



## **Criminal Disposition Reporting DCJS and Courtroom Program Updates**

DATE: Monday, October 31, 2022  
Instructor(s): Diane Turo, Esq., Jennifer Miller  
MCLE: 1.0 (0.5 Law Practice Mgmt., 0.5 Prof. Pract.)

This program has been approved for credit in  
New York State for all attorneys  
including those who are Newly Admitted  
(less than 24 months) and administered by  
the Onondaga County Bar Association.



## Presenters



**DIANE S. TURO, ESQ.** is Supervising Court Attorney in the Office of Justice Court Support (OJCS). A native of Clifton Park, New York, Diane joined OJCS in September 2015. She also served as Town Justice for the Town of Milton, Saratoga County until December of 2019. She graduated from St. Bonaventure University, Albany Law School, and is admitted to practice in New York. Prior to working at OJCS, Diane served as an Assistant Public Defender of Saratoga County for more than eight years. In that capacity she worked

within the town and village courts, and county court, defending clients in criminal matters from assignment to trial. In 2014 she was appointed as the Conflict Defender of Saratoga County and engaged in a diverse private practice.

**Jennifer Miller** is Chief Court Clerk at the Town of Malta. She served as Court Clerk in the Town of Moreau since 2012. Jennifer has also served as Treasurer of the Saratoga County Magistrates and Court Clerk Association since 2016 and joined the NYSAMCC Board in 2017 as Assistant Treasurer and currently serves as Secretary of the Association since 2020.



# CRIMINAL DISPOSITION REPORTING, DCJS AND COURTROOM PROGRAM UPDATES



## CRIMINAL DISPOSITION REPORTING UNIT

- Who: Every Town and Village Court
- What: Complete a Criminal Disposition Report (CDR) regarding all fingerprintable offenses
- When: As case progresses
  - Arraignment (FIRST CDR REPORT-Do not report arrest warrants until arraignment)
  - Interim Action (BW/WO/ROW/WV should be reported) ◦
  - Final Disposition of the case even if all fines and fees are not paid.
  - ACD dispositions should be reported at adjudication and again at the deemed dismiss date with the seal.



## CRIMINAL DISPOSITION REPORTING UNIT

➤ Where:

**<https://iapps.courts.state.ny.us/cdr/SignIn>**

➤ Why: This updates the defendant's rap sheet

➤ For Criminal Disposition Reports (CDR's) Questions and training:  
Contact the OCA CDR Unit at 1-800-622-2522 Option 1 then Option 3

## "COVERED BY" VS "DISM"

- WHEN TO USE "COVERED BY" AS DISPOSITION:
  - PLEA involved
    - All other charges are in satisfaction of the plea
    - Disposition code should be C0X (X = CHARGE #) or COVO (covered by a charge in another case).
    - May be sealed, depending on charge pled to or outcome of covered by case.
- The intent of the judge/DA/Defense needs to be very clear because of sealing issues that come up using the incorrect disposition code (what is posted/not posted to the rap sheet/criminal history).

## **“COVERED BY” VS “DISM”**

- **WHEN TO USE “DISM” AS DISPOSITION:**
  - No plea involved
    - Charge(s) are outright dismissed
    - Disposition reported should be DISM
- The intent of the judge/DA/Defense needs to be very clear because of sealing issues that come up using the incorrect disposition code (what is posted/not posted to the rap sheet/criminal history).

## **PROSECUTOR'S INFORMATION**

### **CPL Section 100.35**

- Felony charge(s) sent to County Court and returned to local court or Prosecutor amends accusatory in local court by either updating the paperwork or filing a Prosecutor's Information:
  - Ask the following questions:
    - Was the felony dismissed? If so, should it be sealed?
    - Was the felony reduced?

Note: Do not open a new case on a return from County Court. Go back to the original case. If the felony charge was arraigned, it can't be removed off the case. It must have a disposition.

## **DOUBLE REDUCTIONS**

- Felony charge is reduced to a misdemeanor then reduced again to a violation:
- Example:
  - Charge 1: PL-155.30
    - Reduced Charge 1: PL-155.25
  - Disposition for charge 1 = R2
  - Add the violation as charge 2 – PL-240.20
  - Enter the PG disposition and sentence for that charge.

## **HOW TO REPORT A RESENTENCE**

CPL Section 410.70 and Penal Law Sections 60.01(3)&(4)

- Do not open a new case for these resentence codes. Go back to the original case.
  - RSNT – RESENTENCE
  - VOCD – VIOLATION OF A CONDITIONAL DISCHARGE
  - VOP – VIOLATION OF PROBATION
- Open a new case for this resentence code.
  - VOP-T - VIOLATION OF PROBATION TRANSFER

Only report a resentence if there was a change in the original sentence.



## DOMESTIC VIOLENCE DISPOSITION CODES

- MISDEMEANOR CRIMES OF DOMESTIC VIOLENCE (MCDV) –PG-DV
- CPL Section 370.15 - Procedure for determining whether certain misdemeanor crimes are serious offenses under the penal law
  - **EFFECTIVE 06/11/2018**
    - CONVICTION CHARGES INCLUDE:
      - PL-120.00/110-120.00 – ASSAULT/ATTEMPTED ASSAULT 3RD
      - PL-120.14/110-120.14 – MENACING/ATTEMPTED MENACING 3RD
      - PL-121.11/110-121.11 – CRIMINAL OBSTRUCTION OF BREATHING OR BLOOD CIRCULATION/ATTEMPTED CRIMINAL OBSTRUCTION OF BREATHING OR BLOOD CIRCULATION
      - PL-135.05/110-135.05 – UNLAWFUL IMPRISONMENT 2ND DEGREE/ATTEMPTED UNLAWFUL IMPRISONMENT 2<sup>ND</sup> DEGREE
      - PL-135.60/110-135.60 – COERCION 3<sup>RD</sup> DEGREE/ATTEMPTED COERCION 3<sup>RD</sup> DEGREE
      - PL-145.14/110-145.14 – CRIMINAL TAMPERING 3<sup>RD</sup> DEGREE/ATTEMPTED CRIMINAL TAMPERING 3<sup>RD</sup> DEGREE



## DOMESTIC VIOLENCE DISPOSITION CODES

- MISDEMEANOR CRIMES OF DOMESTIC VIOLENCE (MCDV) –PG-DV
- CPL Section 370.15 Procedure for determining whether certain misdemeanor crimes are serious offenses under the penal law
  - **EFFECTIVE 06/11/2018**
    - CONVICTION CHARGES INCLUDE:
      - PL-215.50/110-215.50 – CRIMINAL CONTEMPT 2<sup>ND</sup> DEGREE/ATTEMPTED CRIMINAL CONTEMPT 2<sup>ND</sup> DEGREE
      - PL-240.25/110-240.25 – HARASSMENT 1<sup>ST</sup> DEGREE/ATTEMPTED HARASSMENT 1<sup>ST</sup> DEGREE
      - PL-240.30/110-240.30 – AGGRAVATED HARASSMENT 2<sup>ND</sup> DEGREE/ATTEMPTED AGGRAVATED HARASSMENT 2<sup>ND</sup> DEGREE
      - PL-140.10/110-140.10 – CRIMINAL TRESPASS 3<sup>RD</sup> DEGREE/ATTEMPTED CRIMINAL TRESPASS 3<sup>RD</sup> DEGREE
      - PL-140.15/110-140.15 – CRIMINAL TRESPASS 2<sup>ND</sup> DEGREE/ATTEMPTED CRIMINAL TRESPASS 2<sup>ND</sup> DEGREE
      - PL-150.01 -/110-150.01 - ARSON 5<sup>TH</sup> DEGREE/ATTEMPTED ARSON 5<sup>TH</sup> DEGREE



## **DOMESTIC VIOLENCE DISPOSITION CODES**

If the defendant is charged with one of the qualifying PL misdemeanor offenses, and the crime arises in the context of domestic violence, the district attorney may, “at arraignment or within 45 days thereafter serve on the defendant and file with the court a notice alleging that the defendant is related to the victim of the crime in the manner specified in CPL §530.11 (CPL §370.15(1)).

If the defendant is found guilty of one of the above offenses, the court will report a disposition code of PG-DV. This outcome will not allow the defendant to obtain a firearm.

FYI – the notice does not get mailed to DCJS. It should remain in the court file.

## **DOMESTIC VIOLENCE DISPOSITION CODES CON'T**

### **▪PG-F; TFG-F; CONV-F**

#### **▪Only use when:**

- CONVICTION CHARGE: PL-240.26
- The DA files papers with the court and the judge has determined that this is a family offense.
- This code should be used to alert DCJS that the prints should not be destroyed. The PL-160.55 seal still applies, and the disposition is only released for criminal purposes.

## **OPEN ARREST REPORTS**

- OPEN ARREST – Arrests from 1/1/90-12/31/99
- CURRENT OPEN ARREST REPORT – Arrests from 1/1/00 – Present

### **- PROBLEMS WITH OPEN ARRESTS:**

Civil prints done for employment/licensing  
Foster care/Adoptions  
DNA submission  
Accuracy of the criminal history  
Border issue  
Firearms issue

## **WEB-DVS – WEB-BASED APPLICATION**

- **Who:** Any Town or Village Justice who issues a DV Order of Protection or an Order of Protection that restricts firearms
- **What:** Pursuant to Executive Law §221-a Orders of Protection are created, entered and disseminated through this application
- **When:** Upon issuance within 24 hours

## WEB-DVS – WEB-BASED APPLICATION

➤ Where:

<https://iapps.courts.state.ny.us/webdvs/SignIn>

➤ Why: The web-based application allows entry of Order of Protections to be done by internet

➤ Contact: Web-DVS registry 1-800-266-9511



## WEBDVS AND FAMILY PROTECTION REGISTRY

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If the Court issues a Temporary or Final Order of Protection and the Order is:

1. A Family Offense Order or
2. An Order that requires the defendant to surrender his/her firearms

It **MUST** be entered into the Family Protection Registry through WebDVS within 24 hours of issuance



## CREATING AN ORDER

- **Case Activity**

Create a new order from scratch.

If the case number exists, Person Info and Charges will be pre-populated.

- **Import from Criminal DB**

Create a new order using data from the OCA CDR Criminal database.

Data fields will be populated with defendant pedigree information and charges as entered by the arresting agency at the time of the arrest. This function can only be used if the arresting agency submitted the fingerprints to DCJS and they were processed successfully.

- **Copy/Modify**

Create a new order using data from an existing order

All data except Attendance Info, Issue and Expiration date (both found in the OP data screen) and Service (Service screen) will be copied.

## DIVISION OF CRIMINAL JUSTICE SERVICES (DCJS) - EJUSTICENY PORTAL

- **Who:** Town and Village Judges and Clerks
- **What:** Allows you to access an individual's criminal history report (Rap Sheet). Per CPL §160.40, court must provide a copy of the fingerprint criminal history and/or repository criminal history report (see memo in handout allowing for the dissemination of the repository) to the defendant/defense counsel
- **When:** You may gain access after you are certified and pass a test offered by DCJS

# REPOSITORY SEARCH

Repository Organization: \_\_\_\_\_ Repository Reason Code: \_\_\_\_\_ Case No.: \_\_\_\_\_

Criteria:

Case:

Last: \_\_\_\_\_ First: \_\_\_\_\_ Middle: \_\_\_\_\_

Sex: \_\_\_\_\_ Race/Ethnicity: \_\_\_\_\_

Person:

Sex: \_\_\_\_\_ Race/Ethnicity: \_\_\_\_\_

Filter by Search:

Criminal Justice  All Courts

NY State  NY

NY County  All **SELECT ALL**

Search Results:

All Cases  All Results

# REASON CODES

Repository Organization: \_\_\_\_\_ Repository Reason Code: **NY** Case No.: \_\_\_\_\_

Criteria:

Case:

Last: \_\_\_\_\_ First: \_\_\_\_\_ Middle: \_\_\_\_\_

Sex: \_\_\_\_\_ Race/Ethnicity: \_\_\_\_\_

Person:

Sex: \_\_\_\_\_ Race/Ethnicity: \_\_\_\_\_

Filter by Search:

Criminal Justice  All Courts

NY State  NY

NY County  All **SELECT ALL**

Search Results:

All Cases  All Results

## REASON CODES

|     |  |   |
|-----|--|---|
| RRB | Release on Recognizance/Bail Investigation | To be used by Courts for arraignment Purposes to set bail or to determine if the individual may be released on his own recognizance (ROR).  |
| CRF | Certificate of Relief Investigation        | To be used by the Court, Probation or Parole to aid in determining if a certificate of relief from disabilities may be issued.  |
| PPI | Pre-Plea Investigation                     | To be used by Probation or by the Courts for an updated rap sheet for court proceedings.  |
| CTA | Inquiries to Verify Existence/Accuracy     | <b>This reason code is NOT to be used for routine court functions.</b> When CTA is used, there should be some indication in DCJS files that the requesting court was the designated court of arraignment, or the court that reported some type of disposition information to DCJS under that particular NYSID number. Some examples of when this might be properly used would be: The court got an error report from OCA regarding the disposition and they are trying to resolve the error to update the disposition correctly into our DCJS history file, or they don't know the NYSID/CTN and need to report a disposition to DCJS after sentencing. |

## DIVISION OF CRIMINAL JUSTICE SERVICES (DCJS) - EJUSTICENY PORTAL

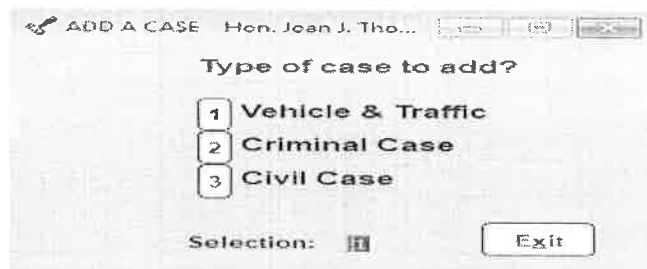
- Where:  
**<https://www.ejustice.ny.gov/>**
- Contact: Criminal Justice Services,  
Div. of (DCJS)  
1-800-262-3257
- Portal also houses Orders of Protection pertaining to individuals and the Sex Offender Registry

## COURTROOM PROGRAM

- Who: Dedicated staff to assist with CRP questions
- What: Recordkeeping Software
- When: Utilize this for each case you have
- Where: <https://www.nycourts.us/>
- Why: This is your central location for all Court Records
- Contact: 1-800-622-2522 Option 1, Option 2

### Adding new cases:

- Cases may be entered manually by clicking on **Cases, Add New Case**



ADD A CASE Hon. Jean J. Tho...

Type of case to add?

1 Vehicle & Traffic

2 Criminal Case

3 Civil Case

Selection: [icon]

Exit

- Select the corresponding number for the type of case you need to add. The only difference between entering a VTL case or a PL case is that the statute is pre-filled for you.



### *Adding new cases continued*

\*Adding a VTL case, enter in the defendant's last name and then click on the lookup key at the end of the name field to see if the defendant is already in the names database. This will make it easier if you need to merge cases later. If the defendant is not in the names database fill in the fields shown. Then select the charges tab to enter in the violation(s).

The screenshot shows a software window titled "Add New VTL Case" with a sub-header "Index No: Temp001". An "EXIT" button is in the top left. The form is divided into three tabs: "Name", "Charges", and "Notes", with "Name" selected. Under the "DEFENDANT:" heading, there are several input fields: "Last" (with a lookup key), "First", "Address", "City", "State", "Zip" (with a lookup key), "DOB", "Motorist ID", "Cell", "Phone", "Fax", "Email", "Preferred Notification" (dropdown), "Preferred Language" (dropdown), and "Tackler". A "Name Lookup" button is at the bottom left.

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### *Adding new cases continued*

The screenshot shows the same software window, but with the "Charges" tab selected. The "Status/Section" dropdown is set to "PL". The "Description" field contains "PL". Other fields include "Attorney", "Officer", "Prosecutor", "Ticket No.", "Crime Date", "Arrest or Ticket Date", "Next Court Date", "Time", "Comment", "Action Code" (dropdown), "C/CAD", "Counts", "Attempt", "Family", "Desk Appearance Ticket", "Fines", "Reference", "1st Appearance V&T", and "Arranged Date". An "Add Another Charge" button is at the bottom left.

\*This image is showing adding in a criminal case where the statute is pre-filled with PL.

\*If you needed to add a case for a violation other than a VTL or a PL simply remove the pre-filled statute and enter in what the defendant was in violation of. For example, the abbreviation for Environmental Conservation Law is ECL. All the Law abbreviations can be found in the Justice Court Fund Handbook.

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Adding new cases continued

The screenshot shows a software window titled "Add New Civil Case" with a sub-header "Index\_No:Temp0002". The window has an "EXIT" button in the top left. Below the title bar are four tabs: "Plaintiff", "Defendant", "Case Info & Fees", and "Notes". The "Plaintiff" tab is active, displaying a form with the following fields: Last, First, Address, City, State, Zip, Cell, Phone, Fax, Ticker, and Attorney. Each field has a corresponding input area with a magnifying glass icon for a name lookup. At the bottom left of the form is a "Name Lookup" button.

When adding a civil case, the **Plaintiff** and **Defendant** name information screens appear the same.



Adding new cases continued

The screenshot shows the same software window as above, but with the "Case Info & Fees" tab selected. The form contains the following fields: Filing Date (07/24/2021), Recd. Fin. (0.00), Civil Fee (0.00), Mailing Date (05/24/2021), Report Date (07/24/2021), Court Date (07/24/2021), Comment, Small Claims, Civil or Summary Proceeding (S/C/P), Cash (checked) yes, Other (0.00), Bank Deposit (07/29/2021), Reference, Time, and Action Code (001). A red arrow points to the "S/C/P" dropdown menu. At the bottom right is a "Print Case" button.

Case Info & Fees - be sure to identify the type of civil case you're adding.

S = Small Claims

C = Civil

P = Summary Proceeding (landlord tenant cases)

You may report the filing fee to the JCF in either of two ways: you may deduct the cost of the postage from the small claims fee reported at the end of each month's report or send the total amount of the small claims fee without deducting the cost of the postage. In either case, the amount reported will be returned to your locality.



## ***ADDING NOTES TO THE CASE***

Add New Criminal Case Index\_No: Temp8669

Exit

| Name     | Charges  | Notes  |
|----------|--|--|
| 06/20/22 | - Defendant called, Grandma died                   | Requested an adjournment /jma                        |
| 7/15/22  | - Defendant called, Grandma died (again)           | Requested an adjournment which the Judge denied /jma |
| 8/17/22  | - PSI Ordered                                      | /jma   |
| 9/20/22  | - PSI received and forwarded to Judge and attorney | /jma   |

## ***ADDING FORMS FROM THE COURTROOM PROGRAM DATABASE***

### **Form Letters**

Moving forward we are not creating court specific letters. We are focusing on creating standard letters that can be used by all courts across the state. There are currently over 100 letters available to be imported into the program. There are two things to keep in mind when looking for a letter. You must determine whether you are **REPLACING** a letter that already exists in your letter list or are you **ADDING** a brand new letter. In either case, first get a list of your letters by clicking on **Utility, Edit Database, Form Letters**. Click on **Print Letter List**.

By looking at the list, you can decide whether you are **REPLACING** an existing letter or **ADDING** a new letter.

To **replace** an existing letter with a newer version of the same letter, first find the existing letter in your letter list by clicking **Utility, Edit Database, Form Letters**. Click **Find** at the top and enter in your three digit letter number and then click **Select** at the bottom.

## ADDING FORMS FROM THE COURTROOM PROGRAM DATABASE CONTINUED

Once you've selected the letter, click Import. Search UCS Website for Letters.

The screenshot shows the 'Edit Form Letters' interface. At the top, there are navigation buttons: 'Top', 'Home', 'Print List', and 'Preview'. Below these is a search bar with the text 'Certificate of Disposition' entered. A 'Search' button is highlighted. Below the search bar, there are buttons for 'Show Letter Words', 'Preview/Print', 'Import', and 'Export'. A confirmation dialog is displayed, asking 'The current letter body is not empty. Do you wish to replace the current text with new text?' with 'YES' and 'NO' buttons.

## ADDING FORMS FROM THE COURTROOM PROGRAM DATABASE CONTINUED

Once on the website, scroll through the list or begin typing the name of the letter in the Seek box. If there is an OK in the Preview column, you can highlight the letter and click Preview to see a sample of the letter. Click Select to import the letter into your letter list. Then click on Save and Exit at the top of the Edit Form Letters screen.

The screenshot shows the 'Edit Form Letters' interface with a list of letters. The 'Seek' box contains 'Certificate of Disposition'. The 'Preview' column for the selected letter contains 'OK'. Below the list, a preview of the 'Certificate of Disposition' form is shown, with a 'Select' button highlighted. The form preview includes the text: 'UPDATED WITH NEW MARIJUANA FOOTER FOR PL 221.05, PL 221.10, PL 221.14, PL 221.20, PL 221.35 OR PL 221.40 CONVICTIONS'. Below the preview are buttons for 'Show Letter Words', 'Preview/Print', 'Import', and 'Export'.

| Letter Name                     | Revision           | Print List | Preview |
|---------------------------------|--------------------|------------|---------|
| CERT. CONV. ACTION LTR          | 06/25/2011 10:40PM |            |         |
| CERT. CONV. EQUIV. LTR          | 08/23/2011 11:48PM |            |         |
| CERT. SOUND JUDGMENT LTR        | 05/25/2011 11:52PM | OK         |         |
| CERT. SOUND JUDGMENT LTR        | 05/25/2011 11:52PM | OK         |         |
| CERT. OF DISP. FOR JUDGMENT LTR | 05/25/2011 11:52PM | OK         |         |
| CERT. HELPER SUBSTANCE LTR      | 10/05/2011 09:31AM | OK         |         |
| COURT FEE PAYMENT/FORFEITURE    | 02/05/2011 11:16AM | OK         |         |
| COURT FEE PAYMENT/FORFEITURE    | 02/05/2011 11:16AM | OK         |         |
| COURT FEE PAYMENT/FORFEITURE    | 02/05/2011 11:16AM | OK         |         |
| COURT FEE PAYMENT/FORFEITURE    | 02/05/2011 11:16AM | OK         |         |
| COURT FEE PAYMENT/FORFEITURE    | 02/05/2011 11:16AM | OK         |         |
| COURT FEE PAYMENT/FORFEITURE    | 02/05/2011 11:16AM | OK         |         |

If creating a new letter is needed there is a letter manual available at the CourtRoom Program website [www.nycourts.us](http://www.nycourts.us). Select The Help Options button and then look for Importing and Creating New Letters section.

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McKinney's Consolidated Laws of New York Annotated  
Criminal Procedure Law (Refs & Annos)  
Chapter 11-a. Of the Consolidated Laws (Refs & Annos)  
Part Two. The Principal Proceedings  
Title H. Preliminary Proceedings in Local Criminal Court  
Article 100. Commencement of Action in Local Criminal Court or Youth Part of  
a Superior Court—Accusatory Instruments (Refs & Annos)

McKinney's CPL § 100.35

§ 100.35 Prosecutor's information; form and content

Currentness

A prosecutor's information must contain the name of the local criminal court with which it is filed and the title of the action, and must be subscribed by the district attorney by whom it is filed. Otherwise it should be in the form prescribed for an indictment, pursuant to [section 200.50](#), and must, in one or more counts, allege the offense or offenses charged and a plain and concise statement of the conduct constituting each such offense. The rules prescribed in [sections 200.20](#) and [200.40](#) governing joinder of different offenses and defendants in a single indictment are also applicable to a prosecutor's information.

**Credits**

(L.1970, c. 996, § 1.)

McKinney's CPL § 100.35, NY CRIM PRO § 100.35

Current through L.2022, chapters 1 to 224. Some statute sections may be more current, see credits for details.

McKinney's Consolidated Laws of New York Annotated  
Criminal Procedure Law (Refs & Annos)  
Chapter 11-a. Of the Consolidated Laws (Refs & Annos)  
Part Two. The Principal Proceedings  
Title K. Prosecution of Informations in Local Criminal Courts--Plea to Sentence  
Article 370. Proceedings from Verdict to Sentence

McKinney's CPL § 370.15

§ 370.15 Procedure for determining whether certain  
misdemeanor crimes are serious offenses under the penal law

Effective: April 3, 2020

[Currentness](#)

1. When a defendant has been charged with assault in the third degree, menacing in the third degree, menacing in the second degree, criminal obstruction of breathing or blood circulation, unlawful imprisonment in the second degree, coercion in the third degree, criminal tampering in the third degree, criminal contempt in the second degree, harassment in the first degree, aggravated harassment in the second degree, criminal trespass in the third degree, criminal trespass in the second degree, arson in the fifth degree, or attempt to commit any of the above-listed offenses, the people shall, at arraignment or no later than forty-five days after arraignment, serve on the defendant and file with the court a notice alleging that the defendant and the person alleged to be the victim of such crime were members of the same family or household as defined in [subdivision one of section 530.11](#) of this chapter.

2. Such notice shall include the name of the person alleged to be the victim of such crime and shall specify the nature of the alleged relationship as set forth in [subdivision one of section 530.11](#) of this chapter. Upon conviction of such offense, the court shall advise the defendant that he or she is entitled to a hearing solely on the allegation contained in the notice and, if necessary, an adjournment of the sentencing proceeding in order to prepare for such hearing, and that if such allegation is sustained, that determination and conviction will be reported to the division of criminal justice services. If such allegation is sustained, the court shall report the determination and conviction to the division of criminal justice services within three business days.

3. After having been advised by the court as provided in subdivision two of this section, the defendant may stipulate or admit, orally on the record or in writing, that he or she is related or

situated to the victim of such crime in the manner described in subdivision one of this section. In such case, such relationship shall be deemed established. If the defendant denies that he or she is related or situated to the victim of the crime as alleged in the notice served by the people, or stands mute with respect to such allegation, then the people shall bear the burden to prove beyond a reasonable doubt that the defendant is related or situated to the victim in the manner alleged in the notice. The court may consider reliable hearsay evidence submitted by either party provided that it is relevant to the determination of the allegation. Facts previously proven at trial or elicited at the time of entry of a plea of guilty shall be deemed established beyond a reasonable doubt and shall not be relitigated. At the conclusion of the hearing, or upon such a stipulation or admission, as applicable, the court shall make a specific written determination with respect to such allegation.

### **Credits**

(Added L.2018, c. 60, § 2, eff. June 11, 2018. Amended L.2020, c. 55, pt. Q, § 1, eff. April 3, 2020.)

McKinney's CPL § 370.15, NY CRIM PRO § 370.15

Current through L.2022, chapters 1 to 224. Some statute sections may be more current, see credits for details.



McKinney's Consolidated Laws of New York Annotated  
Executive Law (Refs & Annos)  
Chapter Eighteen. Of the Consolidated Laws  
Article 11. Division of State Police (Refs & Annos)

McKinney's Executive Law § 221-a

§ 221-a. Computer system to carry information of orders of protection and warrants of arrest

Effective: August 2, 2021

Currentness

1. The superintendent, in consultation with the division of criminal justice services, office of court administration, and the office for the prevention of domestic violence, shall develop a comprehensive plan for the establishment and maintenance of a statewide computerized registry of all orders of protection issued pursuant to articles four, five, six, eight and ten of the family court act, [section 530.12 of the criminal procedure law](#) and, insofar as they involve victims of domestic violence as defined by [section four hundred fifty-nine-a of the social services law](#), [section 530.13 of the criminal procedure law](#) and [sections two hundred forty and two hundred fifty-two of the domestic relations law](#), and orders of protection issued by courts of competent jurisdiction in another state, territorial or tribal jurisdiction, special orders of conditions issued pursuant to [subparagraph \(i\) or \(ii\) of paragraph \(o\) of subdivision one of section 330.20 of the criminal procedure law](#) insofar as they involve a victim or victims of domestic violence as defined by [subdivision one of section four hundred fifty-nine-a of the social services law](#) or a designated witness or witnesses to such domestic violence, and all warrants issued pursuant to [sections one hundred fifty-three and eight hundred twenty-seven of the family court act](#), and arrest and bench warrants as defined in [subdivisions twenty-eight, twenty-nine and thirty of section 1.20 of the criminal procedure law](#), insofar as such warrants pertain to orders of protection or temporary orders of protection; provided, however, that warrants issued pursuant to [section one hundred fifty-three of the family court act](#) pertaining to articles three and seven of such act and [section 530.13 of the criminal procedure law](#) shall not be included in the registry. The superintendent shall establish and maintain such registry for the purposes of ascertaining the existence of orders of protection, temporary orders of protection, warrants and special orders of conditions, and for enforcing the provisions of [paragraph \(b\) of subdivision four of section 140.10 of the criminal procedure law](#).

2. The superintendent shall prescribe standardized forms for warrants issued in connection with orders of protection and special orders of conditions included in the statewide computerized

registry. Except for orders of protection issued by courts of competent jurisdiction in another state, territorial or tribal jurisdiction, only those standardized forms prescribed herein and pursuant to [section eight hundred fourteen-a of the family court act](#), [subdivision three of section two hundred forty of the domestic relations law](#), and [subdivision twelve of section 530.12](#) and [subdivision one of section 530.13 of the criminal procedure law](#) shall be utilized in cases resulting in orders which must be entered into the statewide computerized registry.

3. Whenever any court issues an order of protection or special order of conditions, the sheriff's office or appropriate municipal police department in the county in which the complainant or petitioner resides, or if he or she resides within a city, the police department of such city, which receives a copy of the order of protection or special order of conditions from the clerk of the court or otherwise pursuant to law, shall promptly transmit such information on the order of protection or special order of conditions as required by rule and regulation over the law enforcement communication system, including but not limited to: the names of the parties to the proceeding giving rise to such order, the date such order becomes effective, the date such order was served or whether the defendant or respondent had actual knowledge of such order because he or she was present in court when such order was issued, the date such order is to expire, and the terms and conditions of such order. When any peace officer, acting pursuant to his or her special duties, or police officer receives a warrant issued by family court, supreme court or by a criminal court pertaining to an order of protection or special order of conditions, as described in subdivision one of this section, the officer shall cause specific information on the warrant as required by rule and regulation to be promptly dispatched over the law enforcement communication system. For purposes of this subdivision, municipal shall have the same meaning as municipality, as defined in [subdivision six of section eight hundred thirty-five](#) of this chapter. Notwithstanding the provisions of article fifty-four of the civil practice law and rules, a person entitled to protection under an order of protection issued by a court of competent jurisdiction in another state, territorial or tribal jurisdiction, may file such order without fee with the clerk of a court in this state having jurisdiction over family, criminal or matrimonial proceedings; such order shall be accompanied by a sworn affidavit that upon information and belief such order is in effect as written and has not been vacated or modified. Upon such filing, information regarding such order shall be transmitted to the statewide computerized registry in accordance with this section, provided, however, that such filing and registry entry shall not be required for enforcement of such order.

4. Courts and law enforcement officials, including probation officers, and employees of local correctional facilities and the department of corrections and community supervision who are responsible for monitoring, supervising or classification of incarcerated individuals or parolees shall have the ability to disclose and share information with respect to such orders and warrants consistent with the purposes of this section, subject to applicable provisions of the family court

act, domestic relations law and criminal procedure law concerning the confidentiality, sealing and expungement of records.

5. In no case shall the state or any state or local law enforcement official or court official be held liable for any violations of rules and regulations promulgated under this section, or for damages for any delay or failure to file an order of protection or special order of conditions, or to transmit information to the law enforcement communication network pertaining to such orders or related family court arrest warrants, or for acting in reliance upon such information. For purposes of this subdivision law enforcement official shall include but not be limited to an employee of a sheriff's office, or a municipal police department or a peace officer acting pursuant to his or her special duties.

6. The superintendent shall establish procedures for the prompt removal of orders of protection and special orders of conditions from the active files of the registry upon their expiration. The superintendent shall establish procedures for prompt disclosure of such orders and warrants consistent with the purposes of paragraph (a-1) of subdivision one of section two hundred forty of the domestic relations law and subdivision (e) of section six hundred fifty-one of the family court act.

### **Credits**

(Added L.1994, c. 222, § 50. Amended by L.1994, c. 224, § 11; L.1995, c. 349, § 2; L.1998, c. 597, § 17, eff. Dec. 22, 1998; L.2002, c. 462, § 2, eff. Nov. 18, 2002; L.2004, c. 107, § 6, eff. June 8, 2004; L.2008, c. 56, pt. D, § 7, eff. April 23, 2008; L.2008, c. 595, § 3, eff. Jan. 23, 2009; L.2010, c. 56, pt. A, §§ 14, 67, eff. June 22, 2010; L.2013, c. 368, § 1, eff. Oct. 27, 2013; L.2015, c. 492, § 2, eff. Feb. 18, 2016; L.2021, c. 322, § 7, eff. Aug. 2, 2021.)

McKinney's Executive Law § 221-a, NY EXEC § 221-a

Current through L.2022, chapters 1 to 224. Some statute sections may be more current, see credits for details.

McKinney's Consolidated Laws of New York Annotated  
Criminal Procedure Law (Refs & Annos)  
Chapter 11-a. Of the Consolidated Laws (Refs & Annos)  
Part Two. The Principal Proceedings  
Title H. Preliminary Proceedings in Local Criminal Court  
Article 160. Fingerprinting and Photographing of Defendant After Arrest--  
Criminal Identification Records and Statistics (Refs & Annos)

McKinney's CPL § 160.40

§ 160.40 Fingerprinting; transmission of report received by police

Currentness

1. Upon receipt of a report of the division of criminal justice services as provided in [section 160.30](#), the recipient police officer or agency must promptly transmit such report or a copy thereof to the district attorney of the county and two copies thereof to the court in which the action is pending.
2. Upon receipt of such report the court shall furnish a copy thereof to counsel for the defendant or, if the defendant is not represented by counsel, to the defendant.

**Credits**

(L.1970, c. 996, § 1. Amended L.1971, c. 762, § 10; L.1972, c. 399, § 20; L.1975, c. 531, § 1.)

McKinney's CPL § 160.40, NY CRIM PRO § 160.40

Current through L.2022, chapters 1 to 224. Some statute sections may be more current, see credits for details.

McKinney's Consolidated Laws of New York Annotated  
Criminal Procedure Law (Refs & Annos)  
Chapter 11-a. Of the Consolidated Laws (Refs & Annos)  
Part Two. The Principal Proceedings  
Title L. Sentence  
Article 410. Sentences of Probation, Conditional Discharge and Parole  
Supervision [Heading Will Revert to “Sentences of Probation and of  
Conditional Discharge” on Sept. 1, 2023, Pursuant to L.1995, C. 3, § 74, Subd.  
D.] (Refs & Annos)

McKinney's CPL § 410.70

§ 410.70 Hearing on violation

Effective: February 9, 2014

[Currentness](#)

1. In general. The court may not revoke a sentence of probation or a sentence of conditional discharge, or extend a period of probation, unless (a) the court has found that the defendant has violated a condition of the sentence and (b) the defendant has had an opportunity to be heard pursuant to this section. The defendant is entitled to a hearing in accordance with this section promptly after the court has filed a declaration of delinquency or has committed him or has fixed bail pursuant to this article.

2. Statement; preliminary examination. The court must file or cause to be filed with the clerk of the court a statement setting forth the condition or conditions of the sentence violated and a reasonable description of the time, place and manner in which the violation occurred. The defendant must appear before the court within ten business days of the court's issuance of the notice to appear and the court must advise him of the contents of the statement and furnish him with a copy thereof. At the time of such appearance the court must ask the defendant whether he wishes to make any statement with respect to the violation. If the defendant makes a statement, the court may accept it and base its decision thereon. If the court does not accept it, or if the defendant does not make a statement, the court must proceed with the hearing. Provided, however, that upon request, the court must grant a reasonable adjournment to the defendant to enable him to prepare for the hearing.

3. Manner of conducting hearing. The hearing must be a summary one by the court without a jury and the court may receive any relevant evidence not legally privileged. The defendant may cross-

examine witnesses and may present evidence on his own behalf. A finding that the defendant has violated a condition of his sentence must be based upon a preponderance of the evidence.

4. Counsel. The defendant is entitled to counsel at all stages of any proceeding under this section and the court must advise him of such right at the outset of the proceeding.

5. Revocation; modification; continuation. At the conclusion of the hearing the court may revoke, continue or modify the sentence of probation or conditional discharge. Where the court revokes the sentence, it must impose sentence as specified in [subdivisions three and four of section 60.01 of the penal law](#). Where the court continues or modifies the sentence, it must vacate the declaration of delinquency and direct that the defendant be released. If the alleged violation is sustained and the court continues or modifies the sentence, it may extend the sentence up to the period of interruption specified in [subdivision two of section 65.15 of the penal law](#), but any time spent in custody in any correctional institution pursuant to [section 410.60](#) of this article shall be credited against the term of the sentence. Provided further, where the alleged violation is sustained and the court continues or modifies the sentence, the court may also extend the remaining period of probation up to the maximum term authorized by [section 65.00 of the penal law](#). Provided, however, a defendant shall receive credit for the time during which he or she was supervised under the original probation sentence prior to any declaration of delinquency and for any time spent in custody pursuant to this article for an alleged violation of probation.

### **Credits**

(L.1970, c. 996, § 1. Amended L.1977, c. 355, § 1; L.1985, c. 112, § 1; L.2008, c. 652, § 6, eff. Nov. 1, 2009; L.2013, c. 556, § 5, eff. Feb. 9, 2014; L.2014, c. 17, §§ 2, 3, eff. Feb. 9, 2014.)

McKinney's CPL § 410.70, NY CRIM PRO § 410.70

Current through L.2022, chapters 1 to 224. Some statute sections may be more current, see credits for details.

McKinney's Consolidated Laws of New York Annotated  
Penal Law (Refs & Annos)  
Chapter 40. Of the Consolidated Laws (Refs & Annos)  
Part Two. Sentences  
Title E. Sentences  
Article 60. Authorized Dispositions of Offenders (Refs & Annos)

McKinney's Penal Law § 60.01

§ 60.01 Authorized dispositions; generally

Currentness

1. Applicability. Except as otherwise specified in this article, when the court imposes sentence upon a person convicted of an offense, the court must impose a sentence prescribed by this section.

2. Revocable dispositions.

(a) The court may impose a revocable sentence as herein specified:

(i) the court, where authorized by article sixty-five, may sentence a person to a period of probation or to a period of conditional discharge as provided in that article; or

(ii) the court, where authorized by article eighty-five, may sentence a person to a term of intermittent imprisonment as provided in that article.

(b) A revocable sentence shall be deemed a tentative one to the extent that it may be altered or revoked in accordance with the provisions of the article under which it was imposed, but for all other purposes shall be deemed to be a final judgment of conviction.

(c) In any case where the court imposes a sentence of probation, conditional discharge, or a sentence of intermittent imprisonment, it may also impose a fine authorized by article eighty.

(d) In any case where the court imposes a sentence of imprisonment not in excess of sixty days, for a misdemeanor or not in excess of six months for a felony or in the case of a sentence of intermittent imprisonment not in excess of four months, it may also impose a sentence of probation or conditional discharge provided that the term of probation or conditional discharge together with the term of imprisonment shall not exceed the term of probation or conditional discharge authorized by article sixty-five of this chapter. The sentence of imprisonment shall be a condition of and run concurrently with the sentence of probation or conditional discharge.

3. Other dispositions. When a person is not sentenced as specified in subdivision two, or when a sentence specified in subdivision two is revoked, the sentence of the court must be as follows:

(a) A term of imprisonment; or

(b) A fine authorized by article eighty, provided, however, that when the conviction is of a class B felony or of any felony defined in article two hundred twenty, the sentence shall not consist solely of a fine; or

(c) Both imprisonment and a fine; or

(d) Where authorized by [section 65.20](#), unconditional discharge as provided in that section; or

(e) Following revocation of a sentence of conditional discharge imposed pursuant to [section 65.05](#) of this chapter or paragraph (d) of subdivision two of this section, probation as provided in [section 65.00](#) of this chapter or to the sentence of imprisonment and probation as provided for in paragraph (d) of subdivision two of this section.

4. In any case where a person has been sentenced to a period of probation imposed pursuant to [section 65.00](#) of this chapter, if the part of the sentence that provides for probation is revoked, the court must sentence such person to imprisonment or to the sentence of imprisonment and probation as provided for in paragraph (d) of subdivision two of this section.



## **Credits**

(Formerly § 60.10, added L.1967, c. 791, § 6. Amended L.1970, c. 477, § 2; L.1972, c. 157, § 1. Renumbered 60.01 and amended L.1973, c. 276, § 3. Amended L.1973, c. 277, § 1; L.1974, c. 652, § 2; L.1974, c. 835, § 1; L.1978, c. 274, § 1; L.1980, c. 86, § 1; L.1982, c. 65, § 1; L.1984, c. 548, §§ 1, 2.)

McKinney's Penal Law § 60.01, NY PENAL § 60.01

Current through L.2022, chapters 1 to 224. Some statute sections may be more current, see credits for details.

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