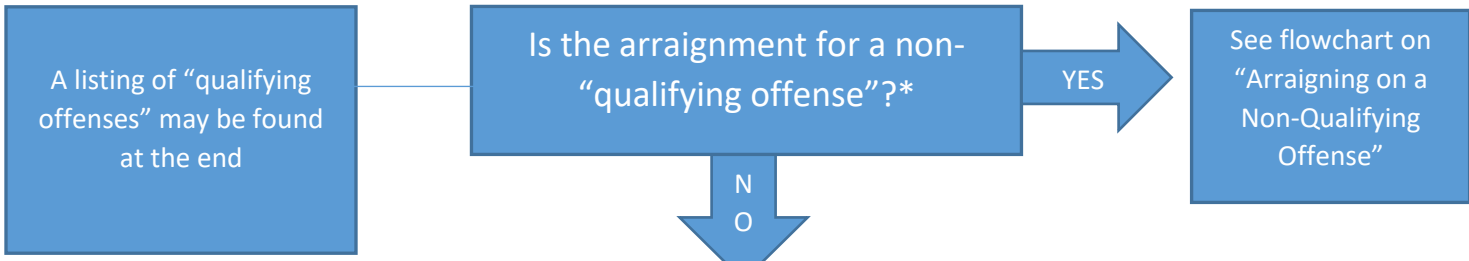


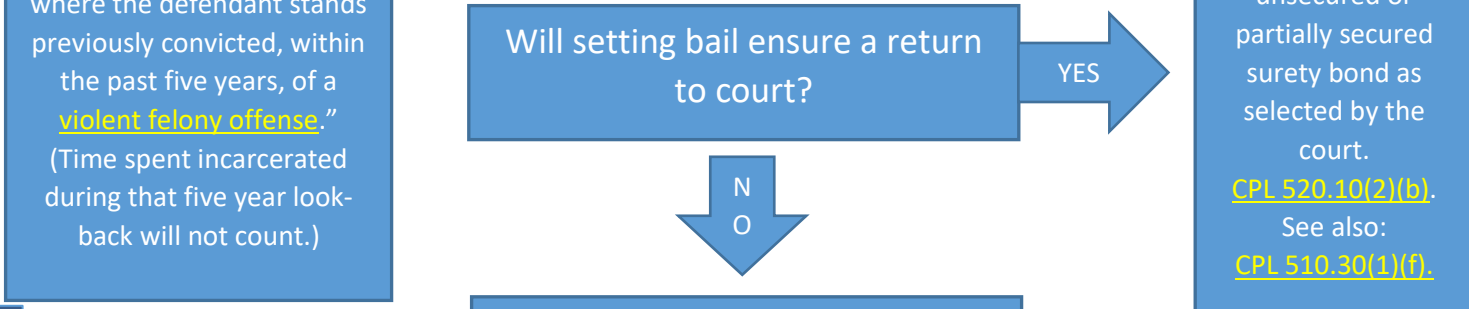
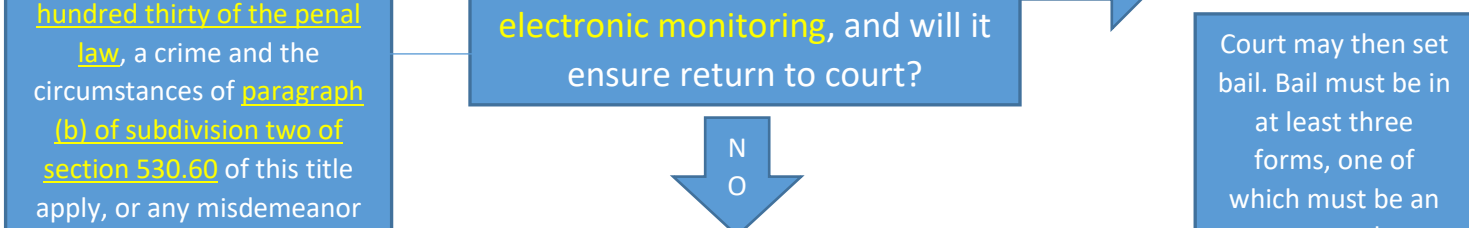
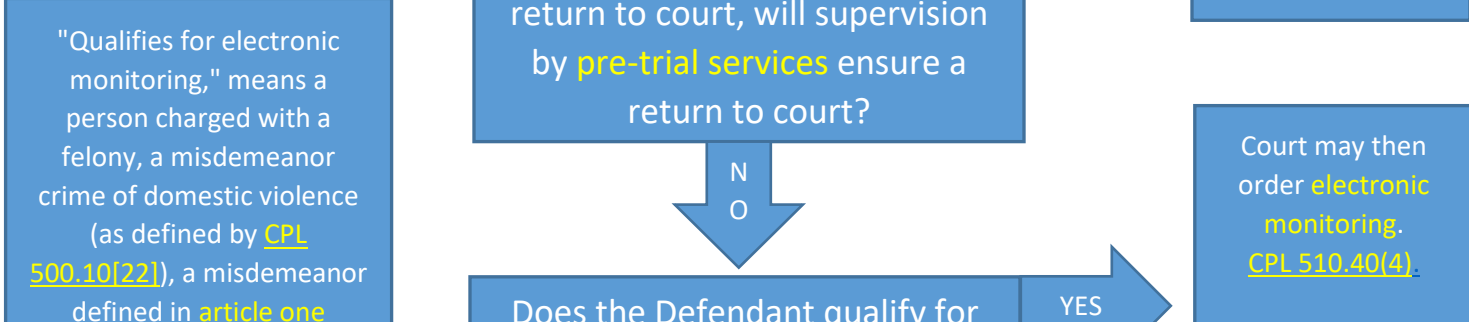
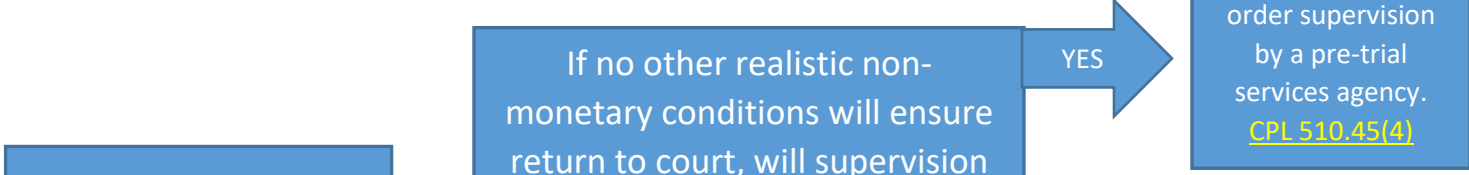
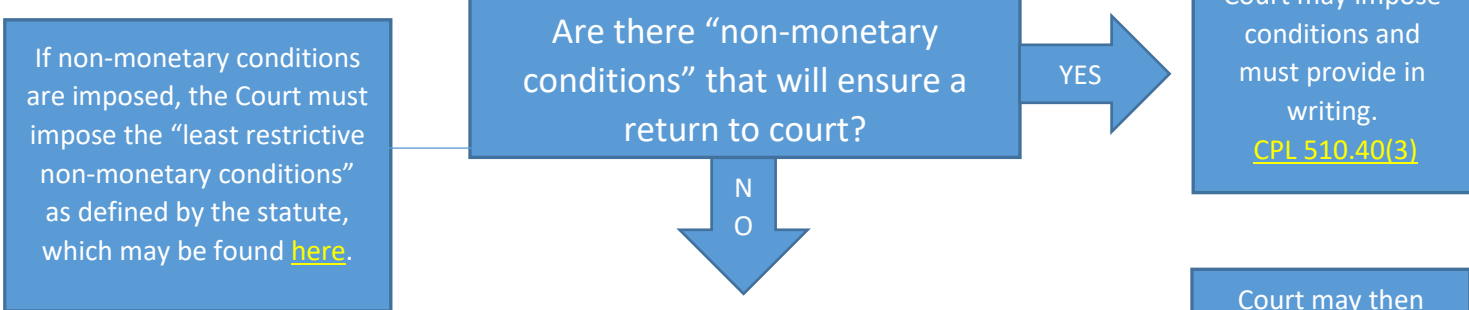
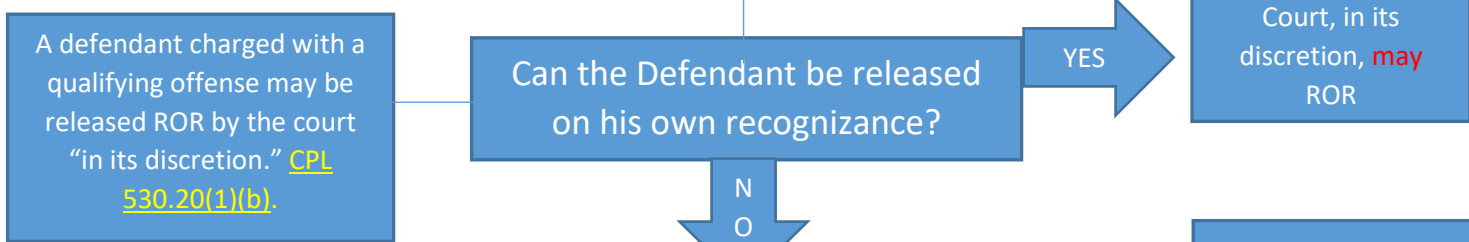
## Mandatory Appearance Ticket Provisions



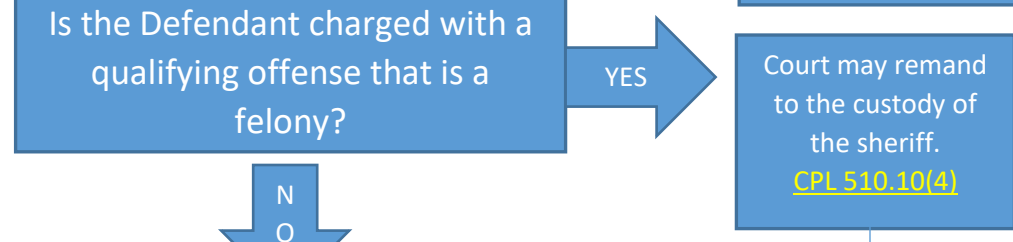
Arresting on a Qualifying Offense



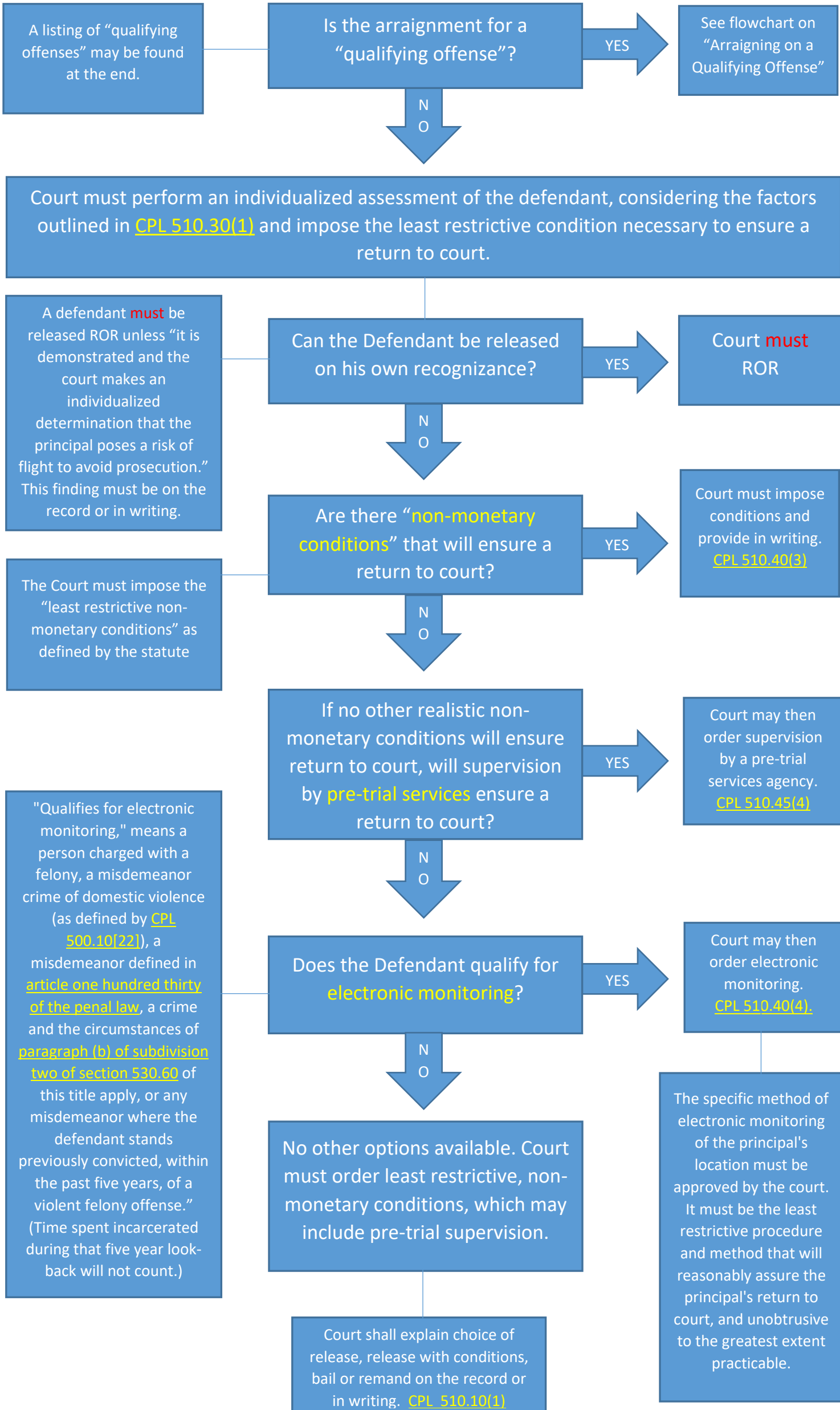
Court must perform an individualized assessment of the defendant, considering the factors outlined in [CPL 510.30\(1\)](#) and impose the least restrictive condition necessary to ensure a return to court.



\* The local court prohibitions on ROR, or setting bail for a Class A felony or a double predicate felony defendant remain.



Arraigning on Non-Qualifying Offense



## Electronic Monitoring

- Electronic monitoring is only authorized if the defendant is charged with an offense that “qualifies for electronic monitoring” (CPL 510.40[4][a]).
- “Qualifies for electronic monitoring” is defined as: “a person charged with a felony, a misdemeanor crime of domestic violence, a misdemeanor defined in article one hundred thirty of the penal law, a crime and the circumstances of paragraph (b) of subdivision two of section 530.60 of this title apply, or any misdemeanor where the defendant stands previously convicted, within the past five years, of a violent felony offense as defined in section 70.02 of the penal law. For the purposes of this subdivision, in calculating such five year period, any period of time during which the defendant was incarcerated for any reason between the time of the commission of any such previous crime and the time of commission of the present crime shall be excluded and such five year period shall be extended by a period or periods equal to the time served under such incarceration.”
  - "Misdemeanor crime of domestic violence" means a misdemeanor under the penal law provisions and circumstances described in subdivision one of section 530.11 of this title.
  - CPL § 530.60(2)(b) states: “[e]xcept as provided in paragraph (a) of this subdivision or any other law, whenever in the course of a criminal action or proceeding a defendant charged with the commission of an offense is at liberty as a result of an order of recognizance, release under non-monetary conditions or bail issued pursuant to this article it shall be grounds for revoking such order and fixing bail in such criminal action or proceeding when the court has found, by clear and convincing evidence, that the defendant:
    - (i) persistently and willfully failed to appear after notice of scheduled appearances in the case before the court; or
    - (ii) violated an order of protection in the manner prohibited by subdivision (b), (c) or (d) of section 215.51 of the penal law while at liberty; or
    - (iii) stands charged in such criminal action or proceeding with a misdemeanor or violation and, after being so charged, intimidated a victim or witness in violation of section 215.15, 215.16 or 215.17 of the penal law or tampered with a witness in violation of section 215.11, 215.12 or 215.13 of the penal law, law while at liberty; or
    - (iv) stands charged in such action or proceeding with a felony and, after being so charged, committed a felony while at liberty.
- Electronic monitoring of a principal's location may be ordered only if the court finds, after notice, an opportunity to be heard and an individualized determination explained on the record or in writing, that the defendant qualifies for electronic monitoring, and no other realistic non-monetary condition or set of non-monetary conditions will suffice to reasonably assure a principal's return to court.
- The specific method of electronic monitoring of the principal's location must be approved by the court. It must be the least restrictive procedure and method that will reasonably assure the principal's return to court, and unobtrusive to the greatest extent practicable.
- Electronic monitoring may only be conducted by public entity or a non-profit entity under contract to county, state, or municipality, though equipment may be supplied by a private for-profit entity.
- Electronic monitoring of a defendant's location may be for a maximum period of sixty days, and may be renewed for such period, after notice, an opportunity to be heard and a de novo, individualized determination of need for electronic monitoring, which shall be explained on the record or in writing.
- A defendant subject to electronic location monitoring shall be considered held or confined in custody for purposes of CPL § 180.80 and shall be considered committed to the custody of the sheriff for purposes of CPL § 170.70, as applicable.

## Pretrial Services Agencies

- Supervision by a pre-trial services agency may be ordered as a non-monetary condition pursuant to this title only if the court finds, after notice, an opportunity to be heard and an individualized determination explained on the record or in writing, that no other realistic non-monetary condition or set of non-monetary conditions will suffice to reasonably assure the principal's return to court.
- Contact with a pre-trial supervision agency is a possible non-monetary condition listed under CPL § 500.10(3-a). "Contact" and "supervision" are not the same thing. Contact with a pre-trial supervision agency normally requires the person to maintain contact with the agency. Supervision is more intensive, often requiring regular, personal contact with the staff of the agency.
- Any questionnaire, instrument or tool used with a principal in the process of considering or determining the principal's possible release on recognizance, release under non-monetary conditions or on bail, or used with a principal in the process of considering or determining a condition or conditions of release or monitoring by a pretrial services agency, shall be promptly made available to the principal and the principal's counsel upon written request. Any such blank form questionnaire, instrument or tool regularly used in the county for such purpose or a related purpose shall be made available to any person promptly upon request.
- Any such questionnaire, instrument or tool used to inform determinations on release or conditions of release shall be:
  - designed and implemented in a way that ensures the results are free from discrimination on the basis of race, national origin, sex, or any other protected class; and empirically validated and regularly revalidated, with such validation and revalidation studies and all underlying data, except personal identifying information for any defendant, publicly available upon request.

## Non-Monetary Conditions

- Definition: A court releases a principal under non-monetary conditions when, having acquired control over a person, it authorizes the person to be at liberty during the pendency of the criminal action or proceeding involved under conditions ordered by the court, which shall be the least restrictive conditions that will reasonably assure the principal's return to court. Such conditions must be reasonable under the circumstances. (CPL § 510.10[3-a])
- Statutory Examples:
  - that the principal be in contact with a pretrial services agency serving principals in that county (this is not the same condition as pretrial supervision [see below]);
  - that the principal abide by reasonable, specified restrictions on travel that are reasonably related to an actual risk of flight from the jurisdiction;
  - that the principal refrain from possessing a firearm, destructive device or other dangerous weapon;
  - when it is shown pursuant to subdivision four of CPL § 510.45 that no other realistic monetary condition or set of non-monetary conditions will suffice to reasonably assure the person's return to court, the person be placed in reasonable pretrial supervision with a pretrial services agency serving principals in that county;
  - that, when it is shown pursuant to paragraph (a) of subdivision four of CPL § 510.40 that no other realistic non-monetary condition or set of non-monetary conditions will suffice to reasonably assure the principal's return to court, the principal's location be monitored with an approved electronic monitoring device, in accordance with such subdivision four of CPL § 510.40.
- A defendant cannot be required to pay any cost relating to a non-monetary condition imposed by the court. (CPL § 510.10[3-a])
- Non-monetary conditions must be individualized and provided in writing by the court.
- At future court appearances, the court shall consider a lessening of conditions or modification of conditions to a less burdensome form based on the principal's compliance with such conditions of release. (CPL § 510.43[3])
- If defendant non-compliant in “an important respect”, additional conditions can be imposed: (1) only after notice of the facts and circumstances of such alleged non-compliance, reasonable under the circumstances; (2) affording the principal and the principal's attorney and the people an opportunity to present relevant, admissible evidence, relevant witnesses and to cross-examine witnesses; (3) a finding by **clear and convincing evidence** that the principal violated a condition of release in an important respect; and (4) any new conditions must be consistent with the court's obligation to impose the least restrictive condition or conditions that will reasonably assure the defendant's return to court. New conditions must be imposed on the record or in writing, and the court shall explain on the record or in writing the reasons for its determination and for any changes to the conditions imposed. (CPL § 510.43[3])

## Qualifying Offenses List\*\*

Any felony alleged to have occurred while the defendant was on probation or post release supervision

Any felony which subjects the defendant to sentencing as a persistent felony offender under PL § 70.10

Any felony or class A misdemeanor involving harm to a person or property while released on recognizance or conditions for another felony or class A misdemeanor involving harm to a person or property and the prosecutor can demonstrate reasonable cause for both

Corr Law § 168-t Failure to register as a sex offender (does not include failure to “verify” or sell “frozen desserts”

PL §§ 105.10, 105.13, 105.15 Conspiracy in the fourth, third, and second degrees if the underlying

felony is a “felony sex offense” as defined by PL § 70.80(1) ζ

PL § 105.15 Conspiracy second degree if the underlying allegation of such charge is that the defendant

conspired to commit a class A felony defined in article one hundred twenty-five of the penal law (CPL 510.10[4][f]) 3

PL § 105.17 Conspiracy in the first degree –

PL § 120.00 Assault in the third degree only when charged as a PL § 485.05 Hate crime

PL § 120.02 Reckless assault of a child :

PL § 120.04 Vehicular assault in the first degree

PL § 120.04-a Aggravated vehicular assault

PL § 120.05 Assault in the second degree :

PL § 120.06 Gang assault in the second degree 9

PL § 110.05(5) and PL § 70.02(1)(c) Attempt to commit :

PL § 120.07 Gang assault in the first degree ∇

PL § 110.05(4) and PL § 70.02(1)(b) Attempt to commit 9

PL § 120.08 Assault on a peace officer, police officer, fireman, etc. 9

PL § 110.05(5) and PL § 70.02(1)(c) Attempt to commit :

PL § 120.09 Assault on a judge 9

PL § 110.05(5) and PL § 70.02(1)(c) Attempt to commit :

PL § 120.10 Assault in the first degree ∇

PL § 110.05(4) and PL § 70.02(1)(b) Attempt to commit 9

PL § 120.11 Aggravated Assault upon a police officer ∇

PL § 110.05(4) and PL § 70.02(1)(b) Attempt to commit 9

PL § 120.12 Aggravated assault upon a person less than 11 years old

PL § 120.18 Menacing a police officer or peace officer :

PL § 120.60 **subd. (1)** Stalking in the first degree :

PL § 120.70 Luring a child [

PL § 121.11 Criminal obstruction of breathing or blood circulation when the allegation is against a member of the defendant's same family or household as defined in subdivision one of section 530.11<sup>1</sup> of this article

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<sup>1</sup> CPL 53011 defines “members of the same family or household” as follows:

(a) persons related by consanguinity or affinity;

(b) persons legally married to one another;

(c) persons formerly married to one another regardless of whether they still reside in the same household;

(d) persons who have a child in common, regardless of whether such persons have been married or have lived together at any time; and



PL § 121.12 Strangulation in the second degree when the allegation is against a member of the defendant's same family or household as defined in subdivision one of section 530.11<sup>2</sup> of this article

PL § 121.13 Strangulation in the first degree 9

PL § 110.05(5) and PL § 70.02(1)(c) Attempt to commit :

PL § 125.10 Criminally negligent homicide \$

PL § 125.11 Aggravated criminally negligent homicide 9

PL § 110.05(5) and PL § 70.02(1)(c) Attempt to commit :

PL § 125.12 Vehicular manslaughter in the second degree \$

PL § 125.13 Vehicular manslaughter in the first degree \$

PL § 125.14 Aggravated vehicular homicide \$

PL § 125.15 Manslaughter in the second degree \$

PL § 125.20 Manslaughter in the first degree ∇

PL § 110.05(4) and PL § 70.02(1)(b) Attempt to commit 9

PL § 125.21 Aggravated manslaughter in the second degree 9

PL § 110.05(5) and PL § 70.02(1)(c) Attempt to commit :

PL § 125.22 Aggravated manslaughter in the first degree ∇

PL § 110.05(4) and PL § 70.02(1)(b) Attempt to commit 9

PL § 125.25 Murder in the Second Degree –

PL § 110.05(3) and PL § 70.02(1)(a) Attempt to commit ∇

PL § 125.26 Aggravated Murder –

PL § 110.05(1) Attempt to commit aggravated murder –

PL § 125.27 Murder in the First Degree –

PL § 110.05(1) Attempt to commit murder in the first degree –

PL § 130.20 Sexual misconduct ζ

PL § 110.05(8) attempt to commit ζ

PL § 130.25 Rape in the third degree ζ

PL § 110.05(7) Attempt to Commit ζ<sup>3</sup>

PL § 130.30 Rape in the second degree :, ζ

PL § 70.80(1) and PL § 110.05(6) Attempt to commit ζ

PL § 130.35 Rape in the first degree ∇, ζ

PL § 110.05(4) and PL § 70.02(1)(b) Attempt to commit 9, ζ

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(e) persons who are not related by consanguinity or affinity and who are or have been in an intimate relationship regardless of whether such persons have lived together at any time. Factors the court may consider in determining whether a relationship is an “intimate relationship” include but are not limited to: the nature or type of relationship, regardless of whether the relationship is sexual in nature; the frequency of interaction between the persons; and the duration of the relationship. Neither a casual acquaintance nor ordinary fraternization between two individuals in business or social contexts shall be deemed to constitute an “intimate relationship”.

<sup>2</sup> CPL 53011 defines “members of the same family or household” as follows:

(a) persons related by consanguinity or affinity;

(b) persons legally married to one another;

(c) persons formerly married to one another regardless of whether they still reside in the same household;

(d) persons who have a child in common, regardless of whether such persons have been married or have lived together at any time; and

(e) persons who are not related by consanguinity or affinity and who are or have been in an intimate relationship regardless of whether such persons have lived together at any time. Factors the court may consider in determining whether a relationship is an “intimate relationship” include but are not limited to: the nature or type of relationship, regardless of whether the relationship is sexual in nature; the frequency of interaction between the persons; and the duration of the relationship. Neither a casual acquaintance nor ordinary fraternization between two individuals in business or social contexts shall be deemed to constitute an “intimate relationship”.

<sup>3</sup> CPL § 510.10(4)(e) includes in its definition “a misdemeanor defined in article one hundred thirty of such law”.



PL § 130.40 Criminal sexual act in the third degree ζ

PL § 110.05(7) Attempt to Commit ζ<sup>4</sup>

PL § 130.45 Criminal sexual act in the second degree :, ζ

PL § 70.80(1) and PL § 110.05(6) Attempt to commit ζ

PL § 130.50 Criminal sexual act in the first degree ∇

PL § 110.05(4) and PL § 70.02(1)(b) Attempt to commit 9

PL § 130.52 Forcible touching ζ

PL § 110.05(8) attempt to commit ζ

PL § 130.53 Persistent sexual abuse φ

PL § 110.05(8) attempt to commit ζ

PL § 130.55 Sexual abuse in the third degree ζ

PL § 110.05(6) attempt to commit ζ

PL § 130.60 Sexual abuse in the second degree ζ

PL § 110.05(7) Attempt to Commit ζ

PL § 130.65 Sexual abuse in the first degree :

PL § 70.80(1) and PL § 110.05(6) Attempt to commit ζ

PL § 130.65-a Aggravated sexual abuse in the fourth degree φ, ζ

PL § 130.66 Aggravated sexual abuse in the third degree :, ζ

PL § 70.80(1) and PL § 110.05(6) Attempt to commit ζ

PL § 130.67 Aggravated sexual abuse in the second degree 9, ζ

PL § 110.05(5) and PL § 70.02(1)(c) Attempt to commit :, ζ

PL § 130.70 Aggravated sexual abuse in the first degree ∇, ζ

PL § 110.05(4) and PL § 70.02(1)(b) Attempt to commit 9, ζ

PL § 130.75 Course of sexual conduct against a child in the first degree ∇, ζ

PL § 110.05(4) and PL § 70.02(1)(b) Attempt to commit 9, ζ

PL § 130.80 Course of sexual conduct against a child in the second degree :, ζ

PL § 70.80(1) and PL § 110.05(6) Attempt to commit ζ

PL § 130.85 Female genital mutilation ζ

PL § 110.05(7) Attempt to Commit ζ

PL § 130.90 Facilitating a sex offense with a controlled substance :, ζ

PL § 70.80(1) and PL § 110.05(6) Attempt to commit ζ

PL § 130.91 Sexually motivated felony (a person who commits a specified offense outlined in

130.91(2) for the purposes of direct sexual gratification) ζ

PL § 130.95 Predatory sexual assault –

PL § 110.05(2) Attempt to commit –

PL § 130.96 Predatory sexual assault against a child –

PL § 110.05(2) Attempt to commit –

PL § 135.10 Unlawful imprisonment in the first degree when the allegation is against a member of the defendant's same family or household as defined in subdivision one of section 530.11<sup>5</sup> of this article

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<sup>4</sup> CPL § 510.10(4)(e) includes in its definition “a misdemeanor defined in article one hundred thirty of such law”.

<sup>5</sup> CPL 53011 defines “members of the same family or household” as follows:

- (a) persons related by consanguinity or affinity;
- (b) persons legally married to one another;

PL § 135.20 Kidnapping in the second degree ∇

PL § 110.05(4) and PL § 70.02(1)(b) Attempt to commit 9

PL § 135.25 Kidnapping in the first degree –

PL § 110.05(3) and PL § 70.02(1)(a) Attempt to commit ∇

PL § 135.35 **subd. (3) (a) and (b)** Labor trafficking :

PL § 140.25**(1) and possibly (2)?** Burglary in the second degree 9 (subdivision 2 is only a qualifying offense where the defendant is charged with entering the living area of the dwelling)

PL § 110.05(5) and PL § 70.02(1)(c) Attempt to commit :

PL § 140.30 Burglary in the first degree ∇

PL § 110.05(4) and PL § 70.02(1)(b) Attempt to commit 9

PL § 150.10 Arson in the third degree only when charged as a PL § 485.05 Hate crime

PL § 150.15 Arson in the second degree ∇

PL § 110.05(4) and PL § 70.02(1)(b) Attempt to commit 9

PL § 150.20 Arson in the first degree –

PL § 110.05(3) and PL § 70.02(1)(a) Attempt to commit ∇

PL § 155.42 Grand larceny in the first degree

PL § 160.10**(2) and (3)** Robbery in the second degree 9 (**n.b.** subdivision 1 is not a qualifying offense)

PL § 110.05(5) and PL § 70.02(1)(c) Attempt to commit :

PL § 160.15 Robbery in the first degree ∇

PL § 110.05(4) and PL § 70.02(1)(b) Attempt to commit 9

PL § 205.05 Escape in the third degree (or crime involving)

PL § 205.10 Escape in the second degree (or crime involving)

PL § 205.15 Escape in the first degree (or crime involving)

PL § 215.11 Tampering with a witness in the third degree ∃

Attempt to Commit<sup>6</sup>

PL § 215.12 Tampering with a witness in the second degree ∃

Attempt to Commit<sup>7</sup>

PL § 215.13 Tampering with a witness in the first degree ∃

Attempt to Commit<sup>8</sup>

PL § 215.15 Intimidating a victim or witness in the third degree □

Attempt to Commit<sup>9</sup>

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(c) persons formerly married to one another regardless of whether they still reside in the same household;

(d) persons who have a child in common, regardless of whether such persons have been married or have lived together at any time; and

(e) persons who are not related by consanguinity or affinity and who are or have been in an intimate relationship regardless of whether such persons have lived together at any time. Factors the court may consider in determining whether a relationship is an “intimate relationship” include but are not limited to: the nature or type of relationship, regardless of whether the relationship is sexual in nature; the frequency of interaction between the persons; and the duration of the relationship. Neither a casual acquaintance nor ordinary fraternization between two individuals in business or social contexts shall be deemed to constitute an “intimate relationship”.

<sup>6</sup> The definition of “qualifying offense” includes the language “crime involving” a delineated offense(s). Arguably this includes the attempt of that crime if the attempt is also a crime. See CPL § 510.10(4)(c). Note, however, that the legislation does not include the misdemeanor crime of tampering with a witness in the fourth degree (PL § 215.10). This may support an argument that the Legislature only intended witness tampering crimes that were felony offenses as a “qualifying offense”. This would exclude the crime of attempted tampering with a witness in the third degree as that is an A misdemeanor.

<sup>7</sup> Id.

<sup>8</sup> Id.

<sup>9</sup> The definition of “qualifying offense” includes the language “crime involving” a delineated offense(s). Arguably this includes the attempt of that crime if the attempt is also a crime. See CPL § 510.10(4)(b). However, if the legislative intent were to include attempts as a result of this language, this leads to an anomaly. CPL § 510.10(4)(a) states that

PL § 215.16 Intimidating a victim or witness in the second degree :

PL § 215.17 Intimidating a victim or witness in the first degree ∇

PL § 110.05(4) and PL § 70.02(1)(b) Attempt to commit 9

PL § 215.50(3) Criminal contempt in the second degree and the underlying allegation of such charge is that

the defendant violated a duly served order of protection where the protected party is a member of the defendant's same family or household as defined in subdivision one of section 530.11<sup>10</sup> of this article χ

PL § 215.51(b),(c), or (d) Criminal contempt in the first degree and the underlying allegation of such charge

is that the defendant violated a duly served order of protection where the protected party is a member of the defendant's same family or household as defined in subdivision one of section 530.11 of this article χ

PL § 215.52 Aggravated criminal contempt and the underlying allegation of such charge is that the defendant violated a duly served order of protection where the protected party is a member of the defendant's same family or household as defined in subdivision one of section 530.11 of this article χ

PL § 215.55 Bail jumping in the third degree (or crime involving)

PL § 215.56 Bail jumping in the second degree (or crime involving)

PL § 215.57 Bail jumping in the first degree (or crime involving)

PL § 220.21 Criminal possession of a controlled substance in the first degree

PL § 220.43 Criminal sale of a controlled substance in the first degree

PL § 220.77 Operating as Major Trafficker –

PL § 230.05 Patronizing a person for prostitution in the second degree

PL § 230.06 Patronizing a person for prostitution in the first degree ζ

PL § 70.80(1) and PL § 110.05(6) Attempt to commit ζ<sup>11</sup>

PL § 230.11 Aggravated patronizing a minor for prostitution in the third degree ζ

PL § 230.12 Aggravated patronizing a minor for prostitution in the second degree ζ

PL § 70.80(1) and PL § 110.05(6) Attempt to commit ζ

PL § 230.13 Aggravated patronizing a minor for prostitution in the first degree ζ

PL § 70.80(1) and PL § 110.05(4) Attempt to commit ζ

PL § 230.34 Sex trafficking

PL § 110.05(4) and PL § 70.02(1)(b) Attempt to commit 9

PL § 230.34-a Sex trafficking of a child ∇

PL § 110.05(4) and PL § 70.02(1)(b) Attempt to commit 9

PL § 240.55 Falsely reporting an incident in the second degree φ

PL § 240.60 Falsely reporting an incident in the first degree :

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a qualifying offense is “a felony enumerated in section 70.02 of the penal law...”. PL § 70.02(1)(c) (class D violent felony offenses) includes PL § 215.16 intimidating a victim or witness in the second degree. However, the attempt of that crime is not a violent felony offense (see PL § 70.02(1)(d)) and no other provision under CPL § 510.10(4) would appear to make the attempt of that crime a qualifying offense. Thus, there is an argument that “crime involving” does not include attempts, as this would lead to an anomalous result.

<sup>10</sup> CPL 53011 defines “members of the same family or household” as follows:

(a) persons related by consanguinity or affinity;

(b) persons legally married to one another;

(c) persons formerly married to one another regardless of whether they still reside in the same household;

(d) persons who have a child in common, regardless of whether such persons have been married or have lived together at any time; and

(e) persons who are not related by consanguinity or affinity and who are or have been in an intimate relationship regardless of whether such persons have lived together at any time. Factors the court may consider in determining whether a relationship is an “intimate relationship” include but are not limited to: the nature or type of relationship, regardless of whether the relationship is sexual in nature; the frequency of interaction between the persons; and the duration of the relationship. Neither a casual acquaintance nor ordinary fraternization between two individuals in business or social contexts shall be deemed to constitute an “intimate relationship”.

<sup>11</sup> PL § 70.80 includes as a “felony sex offense” any attempt to commit the delineated offenses, or a conspiracy to commit the delineated offenses if the attempt or conspiracy crime is a felony.

PL § 240.61 Placing a false bomb or hazardous substance in the second degree φ

PL § 240.62 Placing a false bomb or hazardous substance in the first degree :

PL § 240.63 Placing a false bomb or hazardous substance in as sports stadium or arena, etc. :

PL § 255.25 Incest in the third degree ζ  
Attempt to Commit<sup>12</sup>

PL § 255.26 Incest in the second degree ζ  
Attempt to Commit<sup>13</sup>

PL § 255.27 Incest in the first degree ∇, ζ  
PL § 110.05(4) and PL § 70.02(1)(b) Attempt to commit 9

PL § 260.10 (sub 1 only) Endangering the welfare of a child – only if the defendant is required to register as a level 3 sex offender

PL § 263.05 Use of a child in a sexual performance [

PL § 263.10 Promoting an obscene sexual performance by a child [

PL § 263.15 Promoting a sexual performance by a child [

PL § 263.30 Facilitating a sexual performance by a child with a controlled substance or alcohol [

PL § 265.01-a Criminal possession of a weapon on school grounds

PL § 265.02 (5), (6), (7), (8), (9) and (10) Criminal possession of a weapon in the third degree :

PL § 265.03 Criminal possession of a weapon in the second degree 9  
PL § 110.05(5) and PL § 70.02(1)(c) Attempt to commit :

PL § 265.04 Criminal possession of a weapon in the first degree ∇  
PL § 110.05(4) and PL § 70.02(1)(b) Attempt to commit 9

PL § 265.08 Criminal use of a firearm in the second degree 9  
PL § 110.05(5) and PL § 70.02(1)(c) Attempt to commit :

PL § 265.09 Criminal use of a firearm in the first degree ∇  
PL § 110.05(4) and PL § 70.02(1)(b) Attempt to commit 9

PL § 265.11 Criminal sale of a firearm in the third degree :

PL § 265.12 Criminal sale of a firearm in the second degree 9  
PL § 110.05(5) and PL § 70.02(1)(c) Attempt to commit :

PL § 265.13 Criminal sale of a firearm in the first degree ∇  
PL § 110.05(4) and PL § 70.02(1)(b) Attempt to commit 9

PL § 265.14 Criminal sale of a firearm with the aid of a minor 9  
PL § 110.05(5) and PL § 70.02(1)(c) Attempt to commit :

PL § 265.19 Aggravated criminal possession of a weapon 9  
PL § 110.05(5) and PL § 70.02(1)(c) Attempt to commit :

PL § 405.18 Aggravated unpermitted use of indoor pyrotechnics in the first degree :

PL § 460.20 Enterprise Corruption

PL § 460.22 Aggravated Enterprise Corruption –

PL § 470.20 Money laundering in first degree

PL § 470.21 Money laundering in the support of terrorism in the fourth degree ι

PL § 470.22 Money laundering in the support of terrorism in the third degree ι

PL § 470.23 Money laundering in the support of terrorism in the second degree ι

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<sup>12</sup> CPL § 510.10(4)(e) uses the language “crime involving” the delineated offenses. This arguably includes the attempts.

<sup>13</sup> Id.

PL § 470.24 Money laundering in the support of terrorism in the first degree 1

PL § 490.10 Soliciting or providing support for an act of terrorism in the second degree :, 1

PL § 110.05(6) Attempt to Commit 1

PL § 490.15 Soliciting or providing support for an act of terrorism in the first degree 9, 1

PL § 110.05(5) and PL § 70.02(1)(c) Attempt to commit :, 1

PL § 490.20 Making a terroristic threat : (n.b. see conflict between CPL §§ 510.10[4][a] and

510.10[4][g])<sup>14</sup>

PL § 490.25 Crime of Terrorism, class B offense or higher –, 1

PL § 490.30 Hindering prosecution of terrorism in the second degree 9, 1

PL § 110.05(5) and PL § 70.02(1)(c) Attempt to commit :, 1

PL § 490.35 Hindering prosecution of terrorism in the first degree ∇, 1

PL § 110.05(4) and PL § 70.02(1)(b) Attempt to commit 9, 1

PL § 490.37 Criminal possession of a chemical or biological weapon in the third degree 9, 1

PL § 110.05(5) and PL § 70.02(1)(c) Attempt to commit :, 1

PL § 490.40 Criminal possession of a chemical weapon or biological weapon in the second degree ∇, 1

PL § 110.05(4) and PL § 70.02(1)(b) Attempt to commit 9, 1

PL § 490.45 Criminal possession of a chemical weapon or biological weapon in the first degree –

PL § 110.05(1) Attempt to commit criminal possession of a chemical weapon or biological weapon in

the first degree –, 1

PL § 490.47 Criminal use of a chemical weapon or biological weapon in the third degree ∇, 1

PL § 110.05(4) and PL § 70.02(1)(b) Attempt to commit 9, 1

PL § 490.50 Criminal use of a chemical weapon or biological weapon in the second degree –, 1

PL § 110.05(2) Attempt to commit –, 1

PL § 490.55 Criminal use of a chemical weapon or biological weapon in the first degree –, 1

PL § 110.05(1) Attempt to commit criminal use of a chemical weapon or biological weapon in

the first degree –, 1

\*\* this list does not account for non-existent, or legally impossible crimes, e.g., attempted manslaughter in the first degree, or attempted assault in the second degree, subd. 3 (see *People v. Campbell*, 72NY2d 602 [1988]).

∇ CPL § 510.10(4)(a) and PL § 70.02(1)(a)

9 CPL § 510.10(4)(a) and PL § 70.02(1)(b)

: CPL § 510.10(4)(a) and PL § 70.02(1)(c)

φ CPL § 510.10(4)(a) and PL § 70.02(1)(d)

□ CPL § 510.10(4)(b)

∃ CPL § 510.10(4)(c)

– CPL § 510.10(4)(d)

ζ CPL § 510.10(4)(e) and PL § 70.80(1)

3 CPL § 510.10(4)(f)

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<sup>14</sup> There is a conflict between CPL §§ 510.10(4)(a) and 510.10(4)(g). 510.10(4)(a) states that a qualifying offense is “a felony enumerated in section 70.02 of the penal law...”. PL § 70.02(1)(c) (class D violent felony offenses) states that PL § 490.20 making a terroristic threat is a class D violent felony. However, CPL § 510.10(4)(g) specifically excludes that crime as a qualifying offense. Since the Legislature specifically excluded it, a strong argument exists that this is not a qualifying offense.

ι CPL § 510.10(4)(g)

χ CPL § 510.10(4)(h)

[ CPL § 510.10(4)(i)

\$ CPL § 510.10(4)(j)