

S. 1509--C

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

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

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

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

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

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

23

PART KKK

24 Section 1. Section 30.30 of the criminal procedure law, as added by
25 chapter 184 of the laws of 1972, paragraph (a) of subdivision 3 as
26 amended by chapter 93 of the laws of 2006, paragraph (a) of subdivision
27 4 as amended by chapter 558 of the laws of 1982, paragraph (c) of subdivi-
28 sion 4 as amended by chapter 631 of the laws of 1996, paragraph (h) of
29 subdivision 4 as added by chapter 837 of the laws of 1986, paragraph (i)
30 of subdivision 4 as added by chapter 446 of the laws of 1993, paragraph
31 (j) of subdivision 4 as added by chapter 222 of the laws of 1994, para-
32 graph (b) of subdivision 5 as amended by chapter 109 of the laws of
33 1982, paragraphs (e) and (f) of subdivision 5 as added by chapter 209 of
34 the laws of 1990, is amended to read as follows:

35 § 30.30 Speedy trial; time limitations.

36 1. Except as otherwise provided in subdivision three of this section,
37 a motion made pursuant to paragraph (e) of subdivision one of section
38 170.30 or paragraph (g) of subdivision one of section 210.20 of this
39 chapter must be granted where the people are not ready for trial within:

40 (a) six months of the commencement of a criminal action wherein a
41 defendant is accused of one or more offenses, at least one of which is a
42 felony;

43 (b) ninety days of the commencement of a criminal action wherein a
44 defendant is accused of one or more offenses, at least one of which is a
45 misdemeanor punishable by a sentence of imprisonment of more than three
46 months and none of which is a felony;

47 (c) sixty days of the commencement of a criminal action wherein the
48 defendant is accused of one or more offenses, at least one of which is a
49 misdemeanor punishable by a sentence of imprisonment of not more than
50 three months and none of which is a crime punishable by a sentence of
51 imprisonment of more than three months; or

52 (d) thirty days of the commencement of a criminal action wherein the
53 defendant is accused of one or more offenses, at least one of which is a
54 violation and none of which is a crime.

1 (e) for the purposes of this subdivision, the term offense shall
2 include vehicle and traffic law infractions.

3 2. Except as provided in subdivision three of this section, where a
4 defendant has been committed to the custody of the sheriff or the office
5 of children and family services in a criminal action he or she must be
6 released on bail or on his or her own recognizance, upon such conditions
7 as may be just and reasonable, if the people are not ready for trial in
8 that criminal action within:

9 (a) ninety days from the commencement of his or her commitment to the
10 custody of the sheriff or the office of children and family services in
11 a criminal action wherein the defendant is accused of one or more
12 offenses, at least one of which is a felony;

13 (b) thirty days from the commencement of his or her commitment to the
14 custody of the sheriff or the office of children and family services in
15 a criminal action wherein the defendant is accused of one or more
16 offenses, at least one of which is a misdemeanor punishable by a
17 sentence of imprisonment of more than three months and none of which is
18 a felony;

19 (c) fifteen days from the commencement of his or her commitment to the
20 custody of the sheriff or the office of children and family services in
21 a criminal action wherein the defendant is accused of one or more
22 offenses, at least one of which is a misdemeanor punishable by a
23 sentence of imprisonment of not more than three months and none of which
24 is a crime punishable by a sentence of imprisonment of more than three
25 months; or

26 (d) five days from the commencement of his or her commitment to the
27 custody of the sheriff or the office of children and family services in
28 a criminal action wherein the defendant is accused of one or more
29 offenses, at least one of which is a violation and none of which is a
30 crime.

31 (e) for the purposes of this subdivision, the term offense shall
32 include vehicle and traffic law infractions.

33 3. (a) Subdivisions one and two of this section do not apply to a
34 criminal action wherein the defendant is accused of an offense defined
35 in sections 125.10, 125.15, 125.20, 125.25, 125.26 and 125.27 of the
36 penal law.

37 (b) A motion made pursuant to subdivisions one or two of this section
38 upon expiration of the specified period may be denied where the people
39 are not ready for trial if the people were ready for trial prior to the
40 expiration of the specified period and their present unreadiness is due
41 to some exceptional fact or circumstance, including, but not limited to,
42 the sudden unavailability of evidence material to the people's case,
43 when the district attorney has exercised due diligence to obtain such
44 evidence and there are reasonable grounds to believe that such evidence
45 will become available in a reasonable period.

46 (c) A motion made pursuant to subdivision two of this section shall
47 not:

48 (i) apply to any defendant who is serving a term of imprisonment for
49 another offense;

50 (ii) require the release from custody of any defendant who is also
51 being held in custody pending trial of another criminal charge as to
52 which the applicable period has not yet elapsed;

53 (iii) prevent the redetention of or otherwise apply to any defendant
54 who, after being released from custody pursuant to this section or
55 otherwise, is charged with another crime or violates the conditions on

1 which he has been released, by failing to appear at a judicial proceed-
2 ing at which his presence is required or otherwise.

3 4. In computing the time within which the people must be ready for
4 trial pursuant to subdivisions one and two of this section, the follow-
5 ing periods must be excluded:

6 (a) a reasonable period of delay resulting from other proceedings
7 concerning the defendant, including but not limited to: proceedings for
8 the determination of competency and the period during which defendant is
9 incompetent to stand trial; demand to produce; request for a bill of
10 particulars; pre-trial motions; appeals; trial of other charges; and the
11 period during which such matters are under consideration by the court;
12 or

13 (b) the period of delay resulting from a continuance granted by the
14 court at the request of, or with the consent of, the defendant or his or
15 her counsel. The court [~~must~~] may grant such a continuance only if it is
16 satisfied that postponement is in the interest of justice, taking into
17 account the public interest in the prompt dispositions of criminal
18 charges. A defendant without counsel must not be deemed to have
19 consented to a continuance unless he or she has been advised by the
20 court of his or her rights under these rules and the effect of his
21 consent, which must be done on the record in open court; or

22 (c) (i) the period of delay resulting from the absence or unavailabil-
23 ity of the defendant. A defendant must be considered absent whenever his
24 location is unknown and he is attempting to avoid apprehension or prose-
25 cution, or his location cannot be determined by due diligence. A defend-
26 ant must be considered unavailable whenever his location is known but
27 his presence for trial cannot be obtained by due diligence; or

28 (ii) where the defendant has either escaped from custody or has failed
29 to appear when required after having previously been released on bail or
30 on his own recognizance, and provided the defendant is not in custody on
31 another matter, the period extending from the day the court issues a
32 bench warrant pursuant to section 530.70 of this chapter because of the
33 defendant's failure to appear in court when required, to the day the
34 defendant subsequently appears in the court pursuant to a bench warrant
35 or voluntarily or otherwise; or

36 (d) a reasonable period of delay when the defendant is joined for
37 trial with a co-defendant as to whom the time for trial pursuant to this
38 section has not run and good cause is not shown for granting a sever-
39 ance; or

40 (e) the period of delay resulting from detention of the defendant in
41 another jurisdiction provided the district attorney is aware of such
42 detention and has been diligent and has made reasonable efforts to
43 obtain the presence of the defendant for trial; or

44 (f) the period during which the defendant is without counsel through
45 no fault of the court; except when the defendant is proceeding as his
46 own attorney with the permission of the court; or

47 (g) other periods of delay occasioned by exceptional circumstances,
48 including but not limited to, the period of delay resulting from a
49 continuance granted at the request of a district attorney if (i) the
50 continuance is granted because of the unavailability of evidence materi-
51 al to the people's case, when the district attorney has exercised due
52 diligence to obtain such evidence and there are reasonable grounds to
53 believe that such evidence will become available in a reasonable period;
54 or (ii) the continuance is granted to allow the district attorney addi-
55 tional time to prepare the people's case and additional time is justi-
56 fied by the exceptional circumstances of the case. Any such exclusion

1 when a statement of unreadiness has followed a statement of readiness
2 made by the people must be evaluated by the court after inquiry on the
3 record as to the reasons for the people's unreadiness and shall only be
4 approved upon a showing of sufficient supporting facts; or

5 (h) the period during which an action has been adjourned in contem-
6 plation of dismissal pursuant to sections 170.55, 170.56 and 215.10 of
7 this chapter[+]; or

8 (i) [~~the~~] the period prior to the defendant's actual appearance for
9 arraignment in a situation in which the defendant has been directed to
10 appear by the district attorney pursuant to subdivision three of section
11 120.20 or subdivision three of section 210.10[-] of this chapter; or

12 (j) the period during which a family offense is before a family court
13 until such time as an accusatory instrument or indictment is filed
14 against the defendant alleging a crime constituting a family offense, as
15 such term is defined in section 530.11 of this chapter.

16 5. Whenever pursuant to this section a prosecutor states or otherwise
17 provides notice that the people are ready for trial, the court shall
18 make inquiry on the record as to their actual readiness. If, after
19 conducting its inquiry, the court determines that the people are not
20 ready to proceed to trial, the prosecutor's statement or notice of read-
21 iness shall not be valid for purposes of this section. Any statement of
22 trial readiness must be accompanied or preceded by a certification of
23 good faith compliance with the disclosure requirements of section 245.20
24 of this chapter and the defense shall be afforded an opportunity to be
25 heard on the record as to whether the disclosure requirements have been
26 met. This subdivision shall not apply to cases where the defense has
27 waived disclosure requirements.

28 5-a. Upon a local criminal court accusatory instrument, a statement of
29 readiness shall not be valid unless the prosecuting attorney certifies
30 that all counts charged in the accusatory instrument meet the require-
31 ments of sections 100.15 and 100.40 of this chapter and those counts not
32 meeting the requirements of sections 100.15 and 100.40 of this chapter
33 have been dismissed.

34 6. An order finally denying a motion to dismiss pursuant to subdivi-
35 sion one of this section shall be reviewable upon an appeal from an
36 ensuing judgment of conviction notwithstanding the fact that such judg-
37 ment is entered upon a plea of guilty.

38 7. For purposes of this section, (a) where the defendant is to be
39 tried following the withdrawal of the plea of guilty or is to be retried
40 following a mistrial, an order for a new trial or an appeal or collat-
41 eral attack, the criminal action and the commitment to the custody of
42 the sheriff or the office of children and family services, if any, must
43 be deemed to have commenced on the date the withdrawal of the plea of
44 guilty or the date the order occasioning a retrial becomes final;

45 (b) where a defendant has been served with an appearance ticket, the
46 criminal action must be deemed to have commenced on the date the defend-
47 ant first appears in a local criminal court in response to the ticket;

48 (c) where a criminal action is commenced by the filing of a felony
49 complaint, and thereafter, in the course of the same criminal action
50 either the felony complaint is replaced with or converted to an informa-
51 tion, prosecutor's information or misdemeanor complaint pursuant to
52 article [~~100~~] one hundred eighty of this chapter or a prosecutor's
53 information is filed pursuant to section 190.70 of this chapter, the
54 period applicable for the purposes of subdivision one must be the period
55 applicable to the charges in the new accusatory instrument, calculated
56 from the date of the filing of such new accusatory instrument; provided,

1 however, that when the aggregate of such period and the period of time,
2 excluding the periods provided in subdivision four, already elapsed from
3 the date of the filing of the felony complaint to the date of the filing
4 of the new accusatory instrument exceeds six months, the period applica-
5 ble to the charges in the felony complaint must remain applicable and
6 continue as if the new accusatory instrument had not been filed;

7 (d) where a criminal action is commenced by the filing of a felony
8 complaint, and thereafter, in the course of the same criminal action
9 either the felony complaint is replaced with or converted to an informa-
10 tion, prosecutor's information or misdemeanor complaint pursuant to
11 article ~~[§80]~~ one hundred eighty of this chapter or a prosecutor's
12 information is filed pursuant to section 190.70 of this chapter, the
13 period applicable for the purposes of subdivision two of this section
14 must be the period applicable to the charges in the new accusatory
15 instrument, calculated from the date of the filing of such new accusato-
16 ry instrument; provided, however, that when the aggregate of such period
17 and the period of time, excluding the periods provided in subdivision
18 four of this section, already elapsed from the date of the filing of the
19 felony complaint to the date of the filing of the new accusatory instru-
20 ment exceeds ninety days, the period applicable to the charges in the
21 felony complaint must remain applicable and continue as if the new accu-
22 satory instrument had not been filed.

23 (e) where a count of an indictment is reduced to charge only a misde-
24 meanor or petty offense and a reduced indictment or a prosecutor's
25 information is filed pursuant to subdivisions one-a and six of section
26 210.20 of this chapter, the period applicable for the purposes of subdivi-
27 sion one of this section must be the period applicable to the charges
28 in the new accusatory instrument, calculated from the date of the filing
29 of such new accusatory instrument; provided, however, that when the
30 aggregate of such period and the period of time, excluding the periods
31 provided in subdivision four of this section, already elapsed from the
32 date of the filing of the indictment to the date of the filing of the
33 new accusatory instrument exceeds six months, the period applicable to
34 the charges in the indictment must remain applicable and continue as if
35 the new accusatory instrument had not been filed;

36 (f) where a count of an indictment is reduced to charge only a misde-
37 meanor or petty offense and a reduced indictment or a prosecutor's
38 information is filed pursuant to subdivisions one-a and six of section
39 210.20 of this chapter, the period applicable for the purposes of subdivi-
40 sion two of this section must be the period applicable to the charges
41 in the new accusatory instrument, calculated from the date of the filing
42 of such new accusatory instrument; provided, however, that when the
43 aggregate of such period and the period of time, excluding the periods
44 provided in subdivision four of this section, already elapsed from the
45 date of the filing of the indictment to the date of the filing of the
46 new accusatory instrument exceeds ninety days, the period applicable to
47 the charges in the indictment must remain applicable and continue as if
48 the new accusatory instrument had not been filed.

49 ~~[6-]~~ 8. The procedural rules prescribed in subdivisions one through
50 seven of section 210.45 of this chapter with respect to a motion to
51 dismiss an indictment are ~~[also]~~ not applicable to a motion made pursu-
52 ant to subdivision two of this section. If, upon oral argument, a time
53 period is in dispute, the court must promptly conduct a hearing in which
54 the people must prove that the time period is excludable.

55 § 2. This act shall take effect January 1, 2020.