member or members of the same family or household as that term is defined in subdivision
6 one of section 530.11 of this title, whether or not such order of protection is currently in effect;
7 and

8 (ii) the principal's history of use or possession of a firearm; ~~and~~

9 ~~(h)~~ (g) If the principal is a defendant, in the case of an application for a securing order pending
10 appeal, the merit or lack of merit of the appeal~~[-]~~; and

11 (h) The nature and seriousness of the danger to any other person or the community that would
12 be posed by the principal's release, if applicable.

13 2. Where the principal is a defendant-appellant in a pending appeal from a judgment of conviction,
14 the court must also consider the likelihood of ultimate reversal of the judgment. A determination
15 that the appeal is palpably without merit alone justifies, but does not require, a denial of the
16 application, regardless of any determination made with respect to the factors specified in
17 subdivision one of this section.

18 3. When ~~bail-or~~ recognizance is ordered, the court shall inform the principal, if the principal
19 is a defendant charged with the commission of a felony, that the release is conditional and that the
20 court may revoke the order of release and may be authorized to commit the principal to the
21 custody of the sheriff in accordance with the provisions of subdivision two of section 530.60 of
22 this chapter if the principal commits a subsequent felony while at liberty upon such order.

23 4. When determining the conditions that are necessary to reasonably assure the safety of a person
24 or the community, the court may consider whether the principal is charged with a violent felony
25 offense as defined in section 70.02 of the Penal Law, the principal's role in the underlying offenses,
26 whether the principal has made threats to any person or group of people, whether the principal is
27 currently facing any additional open criminal matters in the current or outside jurisdictions and, if
28 so, the nature of those charges, whether the principal has previously been convicted of a crime,
29 and if so, the nature of those charges.

30 5. Except for principals charged with an A-1 felony, if the court commits the principal to the
31 custody of the sheriff, the court must find by a preponderance of the evidence that committing the

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1 principal is necessary to assure the safety of any person or the community or to assure the
2 principal's return to court.

3 6. In making determinations, the court shall review any relevant material and evidence submitted
4 by the prosecutor and defendant, including hearsay evidence. The prosecutor and defendant will
5 not be required to call any witness to appear in front of the Court and the court may rely on written
6 submissions when determining whether to commit the defendant to the custody of the sheriff.

7 7. Any principal who has been committed to the custody of the sheriff must have an opportunity
8 to have the commitment reviewed by a judge of the superior court within five days, excluding
9 weekends and holidays, and again within five days, excluding weekends and holidays, of the
10 receipt of initial discovery as defined by section 245.10 of the Criminal Procedure law. In making
11 determinations, the court shall review any relevant material and evidence submitted by the
12 prosecutor and defendant, including hearsay evidence. The prosecutor and defendant will not be
13 required to call any witness to appear in front of the Court and the court may rely on written
14 submissions when determining whether to commit the defendant to the custody of the sheriff.

15 § 5. Section 510.40 of the criminal procedure law, as added by section 2 of part JJJ of Chapter 59
16 of the laws of 2019, is amended to read as follows:

17 § 510.40 Court notification to principal of conditions of release and of alleged violations of
18 conditions of release.

19 1. Upon ordering that a principal be released on the principal's own recognizance, or released under
20 ~~[non-monetary]~~ conditions, ~~[or, if bail has been fixed, upon the posting of bail,]~~ the court must
21 direct the principal to appear in the criminal action or proceeding involved whenever the principal's
22 attendance may be required and to be at all times amenable to the orders and processes of the court.
23 If such principal is in the custody of the sheriff ~~[or at liberty upon bail at the time of the order]~~, the
24 court must direct that the principal be discharged from such custody ~~[or, as the case may be, that~~
25 ~~the principal's bail be exonerated]~~.

26 ~~[2. Upon the issuance of an order fixing bail, where authorized, and upon the posting thereof, the~~
27 ~~court must examine the bail to determine whether it complies with the order. If it does, the court~~
28 ~~must, in the absence of some factor or circumstance which in law requires or authorizes~~
29 ~~disapproval thereof, approve the bail and must issue a certificate of release, authorizing the~~
30 ~~principal to be at liberty, and, if the principal is in the custody of the sheriff at the time, directing~~
31 ~~the sheriff to discharge the principal therefrom. If the bail fixed is not posted, or is not approved~~

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1 ~~after being posted, the court must order that the principal be committed to the custody of the sheriff.~~
2 ~~In the event of any such non-approval, the court shall explain promptly in writing the reasons~~
3 ~~therefor.]~~

4 [3] ~~2. [Non-monetary-e]~~ Conditions of release shall be individualized and established in writing
5 by the court. At future court appearances, the court shall consider a lessening of conditions or
6 modification of conditions to a less burdensome form based on the principal's compliance with
7 such conditions of release. In the event of alleged non-compliance with the conditions of release
8 in an important respect, pursuant to this subdivision, additional conditions may be imposed by the
9 court, on the record or in writing, only after notice of the facts and circumstances of such alleged
10 non-compliance, reasonable under the circumstances, affording the principal and the principal's
11 attorney and the people an opportunity to present relevant, admissible evidence, relevant witnesses
12 and to cross-examine witnesses, and a finding by clear and convincing evidence that the principal
13 violated a condition of release in an important respect. Following such a finding, in determining
14 whether to impose additional conditions for non-compliance, or whether to commit the principal
15 to the custody of the sheriff, the court shall consider and may select conditions consistent with the
16 court's obligation to impose the ~~[least restrictive]~~ condition or conditions that will reasonably
17 assure the defendant's return to court or assure the safety of any person or the community. The
18 court shall explain, with specificity, on the record or in writing the reasons for its determination
19 and for any changes to the conditions imposed.

20 [4] 3. (a) Electronic monitoring of a principal's location may be ordered only if the court finds,
21 after notice, an opportunity to be heard and an individualized determination explained on the
22 record or in writing, that the defendant qualifies for electronic monitoring in accordance with
23 subdivision twenty-one of section 500.10 of this title, and no other realistic ~~[non-monetary]~~
24 condition or set of ~~[non-monetary]~~ conditions will suffice to reasonably assure a principal's return
25 to court or to assure the safety of any person or the community.

26 (b) The specific method of electronic monitoring of the principal's location must be approved
27 by the court. It must be the ~~[least restrictive]~~ procedure and method that will reasonably assure the
28 principal's return to court or assure the safety of any person or the community, and unobtrusive to
29 the greatest extent practicable.

30 (c) Electronic monitoring of the location of a principal may be conducted only by a public entity
31 under the supervision and control of a county or municipality or a non-profit entity under contract

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1 to the county, municipality or the state. A county or municipality shall be authorized to enter into
2 a contract with another county or municipality in the state to monitor principals under ~~non-~~
3 ~~monetary~~] conditions of release in its county, but counties, municipalities and the state shall not
4 contract with any private for-profit entity for such purposes. Counties, municipalities and the state
5 may contract with a private for-profit entity to supply electronic monitoring devices or other items,
6 provided that any interaction with persons under electronic monitoring or the data produced by
7 such monitoring shall be conducted solely by employees of a county, municipality, the state, or a
8 non-profit entity under contract with such county, municipality or the state.

9 (d) Electronic monitoring of a principal's location may be for a maximum period of sixty days,
10 and may be renewed for such period, after notice, an opportunity to be heard and a de novo,
11 individualized determination in accordance with this subdivision, which shall be explained on the
12 record or in writing.

13 A defendant subject to electronic location monitoring under this subdivision shall be considered
14 held or confined in custody for purposes of section 180.80 of this chapter and shall be considered
15 committed to the custody of the sheriff for purposes of section 170.70 of the chapter, as applicable.
16 ~~§~~ 4. If a principal is released under ~~non-monetary~~] conditions, the court shall, on the record and
17 in an individualized written document provided to the principal, notify the principal, in plain
18 language and a manner sufficiently clear and specific:

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

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

23 § 6. Section 510.45 of the criminal procedure law is amended, as added by section 2 of part JJJ of
24 Chapter 59 of the laws of 2019, is amended to read as follows:

25 § 510.45 Pretrial services agencies.

26 1. The office of court administration shall certify and regularly review for recertification one or
27 more pretrial services agencies in each county to monitor principals released under ~~non-monetary~~
28 conditions. Such office shall maintain a listing on its public website identifying by county each
29 pretrial services agency so certified in the state.

30 2. Every such agency shall be a public entity under the supervision and control of a county or
31 municipality or a non-profit entity under contract to the county, municipality or the state. A county

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1 or municipality shall be authorized to enter into a contract with another county or municipality in
2 the state to monitor principals under ~~[non-monetary]~~ conditions of release in its county, but
3 counties, municipalities and the state shall not contract with any private for-profit entity for such
4 purposes.

5 3. (a) Any questionnaire, instrument or tool used with a principal in the process of considering or
6 determining the principal's possible release on recognizance, release under ~~[non-monetary]~~
7 conditions, or commitment to the custody of the sheriff ~~[or on-bail]~~, or used with a principal in the
8 process of considering or determining a condition or conditions of release or monitoring by a
9 pretrial services agency, shall be promptly made available to the principal and the principal's
10 counsel upon written request. Any such blank form questionnaire, instrument or tool regularly
11 used in the county for such purpose or a related purpose shall be made available to any person
12 promptly upon request any person promptly upon request.

13 (b) Any such questionnaire, instrument or tool used to inform determinations on release or
14 conditions of release shall be:

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

17 (ii) empirically validated and regularly revalidated, with such validation and revalidation
18 studies and all underlying data, except personal identifying information for any defendant, publicly
19 available upon request.

20 4. Supervision by a pre-trial services agency may be ordered as a ~~[non-monetary]~~ condition
21 pursuant to this title only if the court finds, after notice, an opportunity to be heard and an
22 individualized determination explained on the record or in writing, that no other realistic ~~[non-~~
23 ~~monetary]~~ condition or set of ~~[non-monetary]~~ conditions will suffice to reasonably assure the
24 principal's return to court or assure the safety of any person or the community.

25 § 7. Article 520 of the criminal procedure law, is REPEALED.

26 §8. Section 530.10 of the criminal procedure law, as added by section 18 of part JJJ of Chapter 59
27 of the laws of 2019, is amended to read as follows:

28 § 530.10 Order of recognizance release under ~~[non-monetary]~~ conditions ~~[or bail]~~; in general.

29 Under circumstances prescribed in this article, a court, upon application of a defendant charged
30 with or convicted of an offense, is required to issue a securing order for such defendant during the
31 pendency of either:

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- 1 1. A criminal action based upon such charge; or
 - 2 2. An appeal taken by the defendant from a judgment of conviction or a sentence or from an order
 - 3 of an intermediate appellate court affirming or modifying a judgment of conviction or a sentence.
- 4 § 9. Subdivisions (1), (9), and (11) of section 530.12 of the criminal procedure law, as added by
- 5 section 2 of part JJJ of Chapter 59 of the laws of 2019, is amended to read as follows:

6

7 § 530.12 Protection for victims of family offenses.

8 1. When a criminal action is pending involving a complaint charging any crime or violation

9 between spouses, former spouses, parent and child, or between members of the same family or

10 household, as members of the same family or household are defined in subdivision one of section

11 530.11 of this article, the court, in addition to any other powers conferred upon it by this chapter

12 may issue a temporary order of protection in conjunction with any securing order committing the

13 defendant to the custody of the sheriff or as a condition of any order of recognizance ~~[or bail]~~ or

14 an adjournment in contemplation of dismissal.

15 9. If no warrant, order or temporary order of protection has been issued by the court, and an act

16 alleged to be a family offense as defined in section 530.11 of this chapter is the basis of the arrest,

17 the magistrate shall permit the complainant to file a petition, information or accusatory instrument

18 and for reasonable cause shown, shall thereupon hold such respondent or defendant ~~[- admit to, fix~~

19 ~~or accept bail]~~, or parole him or her for hearing before the family court or appropriate criminal

20 court as the complainant shall choose in accordance with the provisions of section 530.11 of this

21 chapter.

22 11. If a defendant is brought before the court for failure to obey any lawful order issued under this

23 section, or an order of protection issued by a court of competent jurisdiction in another state,

24 territorial or tribal jurisdiction, and if, after hearing, the court is satisfied by competent proof that

25 the defendant has willfully failed to obey any such order, the court may:

26 (a) revoke an order of recognizance or release under ~~[non-monetary]~~ conditions ~~[or revoke an~~

27 ~~order of bail or order forfeiture of such bail]~~ and commit the defendant to custody; or

28 (b) restore the case to the calendar when there has been an adjournment in contemplation of

29 dismissal and commit the defendant to custody; or

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

4 (d) revoke probation in accordance with section 410.70 of this chapter and impose a sentence of
5 imprisonment in accordance with the penal law based on the original conviction. In addition, if the
6 act which constitutes the violation of the order of protection or temporary order of protection is a
7 crime or a violation the defendant may be charged with and tried for that crime or violation.

8 § 10. Subdivision (8) of section 530.13 of the criminal procedure law, as added by section 18 of
9 part JJJ of Chapter 59 of the laws of 2019, is amended to read as follows:

10 § 530.13 Protection of victims of crimes, other than family offenses.

11 8. If a defendant is brought before the court for failure to obey any lawful order issued under this
12 section and if, after hearing, the court is satisfied by competent proof that the defendant has
13 willfully failed to obey any such order, the court may:

14 (a) revoke an order of recognizance, release under ~~non-monetary~~ conditions ~~or bail~~ and
15 commit the defendant to custody; or

16 (b) restore the case to the calendar when there has been an adjournment in contemplation of
17 dismissal and commit the defendant to custody ~~or impose or increase bail~~ pending a trial of the
18 original crime or violation; or

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

22 (d) revoke probation in accordance with section 410.70 of this chapter and impose a sentence of
23 imprisonment in accordance with the penal law based on the original conviction. In addition, if the
24 act which constitutes the violation of the order of protection or temporary order of protection is a
25 crime or a violation the defendant may be charged with and tried for that crime or violation. \§ 11.

26 Section 530.20 of the criminal procedure law, as added by section 18 of part JJJ of Chapter 59 of
27 the laws of 2019, is amended to read as follows:

28 § 530.20 Securing order by local criminal court when action is pending therein.

29 When a criminal action is pending in a local criminal court, such court, upon application of a
30 defendant, shall proceed as follows:

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1 1. (a) In cases other than as described in paragraph (b) of this subdivision the court shall release
2 the principal pending trial on the principal's own recognizance, unless:

3 (i) the court finds on the record or in writing that release on the principal's own recognizance
4 will not reasonably assure the principal's return to court. In such instances, the court shall release
5 the principal under ~~[non-monetary]~~ conditions, selecting the ~~[least restrictive alternative and]~~
6 conditions that will reasonably assure the principal's return to court. The court shall explain its
7 choice of alternative and conditions on the record or in writing~~[-];~~ or

8 (ii) the court finds in writing that release on the principal's own recognizance and any condition
9 or combination of conditions will not reasonably assure the safety of any person or the community.
10 In such instances, the court may in its discretion release the principal pending trial on the principal's
11 own recognizance or under conditions, or commit the principal to the custody of the sheriff,
12 selecting the alternative that will reasonably assure the safety of such person or the community.
13 The court shall explain its choice of alternative and conditions on the record or in writing.

14 (b) Where the principal stands charged with a qualifying offense, the court, unless otherwise
15 prohibited by law, may in its discretion release the principal pending trial on the principal's own
16 recognizance or under ~~[non-monetary]~~ conditions, ~~[fix bail,]~~ or, where the defendant is charged
17 with a qualifying offense which is a felony, the court may commit the principal to the custody of
18 the sheriff. The court shall explain its choice of release, release with conditions, ~~[bail]~~ or remand
19 on the record or in writing. A principal stands charged with a qualifying offense when he or she
20 stands charged with:

21 (i) a felony enumerated in section 70.02 of the penal law, other than robbery in the second
22 degree as defined in subdivision one of section 160.10 of the penal law, provided, however, that
23 burglary in the second degree as defined in subdivision two of section 140.25 of the penal law
24 shall be a qualifying offense only where the defendant is charged with entering the living area of
25 the dwelling;

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

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

29 (iv) a class A felony defined in the penal law, provided, that for class A felonies under article
30 two hundred twenty of such law, only class A-I felonies shall be a qualifying offense;

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1 (v) a sex trafficking offense defined in section 230.34 or 230.34-a of the penal law, or a felony
2 sex offense defined in section 70.80 of the penal law or a crime involving incest as defined in
3 section 255.25, 255.26 or 255.27 of such law, or a misdemeanor defined in article one hundred
4 thirty of such law;

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

8 (vii) money laundering in support of terrorism in the first degree as defined in section 470.24
9 of the penal law; money laundering in support of terrorism in the second degree as defined in
10 section 470.23 of the penal law; money laundering in support of terrorism in the third degree as
11 defined in section 470.22 of the penal law; money laundering in support of terrorism in the fourth
12 degree as defined in section 470.21 of the penal law; or a felony crime of terrorism as defined in
13 article four hundred ninety of the penal law, other than the crime defined in section 490.20 of such
14 law;

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

22 (ix) facilitating a sexual performance by a child with a controlled substance or alcohol as defined
23 in section 263.30 of the penal law, use of a child in a sexual performance as defined in section
24 263.05 of the penal law or luring a child as defined in subdivision one of section 120.70 of the
25 penal law, promoting an obscene sexual performance by a child as defined in section 263.10 of the
26 penal law or promoting a sexual performance by a child as defined in section 263.15 of the penal
27 law;

28 (x) any crime that is alleged to have caused the death of another person;

29 (xi) criminal obstruction of breathing or blood circulation as defined in section 121.11 of the
30 penal law, strangulation in the second degree as defined in section 121.12 of the penal law or
31 unlawful imprisonment in the first degree as defined in section 135.10 of the penal law, and is

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1 alleged to have committed the offense against a member of the defendant's same family or
2 household as defined in subdivision one of section 530.11 of this article;

3 (xii) aggravated vehicular assault as defined in section 120.04-a of the penal law or vehicular
4 assault in the first degree as defined in section 120.04 of the penal law;

5 (xiii) assault in the third degree as defined in section 120.00 of the penal law or arson in the
6 third degree as defined in section 150.10 of the penal law, when such crime is charged as a hate
7 crime as defined in section 485.05 of the penal law;

8 (xiv) aggravated assault upon a person less than eleven years old as defined in section 120.12
9 of the penal law or criminal possession of a weapon on school grounds as defined in section
10 265.01-a of the penal law;

11 (xv) grand larceny in the first degree as defined in section 155.42 of the penal law, enterprise
12 corruption as defined in section 460.20 of the penal law, or money laundering in the first degree
13 as defined in section 470.20 of the penal law;

14 (xvi) failure to register as a sex offender pursuant to section one hundred sixty-eight-t of the
15 correction law or endangering the welfare of a child as defined in subdivision one of section 260.10
16 of the penal law, where the defendant is required to maintain registration under article six-C of the
17 correction law and designated a level three offender pursuant to subdivision six of section one
18 hundred sixty-eight-l of the correction law;

19 (xvii) a crime involving bail jumping under section 215.55, 215.56 or 215.57 of the penal law,
20 or a crime involving escaping from custody under section 205.05, 205.10 or 205.15 of the penal
21 law;

22 (xviii) any felony offense committed by the principal while serving a sentence of probation or
23 while released to post release supervision;

24 (xix) a felony, where the defendant qualifies for sentencing on such charge as a persistent felony
25 offender pursuant to section 70.10 of the penal law; [€]

26 (xx) any felony or class A misdemeanor involving harm to an identifiable person or property,
27 where such charge arose from conduct occurring while the defendant was released on his or her
28 own recognizance or released under conditions for a separate felony or class A misdemeanor
29 involving harm to an identifiable person or property, provided, however, that the prosecutor must
30 show reasonable cause to believe that the defendant committed the instant crime and any

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1 underlying crime. For the purposes of this subparagraph, any of the underlying crimes need not be
2 a qualifying offense as defined in this subdivision[-];

3 (xxi) any crime in violation of article two hundred sixty-five of the penal law; or

4 (xxii) any other felony offense and the principal has been convicted of one or more felony
5 offenses within the immediate preceding ten years, excluding time spent incarcerated; or

6 (xxiii) when a bench warrant has previously been issued against the principal in the matter
7 presently before the court.

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

14 2. When the defendant is charged by felony complaint, with a felony, the court may, in its
15 discretion, order recognizance, or release under [~~non-monetary~~] conditions, [~~or, where authorized,~~

16 ~~bail~~] or commit the defendant to the custody of the sheriff except as otherwise provided in
17 subdivision one of this section or this subdivision:

18 (a) A city court, a town court or a village court may not order recognizance [~~or bail~~] when (i)
19 the defendant is charged with a class A felony, or (ii) the defendant has two previous felony
20 convictions;

21 (b) No local criminal court may order recognizance, or release under [~~non-monetary~~] conditions
22 [~~or bail~~] with respect to a defendant charged with a felony unless and until:

23 (i) The district attorney has been heard in the matter or, after knowledge or notice of the
24 application and reasonable opportunity to be heard, has failed to appear at the proceeding or has
25 otherwise waived his right to do so; and

26 (ii) The court and counsel for the defendant have been furnished with a report of the division
27 of criminal justice services concerning the defendant's criminal record, if any, or with a police
28 department report with respect to the defendant's prior arrest and conviction record, if any. If
29 neither report is available, the court, with the consent of the district attorney, may dispense with
30 this requirement; provided, however, that in an emergency, including but not limited to a
31 substantial impairment in the ability of such division or police department to timely furnish such

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1 report, such consent shall not be required if, for reasons stated on the record, the court deems it
2 unnecessary. When the court has been furnished with any such report or record, it shall furnish a
3 copy thereof to counsel for the defendant or, if the defendant is not represented by counsel, to the
4 defendant.

5 §12. Section 530.30 of the criminal procedure law, as added by section 18 of part JJJ of Chapter
6 59 of the laws of 2019, is amended to read as follows:

7 § 530.30 Order of recognizance~~;~~ or release under ~~[non-monetary]~~ conditions ~~[or bail]~~; by superior
8 court judge when action is pending in local criminal court.

9 1. When a criminal action is pending in a local criminal court, other than one consisting of a
10 superior court judge sitting as such, a judge of a superior court holding a term thereof in the county,
11 upon application of a defendant, may order recognizance, or release under ~~[non-monetary]~~
12 conditions ~~[or, where authorized, bail]~~ when such local criminal court:

13 (a) Lacks authority to issue such an order, pursuant to the relevant provisions of section 530.20
14 of this article; or

15 (b) Has denied an application for recognizance, or release under ~~[non-monetary]~~ conditions ~~[or~~
16 ~~bail]~~; or

17 ~~[(e) Has fixed bail, where authorized, which is excessive; or]~~

18 ~~[(d)]~~ (c) Has set a securing order of release under ~~[non-monetary]~~ conditions which are more
19 restrictive than necessary to reasonably assure the defendant's return to court or reasonably assure
20 the safety of such person or the community.

21 In such case, such superior court judge may vacate the order of such local criminal court and
22 release the defendant on recognizance or under ~~[non-monetary]~~ conditions, ~~[or where authorized,~~
23 ~~fix bail in a lesser amount or in a less burdensome form;]~~ whichever are the least restrictive
24 alternative and conditions that will reasonably assure the defendant's return to court or reasonably
25 assure the safety of such person or the community. The court shall explain its choice of alternative
26 and conditions on the record or in writing.

27 2. Notwithstanding the provisions of subdivision one of this section, when the defendant is charged
28 with a felony in a local criminal court, a superior court judge may not order recognizance, or
29 release under ~~[non-monetary]~~ conditions ~~[or, where authorized, bail unless and]~~ until the district
30 attorney has had an opportunity to be heard in the matter and such judge and counsel for the

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1 defendant have been furnished with a report as described in subparagraph (ii) of paragraph (b) of
2 subdivision two of section 530.20 of this article.

3 3. Not more than one application may be made pursuant to this section.

4 § 13. Section 530.40 of the criminal procedure law, as added by section 18 of part JJJ of Chapter
5 59 of the laws of 2019, is amended to read as follows:

6 § 530.40 Order of recognizance, or release under [~~non-monetary~~] conditions [~~or bail~~]; by superior
7 court when action is pending therein.

8 When a criminal action is pending in a superior court, such court, upon application of a defendant,
9 must or may order recognizance [~~or bail~~] as follows:

10 1. When the defendant is charged with an offense or offenses of less than felony grade only, the
11 court must, unless otherwise provided by law, order recognizance or release under [~~non-monetary~~]
12 conditions in accordance with this section.

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

22 3. In cases other than as described in subdivision four of this section the court shall release the
23 principal pending trial on the principal's own recognizance, unless the court finds on the record or
24 in writing that:

25 (a) release on the principal's own recognizance will not reasonably assure the principal's return
26 to court. In such instances, the court shall release the principal under [~~non-monetary~~] conditions,
27 selecting the least restrictive alternative and conditions that will reasonably assure the principal's
28 return to court. The court shall explain its choice of alternative and conditions on the record or in
29 writing[-]; or

30 (b) release on the principal's own recognizance will not reasonably assure the safety of any
31 person or the community. In such instances, the court may in its discretion release the principal

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pending trial on the principal's own recognizance or under conditions, or commit the principal to the custody of the sheriff, selecting the alternative that will reasonably assure the safety of such person or the community. The court shall explain its choice of alternative and conditions on the record or in writing.

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

(a) a felony enumerated in section 70.02 of the penal law, other than robbery in the second degree as defined in subdivision one of section 160.10 of the penal law, provided, however, that burglary in the second degree as defined in subdivision two of section 140.25 of the penal law shall be a qualifying offense only where the defendant is charged with entering the living area of the dwelling;

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

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

(d) a class A felony defined in the penal law, provided that for class A felonies under article two hundred twenty of such law, only class A-I felonies shall be a qualifying offense;

(e) a sex trafficking offense defined in section 230.34 or 230.34-a of the penal law, or a felony sex offense defined in section 70.80 of the penal law or a crime involving incest as defined in section 255.25, 255.26 or 255.27 of such law, or a misdemeanor defined in article one hundred thirty of such law;

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

(g) money laundering in support of terrorism in the first degree as defined in section 470.24 of the penal law; money laundering in support of terrorism in the second degree as defined in section 470.23 of the penal law; money laundering in support of terrorism in the third degree as defined

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1 in section 470.22 of the penal law; money laundering in support of terrorism in the fourth degree
2 as defined in section 470.21 of the penal law; or a felony crime of terrorism as defined in article
3 four hundred ninety of the penal law, other than the crime defined in section 490.20 of such law;

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

11 (i) facilitating a sexual performance by a child with a controlled substance or alcohol as defined
12 in section 263.30 of the penal law, use of a child in a sexual performance as defined in section
13 263.05 of the penal law or luring a child as defined in subdivision one of section 120.70 of the
14 penal law, promoting an obscene sexual performance by a child as defined in section 263.10 of the
15 penal law or promoting a sexual performance by a child as defined in section 263.15 of the penal
16 law;

17 (j) any crime that is alleged to have caused the death of another person;

18 (k) criminal obstruction of breathing or blood circulation as defined in section 121.11 of the
19 penal law, strangulation in the second degree as defined in section 121.12 of the penal law or
20 unlawful imprisonment in the first degree as defined in section 135.10 of the penal law, and is
21 alleged to have committed the offense against a member of the defendant's same family or
22 household as defined in subdivision one of section 530.11 of this article;

23 (l) aggravated vehicular assault as defined in section 120.04-a of the penal law or vehicular
24 assault in the first degree as defined in section 120.04 of the penal law;

25 (m) assault in the third degree as defined in section 120.00 of the penal law or arson in the third
26 degree as defined in section 150.10 of the penal law, when such crime is charged as a hate crime
27 as defined in section 485.05 of the penal law;

28 (n) aggravated assault upon a person less than eleven years old as defined in section 120.12 of
29 the penal law or criminal possession of a weapon on school grounds as defined in section 265.01-
30 a of the penal law;

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1 (o) grand larceny in the first degree as defined in section 155.42 of the penal law, enterprise
2 corruption as defined in section 460.20 of the penal law, or money laundering in the first degree
3 as defined in section 470.20 of the penal law;

4 (p) failure to register as a sex offender pursuant to section one hundred sixty-eight-t of the
5 correction law or endangering the welfare of a child as defined in subdivision one of section 260.10
6 of the penal law, where the defendant is required to maintain registration under article six-C of the
7 correction law and designated a level three offender pursuant to subdivision six of section one
8 hundred sixty-eight-l of the correction law;

9 (q) a crime involving bail jumping under section 215.55, 215.56 or 215.57 of the penal law, or
10 a crime involving escaping from custody under section 205.05, 205.10 or 205.15 of the penal law;

11 (r) any felony offense committed by the principal while serving a sentence of probation or while
12 released to post release supervision;

13 (s) a felony, where the defendant qualifies for sentencing on such charge as a persistent felony
14 offender pursuant to section 70.10 of the penal law; [✗]

15 (t) any felony or class A misdemeanor involving harm to an identifiable person or property,
16 where such charge arose from conduct occurring while the defendant was released on his or her
17 own recognizance or released under conditions for a separate felony or class A misdemeanor
18 involving harm to an identifiable person or property, provided, however, that the prosecutor must
19 show reasonable cause to believe that the defendant committed the instant crime and any
20 underlying crime. For the purposes of this subparagraph, any of the underlying crimes need not be
21 a qualifying offense as defined in this subdivision[-];

22 (u) any crime in violation of article two hundred sixty-five of the penal law;

23 (v) any other felony offense and the principal has been convicted of one or more felony offenses
24 within the immediate preceding ten years, exclusive of time spent incarcerated; or

25 (w) when a bench warrant has previously been issued against the principal in the matter
26 presently before the court.

27 ~~[5. Notwithstanding the provisions of subdivisions three and four of this section, with respect to~~
28 ~~any charge for which bail or remand is not ordered, and for which the court would not or could not~~
29 ~~otherwise require bail or remand, a defendant may, at any time, request that the court set bail in a~~
30 ~~nominal amount requested by the defendant in the form specified in paragraph (a) of subdivision~~

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1 ~~one of section 520.10 of this title; if the court is satisfied that the request is voluntary, the court~~
2 ~~shall set such bail in such amount.]~~

3 [6] 5. Notwithstanding the provisions of subdivisions two, three and four of this section, a superior
4 court may not order recognizance, release under [non-monetary] conditions [~~or, where authorized,~~
5 ~~bail~~], or permit a defendant to remain at liberty pursuant to an existing order, after the defendant
6 has been convicted of either: (a) a class A felony or (b) any class B or class C felony as defined in
7 article one hundred thirty of the penal law committed or attempted to be committed by a person
8 eighteen years of age or older against a person less than eighteen years of age. In either case the
9 court must commit or remand the defendant to the custody of the sheriff.

10 [7] 6. Notwithstanding the provisions of subdivisions two, three and four of this section, a superior
11 court may not order recognizance, or release under [non-monetary] conditions [~~or, where~~
12 ~~authorized, bail~~] when the defendant is charged with a felony unless and until the district attorney
13 has had an opportunity to be heard in the matter and such court and counsel for the defendant have
14 been furnished with a report as described in subparagraph (ii) of paragraph (b) of subdivision two
15 of section 530.20 of this article.

16 §14. Section 530.45 of the criminal procedure law, as added by section 18 of part JJJ of Chapter
17 59 of the laws of 2019, is amended to read as follows:

18 § 530.45 Order of recognizance [~~or bail~~]; after conviction and before sentence.

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

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1 ~~burdensome form, or~~] issue a less restrictive securing order, other than those fixed by the court in
2 which the conviction was entered.

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

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

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

9 2-a. Notwithstanding the provisions of subdivision four of section 510.10, paragraph (b) of
10 subdivision one of section 530.20 and subdivision four of section 530.40 of this title, when a
11 defendant charged with an offense that is not such a qualifying offense is convicted, whether by
12 guilty plea or verdict, in such criminal action or proceeding of an offense that is not a qualifying
13 offense, the court may, in accordance with law, issue a securing order: releasing the defendant on
14 the defendant's own recognizance or under ~~[non-monetary]~~ conditions where authorized~~[-fix bail,]~~
15 or remand the defendant to the custody of the sheriff where authorized.

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

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

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

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1 defendant, expressly ordered that the operation of the order continue until the date of the
2 determination of the appeal or some other designated future date or occurrence.

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

10 § 15. Section 530.50 of the criminal procedure law as added by section 18 of part JJJ of Chapter
11 59 of the laws of 2019, is amended to read as follows:

12 § 530.50 Order of recognizance ~~[or bail]~~; during pendency of appeal.

13 1. A judge who is otherwise authorized pursuant to section 460.50 or section 460.60 to issue an
14 order of recognizance ~~[or bail]~~ pending the determination of an appeal, may do so unless the
15 defendant received a class A felony sentence or a sentence for any class B or class C felony offense
16 defined in article one hundred thirty of the penal law committed or attempted to be committed by
17 a person eighteen years of age or older against a person less than eighteen years of age.

18 2. Notwithstanding the provisions of subdivision four of section 510.10, paragraph (b) of
19 subdivision one of section 530.20 and subdivision four of section 530.40 of this title, when a
20 defendant charged with an offense that is not such a qualifying offense applies, pending
21 determination of an appeal, for an order of recognizance or release on ~~[non-monetary]~~ conditions,
22 ~~[where authorized, or fixing bail,]~~ a judge identified in subdivision two of section 460.50 or
23 paragraph (a) of subdivision one of section 460.60 of this chapter may, in accordance with law,
24 and except as otherwise provided by law, issue a securing order: releasing the defendant on the
25 defendant's own recognizance or under ~~[non-monetary]~~ conditions where authorized, ~~[fixing bail,]~~
26 or remanding the defendant to the custody of the sheriff where authorized.

27 § 16. Section 530.60 of the criminal procedure law, as added by section 18 of part JJJ of Chapter
28 59 of the laws of 2019, is amended to read as follows:

29 § 530.60 Certain modifications of a securing order.

30 1. Whenever in the course of a criminal action or proceeding a defendant is at liberty as a result of
31 an order of recognizance, or release under ~~[non-monetary]~~ conditions ~~[or bail-issued]~~ pursuant to

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1 this chapter, and the court considers it necessary to review such order, whether due to a motion by
2 the people or otherwise, the court may, and except as provided in subdivision two of section 510.50
3 of this title concerning a failure to appear in court, by a bench warrant if necessary, require the
4 defendant to appear before the court. Upon such appearance, the court, for good cause shown, may
5 revoke the order of recognizance, or release under ~~[non-monetary]~~ conditions, ~~[or bail. If the~~
6 ~~defendant is entitled to recognizance, or release under non-monetary conditions, or bail as a matter~~
7 ~~of right, the court must issue another such order. If the defendant is not, the court may either issue~~
8 ~~such an order or commit the defendant to the custody of the sheriff in accordance with this section.]~~
9 or commit to custody of the sheriff.

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

13 2. ~~[(a) Whenever in the course of a criminal action or proceeding a defendant charged with the~~
14 ~~commission of a felony is at liberty as a result of an order of recognizance, or release under non-~~
15 ~~monetary conditions or bail issued pursuant to this article it shall be grounds for revoking such~~
16 ~~order that the court finds reasonable cause to believe the defendant committed one or more~~
17 ~~specified class A or violent felony offenses or intimidated a victim or witness in violation of section~~
18 ~~215.15, 215.16 or 215.17 of the penal law while at liberty.]~~

19 ~~[(b) Except as provided in paragraph (a) of this subdivision or any other law, whenever]~~

20 (a) Whenever in the course of a criminal action or proceeding a defendant charged with the
21 commission of an offense is at liberty as a result of an order of recognizance, or release under
22 ~~[non-monetary]~~ conditions ~~[or bail]~~ issued pursuant to this article it shall be grounds for revoking
23 such order ~~[and fixing bail]~~ in such criminal action or proceeding and committing the principal to
24 the custody of the sheriff when the court has found, by ~~[clear and convincing evidence]~~ a
25 preponderance of the evidence, that the defendant:

26 (i) ~~[persistently and willfully]~~ failed to appear after notice of scheduled appearances in the case
27 before the court; or

28 (ii) ~~[violated an order of protection in the manner prohibited by subdivision (b), (c) or (d) of~~
29 ~~section 215.51 of the penal law while at liberty]~~ committed another crime; or

30 (iii) ~~[stands charged in such criminal action or proceeding with a misdemeanor or violation and,~~
31 ~~after being so charged, intimidated a victim or witness in violation of section 215.15, 215.16 or~~

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1 ~~215.17 of the penal law or tampered with a witness in violation of section 215.11, 215.12 or 215.13~~
2 ~~of the penal law, law while at liberty; or]~~ violated a condition of release as imposed by the court.

3 ~~[(iv) stands charged in such action or proceeding with a felony and, after being so charged,~~
4 ~~committed a felony while at liberty.]~~

5 ~~[(e)]~~ (b) Before revoking an order of recognizance, or release under ~~[non-monetary]~~ conditions
6 ~~[-or bail]~~ pursuant to this subdivision, the court must hold a hearing and shall receive any relevant
7 ~~[, admissible evidence not legally privileged]~~ material and evidence, including hearsay evidence.

8 The defendant may cross-examine witnesses and may present relevant, admissible evidence on his
9 own behalf. Such hearing may be consolidated with, and conducted at the same time as, a felony
10 hearing conducted pursuant to article one hundred eighty of this chapter. A transcript of testimony
11 taken before the grand jury upon presentation of the subsequent offense shall be admissible as
12 evidence during the hearing. The district attorney may move to introduce grand jury testimony of
13 a witness in lieu of that witness' appearance at the hearing.

14 ~~[(d)]~~ (c) Revocation of an order of recognizance, or release under ~~[non-monetary]~~ conditions ~~[or~~
15 ~~bail]~~ and a new securing order ~~[fixing bail or]~~ for commitment, as specified in this paragraph and
16 pursuant to this subdivision shall be for the following periods:

17 (i) Under paragraph (a) of this subdivision, revocation of the order of recognizance or release
18 under ~~[non-monetary]~~ conditions ~~[or, as the case may be, bail,]~~ and a new securing order ~~[fixing~~
19 ~~bail or]~~ committing the defendant to the custody of the sheriff shall be as follows:

20 (A) For a period not to exceed ninety days exclusive of any periods of adjournment requested
21 by the defendant; or

22 (B) Until the charges contained within the accusatory instrument have been reduced or dismissed
23 such that no count remains which charges the defendant with commission of a felony; or

24 (C) Until reduction or dismissal of the charges contained within the accusatory instrument
25 charging the subsequent offense such that no count remains which charges the defendant with
26 commission of a class A or violent felony offense.

27 Upon expiration of any of the three periods specified within this subparagraph, whichever is
28 shortest, the court may grant or deny release upon ~~[an order of bail or]~~ recognizance in accordance
29 with the provisions of this article. Upon conviction to an offense the provisions of article five
30 hundred thirty of this chapter shall apply; and

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1 (ii) Under paragraph ~~[(b)]~~ (c) of this subdivision, revocation of the order of recognizance, or
2 release under ~~[non-monetary]~~ conditions ~~[or, as the case may be, bail]~~ shall result in the issuance
3 of a new securing order which may, if otherwise authorized by law, permit the principal's release
4 on recognizance or release under ~~[non-monetary]~~ conditions, ~~[but shall also render the defendant~~
5 ~~eligible for an order fixing bail provided, however, that]~~ in accordance with the principles in this
6 title the court must select ~~[the least restrictive alternative and]~~ a condition or conditions that will
7 reasonably assure the principal's return to court and reasonably assure the safety of a person or the
8 community. Nothing in this subparagraph shall be interpreted as shortening the period of detention,
9 or requiring or authorizing any less restrictive form of a securing order, which may be imposed
10 pursuant to any other law.

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

21 § 17. Section 530.70 of the criminal procedure law is amended as added by section 18 of part JJJ
22 of Chapter 59 of the laws of 2019, is amended to read as follows:

23 § 530.70 Order of recognizance ~~[or bail]~~; bench warrant.

24 § 18. Section 530.80 of the criminal procedure law is REPEALED.

25 § 19. Section 510.50 of the criminal procedure law, as added by section 2of part JJJ of Chapter 59 of
26 the laws of 2019, is amended to read as follows

27 § 510.50 Enforcement of securing order.

28 ~~[-]~~ When the attendance of a principal confined in the custody of the sheriff is required at the criminal
29 action or proceeding at a particular time and place, the court may compel such attendance by directing the
30 sheriff to produce the principal at such time and place. If the principal is at liberty on the principal's own
31 recognizance or ~~[non-monetary]~~ conditions ~~[or on bail]~~, the principal's attendance may be achieved or
32 compelled by various methods, including notification and the issuance of a bench warrant, prescribed by

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1 law in provisions governing such matters with respect to the particular kind of action or proceeding
2 involved.

3 ~~[2. Except when the principal is charged with a new crime while at liberty absent relevant, credible evidence
4 demonstrating that a principal's failure to appear for a scheduled court appearance was willful, the court,
5 prior to issuing a bench warrant for a failure to appear for a scheduled court appearance, shall provide at
6 least forty-eight hours' notice to the principal or the principal's counsel that the principal is required to
7 appear, in order to give the principal an opportunity to appear voluntarily.]~~

8 § 20. Article 540 of the criminal procedure law is REPEALED and a new article 540 is added to
9 read as follows:

10 ARTICLE 540 REPORTING

11 § 540.10 Reporting

12 1. The Office of Court Administration shall issue annual public reports regarding individuals
13 committed to the custody of the sheriff while pending trial.

14 2. The report shall compare the number of individuals charged who were committed to the custody
15 of the sheriff, the number of individuals who were released on their own recognizance and the
16 number of individuals who were released with conditions.

17 3. The report shall be disaggregated by:

18 (a) the severity of the crime that the defendant is charged with;

19 (b) the county in which the defendant was charged;

20 (c) age, race, and gender of the individual charged; and

21 (d) the prior criminal history of the individuals charged.

22 § 21. Section 120.10 of the Criminal Procedure Law is amended to read as follows:

23 § 120.10 Warrant of arrest; definition, function, form and content.

24 1. A warrant of arrest is a process issued by a local criminal court directing a police officer to arrest
25 a defendant designated in an accusatory instrument filed with such court and to bring him before
26 such court in connection with such instrument. The sole function of a warrant of arrest is to achieve
27 a defendant's court appearance in a criminal action for the purpose of arraignment upon the
28 accusatory instrument by which such action was commenced.

29 2. A warrant of arrest must be subscribed by the issuing judge and must state or contain (a) the
30 name of the issuing court, and (b) the date of issuance of the warrant, and (c) the name or title of
31 an offense charged in the underlying accusatory instrument, and (d) the name of the defendant to

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1 be arrested or, if such be unknown, any name or description by which he can be identified with
2 reasonable certainty, and (e) the police officer or officers to whom the warrant is addressed, and
3 (f) a direction that such officer arrest the defendant and bring him before the issuing court.

4 3. A warrant of arrest may be addressed to a classification of police officers, or to two or more
5 classifications thereof, as well as to a designated individual police officer or officers. Multiple
6 copies of such a warrant may be issued.

7 4. A warrant of arrest may be issued by a local criminal court judge even when the crime is not a
8 qualifying offense as defined by subdivision (4) of section 510.10 of the criminal procedure law
9 or when the defendant is eligible for an appearance ticket under section 150.20 of the criminal
10 procedure law.

11 §22. This act shall take effect immediately.