



| APPEARANCE TICKETS | | |
|---|--|--|
| ✓ new: rescinds: amends: | cross-reference: <hr/> accreditation standards: NYSLEAP Standard(s): 8.2, 8.5 & 47.1 | |
| effective date: February, 2020 | amend date: August, 2020 | |

I. DEFINITIONS

An appearance ticket is a written notice issued by a Police Officer directing a person to appear in a local criminal court at a future time, in connection with such person’s alleged commission of an offence. This notice is issued in connection with offenses of the New York State Penal Law, Alcohol Beverage Control Law, Local Ordinances or Vehicle and Traffic Law.

II. POLICY

A. Pursuant to Criminal Procedure Law section 150.20 (1) (a), an appearance ticket **cannot** be issued for the following offenses and an **arraignment must** be done:

1. All Class “A”, “B”, “C”, or “D” Felonies;
2. Rape 3rd degree (Penal Law 130.25);
3. Criminal Sexual Act 3rd degree (Penal Law 130.40);
4. Escape 2nd degree (Penal Law 205.10)
5. Absconding from temporary release 1st degree (Penal Law 205.17);
6. Absconding from a community treatment facility (Penal Law 205.19); and
7. Bail Jumping 2nd degree (Penal Law 215.56).

B. For all remaining offenses (UTTs, violation, misdemeanors, and E felonies), appearance tickets shall be issued unless the circumstances present in section C below are present, in which case an arraignment **may** occur.

C. Even though an offense falls under section B above, otherwise requiring the issuance of an appearance ticket, an **arraignment may** be done in the following circumstances (CPL 150.10 (1)(b)):

1. The defendant has one or more outstanding local criminal court or superior court warrants;
2. The defendant has failed to appear in court proceedings in the last two years;

3. The defendant has been given a reasonable opportunity to provide their verifiable identity and a method of contact, and has been unable or unwilling to do so, so that a custodial arrest is necessary to subject the individual to the jurisdiction of the court;
4. The defendant is charged with a crime between members of the same family or household, as defines pursuant to CPL section 530.22 (1) (domestic violence/family offense);
5. The defendant is charged with a crime defined in Penal Law Article 130 (sex offenses);
6. It reasonably appears the defendant should be brought before the court for consideration of issuance of an Order of Protection, pursuant to CPL section 530.13, based on the facts of the crime or offense that the officer has reasonable cause to believe occurred;
7. The defendant is charged with a crime for which the court may suspend or revoke the defendant's driver's license;
8. It reasonably appears to the officer, based on the observed behavior of the defendant, and facts regarding the defendant's condition, that there are signs of distress to such a degree that the defendant would face harm without immediate medical or mental health care, or that bringing the defendant before the court would be in the defendant's interest in addressing that need; provided, however, that before making the arrest, the officer shall make all reasonable efforts to assist the defendant in securing appropriate services.
9. If one of the above expectations applies, at the discretion of the officer, an arraignment may be done and that arraignment can include pre-arraignment detention prior to the defendant being brought before an arraignment court. The purpose of doing an arraignment if one of these exceptions apply is to ensure that the issue present in the exception is adequately addressed; thus, intending to prevent, to the extent possible, regrettable catastrophes from the improvident release of a defendant. The officer should consult with their on-duty supervisor.

D. The NY State bail statute imposes an obligation on law enforcement when issuing an appearance ticket as follows:

1. CPL Section 150.10 (3) states that before issuing an appearance ticket a police officer or other public servant *must* inform the arrestee that they may provide their contact information for the purposes of receiving a court notification to remind them of their court appearance date from the court or a certified pretrial services agency.
2. The contact information may include one or more phone numbers, a residential address or address at which the arrestee receives mail or an email address.
3. The contact information *shall* be recorded and transmitted to the local criminal court as required, pursuant to CPL section 150.80 and within 24 hours of issuance, CPL 150.10 (3).

III. PROCEDURES

- A. The issuing officer will complete all the applicable parts of the Incident Report.
- B. The arresting officer will fingerprint and photograph the defendant if appropriate
- C. Defendants issued appearance tickets will be scheduled for arraignment (return date) in the court or jurisdiction and shall be returnable 20 days from issuance or next scheduled local court scheduled session if more than 20 days from issuance. *Updated 8/2020*
- D. Three (3) copies of the [Appearance Ticket](#) will be completed. The copies of the Appearance Ticket are distributed as follows:
 - 1. The original copy will be given to the defendant and the officer will instruct the defendant when and where to appear. The defendant should be warned that failure to appear will result in a warrant being issued.
 - 2. A second copy will be submitted with the court paperwork.
 - 3. The third copy will be submitted with the Sheriff's Office paperwork. This copy will also be submitted to the District Attorney's with the case file via Laserfiche.
- E. The Sheriff's Office **cannot** set or accept pre-arraignment bail.
- F. A highly intoxicated person shall not be released on their own recognizance. They will be released to the custody of a sober friend or relative.
- G. When an arraignment is held, the court will not be able to set bail unless the crime is a Qualifying Offense found in CPL section 510.10 (4), listed below:
 - 1. Violent Felony Offenses-except Burglary 2nd PL 140.25 (2) and Robbery 2nd PL 160.10 (1);
 - 2. Intimidating a Victim or Witness 3rd PL 215.15;
 - 3. Tampering with a Witness PL 215.11, 215.12 and 215.13;
 - 4. All Class A Felonies- including PL 220.77 Operating as a Major Trafficker, but excluding the rest of PL section 22 crimes;
 - 5. All Felony Sex Offenses;
 - 6. Article 130 Crimes;
 - 7. All Incest Offenses;
 - 8. Conspiracy to Commit Murder;
 - 9. Money laundering in support of Terrorism, PL 470.24 & 470.23 or a felony crime of terrorism;
 - 10. Criminal Contempt 1st & 2nd or Aggravated Criminal Contempt where the protected party is a member of the defendants family or household;
 - 11. Facilitating a sexual performance by a child with a controlled substance or alcohol;
 - 12. Use of a child in a sexual performance;
 - 13. Luring a Child, PL 120.70.

Effective July 2nd, 2020 the following are now qualifying offenses eligible for bail pursuant to CPL 510.10 (4) (references are to new subdivisions): *Updated 8/2020*

14. Burglary 2nd – **only when entry to living area of dwelling;**
15. Article 220 A-1 felonies; Criminal Possession or Criminal Sale of a Controlled Substance;
16. Sex Trafficking – Penal Law 230.34 and Sex Trafficking of a Child – Penal Law 230.3a;
17. Money Laundering in Support of Terrorism 3rd Degree – (Penal Law 470.22) and 4th Degree – (Penal law 470.21);
18. Promoting Sexual Performance by a Child – Penal Law 263.20 or 263.15;
19. Any crime alleged to have caused death of another person;
20. Criminal Obstruction of Breathing or Blood Circulation – (Penal Law 121.11); Strangulation – (Penal Law 121.12); Unlawful Imprisonment 1st Degree – (Penal Law 135.10) (alleged to have committed offence against Defendant’s same family or household);
21. Aggravated Vehicular Assault – (Penal Law 120.04-a) and Vehicular Assault in the 1st Degree – (Penal Law 120.04).
22. Assault in the 3rd Degree – (Penal Law 120.00) and Arson in the 3rd Degree – (Penal Law 150.10), **when charged as hate crimes;**
23. Aggravated Assault on a Person Less than 11 years old – (Penal Law 120.12) and Criminal Possession of a Weapon on School Grounds – (Penal Law 265.01-a);
24. Grand Larceny in the 1st Degree – (Penal Law 155.42), Enterprise corruption – (Penal Law 460.20) and Money Laundering in the 1st Degree – (Penal Law 470.20);
25. Failure to Register as a Sex Offender pursuant to Correction Law 160-t and Endangering the Welfare of a Child – (Penal Law 260.10) when Defendant is required to register as a Level 3 Sex Offender;
26. Bail Jumping in the 1st Degree – (PL 215.55), 2nd Degree – (PL 215.56), or 3rd Degree (215.57); and Escape in the 1st Degree – (PL 205.05), 2nd Degree – (PL 205.10) or 3rd Degree – (PL 205.15);
27. Any felony committed while on probation or Post Release Supervision;
28. Any felony when Defendant qualifies as a persistent felony offender; and
29. Any felony or a class A misdemeanor involving harm to identifiable person or property when defendant is ROR’d or released under conditions for separate felony or class a misdemeanors involving harm to identifiable person or property.

Attachment:

A. [Appearance Ticket](#)

By Order Of



Derek Osborne
Sheriff