

9955

I N A S S E M B L Y

February 28, 2018

Introduced by M. of A. QUART, LENTOL -- read once and referred to the
Committee on Codes

AN ACT to amend the criminal procedure law, in relation to the issuance
of securing orders and in relation to making conforming changes

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, DO ENACT AS FOLLOWS:

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

4 1. "Principal" means a defendant in a criminal action or proceeding,
5 or a person adjudged a material witness therein, or any other person so
6 involved therein that [he] THE PRINCIPAL may by law be compelled to
7 appear before a court for the purpose of having such court exercise
8 control over [his] THE PRINCIPAL'S person to secure [his] THE PRINCI-
9 PAL'S future attendance at the action or proceeding when required, and
10 who in fact either is before the court for such purpose or has been
11 before it and been subjected to such control.

12 2. "Release on own recognizance." A court releases a principal on
13 [his] THE PRINCIPAL'S own recognizance when, having acquired control
14 over [his] THE PRINCIPAL'S person, it permits [him] THE PRINCIPAL to be
15 at liberty during the pendency of the criminal action or proceeding
16 involved upon condition that [he] THE PRINCIPAL will appear thereat
17 whenever [his] THE PRINCIPAL'S attendance may be required and will at
18 all times render [himself] THE PRINCIPAL amenable to the orders and
19 processes of the court.

20 3-A. "RELEASE UNDER NON-MONETARY CONDITIONS." A COURT RELEASES A PRIN-
21 CIPAL UNDER NON-MONETARY CONDITIONS WHEN, HAVING ACQUIRED CONTROL OVER A
22 PERSON, IT AUTHORIZES THE PERSON TO BE AT LIBERTY DURING THE PENDENCY OF
23 THE CRIMINAL ACTION OR PROCEEDING INVOLVED UNDER CONDITIONS ORDERED BY
24 THE COURT, WHICH SHALL BE THE LEAST RESTRICTIVE CONDITIONS THAT WILL
25 REASONABLY ASSURE THE PRINCIPAL'S RETURN TO COURT. SUCH CONDITIONS MAY
26 INCLUDE, AMONG OTHER CONDITIONS REASONABLE UNDER THE CIRCUMSTANCES:
27 THAT THE PRINCIPAL BE IN CONTACT WITH A PRETRIAL SERVICES AGENCY SERVING
28 PRINCIPALS IN THAT COUNTY; THAT THE PRINCIPAL ABIDE BY REASONABLE, SPEC-

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

LBD14638-11-8

1 IFIED RESTRICTIONS ON TRAVEL THAT ARE REASONABLY RELATED TO AN ACTUAL
2 RISK OF INTENTIONAL FLIGHT FROM THE JURISDICTION; THAT THE PRINCIPAL
3 REFRAIN FROM POSSESSING A FIREARM, DESTRUCTIVE DEVICE OR OTHER DANGEROUS
4 WEAPON; THAT, WHEN IT IS SHOWN PURSUANT TO SUBDIVISION FOUR OF SECTION
5 510.45 OF THIS TITLE THAT NO OTHER REALISTIC MONETARY CONDITION OR SET
6 OF NON-MONETARY CONDITIONS WILL SUFFICE TO REASONABLY ASSURE THE
7 PERSON'S RETURN TO COURT, THE PERSON BE PLACED IN REASONABLE PRETRIAL
8 SUPERVISION WITH A PRETRIAL SERVICES AGENCY SERVING PRINCIPALS IN THAT
9 COUNTY; THAT, WHEN IT IS SHOWN PURSUANT TO PARAGRAPH (A) OF SUBDIVISION
10 FOUR OF SECTION 510.40 OF THIS TITLE THAT NO OTHER REALISTIC NON-MONE-
11 TARY CONDITION OR SET OF NON-MONETARY CONDITIONS WILL SUFFICE TO REASON-
12 ABLY ASSURE THE PRINCIPAL'S RETURN TO COURT, THE PRINCIPAL'S LOCATION BE
13 MONITORED WITH AN APPROVED ELECTRONIC MONITORING DEVICE, IN ACCORDANCE
14 WITH SUCH SUBDIVISION FOUR OF SECTION 510.40 OF THIS TITLE. A PRINCIPAL
15 SHALL NOT BE REQUIRED TO PAY FOR ANY PART OF THE COST OF RELEASE ON
16 NON-MONETARY CONDITIONS.

17 4. "Commit to the custody of the sheriff." A court commits a principal
18 to the custody of the sheriff when, having acquired control over [his]
19 THE PRINCIPAL'S person, it orders that [he] THE PRINCIPAL be confined in
20 the custody of the sheriff during the pendency of the criminal action or
21 proceeding involved.

22 5. "Securing order" means an order of a court committing a principal
23 to the custody of the sheriff[,] or fixing bail, WHERE AUTHORIZED, or
24 releasing [him on his] THE PRINCIPAL ON THE PRINCIPAL'S own recognizance
25 OR RELEASING THE PRINCIPAL UNDER NON-MONETARY CONDITIONS.

26 6. "Order of recognizance or bail" means a securing order releasing a
27 principal on [his] THE PRINCIPAL'S own recognizance OR UNDER NON-MONE-
28 TARY CONDITIONS or, WHERE AUTHORIZED, fixing bail.

29 7. "Application for recognizance or bail" means an application by a
30 principal that the court, instead of committing [him] THE PRINCIPAL to
31 or retaining [him] THE PRINCIPAL in the custody of the sheriff, either
32 release [him on his own] THE PRINCIPAL ON THE PRINCIPAL'S OWN recogni-
33 zance [or], RELEASE UNDER NON-MONETARY CONDITIONS, OR, WHERE AUTHORIZED,
34 fix bail.

35 8. "Post bail" means to deposit bail in the amount and form fixed by
36 the court, with the court or with some other authorized public servant
37 or agency.

38 9. "Bail" means cash bail [or], a bail bond OR MONEY PAID WITH A CRED-
39 IT CARD.

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

42 S 510.10 Securing order; when required; ALTERNATIVES AVAILABLE; STANDARD
43 TO BE APPLIED.

44 1. When a principal, whose future court attendance at a criminal
45 action or proceeding is or may be required, [initially] comes under the
46 control of a court, such court [must] SHALL, IN ACCORDANCE WITH THIS
47 TITLE, by a securing order[, either] release [him] THE PRINCIPAL on
48 [his] THE PRINCIPAL'S own recognizance, RELEASE THE PRINCIPAL UNDER
49 NON-MONETARY CONDITIONS, OR, WHERE AUTHORIZED, fix bail or commit [him]
50 THE PRINCIPAL to the custody of the sheriff. IN ALL SUCH CASES, EXCEPT
51 WHERE ANOTHER TYPE OF SECURING ORDER IS SHOWN TO BE REQUIRED BY LAW, THE
52 COURT SHALL RELEASE THE PRINCIPAL PENDING TRIAL ON THE PRINCIPAL'S OWN
53 RECOGNIZANCE, UNLESS IT IS DEMONSTRATED AND THE COURT MAKES AN INDIVID-
54 UALIZED DETERMINATION THAT THE PRINCIPAL IS A SIGNIFICANT RISK OF INTEN-
55 TIONAL FLIGHT TO AVOID PROSECUTION. IF SUCH A FINDING IS MADE, THE COURT

1 MUST SELECT THE LEAST RESTRICTIVE ALTERNATIVE AND CONDITION OR CONDI-
2 TIONS THAT WILL REASONABLY ASSURE THE PRINCIPAL'S RETURN TO COURT.

3 2. A PRINCIPAL IS ENTITLED TO REPRESENTATION BY COUNSEL UNDER THIS
4 CHAPTER IN PREPARING AN APPLICATION FOR RELEASE, WHEN A SECURING ORDER
5 IS BEING CONSIDERED AND WHEN A SECURING ORDER IS BEING REVIEWED FOR
6 MODIFICATION, REVOCATION OR TERMINATION. IF THE PRINCIPAL IS FINANCIALLY
7 UNABLE TO OBTAIN COUNSEL, COUNSEL SHALL BE ASSIGNED TO THE PRINCIPAL.

8 3. IN CASES WHERE THE MOST SERIOUS OFFENSE WITH WHICH THE DEFENDANT
9 STANDS CHARGED IN THE CASE BEFORE THE COURT OR A PENDING CASE IS AN
10 OFFENSE THAT IS NOT A CLASS A FELONY DEFINED IN THE PENAL LAW OR A FELO-
11 NY ENUMERATED IN SECTION 70.02 OF THE PENAL LAW (OTHER THAN BURGLARY IN
12 THE SECOND DEGREE AS DEFINED IN SUBDIVISION TWO OF SECTION 140.25 OF THE
13 PENAL LAW OR ROBBERY IN THE SECOND DEGREE AS DEFINED IN SUBDIVISION ONE
14 OF SECTION 160.10 OF SUCH LAW OR REPORTING A FALSE INCIDENT IN THE
15 SECOND DEGREE AS DEFINED IN SECTION 240.55 OF SUCH LAW), THE COURT SHALL
16 RELEASE THE PRINCIPAL PENDING TRIAL ON THE PRINCIPAL'S OWN RECOGNIZANCE,
17 UNLESS THE COURT FINDS ON THE RECORD OR IN WRITING THAT RELEASE ON THE
18 PRINCIPAL'S OWN RECOGNIZANCE WILL NOT REASONABLY ASSURE THE PRINCIPAL'S
19 RETURN TO COURT. IN SUCH INSTANCES, THE COURT SHALL RELEASE THE PRINCI-
20 PAL UNDER NON-MONETARY CONDITIONS, SELECTING THE LEAST RESTRICTIVE
21 ALTERNATIVE AND CONDITIONS THAT WILL REASONABLY ASSURE THE PRINCIPAL'S
22 RETURN TO COURT. THE COURT SHALL EXPLAIN ITS CHOICE OF ALTERNATIVE AND
23 CONDITIONS ON THE RECORD OR IN WRITING.

24 4. EXCEPT AS PROVIDED IN SUBDIVISION FIVE OF THIS SECTION, IN CASES
25 WHERE AN OFFENSE WITH WHICH THE DEFENDANT STANDS CHARGED IN THE CASE
26 BEFORE THE COURT OR A PENDING CASE IS A FELONY ENUMERATED IN SECTION
27 70.02 OF THE PENAL LAW (EXCEPT BURGLARY IN THE SECOND DEGREE AS DEFINED
28 IN SUBDIVISION TWO OF SECTION 140.25 OF THE PENAL LAW OR ROBBERY IN THE
29 SECOND DEGREE AS DEFINED IN SUBDIVISION ONE OF SECTION 160.10 OF SUCH
30 LAW OR REPORTING A FALSE INCIDENT IN THE SECOND DEGREE AS DEFINED IN
31 SECTION 240.55 OF SUCH LAW), THE COURT, UNLESS OTHERWISE PROHIBITED BY
32 LAW, SHALL RELEASE THE PRINCIPAL PENDING TRIAL ON THE PRINCIPAL'S OWN
33 RECOGNIZANCE OR UNDER NON-MONETARY CONDITIONS, OR FIX BAIL. IN SUCH
34 INSTANCES, THE COURT SHALL SELECT THE LEAST RESTRICTIVE ALTERNATIVE AND
35 CONDITIONS THAT WILL REASONABLY ASSURE THE PRINCIPAL'S RETURN TO COURT.
36 THE COURT SHALL EXPLAIN ITS CHOICE OF ALTERNATIVE AND CONDITIONS ON THE
37 RECORD OR IN WRITING.

38 5. IN CASES WHERE AN OFFENSE WITH WHICH THE DEFENDANT STANDS CHARGED
39 IN THE CASE BEFORE THE COURT OR A PENDING CASE IS A FELONY SEX OFFENSE
40 AS DEFINED IN SECTION 70.80 OF THE PENAL LAW, A FELONY TERRORISM OFFENSE
41 UNDER SECTION 490.10, 490.15, 490.30, 490.35, 490.37, 490.40, 490.45,
42 490.47, 490.50 OR 490.55 OF THE PENAL LAW, A CLASS A FELONY OFFENSE
43 DEFINED IN THE PENAL LAW, A FELONY OFFENSE OF WITNESS INTIMIDATION UNDER
44 SECTION 215.15, 215.16, OR 215.17 OF THE PENAL LAW, A FELONY OFFENSE
45 WHERE A REQUIRED ELEMENT THEREOF IS AN INTENT TO CAUSE SERIOUS PHYSICAL
46 INJURY OR DEATH TO ANOTHER PERSON AND CAUSING SUCH INJURY OR DEATH TO
47 SUCH PERSON OR A THIRD PERSON, OR A FELONY FOR WHEN THE DEFENDANT WOULD
48 BE ELIGIBLE FOR SENTENCING UNDER SECTION 70.08 OF THE PENAL LAW, THE
49 COURT, UNLESS OTHERWISE PROHIBITED BY LAW, SHALL RELEASE THE PRINCIPAL
50 PENDING TRIAL UNDER NON-MONETARY CONDITIONS, OR FIX BAIL, OR COMMIT THE
51 PRINCIPAL TO THE CUSTODY OF THE SHERIFF. IN SUCH INSTANCES, THE COURT
52 SHALL SELECT THE LEAST RESTRICTIVE ALTERNATIVE AND CONDITIONS THAT WILL
53 REASONABLY ASSURE THE PRINCIPAL'S RETURN TO COURT. THE COURT SHALL
54 EXPLAIN ITS CHOICE OF ALTERNATIVE AND CONDITIONS ON THE RECORD OR IN
55 WRITING.

1 6. When a securing order is revoked or otherwise terminated in the
2 course of an uncompleted action or proceeding but the principal's future
3 court attendance still is or may be required and [he] THE PRINCIPAL is
4 still under the control of a court, a new securing order must be issued.
5 When the court revokes or otherwise terminates a securing order which
6 committed the principal to the custody of the sheriff, the court shall
7 give written notification to the sheriff of such revocation or termi-
8 nation of the securing order.

9 S 3. Section 510.20 of the criminal procedure law is amended to read
10 as follows:

11 S 510.20 Application for [recognizance or bail; making and determi-
12 nation thereof in general] A CHANGE IN SECURING ORDER.

13 1. Upon any occasion when a court [is required to issue] HAS ISSUED a
14 securing order with respect to a principal[, or at any time when a] AND
15 THE principal is confined in the custody of the sheriff as a result of
16 THE SECURING ORDER OR a previously issued securing order, [he] THE PRIN-
17 CIPAL may make an application for recognizance, RELEASE UNDER NON-MONE-
18 TARY CONDITIONS or bail.

19 2. (A) THE PRINCIPAL IS ENTITLED TO REPRESENTATION BY COUNSEL IN THE
20 MAKING AND PRESENTATION OF SUCH APPLICATION. IF THE PRINCIPAL IS FINAN-
21 CIALY UNABLE TO OBTAIN COUNSEL, COUNSEL SHALL BE ASSIGNED TO THE PRIN-
22 CIPAL.

23 (B) Upon such application, the principal must be accorded an opportu-
24 nity to be heard, PRESENT EVIDENCE and to contend that an order of
25 recognizance, RELEASE UNDER NON-MONETARY CONDITIONS or, WHERE AUTHOR-
26 IZED, bail must or should issue, that the court should release [him on
27 his] THE PRINCIPAL ON THE PRINCIPAL'S own recognizance OR UNDER NON-MON-
28 ETARY CONDITIONS rather than fix bail, and that if bail is AUTHORIZED
29 AND fixed it should be in a suggested amount and form.

30 S 4. The criminal procedure law is amended by adding a new section
31 510.25 to read as follows:

32 S 510.25 REHEARING AFTER FIVE DAYS IN CUSTODY.

33 IN ADDITION TO ANY OTHER AVAILABLE PRE-CONVICTION MOTION OR PROCEDURE,
34 A PRINCIPAL FOR WHOM BAIL IS AUTHORIZED AND WAS FIXED, OR WHO WAS
35 REMANDED TO THE CUSTODY OF THE SHERIFF BUT IS LEGALLY ELIGIBLE FOR
36 RELEASE, AND WHO IS IN CUSTODY FIVE DAYS THEREAFTER SHALL BE BROUGHT
37 BEFORE THE COURT THE NEXT BUSINESS DAY FOR A REHEARING ON THE SECURING
38 ORDER. THE COURT SHALL CONSIDER THE MATTER IN ACCORDANCE WITH SECTION
39 510.10 OF THIS ARTICLE, DE NOVO, INCLUDING THE PRINCIPAL'S INDIVIDUAL
40 FINANCIAL CIRCUMSTANCES, HEAR FROM THE DEFENSE AND, IF THEY SO DESIRE,
41 THE PEOPLE, CONSIDER RELEVANT TESTIMONY AND CROSS-EXAMINATION PRESENTED,
42 CONSIDER ANY RELEVANT, ADMISSIBLE EVIDENCE NOT LEGALLY PRIVILEGED, AND
43 ORDER A NEW SECURING ORDER IN ACCORDANCE WITH THE PRINCIPLES AND PROCE-
44 DURES IN THIS ARTICLE. THIS PROCESS SHALL CONTINUE WITH ADDITIONAL
45 REHEARINGS, HELD PROMPTLY ON REASONABLE WRITTEN REQUEST OF DEFENSE COUN-
46 SEL, MADE ON NOTICE TO THE PEOPLE.

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

55 S 510.30 Application for [recognizance or bail] SECURING ORDER; rules of
56 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 PROVIDED THAT
30 THE COURT MUST ALSO CONSIDER AND TAKE INTO ACCOUNT THE TIME THAT HAS
31 ELAPSED SINCE THE OCCURRENCE OF SUCH CRIME OR CRIMES AND THE AGE OF THE
32 PRINCIPAL AT THE TIME OF THE OCCURRENCE OF SUCH CRIME OR CRIMES; [and

33 (v) His] (D) THE PRINCIPAL'S record of previous adjudication as a
34 juvenile delinquent, as retained pursuant to section 354.2 of the family
35 court act, or, of pending cases where fingerprints are retained pursuant
36 to section 306.1 of such act, or a youthful offender, if any PROVIDED
37 THAT THE COURT MUST ALSO CONSIDER AND TAKE INTO ACCOUNT THE TIME THAT
38 HAS ELAPSED SINCE THE OCCURRENCE OF SUCH DELINQUENCY OR YOUTHFUL OFFEN-
39 DER CONDUCT AND THE AGE OF THE PRINCIPAL AT THE TIME OF SUCH DELINQUENCY
40 OR YOUTHFUL OFFENDER CONDUCT; [and

41 (vi) His] (e) THE PRINCIPAL'S previous record [if any in responding to
42 court appearances when required or] with respect to INTENTIONAL flight
43 to avoid criminal prosecution; [and

44 (vii)] (F) IF MONETARY BAIL IS AUTHORIZED, ACCORDING TO THE
45 RESTRICTIONS SET FORTH IN THIS TITLE, THE PRINCIPAL'S INDIVIDUAL FINAN-
46 CIAL CIRCUMSTANCES;

47 (G) Where the principal is charged with a crime or crimes against a
48 member or members of the same family or household as that term is
49 defined in subdivision one of section 530.11 of this title, the follow-
50 ing factors:

51 [(A)] (I) any violation by the principal of an order of protection
52 issued by any court for the protection of a member or members of the
53 same family or household as that term is defined in subdivision one of
54 section 530.11 of this title, whether or not such order of protection is
55 currently in effect; and

1 [(B)] (II) the principal's history of use or possession of a firearm;
2 and

3 [(viii)] (H) If [he] THE PRINCIPAL is a defendant, [the weight of the
4 evidence against him in the pending criminal action and any other factor
5 indicating probability or improbability of conviction; or,] in the case
6 of an application for [bail or recognizance] A SECURING ORDER pending
7 appeal, the merit or lack of merit of the appeal[; and

8 (ix) If he is a defendant, the sentence which may be or has been
9 imposed upon conviction].

10 [(b)] 2. Where the principal is a defendant-appellant in a pending
11 appeal from a judgment of conviction, the court must also consider the
12 likelihood of ultimate reversal of the judgment. A determination that
13 the appeal is palpably without merit alone justifies, but does not
14 require, a denial of the application, regardless of any determination
15 made with respect to the factors specified in [paragraph (a)] SUBDIVI-
16 SION ONE OF THIS SECTION.

17 3. When bail or recognizance is ordered, the court shall inform the
18 principal, if [he] THE PRINCIPAL is a defendant charged with the commis-
19 sion of a felony, that the release is conditional and that the court may
20 revoke the order of release and MAY BE AUTHORIZED TO commit the princi-
21 pal to the custody of the sheriff in accordance with the provisions of
22 subdivision two of section 530.60 of this chapter if [he] THE PRINCIPAL
23 commits a subsequent felony while at liberty upon such order.

24 S 6. Section 510.40 of the criminal procedure law is amended to read
25 as follows:

26 S 510.40 [Application for recognizance or bail; determination thereof,
27 form of securing order and execution thereof] COURT NOTIFI-
28 CATION TO PRINCIPAL OF CONDITIONS OF RELEASE AND OF ALLEGED
29 VIOLATIONS OF CONDITIONS OF RELEASE.

30 1. [An application for recognizance or bail must be determined by a
31 securing order which either:

32 (a) Grants the application and releases the principal on his own
33 recognizance; or

34 (b) Grants the application and fixes bail; or

35 (c) Denies the application and commits the principal to, or retains
36 him in, the custody of the sheriff.

37 2.] Upon ordering that a principal be released on [his] THE PRINCI-
38 PAL'S own recognizance, OR RELEASED UNDER NON-MONETARY CONDITIONS, OR,
39 IF BAIL HAS BEEN FIXED, UPON THE POSTING OF BAIL, the court must direct
40 [him] THE PRINCIPAL to appear in the criminal action or proceeding
41 involved whenever [his] THE PRINCIPAL'S attendance may be required and
42 to [render himself] BE at all times amenable to the orders and processes
43 of the court. If such principal is in the custody of the sheriff or at
44 liberty upon bail at the time of the order, the court must direct that
45 [he] THE PRINCIPAL be discharged from such custody or, as the case may
46 be, that [his] THE PRINCIPAL'S bail be exonerated.

47 [3.] 2. Upon the issuance of an order fixing bail, WHERE AUTHORIZED,
48 and upon the posting thereof, the court must examine the bail to deter-
49 mine whether it complies with the order. If it does, the court must, in
50 the absence of some factor or circumstance which in law requires or
51 authorizes disapproval thereof, approve the bail and must issue a
52 certificate of release, authorizing the principal to be at liberty, and,
53 if [he] THE PRINCIPAL is in the custody of the sheriff at the time,
54 directing the sheriff to discharge [him] THE PRINCIPAL therefrom. If
55 the bail fixed is not posted, or is not approved after being posted, the
56 court must order that the principal be committed to the custody of the

1 sheriff. IN THE EVENT OF ANY SUCH NON-APPROVAL, THE COURT SHALL EXPLAIN
2 PROMPTLY IN WRITING THE REASONS THEREFOR.

3 3. NON-MONETARY CONDITIONS OF RELEASE SHALL BE INDIVIDUALIZED AND
4 ESTABLISHED IN WRITING BY THE COURT. AT FUTURE COURT APPEARANCES, THE
5 COURT SHALL CONSIDER A LESSENING OF CONDITIONS OR MODIFICATION OF CONDI-
6 TIONS 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
8 THE CONDITIONS OF RELEASE IN AN IMPORTANT RESPECT, PURSUANT TO THIS
9 SUBDIVISION, ADDITIONAL CONDITIONS MAY BE IMPOSED BY THE COURT, ON THE
10 RECORD OR IN WRITING, ONLY AFTER NOTICE OF THE FACTS AND CIRCUMSTANCES
11 OF SUCH ALLEGED NON-COMPLIANCE, REASONABLE UNDER THE CIRCUMSTANCES,
12 AFFORDING THE PRINCIPAL AND THE PRINCIPAL'S ATTORNEY AND THE PEOPLE AN
13 OPPORTUNITY TO PRESENT RELEVANT, ADMISSIBLE EVIDENCE, RELEVANT WITNESSES
14 AND TO CROSS-EXAMINE WITNESSES, AND A FINDING BY CLEAR AND CONVINCING
15 EVIDENCE THAT THE PRINCIPAL VIOLATED A CONDITION OF RELEASE IN AN IMPOR-
16 TANT RESPECT. FOLLOWING SUCH A FINDING, IN DETERMINING WHETHER TO
17 IMPOSE ADDITIONAL CONDITIONS FOR NON-COMPLIANCE, THE COURT SHALL CONSID-
18 ER AND MAY SELECT CONDITIONS CONSISTENT WITH THE COURT'S OBLIGATION TO
19 IMPOSE THE LEAST RESTRICTIVE CONDITION OR CONDITIONS THAT WILL REASON-
20 ABLY ASSURE THE DEFENDANT'S RETURN TO COURT. THE COURT SHALL EXPLAIN ON
21 THE RECORD OR IN WRITING THE REASONS FOR ITS DETERMINATION AND FOR ANY
22 CHANGES TO THE CONDITIONS IMPOSED.

23 4. (A) ELECTRONIC MONITORING OF A PRINCIPAL'S LOCATION MAY BE ORDERED
24 ONLY IF THE COURT FINDS, AFTER NOTICE, AN OPPORTUNITY TO BE HEARD AND AN
25 INDIVIDUALIZED DETERMINATION EXPLAINED ON THE RECORD OR IN WRITING, THAT
26 NO OTHER REALISTIC NON-MONETARY CONDITION OR SET OF NON-MONETARY CONDI-
27 TIONS WILL SUFFICE TO REASONABLY ASSURE A PRINCIPAL'S RETURN TO COURT.

28 (B) THE SPECIFIC METHOD OF ELECTRONIC MONITORING OF THE PRINCIPAL'S
29 LOCATION MUST BE APPROVED BY THE COURT. IT MUST BE THE LEAST RESTRICT-
30 TIVE PROCEDURE AND METHOD THAT WILL REASONABLY ASSURE THE PRINCIPAL'S
31 RETURN TO COURT, AND UNOBTRUSIVE TO THE GREATEST EXTENT PRACTICABLE.

32 (C) ELECTRONIC MONITORING OF THE LOCATION OF A PRINCIPAL MAY BE
33 CONDUCTED ONLY BY A PUBLIC ENTITY UNDER THE SUPERVISION AND CONTROL OF A
34 COUNTY OR MUNICIPALITY OR A NON-PROFIT ENTITY UNDER CONTRACT TO THE
35 COUNTY, MUNICIPALITY OR THE STATE. A COUNTY OR MUNICIPALITY SHALL BE
36 AUTHORIZED TO ENTER INTO A CONTRACT WITH ANOTHER COUNTY OR MUNICIPALITY
37 IN THE STATE TO MONITOR PRINCIPALS UNDER NON-MONETARY CONDITIONS OF
38 RELEASE IN ITS COUNTY, BUT COUNTIES, MUNICIPALITIES AND THE STATE SHALL
39 NOT CONTRACT WITH ANY PRIVATE FOR-PROFIT ENTITY FOR SUCH PURPOSES.

40 (D) ELECTRONIC MONITORING OF A PRINCIPAL'S LOCATION MAY BE FOR A MAXI-
41 MUM PERIOD OF SIXTY DAYS, AND MAY BE RENEWED FOR SUCH PERIOD, AFTER
42 NOTICE, AN OPPORTUNITY TO BE HEARD AND A DE NOVO, INDIVIDUALIZED DETER-
43 MINATION IN ACCORDANCE WITH THIS SUBDIVISION, WHICH SHALL BE EXPLAINED
44 ON THE RECORD OR IN WRITING.

45 5. IF A PRINCIPAL IS RELEASED UNDER NON-MONETARY CONDITIONS, THE COURT
46 SHALL, ON THE RECORD AND IN AN INDIVIDUALIZED WRITTEN DOCUMENT PROVIDED
47 TO THE PRINCIPAL, NOTIFY THE PRINCIPAL, IN PLAIN LANGUAGE AND A MANNER
48 SUFFICIENTLY CLEAR AND SPECIFIC:

49 (A) OF ANY CONDITIONS TO WHICH THE PRINCIPAL IS SUBJECT, TO SERVE AS A
50 GUIDE FOR THE PRINCIPAL'S CONDUCT; AND

51 (B) THAT THE POSSIBLE CONSEQUENCES FOR VIOLATION OF SUCH A CONDITION
52 MAY INCLUDE REVOCATION OF THE SECURING ORDER AND THE ORDERING OF A MORE
53 RESTRICTIVE SECURING ORDER.

54 S 7. The criminal procedure law is amended by adding a new section
55 510.43 to read as follows:

56 S 510.43 COURT APPEARANCES: ADDITIONAL NOTIFICATIONS.

1 THE COURT OR, UPON DIRECTION OF THE COURT, A CERTIFIED PRETRIAL
2 SERVICES AGENCY, SHALL NOTIFY ALL PRINCIPALS RELEASED UNDER NON-MONETARY
3 CONDITIONS AND ON RECOGNIZANCE OF ALL COURT APPEARANCES IN ADVANCE BY
4 TEXT MESSAGE, TELEPHONE CALL, ELECTRONIC MAIL OR FIRST CLASS MAIL. THE
5 CHIEF ADMINISTRATOR OF THE COURTS SHALL, PURSUANT TO SUBDIVISION ONE OF
6 SECTION 10.40 OF THIS CHAPTER, DEVELOP A FORM WHICH SHALL BE OFFERED TO
7 THE PRINCIPAL AT COURT APPEARANCES. ON SUCH FORM, WHICH UPON COMPLETION
8 SHALL BE RETAINED IN THE COURT FILE, THE PRINCIPAL MAY SELECT ONE SUCH
9 PREFERRED MANNER OF NOTICE.

10 S 8. The criminal procedure law is amended by adding a new section
11 510.45 to read as follows:

12 S 510.45 PRETRIAL SERVICES AGENCIES.

13 1. THE OFFICE OF COURT ADMINISTRATION SHALL CERTIFY AND REGULARLY
14 REVIEW FOR RECERTIFICATION ONE OR MORE PRETRIAL SERVICES AGENCIES IN
15 EACH COUNTY TO MONITOR PRINCIPALS RELEASED UNDER NON-MONETARY CONDI-
16 TIONS. SUCH OFFICE SHALL MAINTAIN A LISTING ON ITS PUBLIC WEBSITE IDEN-
17 TIFYING BY COUNTY EACH PRETRIAL SERVICES AGENCY SO CERTIFIED IN THE
18 STATE.

19 2. EVERY SUCH AGENCY SHALL BE A PUBLIC ENTITY UNDER THE SUPERVISION
20 AND CONTROL OF A COUNTY OR MUNICIPALITY OR A NON-PROFIT ENTITY UNDER
21 CONTRACT TO THE COUNTY, MUNICIPALITY OR THE STATE. A COUNTY OR MUNICI-
22 PALITY SHALL BE AUTHORIZED TO ENTER INTO A CONTRACT WITH ANOTHER COUNTY
23 OR MUNICIPALITY IN THE STATE TO MONITOR PRINCIPALS UNDER NON-MONETARY
24 CONDITIONS OF RELEASE IN ITS COUNTY, BUT COUNTIES, MUNICIPALITIES AND
25 THE STATE SHALL NOT CONTRACT WITH ANY PRIVATE FOR-PROFIT ENTITY FOR SUCH
26 PURPOSES.

27 3. (A) ANY QUESTIONNAIRE, INSTRUMENT OR TOOL USED WITH A PRINCIPAL IN
28 THE PROCESS OF CONSIDERING OR DETERMINING THE PRINCIPAL'S POSSIBLE
29 RELEASE ON RECOGNIZANCE, RELEASE UNDER NON-MONETARY CONDITIONS OR ON
30 BAIL, OR USED WITH A PRINCIPAL IN THE PROCESS OF CONSIDERING OR DETER-
31 MINING A CONDITION OR CONDITIONS OF RELEASE OR MONITORING BY A PRETRIAL
32 SERVICES AGENCY, SHALL BE PROMPTLY MADE AVAILABLE TO THE PRINCIPAL AND
33 THE PRINCIPAL'S COUNSEL UPON WRITTEN REQUEST. ANY SUCH BLANK FORM QUES-
34 TIONNAIRE, INSTRUMENT OR TOOL REGULARLY USED IN THE COUNTY FOR SUCH
35 PURPOSE OR A RELATED PURPOSE SHALL BE MADE AVAILABLE TO ANY PERSON
36 PROMPTLY UPON REQUEST.

37 (B) ANY SUCH QUESTIONNAIRE, INSTRUMENT OR TOOL SHALL BE:

38 (I) FREE FROM DISCRIMINATORY AND DISPARATE IMPACT ON DETENTION AND
39 OTHER OUTCOMES BASED ON AGE, RACE, CREED, COLOR, NATIONAL ORIGIN, SEXUAL
40 ORIENTATION, GENDER IDENTITY OR EXPRESSION, MILITARY STATUS, SEX, MARI-
41 TAL STATUS, DISABILITY, OR ANY OTHER CONSTITUTIONALLY PROTECTED CLASS,
42 REGARDING THE USE THEREOF; AND

43 (II) EMPIRICALLY VALIDATED AND REGULARLY REVALIDATED, WITH SUCH VALI-
44 DATION AND REVALIDATION STUDIES AND ALL UNDERLYING DATA, EXCEPT PERSONAL
45 IDENTIFYING INFORMATION FOR ANY DEFENDANT, PUBLICLY AVAILABLE UPON
46 REQUEST.

47 4. MONITORING BY A PRE-TRIAL SERVICES AGENCY MAY BE ORDERED AS A NON-
48 MONETARY CONDITION PURSUANT TO THIS TITLE ONLY IF THE COURT FINDS, AFTER
49 NOTICE, AN OPPORTUNITY TO BE HEARD AND AN INDIVIDUALIZED DETERMINATION
50 EXPLAINED ON THE RECORD OR IN WRITING, THAT NO OTHER REALISTIC NON-MONE-
51 TARY CONDITION OR SET OF NON-MONETARY CONDITIONS WILL SUFFICE TO REASON-
52 ABLY ASSURE THE PRINCIPAL'S RETURN TO COURT.

53 5. EACH PRETRIAL SERVICE AGENCY CERTIFIED BY THE OFFICE OF COURT
54 ADMINISTRATION PURSUANT TO THIS SECTION SHALL AT THE END OF EACH YEAR
55 PREPARE AND FILE WITH SUCH OFFICE AN ANNUAL REPORT, WHICH THE OFFICE
56 SHALL COMPILER, PUBLISH ON ITS WEBSITE AND MAKE AVAILABLE UPON REQUEST TO

1 MEMBERS OF THE PUBLIC. SUCH REPORTS SHALL NOT INCLUDE ANY PERSONAL IDEN-
2 TIFYING INFORMATION FOR ANY INDIVIDUAL DEFENDANTS. EACH SUCH REPORT, IN
3 ADDITION TO OTHER RELEVANT INFORMATION, SHALL SET FORTH, DISAGGREGATED
4 BY EACH COUNTY SERVED:

5 (A) THE NUMBER OF DEFENDANTS MONITORED BY THE AGENCY;
6 (B) THE LENGTH OF TIME (IN MONTHS) EACH SUCH PERSON WAS MONITORED BY
7 THE AGENCY PRIOR TO ACQUITTAL, DISMISSAL, RELEASE ON RECOGNIZANCE, REVO-
8 CATION OF RELEASE ON CONDITIONS, AND SENTENCING;

9 (C) THE RACE, ETHNICITY, AGE AND SEX OF EACH PERSON MONITORED;

10 (D) THE CRIMES WITH WHICH EACH PERSON MONITORED WAS CHARGED;

11 (E) THE NUMBER OF PERSONS MONITORED FOR WHOM RELEASE CONDITIONS WERE
12 MODIFIED BY THE COURT, DESCRIBING GENERALLY FOR EACH PERSON OR GROUP OF
13 PERSONS THE TYPE AND NATURE OF THE CONDITION OR CONDITIONS ADDED OR
14 REMOVED;

15 (F) THE NUMBER OF PERSONS MONITORED FOR WHOM RELEASE UNDER CONDITIONS
16 WAS REVOKED BY THE COURT, AND THE BASIS FOR SUCH REVOCATIONS; AND

17 (G) THE COURT DISPOSITION IN EACH MONITORING CASE, INCLUDING SENTENC-
18 ING INFORMATION.

19 S 9. Section 510.50 of the criminal procedure law is amended to read
20 as follows:

21 S 510.50 Enforcement of securing order.

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

32 2. EXCEPT WHEN THE PRINCIPAL IS CHARGED WITH A NEW CRIME WHILE AT
33 LIBERTY, ABSENT RELEVANT, ADMISSIBLE EVIDENCE DEMONSTRATING THAT A PRIN-
34 CIPAL'S FAILURE TO APPEAR FOR A SCHEDULED COURT APPEARANCE WAS WILLFUL,
35 THE COURT, PRIOR TO ISSUING A BENCH WARRANT FOR A FAILURE TO APPEAR FOR
36 A SCHEDULED COURT APPEARANCE, SHALL PROVIDE AT LEAST FORTY-EIGHT HOURS
37 NOTICE TO THE PRINCIPAL OR THE PRINCIPAL'S COUNSEL THAT THE PRINCIPAL IS
38 REQUIRED TO APPEAR, IN ORDER TO GIVE THE PRINCIPAL AN OPPORTUNITY TO
39 APPEAR VOLUNTARILY.

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

43 (b) The court [may] SHALL direct that the bail be posted in any one of
44 [two] THREE or more of the forms specified in subdivision one OF THIS
45 SECTION, designated in the alternative, and may designate different
46 amounts varying with the forms[;], EXCEPT THAT ONE OF THE FORMS SHALL BE
47 EITHER AN UNSECURED OR PARTIALLY SECURED SURETY BOND, AS SELECTED BY THE
48 COURT.

49 S 11. Section 530.10 of the criminal procedure law is amended to read
50 as follows:

51 S 530.10 Order of recognizance RELEASE UNDER NON-MONETARY CONDITIONS or
52 bail; in general.

53 Under circumstances prescribed in this article, a court, upon applica-
54 tion of a defendant charged with or convicted of an offense, is required
55 [or authorized to order bail or recognizance] TO ISSUE A SECURING ORDER

1 for [the release or prospective release of] such defendant during the
2 pendency of either:

3 1. A criminal action based upon such charge; or

4 2. An appeal taken by the defendant from a judgment of conviction or
5 a sentence or from an order of an intermediate appellate court affirming
6 or modifying a judgment of conviction or a sentence.

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

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

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

34 (a) revoke an order of recognizance, RELEASE UNDER NON-MONETARY CONDI-
35 TIONS or bail and commit the defendant to custody; or

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

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

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

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

1 competent proof that the defendant has willfully failed to obey any such
2 order, the court may:

3 (a) revoke an order of recognizance OR RELEASE UNDER NON-MONETARY
4 CONDITIONS or revoke an order of bail or order forfeiture of such bail
5 and commit the defendant to custody; or

6 (b) restore the case to the calendar when there has been an adjourn-
7 ment in contemplation of dismissal and [commit the defendant to custody]
8 ESTABLISH A SECURING ORDER; or

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

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

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

23 S 530.20 [Order of recognizance or bail;] SECURING ORDER by local crimi-
24 nal court when action is pending therein.

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

28 1. [When the defendant is charged, by information, simplified informa-
29 tion, prosecutor's information or misdemeanor complaint, with an offense
30 or offenses of less than felony grade only, the court must order recog-
31 nizance or bail.] (A) IN CASES WHERE THE MOST SERIOUS OFFENSE WITH WHICH
32 THE DEFENDANT STANDS CHARGED IN THE CASE BEFORE THE COURT OR A PENDING
33 CASE IS AN OFFENSE THAT IS NOT A CLASS A FELONY DEFINED IN THE PENAL LAW
34 OR A FELONY ENUMERATED IN SECTION 70.02 OF THE PENAL LAW (OTHER THAN
35 BURGLARY IN THE SECOND DEGREE AS DEFINED IN SUBDIVISION TWO OF SECTION
36 140.25 OF THE PENAL LAW OR ROBBERY IN THE SECOND DEGREE AS DEFINED IN
37 SUBDIVISION ONE OF SECTION 160.10 OF SUCH LAW OR REPORTING A FALSE INCI-
38 DENT IN THE SECOND DEGREE AS DEFINED IN SECTION 240.55 OF SUCH LAW), THE
39 COURT SHALL RELEASE THE PRINCIPAL PENDING TRIAL ON THE PRINCIPAL'S OWN
40 RECOGNIZANCE, UNLESS THE COURT FINDS ON THE RECORD OR IN WRITING THAT
41 RELEASE ON THE PRINCIPAL'S OWN RECOGNIZANCE WILL NOT REASONABLY ASSURE
42 THE PRINCIPAL'S RETURN TO COURT. IN SUCH INSTANCES, THE COURT SHALL
43 RELEASE THE PRINCIPAL UNDER NON-MONETARY CONDITIONS, SELECTING THE LEAST
44 RESTRICTIVE ALTERNATIVE AND CONDITIONS THAT WILL REASONABLY ASSURE THE
45 PRINCIPAL'S RETURN TO COURT. THE COURT SHALL EXPLAIN ITS CHOICE OF
46 ALTERNATIVE AND CONDITIONS ON THE RECORD OR IN WRITING.

47 (B) EXCEPT AS PROVIDED IN PARAGRAPH (C) OF THIS SUBDIVISION, IN CASES
48 WHERE AN OFFENSE WITH WHICH THE DEFENDANT STANDS CHARGED IN THE CASE
49 BEFORE THE COURT OR A PENDING CASE IS A FELONY ENUMERATED IN SECTION
50 70.02 OF THE PENAL LAW (EXCEPT BURGLARY IN THE SECOND DEGREE AS DEFINED
51 IN SUBDIVISION TWO OF SECTION 140.25 OF THE PENAL LAW OR ROBBERY IN THE
52 SECOND DEGREE AS DEFINED IN SUBDIVISION ONE OF SECTION 160.10 OF SUCH
53 LAW OR REPORTING A FALSE INCIDENT IN THE SECOND DEGREE AS DEFINED IN
54 SECTION 240.55 OF SUCH LAW), THE COURT, UNLESS OTHERWISE PROHIBITED BY
55 LAW, SHALL RELEASE THE PRINCIPAL PENDING TRIAL ON THE PRINCIPAL'S OWN
56 RECOGNIZANCE, OR RELEASE THE PRINCIPAL UNDER NON-MONETARY CONDITIONS, OR

1 FIX BAIL. IN SUCH INSTANCES, THE COURT SHALL SELECT THE LEAST RESTRIC-
2 TIVE ALTERNATIVE THAT WILL REASONABLY ASSURE THE PRINCIPAL'S RETURN TO
3 COURT. THE COURT SHALL EXPLAIN ITS CHOICE OF ALTERNATIVE AND CONDITIONS
4 ON THE RECORD OR IN WRITING.

5 (C) IN CASES WHERE AN OFFENSE WITH WHICH THE DEFENDANT STANDS CHARGED
6 IN THE CASE BEFORE THE COURT OR A PENDING CASE IS A FELONY SEX OFFENSE
7 AS DEFINED IN SECTION 70.80 OF THE PENAL LAW, A FELONY TERRORISM OFFENSE
8 UNDER SECTION 490.10, 490.15, 490.30, 490.35, 490.37, 490.40, 490.45,
9 490.47, 490.50 OR 490.55 OF THE PENAL LAW, A CLASS A FELONY OFFENSE
10 DEFINED IN THE PENAL LAW, A FELONY OFFENSE OF WITNESS INTIMIDATION UNDER
11 SECTION 215.15, 215.16, OR 215.17 OF THE PENAL LAW, A FELONY OFFENSE
12 WHERE A REQUIRED ELEMENT THEREOF IS AN INTENT TO CAUSE SERIOUS PHYSICAL
13 INJURY OR DEATH TO ANOTHER PERSON AND CAUSING SUCH INJURY OR DEATH TO
14 SUCH PERSON OR A THIRD PERSON, OR A FELONY FOR WHICH THE DEFENDANT WOULD
15 BE ELIGIBLE FOR SENTENCING UNDER SECTION 70.08 OF THE PENAL LAW, THE
16 COURT, UNLESS OTHERWISE PROHIBITED BY LAW, SHALL RELEASE THE PRINCIPAL
17 PENDING TRIAL UNDER NON-MONETARY CONDITIONS, OR FIX BAIL, OR COMMIT THE
18 PRINCIPAL TO THE CUSTODY OF THE SHERIFF. IN SUCH INSTANCES, THE COURT
19 SHALL SELECT THE LEAST RESTRICTIVE ALTERNATIVE AND CONDITIONS THAT WILL
20 REASONABLY ASSURE THE PRINCIPAL'S RETURN TO COURT. THE COURT SHALL
21 EXPLAIN ITS CHOICE OF ALTERNATIVE AND CONDITIONS ON THE RECORD OR IN
22 WRITING.

23 2. When the defendant is charged, by felony complaint, with a felony,
24 the court may, in its discretion, order recognizance, RELEASE UNDER
25 NON-MONETARY CONDITIONS, or, WHERE AUTHORIZED, bail OR COMMIT THE
26 DEFENDANT TO THE CUSTODY OF THE SHERIFF except as otherwise provided in
27 SUBDIVISION ONE OF THIS SECTION OR this subdivision:

28 (a) A city court, a town court or a village court may not order recog-
29 nizance or bail when (i) the defendant is charged with a class A felony,
30 or (ii) [it appears that] the defendant has two previous felony
31 convictions;

32 (b) No local criminal court may order recognizance, RELEASE UNDER
33 NON-MONETARY CONDITIONS or bail with respect to a defendant charged with
34 a felony unless and until:

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

39 (ii) The court [has] AND COUNSEL FOR THE DEFENDANT HAVE been furnished
40 with a report of the division of criminal justice services concerning
41 the defendant's criminal record, if any, or with a police department
42 report with respect to the defendant's prior arrest AND CONVICTION
43 record, IF ANY. If neither report is available, the court, with the
44 consent of the district attorney, may dispense with this requirement;
45 provided, however, that in an emergency, including but not limited to a
46 substantial impairment in the ability of such division or police depart-
47 ment to timely furnish such report, such consent shall not be required
48 if, for reasons stated on the record, the court deems it unnecessary.
49 When the court has been furnished with any such report or record, it
50 shall furnish a copy thereof to counsel for the defendant or, if the
51 defendant is not represented by counsel, to the defendant.

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

1 Order of recognizance, RELEASE UNDER NON-MONETARY CONDITIONS or bail; by
2 superior court judge when action is pending in local crimi-
3 nal court.

4 1. When a criminal action is pending in a local criminal court, other
5 than one consisting of a superior court judge sitting as such, a judge
6 of a superior court holding a term thereof in the county, upon applica-
7 tion of a defendant, may order recognizance, RELEASE UNDER NON-MONETARY
8 CONDITIONS or, WHERE AUTHORIZED, bail when such local criminal court:

9 (a) Lacks authority to issue such an order, pursuant to [paragraph (a)
10 of subdivision two] THE RELEVANT PROVISIONS of section 530.20 OF THIS
11 ARTICLE; or

12 (b) Has denied an application for recognizance, RELEASE UNDER NON-MON-
13 ETARY CONDITIONS or bail; or

14 (c) Has fixed bail, WHERE AUTHORIZED, which is excessive; OR

15 (D) HAS SET A SECURING ORDER OF RELEASE UNDER NON-MONETARY CONDITIONS
16 WHICH ARE MORE RESTRICTIVE THAN NECESSARY TO REASONABLY ASSURE THE
17 DEFENDANT'S RETURN TO COURT.

18 In such case, such superior court judge may vacate the order of such
19 local criminal court and release the defendant on [his own] recognizance
20 OR UNDER NON-MONETARY CONDITIONS, or WHERE AUTHORIZED, fix bail in a
21 lesser amount or in a less burdensome form, WHICHEVER ARE THE LEAST
22 RESTRICTIVE ALTERNATIVE AND CONDITIONS THAT WILL REASONABLY ASSURE THE
23 DEFENDANT'S RETURN TO COURT. THE COURT SHALL EXPLAIN ITS CHOICE OF
24 ALTERNATIVE AND CONDITIONS ON THE RECORD OR IN WRITING.

25 2. Notwithstanding the provisions of subdivision one OF THIS SECTION,
26 when the defendant is charged with a felony in a local criminal court, a
27 superior court judge may not order recognizance, RELEASE UNDER NON-MONE-
28 TARY CONDITIONS or, WHERE AUTHORIZED, bail unless and until the district
29 attorney has had an opportunity to be heard in the matter and such judge
30 [has] AND COUNSEL FOR THE DEFENDANT HAVE been furnished with a report as
31 described in subparagraph (ii) of paragraph (b) of subdivision two of
32 section 530.20 OF THIS ARTICLE.

33 S 18. Section 530.40 of the criminal procedure law, subdivision 3 as
34 amended by chapter 264 of the laws of 2003, and subdivision 4 as amended
35 by chapter 762 of the laws of 1971, is amended to read as follows:

36 S 530.40 Order of recognizance, RELEASE UNDER NON-MONETARY CONDITIONS or
37 bail; by superior court when action is pending therein.

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

41 1. When the defendant is charged with an offense or offenses of less
42 than felony grade only, the court must, UNLESS OTHERWISE PROVIDED BY
43 LAW, order recognizance or [bail] RELEASE UNDER NON-MONETARY CONDITIONS
44 IN ACCORDANCE WITH THIS SECTION.

45 2. When the defendant is charged with a felony, the court may, in its
46 discretion, order recognizance [or], RELEASE UNDER NON-MONETARY CONDI-
47 TIONS OR, WHERE AUTHORIZED, bail. In any such case in which an indict-
48 ment (a) has resulted from an order of a local criminal court holding
49 the defendant for the action of the grand jury, or (b) was filed at a
50 time when a felony complaint charging the same conduct was pending in a
51 local criminal court, and in which such local criminal court or a supe-
52 rior court judge has issued an order of recognizance [or], RELEASE UNDER
53 NON-MONETARY CONDITIONS OR, WHERE AUTHORIZED, bail which is still effec-
54 tive, the superior court's order may be in the form of a direction
55 continuing the effectiveness of the previous order.

1 3. IN CASES WHERE THE MOST SERIOUS OFFENSE WITH WHICH THE DEFENDANT
2 STANDS CHARGED IN THE CASE BEFORE THE COURT OR A PENDING CASE IS AN
3 OFFENSE THAT IS NOT A CLASS A FELONY DEFINED IN THE PENAL LAW OR A FELO-
4 NY ENUMERATED IN SECTION 70.02 OF THE PENAL LAW (OTHER THAN BURGLARY IN
5 THE SECOND DEGREE AS DEFINED IN SUBDIVISION TWO OF SECTION 140.25 OF THE
6 PENAL LAW OR ROBBERY IN THE SECOND DEGREE AS DEFINED IN SUBDIVISION ONE
7 OF SECTION 160.10 OF SUCH LAW OR REPORTING A FALSE INCIDENT IN THE
8 SECOND DEGREE AS DEFINED IN SECTION 240.55 OF SUCH LAW), THE COURT SHALL
9 RELEASE THE PRINCIPAL PENDING TRIAL ON THE PRINCIPAL'S OWN RECOGNIZANCE,
10 UNLESS THE COURT FINDS ON THE RECORD OR IN WRITING THAT RELEASE ON THE
11 PRINCIPAL'S OWN RECOGNIZANCE WILL NOT REASONABLY ASSURE THE PRINCIPAL'S
12 RETURN TO COURT. IN SUCH INSTANCES, THE COURT SHALL RELEASE THE PRINCI-
13 PAL UNDER NON-MONETARY CONDITIONS, SELECTING THE LEAST RESTRICTIVE
14 ALTERNATIVE AND CONDITIONS THAT WILL REASONABLY ASSURE THE PRINCIPAL'S
15 RETURN TO COURT. THE COURT SHALL EXPLAIN ITS CHOICE OF ALTERNATIVE AND
16 CONDITIONS ON THE RECORD OR IN WRITING.

17 4. EXCEPT AS PROVIDED IN SUBDIVISION FIVE OF THIS SECTION, IN CASES
18 WHERE AN OFFENSE WITH WHICH THE DEFENDANT STANDS CHARGED IN THE CASE
19 BEFORE THE COURT OR A PENDING CASE IS A FELONY ENUMERATED IN SECTION
20 70.02 OF THE PENAL LAW (EXCEPT BURGLARY IN THE SECOND DEGREE AS DEFINED
21 IN SUBDIVISION TWO OF SECTION 140.25 OF THE PENAL LAW OR ROBBERY IN THE
22 SECOND DEGREE AS DEFINED IN SUBDIVISION ONE OF SECTION 160.10 OF SUCH
23 LAW OR REPORTING A FALSE INCIDENT IN THE SECOND DEGREE AS DEFINED IN
24 SECTION 240.55 OF SUCH LAW) THE COURT, UNLESS OTHERWISE PROHIBITED BY
25 LAW, SHALL RELEASE THE PRINCIPAL PENDING TRIAL ON THE PRINCIPAL'S OWN
26 RECOGNIZANCE, OR RELEASE THE PRINCIPAL UNDER NON-MONETARY CONDITIONS, OR
27 FIX BAIL, SELECTING THE LEAST RESTRICTIVE ALTERNATIVE AND CONDITIONS
28 THAT WILL REASONABLY ASSURE THE PRINCIPAL'S RETURN TO COURT. THE COURT
29 SHALL EXPLAIN ITS CHOICE OF ALTERNATIVE AND CONDITIONS ON THE RECORD OR
30 IN WRITING.

31 5. IN CASES WHERE AN OFFENSE WITH WHICH THE DEFENDANT STANDS CHARGED
32 IN THE CASE BEFORE THE COURT OR A PENDING CASE IS A FELONY SEX OFFENSE
33 AS DEFINED IN SECTION 70.80 OF THE PENAL LAW, A FELONY TERRORISM OFFENSE
34 UNDER SECTION 490.10, 490.15, 490.30, 490.35, 490.37, 490.40, 490.45,
35 490.47, 490.50 OR 490.55 OF THE PENAL LAW, A CLASS A FELONY OFFENSE
36 DEFINED IN THE PENAL LAW, A FELONY OFFENSE OF WITNESS INTIMIDATION UNDER
37 SECTION 215.15, 215.16, OR 215.17 OF THE PENAL LAW, A FELONY OFFENSE
38 WHERE A REQUIRED ELEMENT THEREOF IS AN INTENT TO CAUSE SERIOUS PHYSICAL
39 INJURY OR DEATH TO ANOTHER PERSON AND CAUSING SUCH INJURY OR DEATH TO
40 SUCH PERSON OR A THIRD PERSON, OR A FELONY FOR WHICH THE DEFENDANT IS
41 ELIGIBLE FOR SENTENCING UNDER SECTION 70.08 OF THE PENAL LAW, THE COURT,
42 UNLESS OTHERWISE PROHIBITED BY LAW, SHALL RELEASE THE PRINCIPAL PENDING
43 TRIAL UNDER NON-MONETARY CONDITIONS, OR FIX BAIL, OR COMMIT THE PRINCI-
44 PAL TO THE CUSTODY OF THE SHERIFF, SELECTING THE LEAST RESTRICTIVE
45 ALTERNATIVE AND CONDITIONS THAT WILL REASONABLY ASSURE THE PRINCIPAL'S
46 RETURN TO COURT. THE COURT SHALL EXPLAIN ITS CHOICE OF ALTERNATIVE AND
47 CONDITIONS ON THE RECORD OR IN WRITING.

48 6. Notwithstanding the provisions of [subdivision two] SUBDIVISIONS
49 TWO, THREE, FOUR AND FIVE OF THIS SECTION, a superior court may not
50 order recognizance, RELEASE UNDER NON-MONETARY CONDITIONS or, WHERE
51 AUTHORIZED, bail, or permit a defendant to remain at liberty pursuant to
52 an existing order, after [he] THE DEFENDANT has been convicted of
53 either: (a) a class A felony or (b) any class B or class C felony AS
54 defined in article one hundred thirty of the penal law committed or
55 attempted to be committed by a person eighteen years of age or older

1 against a person less than eighteen years of age. In either case the
2 court must commit or remand the defendant to the custody of the sheriff.
3 [4.] 7. Notwithstanding the provisions of [subdivision two] SUBDIVI-
4 SIONS TWO, THREE, FOUR AND FIVE OF THIS SECTION, a superior court may
5 not order recognizance, RELEASE UNDER NON-MONETARY CONDITIONS or, WHERE
6 AUTHORIZED, bail when the defendant is charged with a felony unless and
7 until the district attorney has had an opportunity to be heard in the
8 matter and such court [has] AND COUNSEL FOR THE DEFENDANT HAVE been
9 furnished with a report as described in subparagraph (ii) of paragraph
10 (b) of subdivision two of section 530.20 OF THIS ARTICLE.

11 S 19. Subdivision 1 of section 530.45 of the criminal procedure law,
12 as amended by chapter 264 of the laws of 2003, is amended to read as
13 follows:

14 1. When the defendant is at liberty in the course of a criminal action
15 as a result of a prior order of recognizance, RELEASE UNDER NON-MONETARY
16 CONDITIONS or bail and the court revokes such order and then [either],
17 WHERE AUTHORIZED, fixes no bail or fixes bail in a greater amount or in
18 a more burdensome form than was previously fixed and remands or commits
19 defendant to the custody of the sheriff, OR ISSUES A MORE RESTRICTIVE
20 SECURING ORDER, a judge designated in subdivision two OF THIS SECTION,
21 upon application of the defendant following conviction of an offense
22 other than a class A felony or a class B or class C felony offense AS
23 defined in article one hundred thirty of the penal law committed or
24 attempted to be committed by a person eighteen years of age or older
25 against a person less than eighteen years of age, and before sentencing,
26 may issue a securing order and [either] release THE defendant on [his]
27 THE DEFENDANT'S own recognizance, RELEASE THE DEFENDANT UNDER NON-MONE-
28 TARY CONDITIONS, or, WHERE AUTHORIZED, fix bail[,] or fix bail in a
29 lesser amount or in a less burdensome form, OR ISSUE A LESS RESTRICTIVE
30 SECURING ORDER, than fixed by the court in which the conviction was
31 entered.

32 S 20. Section 530.60 of the criminal procedure law, subdivision 1 as
33 amended by chapter 565 of the laws of 2011, subdivision 2 as added by
34 chapter 788 of the laws of 1981 and paragraph (a) of subdivision 2 as
35 amended by chapter 794 of the laws of 1986, is amended to read as
36 follows:

37 S 530.60 [Order of recognizance or bail; revocation thereof] CERTAIN
38 MODIFICATIONS OF A SECURING ORDER.

39 1. Whenever in the course of a criminal action or proceeding a defend-
40 ant is at liberty as a result of an order of recognizance, RELEASE UNDER
41 NON-MONETARY CONDITIONS or bail issued pursuant to this chapter, and the
42 court considers it necessary to review such order, [it] WHETHER DUE TO A
43 MOTION BY THE PEOPLE OR OTHERWISE, THE COURT may, and EXCEPT AS PROVIDED
44 IN SUBDIVISION TWO OF SECTION 510.50 OF THIS TITLE CONCERNING A FAILURE
45 TO APPEAR IN COURT, by a bench warrant if necessary, require the defend-
46 ant to appear before the court. Upon such appearance, the court, for
47 good cause shown, may revoke the order of recognizance, RELEASE UNDER
48 NON-MONETARY CONDITIONS, or bail. If the defendant is entitled to recog-
49 nizance, RELEASE UNDER NON-MONETARY CONDITIONS, or bail as a matter of
50 right, the court must issue another such order. If [he or she] THE
51 DEFENDANT is not, the court may either issue such an order or commit the
52 defendant to the custody of the sheriff IN ACCORDANCE WITH THIS SECTION.

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

1 2. (a) Whenever in the course of a criminal action or proceeding a
2 defendant charged with the commission of a felony is at liberty as a
3 result of an order of recognizance, RELEASE UNDER NON-MONETARY CONDI-
4 TIONS or bail issued pursuant to this article it shall be grounds for
5 revoking such order that the court finds reasonable cause to believe the
6 defendant committed one or more specified class A or violent felony
7 offenses or intimidated a victim or witness in violation of [sections]
8 SECTION 215.15, 215.16 or 215.17 of the penal law while at liberty.

9 (B) EXCEPT AS PROVIDED IN PARAGRAPH (A) OF THIS SUBDIVISION, WHENEVER
10 IN THE COURSE OF A CRIMINAL ACTION OR PROCEEDING A DEFENDANT CHARGED
11 WITH THE COMMISSION OF AN OFFENSE IS AT LIBERTY AS A RESULT OF AN ORDER
12 OF RECOGNIZANCE, RELEASE UNDER NON-MONETARY CONDITIONS OR BAIL ISSUED
13 PURSUANT TO THIS ARTICLE IT SHALL BE GROUNDS FOR REVOKING SUCH ORDER AND
14 FIXING BAIL IN SUCH CRIMINAL ACTION OR PROCEEDING WHEN THE COURT HAS
15 FOUND, BY CLEAR AND CONVINCING EVIDENCE, THAT THE DEFENDANT:

16 (I) PERSISTENTLY WILLFULLY FAILED TO APPEAR AFTER NOTICE OF SCHEDULED
17 APPEARANCES IN THE CASE BEFORE THE COURT; OR

18 (II) VIOLATED AN ORDER OF PROTECTION IN THE MANNER PROHIBITED BY
19 SUBDIVISION (B), (C) OR (D) OF SECTION 215.51 OF THE PENAL LAW WHILE AT
20 LIBERTY; OR

21 (III) STANDS CHARGED IN SUCH CRIMINAL ACTION OR PROCEEDING WITH A SEX
22 OFFENSE THAT WOULD REQUIRE REGISTRATION AS A SEX OFFENDER PURSUANT TO
23 ARTICLE SIX-C OF THE CORRECTION LAW AND, AFTER BEING SO CHARGED, COMMIT-
24 TED ANOTHER SUCH SEX OFFENSE WHILE AT LIBERTY;

25 (IV) STANDS CHARGED IN SUCH CRIMINAL ACTION OR PROCEEDING WITH A
26 MISDEMEANOR OR VIOLATION AND, AFTER BEING SO CHARGED, INTIMIDATED A
27 VICTIM OR WITNESS IN VIOLATION OF SECTION 215.15, 215.16 OR 215.17 OF
28 THE PENAL LAW WHILE AT LIBERTY; OR

29 (V) STANDS CHARGED IN SUCH ACTION OR PROCEEDING WITH A FELONY AND,
30 AFTER BEING SO CHARGED, COMMITTED A FELONY WHILE AT LIBERTY.

31 (C) Before revoking an order of recognizance, RELEASE UNDER NON-MONE-
32 TARY CONDITIONS, or bail pursuant to this subdivision, the court must
33 hold a hearing and shall receive any relevant, admissible evidence not
34 legally privileged. The defendant may cross-examine witnesses and may
35 present relevant, admissible evidence on his own behalf. Such hearing
36 may be consolidated with, and conducted at the same time as, a felony
37 hearing conducted pursuant to article one hundred eighty of this chap-
38 ter. A transcript of testimony taken before the grand jury upon presen-
39 tation of the subsequent offense shall be admissible as evidence during
40 the hearing. The district attorney may move to introduce grand jury
41 testimony of a witness in lieu of that witness' appearance at the hear-
42 ing.

43 [(b)] (D) Revocation of an order of recognizance, RELEASE UNDER
44 NON-MONETARY CONDITIONS or bail and A NEW SECURING ORDER FIXING BAIL OR
45 commitment, AS SPECIFIED IN THIS PARAGRAPH AND pursuant to this subdivi-
46 sion shall be for the following periods[, either]:

47 (I) UNDER PARAGRAPH (A) OF THIS SUBDIVISION, REVOCATION OF THE ORDER
48 OF RECOGNIZANCE, RELEASE UNDER NON-MONETARY CONDITIONS OR, AS THE CASE
49 MAY BE, BAIL, AND A NEW SECURING ORDER FIXING BAIL OR COMMITTING THE
50 DEFENDANT TO THE CUSTODY OF THE SHERIFF SHALL BE AS FOLLOWS:

51 [(i)] (A) For a period not to exceed ninety days exclusive of any
52 periods of adjournment requested by the defendant; or

53 [(ii)] (B) Until the charges contained within the accusatory instru-
54 ment have been reduced or dismissed such that no count remains which
55 charges the defendant with commission of a felony; or

1 [(iii)] (C) Until reduction or dismissal of the charges contained
2 within the accusatory instrument charging the subsequent offense such
3 that no count remains which charges the defendant with commission of a
4 class A or violent felony offense.

5 Upon expiration of any of the three periods specified within this
6 [paragraph] SUBPARAGRAPH, whichever is shortest, the court may grant or
7 deny release upon an order of bail or recognizance in accordance with
8 the provisions of this article. Upon conviction to an offense the
9 provisions of article five hundred thirty of this chapter shall
10 apply[.]; AND

11 [(c)] (II) UNDER PARAGRAPH (B) OF THIS SUBDIVISION, REVOCATION OF THE
12 ORDER OF RECOGNIZANCE, RELEASE UNDER NON-MONETARY CONDITIONS OR, AS THE
13 CASE MAY BE, BAIL SHALL RESULT IN THE ISSUANCE OF A NEW SECURING ORDER
14 WHICH MAY, IF OTHERWISE AUTHORIZED BY LAW, PERMIT THE PRINCIPAL'S
15 RELEASE ON RECOGNIZANCE OR RELEASE UNDER NON-MONETARY CONDITIONS, BUT
16 SHALL ALSO RENDER THE DEFENDANT ELIGIBLE FOR AN ORDER FIXING BAIL
17 PROVIDED, HOWEVER, THAT IN ACCORDANCE WITH THE PRINCIPLES IN THIS TITLE
18 THE COURT MUST SELECT THE LEAST RESTRICTIVE ALTERNATIVE AND CONDITION OR
19 CONDITIONS THAT WILL REASONABLY ASSURE THE PRINCIPAL'S RETURN TO COURT.
20 NOTHING IN THIS SUBPARAGRAPH SHALL BE INTERPRETED AS SHORTENING THE
21 PERIOD OF DETENTION, OR REQUIRING OR AUTHORIZING ANY LESS RESTRICTIVE
22 FORM OF A SECURING ORDER, WHICH MAY BE IMPOSED PURSUANT TO ANY OTHER
23 LAW.

24 (E) Notwithstanding the provisions of paragraph (a) OR (B) of this
25 subdivision a defendant, against whom a felony complaint has been filed
26 which charges the defendant with commission of a class A or violent
27 felony offense OR VIOLATION OF SECTION 215.15, 215.16 OR 215.17 OF THE
28 PENAL LAW committed while he was at liberty as specified therein, may be
29 committed to the custody of the sheriff pending a revocation hearing for
30 a period not to exceed seventy-two hours. An additional period not to
31 exceed seventy-two hours may be granted by the court upon application of
32 the district attorney upon a showing of good cause or where the failure
33 to commence the hearing was due to the defendant's request or occurred
34 with his consent. Such good cause must consist of some compelling fact
35 or circumstance which precluded conducting the hearing within the
36 initial prescribed period.

37 S 21. Paragraph (a) of subdivision 9 of section 216.05 of the criminal
38 procedure law, as amended by chapter 258 of the laws of 2015, is amended
39 to read as follows:

40 (a) If at any time during the defendant's participation in the judi-
41 cial diversion program, the court has reasonable grounds to believe that
42 the defendant has violated a release condition IN AN IMPORTANT RESPECT
43 or has WILLFULLY failed to appear before the court as requested, the
44 court EXCEPT AS PROVIDED IN SUBDIVISION TWO OF SECTION 510.50 OF THIS
45 CHAPTER REGARDING A FAILURE TO APPEAR, shall direct the defendant to
46 appear or issue a bench warrant to a police officer or an appropriate
47 peace officer directing him or her to take the defendant into custody
48 and bring the defendant before the court without unnecessary delay;
49 provided, however, that under no circumstances shall a defendant who
50 requires treatment for opioid abuse or dependence be deemed to have
51 violated a release condition on the basis of his or her participation in
52 medically prescribed drug treatments under the care of a health care
53 professional licensed or certified under title eight of the education
54 law, acting within his or her lawful scope of practice. The RELEVANT
55 provisions of [subdivision one of] section 530.60 of this chapter relat-

1 ing to [revocation of recognizance or bail] ISSUANCE OF SECURING ORDERS
2 shall apply to such proceedings under this subdivision.

3 S 22. The opening paragraph of section 240.44 of the criminal proce-
4 dure law, as added by chapter 558 of the laws of 1982, is amended to
5 read as follows:

6 Subject to a protective order, at a pre-trial hearing held in a crim-
7 inal court at which a witness is called to testify, each party, [at the
8 conclusion] PRIOR TO THE COMMENCEMENT of the direct examination of each
9 of its witnesses, shall, upon request of the other party, make available
10 to that party to the extent not previously disclosed:

11 S 23. Section 410.60 of the criminal procedure law, as amended by
12 chapter 652 of the laws of 2008, is amended to read as follows:
13 S 410.60 Appearance before court.

14 A person who has been taken into custody pursuant to section 410.40 or
15 section 410.50 of this article for violation of a condition of a
16 sentence of probation or a sentence of conditional discharge must forth-
17 with be brought before the court that imposed the sentence. Where a
18 violation of probation petition and report has been filed and the person
19 has not been taken into custody nor has a warrant been issued, an
20 initial court appearance shall occur within ten business days of the
21 court's issuance of a notice to appear. If the court has reasonable
22 cause to believe that such person has violated a condition of the
23 sentence, it may commit [him] SUCH PERSON to the custody of the sheriff
24 [or], fix bail, RELEASE SUCH PERSON UNDER NON-MONETARY CONDITIONS or
25 release such person on [his] SUCH PERSON'S own recognizance for future
26 appearance at a hearing to be held in accordance with section 410.70 of
27 this article. If the court does not have reasonable cause to believe
28 that such person has violated a condition of the sentence, it must
29 direct that [he] SUCH PERSON be released.

30 S 24. Subdivision 3 of section 620.50 of the criminal procedure law is
31 amended to read as follows:

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

33 (a) If the bail is posted and approved by the court, the witness
34 must, as provided in subdivision [three] TWO of section 510.40, be
35 released and be permitted to remain at liberty; provided that, where the
36 bail is posted by a person other than the witness himself, he may not be
37 so released except upon his signed written consent thereto;

38 (b) If the bail is not posted, or if though posted it is not approved
39 by the court, the witness must, as provided in subdivision [three] TWO
40 of section 510.40, be committed to the custody of the sheriff.

41 S 25. This act shall take effect on the thirtieth day after it shall
42 have become a law.