

Issuing Securing Orders in Town and Village Courts

Updated May 2023 – CHANGES EFFECTIVE JUNE 2, 2023

- Purpose:** This document explains when a Court is required or permitted to: (1) remand a Defendant; (2) release a Defendant on recognizance; (3) impose non-monetary conditions on a Defendant; (4) impose monetary bail on a Defendant; or (5) impose monetary bail and non-monetary conditions.
- Standard:** Except as otherwise required by law, the court shall make an individualized determination as to whether the principal poses a risk of flight to avoid prosecution, consider the kind and degree of control or restriction necessary to reasonably assure the principal's return to court, and select a securing order consistent with its determination. *CPL §§ 510.10(1)*.
- Important Notes:** CPL §510.10(4) states that crimes “involving” escaping from custody (under Penal Law §§205.05, 205.10, and 205.15), witness tampering (under Penal Law §§215.11, 215.22, 215.13), witness intimidation (under Penal Law §215.15), bail jumping (under Penal Law §§215.55, 215.56, and 215.57), and incest (under Penal Law §§255.25, 255.26, and 255.27) are qualifying offenses (CPL §510.10[4][b], [c], [e], and [q]). Additionally, CPL §510.10(4) states that “a sex trafficking offense defined in section 230.34 or 230.34-a of the penal law” and “a misdemeanor defined in article [130 of the penal law]” are qualifying offenses (CPL §510.10[4][e]). This chart strictly construes the above quoted language; however, some readers may interpret this language more broadly to include inchoate offenses (attempt, conspiracy, facilitation, solicitation) or other offenses that reference or include these charges. Further, while CPL §510.10(4) includes certain attempt and conspiracy offenses as qualifying offenses, some of these offenses are legally impossible offenses by definition. This chart does not determine which offenses are legally impossible.
- Using this Guide:** Whenever the Court is required to issue a securing order, the Court should review Part One (Remand Required) to determine whether the Court must remand the Defendant to the custody of the Sheriff.
- If the Court is not required to remand the Defendant to the custody of the Sheriff, the Court should consult Parts Two and Three (Qualifying Offenses: Categories of Crimes and Qualifying Offenses: Itemized Crimes) to determine whether the Defendant is charged with one or more Qualifying Offenses.
- If the **Defendant is charged with a Qualifying Offense**, then the Court, unless otherwise prohibited by law, may in its discretion: (1) release the Defendant pending trial on the Defendant's own recognizance; (2) release the Defendant under non-monetary conditions; (3) fix bail; (4) fix bail and non-monetary conditions or (5) commit the Defendant to the custody of the Sheriff if the Defendant is charged with a Qualifying Offense that is a felony. *CPL § 530.20(1)(b)*.
- If the **Defendant is not charged with a Qualifying Offense**, then the Court shall release the Defendant on the Defendant's own recognizance unless the Court finds on the record or in writing that release on the Defendant's own recognizance will not

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reasonably assure the Defendant's return to court. If the Court makes such a finding, the Court shall release the Defendant under non-monetary conditions, selecting conditions that will reasonably assure: (1) the Defendant's return to court; and (2) the Defendant's compliance with the imposed conditions.

If none of the charged offenses satisfies Part One, Part Two, or Part Three, the Court at initial arraignment MAY NEITHER remand the Defendant NOR impose monetary bail.

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Part One – Remand Required

The Court **MUST REMAND** WITHOUT BAIL if arraigning the Defendant on one or more of the following:

- An A-I or A-II Felony(s) (CPL §530.20[2][a][i])
- Any Felony and the Defendant has Two or More Prior Felony Convictions (CPL §530.20[2][a][ii])
- A Fugitive from Justice Charge (CPL §570.36)

Part Two – Qualifying Offenses: Categories of Crimes

The Court **MAY IMPOSE BAIL** if:

- Part One, above, does not apply; AND
- The Court is arraigning the Defendant on one or more of the following:
 - Any crime that causes the death of another person; (CPL §510.10[4][j])
 - Any felony committed while the Defendant serves a sentence of probation or while released to post-release supervision; (CPL §510.10[4][r])
 - Any felony that may qualify the Defendant as a Persistent Felony Offender per PL 70.10 (for Town and Village Courts this would be a felony arraignment with two (2) or more prior felony convictions requiring a REMAND, this includes out-of-state convictions that would be a felony in New York State) (CPL §510.10[4][s]); OR
 - Any felony or class A misdemeanor involving harm to an identifiable person or property, or any charge of criminal possession of a firearm as defined in section 265.01-b of the penal law, where such charge arose from conduct occurring while the Defendant was released on his or her own recognizance, released under conditions, or had yet to be arraigned after the issuance of a desk appearance ticket for a separate felony or class A misdemeanor involving harm to an identifiable person or property, provided, however, that the Prosecutor must show reasonable cause to believe that the Defendant committed the instant crime and any underlying crime (which need not be a qualifying offense). For the purposes of this subparagraph, any of the underlying crimes need not be qualifying offenses as defined in this subdivision. (CPL §510.10[4][t])

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For the purposes of this paragraph, “harm to an identifiable person or property” shall include but not be limited to theft of or damage to property. However, based upon review of the facts alleged in the accusatory instrument, if the court determines that such theft is negligible and does not appear to be in furtherance of other criminal activity, the principal shall be released on his or her own recognizance or under appropriate non-monetary conditions. (CPL §510.10[4][t]).

Qualifying Offenses (CPL §530.20) and Offenses Requiring Remand in Town and Village Courts – Updated 5/2023; CHANGES EFFECTIVE JUNE 2, 2023

Part Three – Qualifying Offenses: Itemized Crimes (listed alphabetically)

The Court MAY IMPOSE MONETARY BAIL if:

- Part One on page 2 does not apply; AND
- The Defendant is charged with at least one of the offenses listed in the chart below.

Charge	Section of Law	Option to Set Monetary Bail or Remand?	Level of Offense
Aggravated Assault Upon a Person Less than Eleven (11) years old	PL § 120.12	YES	E Felony
Aggravated Assault Upon a Police Officer or Peace Officer	PL § 120.11	YES	B Violent Felony
Aggravated Criminal Contempt *ONLY when the underlying allegation is that defendant violated a duly served order of protection where the protected party is a member of defendant's same family or household under CPL § 530.11(1)	PL § 215.52*	YES	D Felony
Aggravated Criminal Possession of a Weapon	PL § 265.19	YES	C Violent Felony
Aggravated Criminally Negligent Homicide	PL § 125.11	YES	C Violent Felony
Aggravated Enterprise Corruption	PL § 460.22	NO - MUST REMAND	A-I Felony
Aggravated Manslaughter 1 st	PL § 125.22	YES	B Violent Felony
Aggravated Manslaughter 1 st *AND Felony Crime of Terrorism (FCOT), including FCOT Attempt or Conspiracy in PL § 490.25, § 490.05	PL § 125.22*	NO - MUST REMAND	A-II Felony
Aggravated Manslaughter 2 nd	PL § 125.21	YES	C Violent Felony
Aggravated Murder	PL § 125.26	NO - MUST REMAND	A-I Felony
Aggravated Patronizing a Minor for Prostitution 1 st	PL § 230.13	YES	B Felony
Aggravated Patronizing a Minor for Prostitution 2 nd	PL § 230.12	YES	D Felony
Aggravated Patronizing a Minor for Prostitution 3 rd	PL § 230.11	YES	E Felony
Aggravated Sexual Abuse 1 st	PL § 130.70	YES	B Violent Felony
Aggravated Sexual Abuse 1 st *AND Felony Crime of Terrorism (FCOT), including FCOT Attempt or Conspiracy in PL § 490.25, § 490.05	PL § 130.70*	NO - MUST REMAND	A-II Felony
Aggravated Sexual Abuse 2 nd	PL § 130.67	YES	C Violent Felony
Aggravated Sexual Abuse 3 rd	PL § 130.66	YES	D Violent Felony
Aggravated Sexual Abuse 4 th	PL § 130.65-a	YES	E Violent Felony

Qualifying Offenses (CPL §530.20) and Offenses Requiring Remand in Town and Village Courts – Updated 5/2023; CHANGES EFFECTIVE JUNE 2, 2023

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The Court MAY IMPOSE MONETARY BAIL if:

- Part One on page 2 does not apply; AND
- The Defendant is charged with at least one of the offenses listed in the chart below.

Charge	Section of Law	Option to Set Monetary Bail or Remand?	Level of Offense
Aggravated Strangulation	PL § 121.13-a	YES	C Violent Felony
Aggravated Unpermitted Use of Indoor Pyrotechnics 1 st	PL § 405.18	YES	D Violent Felony
Aggravated Vehicular Assault	PL § 120.04-a	YES	C Felony
Arson 1 st	PL § 150.20	NO - MUST REMAND	A-I Felony
Arson 2 nd	PL § 150.15	YES	B Violent Felony
Arson 2 nd * AND Felony Crime of Terrorism (FCOT), including FCOT Attempt or Conspiracy in PL § 490.25, § 490.05	PL § 150.15*	NO - MUST REMAND	A-II Felony
Arson 3 rd * ONLY when such crime is charged as a hate crime as defined in PL § 485.05	PL § 150.10*	YES	C Felony
Assault 1 st	PL § 120.10	YES	B Violent Felony
Assault 1 st * AND Felony Crime of Terrorism (FCOT), including FCOT Attempt or Conspiracy in PL § 490.25, § 490.05	PL § 120.10*	NO - MUST REMAND	A-II Felony
Assault 2 nd	PL § 120.05	YES	D Violent Felony
Assault 3 rd * ONLY when such crime is charged as a hate crime as defined in PL § 485.05	PL § 120.00*	YES – MONETARY BAIL	Misdemeanor
Assault on a Judge	PL § 120.09	YES	C Violent Felony
Assault on a Peace Officer, Police Officer, Firefighter or Emergency Medical Professional	PL § 120.08	YES	C Violent Felony
Attempted Aggravated Assault Upon a Police Officer or Peace Officer	PL § 110/120.11	YES	C Violent Felony
Attempted Aggravated Criminal Possession of a Weapon	PL § 110/265.19	YES	D Violent Felony
Attempted Aggravated Criminally Negligent Homicide	PL § 110/125.11	YES	D Violent Felony

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Attempted Aggravated Enterprise Corruption *ONLY if Felony Crime of Terrorism (FCOT), including FCOT Attempt or Conspiracy in PL § 490.25, § 490.05	PL § 110/460.22*	NO - MUST REMAND	A-II Felony
Attempted Aggravated Manslaughter 1 st	PL § 110/125.22	YES	C Violent Felony
Attempted Aggravated Manslaughter 2 nd	PL § 110/125.21	YES	D Violent Felony
Attempted Aggravated Murder	PL § 110/125.26(1)	NO - MUST REMAND	A-I Felony
Attempted Aggravated Murder *ONLY if charged as a Sexually Motivated Felony (SMF), including SMF Attempt or Conspiracy defined in PL § 130.91 AND/OR Felony Crime of Terrorism (FCOT), including FCOT Attempt or Conspiracy in PL §490.35, §490.05	PL § 110/125.26(2)*	YES *IF FCOT NO - MUST REMAND	B Felony *IF FCOT = A-II Felony
Attempted Aggravated Patronizing a Minor for Prostitution 1 st	PL § 110/230.13	YES	C Felony
Attempted Aggravated Patronizing a Minor for Prostitution 2 nd	PL § 110/230.12	YES	E Felony
Attempted Aggravated Sexual Abuse 1 st	PL § 110/130.70	YES	C Violent Felony
Attempted Aggravated Sexual Abuse 2 nd	PL § 110/130.67	YES	D Violent Felony
Attempted Aggravated Sexual Abuse 3 rd	PL § 110/130.66	YES	E Felony
Attempted Aggravated Sexual Abuse 4 th	PL § 110/130.65-a	YES – MONETARY BAIL	Misdemeanor
Attempted Aggravated Strangulation	PL § 110/121.13-a	YES	D Violent Felony
Attempted Arson 1 st	PL § 110/150.20	YES	B Violent Felony
Attempted Arson 1 st *AND Felony Crime of Terrorism (FCOT), including FCOT Attempt or Conspiracy in PL §490.35, §490.05	PL § 110/150.20*	NO - MUST REMAND	A-II Felony
Attempted Arson 2 nd	PL § 110/150.15	YES	C Violent Felony
Attempted Assault 1 st	PL § 110/120.10	YES	C Violent Felony
Attempted Assault on a Judge	PL § 110/120.09	YES	D Violent Felony

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Charge	Section of Law	Option to Set Monetary Bail or Remand?	Level of Offense
Attempted Assault on a Peace Officer, Police Officer, Firefighter or Emergency Medical Professional	PL § 110/120.08	YES	D Violent Felony
Attempted Burglary 1 st	PL § 110/140.30	YES	C Violent Felony
Attempted Burglary 2 nd (Non-Residential)	PL § 110/140.25(1)	YES	D Violent Felony
Attempted Burglary 2 nd (Residential)	PL § 110/140.25(2)	YES	D Violent Felony
Attempted Course of Sexual Conduct Against a Child 1 st	PL § 110/130.75	YES	C Violent Felony
Attempted Course of Sexual Conduct Against a Child 2 nd	PL § 110/130.80	YES	E Felony
Attempted Criminal Possession of a Chemical Weapon or Biological Weapon 1 st	PL §110/490.45	NO - MUST REMAND	A-I Felony
Attempted Criminal Possession of a Chemical Weapon or Biological Weapon 2 nd	PL § 110/490.40	YES	C Violent Felony
Attempted Criminal Possession of a Chemical Weapon or Biological Weapon 3 rd	PL § 110/490.37	YES	D Violent Felony
Attempted Criminal Possession of a Controlled Substance 1 st	PL §110/220.21	NO - MUST REMAND	A-I Felony
Attempted Criminal Possession of a Controlled Substance 2 nd	PL §110/220.18	NO - MUST REMAND	A-II Felony
Attempted Criminal Possession of a Weapon 1 st	PL § 110/265.04	YES	C Violent Felony
Attempted Criminal Possession of a Weapon 2 nd	PL § 110/265.03	YES	D Violent Felony
Attempted Criminal Possession of a Weapon 3 rd	PL §110/265.02 (5 – 8)	YES	E Violent Felony
Attempted Criminal Possession of a Weapon 3 rd * ONLY if Felony Crime of Terrorism (FCOT), including FCOT Attempt or Conspiracy in PL §490.25 §490.05	PL § 110/265.02 (9) or (10)*	YES	E Violent Felony
Attempted Criminal Sale of a Controlled Substance 1 st	PL §110/220.43	NO - MUST REMAND	A-I Felony
Attempted Criminal Sale of a Controlled Substance 2 nd	PL §110/220.41	NO - MUST REMAND	A-II Felony
Attempted Criminal Sale of a Firearm 1 st	PL § 110/265.13	YES	C Violent Felony

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Attempted Criminal Sale of a Firearm 2 nd	PL § 110/265.12	YES	D Violent Felony
Attempted Criminal Sale of a Firearm with the Aid of a Minor	PL § 110/265.14	YES	D Violent Felony
Attempted Criminal Sexual Act 1 st	PL § 110/130.50	YES	C Violent Felony
Attempted Criminal Sexual Act 2 nd	PL §110/130.45	YES	D Violent Felony
Attempted Criminal Sexual Act 3 rd	PL § 110/130.40	YES – MONETARY BAIL	Misdemeanor
Attempted Criminal Use of a Chemical Weapon or Biological Weapon 1 st	PL §110/490.55	NO - MUST REMAND	A-I Felony
Attempted Criminal Use of a Chemical Weapon or Biological Weapon 2 nd	PL §110/490.50	NO - MUST REMAND	A-II Felony
Attempted Criminal Use of a Chemical Weapon or Biological Weapon 3 rd	PL § 110/490.47	YES	C Violent Felony
Attempted Criminal Use of a Firearm 1 st	PL § 110/265.09	YES	C Violent Felony
Attempted Criminal Use of a Firearm 2 nd	PL § 110/265.08	YES	D Violent Felony
Attempted Facilitating a Sex Offense with a Controlled Substance	PL § 110/s	YES	E Felony
Attempted Female Genital Mutilation	PL § 110/130.85	YES – MONETARY BAIL	Misdemeanor
Attempted Forcible Touching	PL § 110/130.52	YES – MONETARY BAIL	Misdemeanor
Attempted Gang Assault 1 st	PL § 110/120.07	YES	C Violent Felony
Attempted Gang Assault 2 nd	PL § 110/120.06	YES	D Violent Felony
Attempted Hindering Prosecution of Terrorism 1 st	PL § 110/490.35	YES	C Violent Felony
Attempted Hindering Prosecution of Terrorism 2 nd	PL § 110/490.30	YES	D Violent Felony
Attempted Incest 1 st	PL § 110/255.27	YES	C Violent Felony
Attempted Incest 2 nd	PL § 110/255.26	YES	E Felony
Attempted Incest 3 rd	PL § 110/255.25	YES – MONETARY BAIL	Misdemeanor
Attempted Intimidating a Victim or Witness 1 st	PL § 110/215.17	YES	C Violent Felony
Attempted Intimidating a Victim or Witness 3rd (see footnote 1)¹	PL § 110/215.15*	YES – MONETARY BAIL	Misdemeanor
Attempted Kidnapping 1st	PL § 110/135.25	YES	B Violent Felony

¹ CPL 510.10(4)(b) states that “a crime involving witness intimidation under [Penal Law §215.15]”is a qualifying offense. It is unclear if “victim” intimidation was purposely excluded.

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Charge	Section of Law	Option to Set Monetary Bail or Remand?	Level of Offense
Attempted Kidnapping 1st *AND Felony Crime of Terrorism (FCOT), including FCOT Attempt or Conspiracy in PL § 490.25, § 490.05	PL § 110/135.25*	NO - MUST REMAND	A-II Felony
Attempted Kidnapping 2 nd	PL § 110/135.20	YES	C Violent Felony
Attempted Manslaughter 1 st	PL § 110/125.20	YES	C Violent Felony
Attempted Murder 1st	PL § 110/125.27	NO - MUST REMAND	A-I Felony
Attempted Murder 2 nd	PL § 110/125.25	YES	B Violent Felony
Attempted Murder 2 nd *AND Felony Crime of Terrorism (FCOT), including FCOT Attempt or Conspiracy in PL § 490.25, § 490.05	PL § 110/125.25*	NO - MUST REMAND	A-II Felony
Attempted Patronizing a Person for Prostitution 1 st	PL § 110/230.06	YES	E Felony
Attempted Persistent Sexual Abuse	PL § 110/130.53	YES – MONETARY BAIL	Misdemeanor
Attempted Predatory Sexual Assault	PL §110/130.95	NO - MUST REMAND	A-II Felony
Attempted Predatory Sexual Assault Against a Child	PL §110/130.96	NO - MUST REMAND	A-II Felony
Attempted Rape 1 st	PL § 110/130.35	YES	C Violent Felony
Attempted Rape 2 nd	PL § 110/130.30	YES	E Felony
Attempted Rape 3rd	PL § 110/130.25	YES – MONETARY BAIL	Misdemeanor
Attempted Robbery 1 st	PL § 110/160.15	YES	C Violent Felony
Attempted Robbery 2 nd (Aided by Another)	PL § 110/160.10 (1)	YES	D Violent Felony
Attempted Robbery 2 nd (Not aided by Another)	PL § 110/160.10 (2) or (3)	YES	D Violent Felony
Attempted Sex Trafficking	PL § 110/230.34(5)(a) or (b)	YES	C Violent Felony
Attempted Sex Trafficking of a Child	PL § 110/230.34-a	YES	C Violent Felony
Attempted Sexual Abuse 1 st	PL § 110/130.65	YES	E Felony
Attempted Sexual Abuse 2 nd	PL § 110/130.60	YES – MONETARY BAIL	Misdemeanor

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Charge	Section of Law	Option to Set Monetary Bail or Remand?	Level of Offense
Attempted Sexual Misconduct	PL § 110/130.20	YES – MONETARY BAIL	Misdemeanor
Attempted Soliciting or Providing Support for an Act of Terrorism 1st	PL § 110/490.15	YES	D Violent Felony
Attempted Strangulation 1 st	PL § 110/121.13	YES	D Violent Felony
Attempted Tampering with a Witness 1 st	PL § 110/215.13	YES	C Felony
Attempted Tampering with a Witness 2 nd	PL § 110/215.12	YES	E Felony
Attempted Tampering with a Witness 3 rd	PL § 110/215.11	YES – MONETARY BAIL	Misdemeanor
Bail Jumping 1st	PL § 215.57	YES	D Felony
Bail Jumping 2nd	PL § 215.56	YES	E Felony
Bail Jumping 3rd	PL § 215.55	YES – MONETARY BAIL	Misdemeanor
Burglary 1st	PL § 140.30	YES	B Violent Felony
Burglary 1 st *AND Felony Crime of Terrorism (FCOT), including FCOT Attempt or Conspiracy in PL § 490.25, § 490.05	PL § 140.30*	NO - MUST REMAND	A-II Felony
Burglary 2 nd (Non-Residential)	PL § 140.25(1)	YES	C Violent Felony
Burglary 2nd (Residential - Living Area) *ONLY if defendant is charged with entering the living area of a dwelling	PL § 140.25(2)*	YES	C Violent Felony
Burglary 3 rd *ONLY if charged as a Sexually Motivated Felony defined in PL § 130.91	PL § 140.20*	YES	D Felony
Compelling Prostitution *ONLY if charged as a Sexually Motivated Felony (SMF), including SMF Attempt or Conspiracy defined in PL § 130.91	PL § 230.33*	YES	B Felony

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Charge	Section of Law	Option to Set Monetary Bail or Remand?	Level of Offense
Conspiracy 1 st	PL § 105.17	NO - MUST REMAND	A-I Felony
Conspiracy 2 nd *ONLY when the underlying allegation is that the defendant conspired to commit Penal Law Article 125 Class A felony (125.25, 125.25 or 125.27) [See CPL § 510.10(4)(f)]	PL § 105.15*	YES	B Felony
Course of Sexual Conduct Against a Child 1st	PL § 130.75	YES	B Violent Felony
Course of Sexual Conduct Against a Child 1st *AND Felony Crime of Terrorism (FCOT), including FCOT Attempt or Conspiracy in PL § 490.25, § 490.05	PL § 130.75*	NO - MUST REMAND	A-II Felony
Course of Sexual Conduct Against a Child 2 nd	PL § 130.80	YES	D Violent Felony
Criminal Contempt 1 st *ONLY when the underlying allegation is that defendant violated a duly served order of protection where the protected party is a member of defendant's same family or household under CPL § 530.11(1)	PL § 215.51(b) or (c) or (d)*	YES	E Felony
Criminal Contempt 2 nd *ONLY when the underlying allegation is that defendant violated a duly served order of protection where the protected party is a member of defendant's same family or household under CPL § 530.11(1)	PL § 215.50(3)*	YES – MONETARY BAIL	Misdemeanor
Criminal Manufacture, Sale, or Transport of Undetectable Firearm, Rifle or Shotgun	PL § 265.50	YES	D Violent Felony
Criminal Obstruction of Breathing or Blood Circulation *ONLY if alleged to have been committed against a member of the defendant's same family or household as defined in CPL §530.11(1)	PL § 121.11*	YES – MONETARY BAIL	Misdemeanor
Criminal Possession of a Chemical Weapon or Biological Weapon 1 st	PL § 490.45	NO - MUST REMAND	A-I Felony
Criminal Possession of a Chemical Weapon or Biological Weapon 2 nd	PL § 490.40	YES	B Violent Felony

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Criminal Possession of a Chemical Weapon or Biological Weapon 3 rd	PL § 490.37	YES	C Violent Felony
Criminal Possession of a Controlled Substance 1 st	PL § 220.21	NO - MUST REMAND	A-I Felony
Criminal Possession of a Controlled Substance 2 nd	PL § 220.18	NO - MUST REMAND	A-II Felony
Criminal Possession of a Weapon 1 st	PL § 265.04	YES	B Violent Felony
Criminal Possession of a Weapon 1 st * AND Felony Crime of Terrorism (FCOT), including FCOT Attempt or Conspiracy in PL § 490.25, § 490.05	PL § 265.04*	NO - MUST REMAND	A-II Felony
Criminal Possession of a Weapon 2 nd	PL § 265.03	YES	C Violent Felony
Criminal Possession of a Weapon 3 rd	PL § 265.02(5 - 10)	YES	D Violent Felony
Criminal Possession of a Weapon 3 rd	PL § 265.02 (3)	YES	D Felony
Criminal Possession of a Weapon on School Grounds	PL § 265.01-a	YES	E Felony
Criminal Sale of a Controlled Substance 1 st	PL § 220.43	NO - MUST REMAND	A-I Felony
Criminal Sale of a Controlled Substance 2 nd	PL § 220.41	NO - MUST REMAND	A-II Felony
Criminal Sale of a Firearm 1 st	PL § 265.13	YES	B Violent Felony
Criminal Sale of a Firearm 1 st * AND Felony Crime of Terrorism (FCOT), including FCOT Attempt or Conspiracy in PL § 490.25, § 490.05	PL § 265.13*	NO - MUST REMAND	A-II Felony
Criminal Sale of a Firearm 2 nd	PL § 265.12	YES	C Violent Felony
Criminal Sale of a Firearm 3 rd	PL § 265.11	YES	D Violent Felony
Criminal Sale of a Firearm to a Minor	PL § 265.16	YES	C Felony
Criminal Sale of a Firearm with the Aid of a Minor	PL § 265.14	YES	C Violent Felony
Criminal Sexual Act 1 st	PL § 130.50	YES	B Violent Felony
Criminal Sexual Act 1 st * AND Felony Crime of Terrorism (FCOT), including FCOT Attempt or Conspiracy in PL § 490.25, § 490.05	PL § 130.50*	NO - MUST REMAND	A-II Felony
Criminal Sexual Act 2 nd	PL § 130.45	YES	D Violent Felony
Criminal Sexual Act 3 rd	PL § 130.40	YES	E Felony

Qualifying Offenses (CPL §530.20) and Offenses Requiring Remand in Town and Village Courts – Updated 5/2023; CHANGES EFFECTIVE JUNE 2, 2023

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The Court MAY IMPOSE MONETARY BAIL if:

- Part One on page 2 does not apply; AND
- The Defendant is charged with at least one of the offenses listed in the chart below.

Charge	Section of Law	Option to Set Monetary Bail or Remand?	Level of Offense
Criminal Tampering 1st *ONLY if Felony Crime of Terrorism (FCOT), including FCOT Attempt or Conspiracy in PL § 490.25, § 490.05	PL § 145.20*	YES	C Violent Felony
Criminal Use of a Chemical Weapon or Biological Weapon 1 st	PL § 490.55	NO - MUST REMAND	A-I Felony
Criminal Use of a Chemical Weapon or Biological Weapon 2 nd	PL § 490.50	NO - MUST REMAND	A-II Felony
Criminal Use of a Chemical Weapon or Biological Weapon 3 rd	PL § 490.47	YES	B Violent Felony
Criminal Use of a Firearm 1 st	PL § 265.09	YES	B Violent Felony
Criminal Use of a Firearm 1 st *AND Felony Crime of Terrorism (FCOT), including FCOT Attempt or Conspiracy in PL § 490.25, § 490.05	PL § 265.09*	NO - MUST REMAND	A-II Felony
Criminal Use of a Firearm 2 nd	PL § 265.08	YES	C Violent Felony
Disseminating Indecent Material to Minors 1 st *ONLY if charged as a Sexually Motivated Felony (SMF), including SMF Attempt or Conspiracy defined in PL § 130.91	PL § 235.22*	YES	D Felony
Domestic Act of Terrorism Motivated by Hate in the First Degree	PL § 490.28	NO - MUST REMAND	A-I Felony
Domestic Act of Terrorism Motivated by Hate in the Second Degree	PL § 490.27	NO - MUST REMAND	A-I Felony
Endangering the Welfare of a Child *ONLY where the defendant is required to maintain registration under Article 6-C of the Correction Law AND designated a level three offender pursuant to Corr. Law § 168-I (6)	PL § 260.10(1)*	YES – MONETARY BAIL	Misdemeanor
Enterprise Corruption	PL § 460.20	YES	B Felony
Escape 1st	PL § 205.15	YES	D Felony
Escape 2nd	PL § 205.10	YES	E Felony
Escape 3rd	PL § 205.05	YES – MONETARY BAIL	Misdemeanor
Facilitating a Sex Offense with a Controlled Substance	PL § 130.90	YES	D Violent Felony
Facilitating a Sexual Performance by a Child with a Controlled Substance or Alcohol	PL § 263.30	YES	B Felony
Falsely Reporting an Incident 1 st	PL § 240.60	YES	D Violent Felony

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Falsely Reporting an Incident 2 nd	PL § 240.55	YES	E Violent Felony
Female Genital Mutilation	PL § 130.85	YES	E Felony
Forcible Touching	PL § 130.52	YES – MONETARY BAIL	Misdemeanor
Gang Assault 1 st	PL § 120.07	YES	B Violent Felony
Gang Assault 1 st * AND Felony Crime of Terrorism (FCOT), including FCOT Attempt or Conspiracy in PL § 490.25, § 490.05	PL § 120.07*	NO - MUST REMAND	A-II Felony
Gang Assault 2 nd	PL § 120.06	YES	C Violent Felony
Grand Larceny 1st	PL § 155.42	YES	B Felony
Hindering Prosecution of Terrorism 1 st	PL § 490.35	YES	B Violent Felony
Hindering Prosecution of Terrorism 1 st * AND Felony Crime of Terrorism (FCOT), including FCOT Attempt or Conspiracy in PL § 490.25, § 490.05	PL § 490.35*	NO - MUST REMAND	A-II Felony
Hindering Prosecution of Terrorism 2 nd	PL § 490.30	YES	C Violent Felony
Identity Theft 1st * ONLY if Felony Crime of Terrorism (FCOT), including FCOT Attempt or Conspiracy in PL § 490.25, § 490.05	PL § 190.80*	YES	C Violent Felony
Identity Theft 2nd * ONLY if Felony Crime of Terrorism (FCOT), including FCOT Attempt or Conspiracy in PL § 490.25, § 490.05	PL § 190.79*	YES	D Violent Felony
Incest 1 st	PL § 255.27	YES	B Violent Felony
Incest 1 st * AND Felony Crime of Terrorism (FCOT), including FCOT Attempt or Conspiracy in PL § 490.25, § 490.05	PL § 255.27*	NO - MUST REMAND	A-II Felony
Incest 2 nd	PL § 255.26	YES	D Felony
Incest 3 rd	PL § 255.25	YES	E Felony
Intimidating a Victim or Witness 1 st	PL § 215.17	YES	B Violent Felony
Intimidating a Victim or Witness 1 st * AND Felony Crime of Terrorism (FCOT), including FCOT Attempt or Conspiracy in PL § 490.25, § 490.05	PL § 215.17*	NO - MUST REMAND	A-II Felony

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Intimidating a Victim or Witness 2 nd	PL § s230.0	YES	D Violent Felony
Intimidating a Victim or Witness 3rd *(see footnote²)	PL § 215.15*	YES	E Felony
Kidnapping 1 st	PL § 135.25	NO - MUST REMAND	A-I Felony
Kidnapping 2 nd	PL § 135.20	YES	B Violent Felony
Kidnapping 2 nd * AND Felony Crime of Terrorism (FCOT), including FCOT Attempt or Conspiracy in PL § 490.25, § 490.05	PL § 135.20*	NO - MUST REMAND	A-II Felony
Labor Trafficking	PL § 135.35(3)(a) and (b)	YES	D Violent Felony
Luring a Child that the Underlying Offense the Actor Intended to Commit against such Child Constituted a Class A Felony	PL § 120.70(1) & (2)	YES	C Felony
Luring a Child that the Underlying Offense the Actor Intended to Commit against such Child Constituted a Class B Felony	PL § 120.70(1) & (2)	YES	D Felony
Luring of a Child	PL § 120.70(1)	YES	E Felony
Making a Terroristic Threat (*see footnote³)	PL §490.20*	YES	D Felony
Manslaughter 1st	PL § 125.20	YES	B Violent Felony
Manslaughter 1st * AND Felony Crime of Terrorism (FCOT), including FCOT Attempt or Conspiracy in PL § 490.25, § 490.05	PL § 125.20*	NO - MUST REMAND	A-II Felony
Manslaughter 2 nd * ONLY if charged as a Sexually Motivated Felony (SMF), including SMF Attempt or Conspiracy defined in PL § 130.91 AND/OR Felony Crime of Terrorism (FCOT), including FCOT Attempt or Conspiracy in PL § 490.25, § 490.05	PL § 125.15(1)*	YES	C Felony
Menacing a Police Officer or Peace Officer	PL § 120.18	YES	D Violent Felony
Money Laundering 1st	PL § 470.20	YES	B Felony
Money Laundering in Support of Terrorism 1 st	PL § 470.24	YES	B Felony

² CPL 510.10(4)(b) states that “a crime involving witness intimidation under [Penal Law §215.15]”is a qualifying offense. It is unclear if “victim” intimidation was purposely excluded.

³ There are differing interpretations as to whether this charge is a qualifying offense (see CPL 510.10[4][a] and [g] and *People v. Allen* 66 Misc.3d 792 County Court, Orange County)

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Money Laundering in Support of Terrorism 1 st * AND Felony Crime of Terrorism (FCOT), including FCOT Attempt or Conspiracy in PL § 490.25, § 490.05	PL § 470.24*	NO - MUST REMAND	A-II Felony
Money Laundering in Support of Terrorism 2 nd	PL § 470.23	YES	C Felony
Money Laundering in Support of Terrorism 3 rd	PL § 470.22	YES	D Felony
Money Laundering in Support of Terrorism 4 th	PL § 470.21	YES	E Felony
Murder 1 st	PL § 125.27	NO - MUST REMAND	A-I Felony
Murder 2 nd	PL § 125.25	NO - MUST REMAND	A-I Felony
Non-Resident/Sex Offender Failure to Register 1st Offense * ONLY when the defendant is required to maintain Level 3 sex offender registration	Cor § 168-F(6)*	YES	E Felony
Non-Resident/Sex Offender Failure to Register Prior Offense * ONLY when the defendant is required to maintain Level 3 sex offender registration	Cor § 168-F(6)*	YES	D Felony
Operating as a Major Trafficker	PL § 220.77	NO - MUST REMAND	A-I Felony
Patronizing a Person for Prostitution 1 st	PL § 230.06	YES	D Felony
Patronizing a Person for Prostitution 2 nd	PL § 230.05	YES	E Felony
Persistent Sexual Abuse	PL § 130.53	YES	E Violent Felony
Placing a False Bomb or Hazardous Substance 1 st	PL § 240.62	YES	D Violent Felony
Placing a False Bomb or Hazardous Substance 2 nd	PL § 240.61	YES	E Violent Felony
Placing a False Bomb or Hazardous Substance in a Sports Stadium or Arena, Mass Transportation Facility or Enclosed Shopping Mall	PL § 240.63	YES	D Violent Felony
Predatory Sexual Assault	PL § 130.95	NO - MUST REMAND	A-II Felony
Predatory Sexual Assault Against a Child	PL § 130.96	NO - MUST REMAND	A-II Felony
Promoting a Sexual Performance by a Child	PL § 263.15	YES	D Felony

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Charge	Section of Law	Option to Set Monetary Bail or Remand?	Level of Offense
Promoting an Obscene Sexual Performance by a Child	PL § 263.10	YES	D Felony
Promoting Prostitution 1 st * ONLY if charged as a Sexually Motivated Felony (SMF), including SMF Attempt or Conspiracy defined in PL § 130.91	PL § 230.32*	YES	B Felony
Promoting Prostitution 2 nd * ONLY if charged as a Sexually Motivated Felony (SMF), including SMF Attempt or Conspiracy defined in PL § 130.91	PL § 230.30*	YES	C Felony
Rape 1 st	PL § 130.35	YES	B Violent Felony
Rape 1 st * AND Felony Crime of Terrorism (FCOT), including FCOT Attempt or Conspiracy in PL § 490.25, § 490.05s	PL § 130.35*	NO - MUST REMAND	A-II Felony
Rape 2 nd	PL § 130.30	YES	D Violent Felony
Rape 3 rd	PL § 130.25	YES	E Felony
Reckless Assault of a Child	PL § 120.02	YES	D Violent Felony
Robbery 1 st	PL § 160.15	YES	B Violent Felony
Robbery 1 st * AND Felony Crime of Terrorism (FCOT), including FCOT Attempt or Conspiracy in PL § 490.25, § 490.05	PL § 160.15*	NO - MUST REMAND	A-II Felony
Robbery 2 nd (Aided by another) * ONLY if charged as a Sexually Motivated Felony (SMF), including SMF Attempt or Conspiracy defined in PL § 130.91 AND/OR Felony Crime of Terrorism (FCOT), including FCOT Attempt or Conspiracy in PL § 490.25, § 490.05	PL § 160.10(1)*	YES	C Violent Felony
Robbery 2 nd (Not aided by another)	PL § 160.10(2) & (3)	YES	C Violent Felony
Robbery 3 rd * ONLY if charged as a Sexually Motivated Felony (SMF), including SMF Attempt or Conspiracy defined in PL § 130.91	PL § 160.05*	YES	D Felony

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Charge	Section of Law	Option to Set Monetary Bail or Remand?	Level of Offense
Sex Offender Failure to Register 1st Offense *ONLY when the defendant is required to maintain Level 3 sex offender registration and allegations of Failure to Register (NOT verification, notify, provide, or appear provisions)	Cor § 168-F*	YES	E Felony
Sex Offender Failure to Register 1st Offense *ONLY when the defendant is required to maintain Level 3 sex offender registration and allegations of Failure to Register (NOT verification, notify, provide, or appear provisions)	Cor § 168-T*	YES	E Felony
Sex Offender Failure to Register Any Change of Address, internet accounts with internet access providers belonging to such offender, internet identifiers that such offender uses, or his or her status of enrollment, attendance, employment or residence at any institution of higher education, within 10 days, 1st Offense *ONLY when the defendant is required to maintain Level 3 sex offender registration	Cor § 168-F(4)*	YES	E Felony
Sex Offender Failure to Register Any Change of Address, internet accounts with internet access providers belonging to such offender, internet identifiers that such offender uses, or his or her status of enrollment, attendance, employment or residence at any institution of higher education, within 10 days, Prior Offense *ONLY when the defendant is required to maintain Level 3 sex offender registration	Cor § 168-F(4)*	YES	D Felony
Sex Offender Failure to Register at Time of Sentencing 1st Offense *ONLY when the defendant is required to maintain Level 3 sex offender registration	Cor § 168-F(1)(b)*	YES	E Felony
Sex Offender Failure to Register at Time of Sentencing Prior Offense *ONLY when the defendant is required to maintain Level 3 sex offender registration	Cor § 168-F(1)(b)*	YES	D Felony
Sex Offender Failure to Register Prior Offense *ONLY when the defendant is required to maintain Level 3 sex offender registration and allegations of Failure to Register (NOT verification, notify, provide or appear provisions)	Cor § 168-T*	YES	D Felony

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Charge	Section of Law	Option to Set Monetary Bail or Remand?	Level of Offense
Sex Offender Failure to Register Prior Offense *ONLY when the defendant is required to maintain Level 3 sex offender registration and allegations of Failure to Register (NOT verification, notify, provide, or appear provisions)	Cor § 168-F*	YES	D Felony
Sex Offender Failure to Register Prior to Discharge/Release 1st Offense *ONLY when the defendant is required to maintain Level 3 sex offender registration	Cor § 168-F(1)(a)*	YES	E Felony
Sex Offender on Parole/Probation Failure to Register within 10 days 1st Offense *ONLY when the defendant is required to maintain Level 3 sex offender registration	Cor § 168-G(2)*	YES	E Felony
Sex Offender on Parole/Probation Failure to Register within 10 days Prior Offense *ONLY when the defendant is required to maintain Level 3 sex offender registration	Cor § 168-G(2)*	YES	D Felony
Sex Trafficking *AND Felony Crime of Terrorism (FCOT), including FCOT Attempt or Conspiracy in PL § 490.25, § 490.05	PL § 230.34*	NO - MUST REMAND	A-II Felony
Sex Trafficking	PL § 230.34	YES	B Violent Felony
Sex Trafficking of a Child	PL § 230.34-a	YES	B Violent Felony
Sex Trafficking of a Child *AND Felony Crime of Terrorism (FCOT), including FCOT Attempt or Conspiracy in PL § 490.25, § 490.05	PL § 230.34-a*	NO - MUST REMAND	A-II Felony
Sexual Abuse 1 st	PL § 130.65	YES	D Violent Felony
Sexual Abuse 2 nd	PL § 130.60	YES – MONETARY BAIL	Misdemeanor
Sexual Abuse 3 rd	PL § 130.55	YES – MONETARY BAIL	Misdemeanor
Sexual Misconduct	PL § 130.20	YES – MONETARY BAIL	Misdemeanor
Soliciting or Providing Support for an Act of Terrorism 1st	PL § 490.15	YES	C Violent Felony
Soliciting or Providing Support for an Act of Terrorism 2 nd	PL § 490.10	YES	D Violent Felony
Stalking 1st (*see footnote⁴)	PL § 120.60*	YES	D Violent Felony
Strangulation 1 st	PL § 121.13	YES	C Violent Felony
Strangulation 2nd (*see footnote⁵)	PL § 121.12*	YES	D Violent Felony

⁴ Excluding Penal Law §120.60(2), unless it is a Sexually Motivated Felony

⁵ There are differing interpretations whether this charge is a qualifying offense when alleged to have been committed against a person who is not a member of the defendant’s same family or household (see CPL §510.10[4][a] and [k]).

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Tampering with a Witness 1 st	PL § 215.13	YES	B Felony
Tampering with a Witness 2 nd	PL § 215.12	YES	D Felony
Tampering with a Witness 3 rd	PL § 215.11	YES	E Felony
Unlawful Imprisonment 1st * ONLY if alleged to have been committed against a member of the defendant's same family or household as defined in CPL §530.11(1)	PL § 135.10*	YES	E Felony
Unlawful Possession of Personal Identification Information 1st * ONLY if Felony Crime of Terrorism (FCOT), including FCOT Attempt or Conspiracy in PL § 490.25, § 490.05	PL § 190.83*	YES	C Violent Felony
Unlawful Possession of Personal Identification Information 2nd * ONLY if Felony Crime of Terrorism (FCOT), including FCOT Attempt or Conspiracy in PL § 490.25, § 490.05	PL § 190.82*	YES	D Violent Felony
Use of a Child in a Sexual Performance	PL § 263.05	YES	C Felony
Vehicular Assault 1st	PL § 120.04	YES	D Felony