

APPENDIX B: THE EVOLUTION OF KEY LEGISLATIVE CHANGES SINCE 2020

| APPEARANCE TICKETS | | BAIL AND PRETRIAL RELEASE | | | DISCOVERY | | | | | |
|---|--|--|---|---|--|---|--|---|--|--|
| 2019 KEY ORIGINAL PROVISIONS* | Required ATs to be issued for all misdemeanors or class E felonies (with exceptions) | Required court return dates to be set no later than 20 days after AT is issued, or at a later date with the court's permission due to enrollment in pre-arraignment diversion program | Eliminated cash bail for nearly all misdemeanor and non-violent felonies | Required consideration of ability to pay into bail decisions, including requirement to set three forms of bail | Required use of "least restrictive condition" to ensure an individual's return to court (e.g., presumption of pretrial release on recognizance unless individual poses a risk of failing to return to court risk of failing to return to court)*** | Requires all discoverable materials "related to the subject matter of a case" including witness contact information to be shared with the defense | Requires automatic sharing of discovery materials in prosecutor's possession or the possession of someone under their direction (e.g., law enforcement) with the defense | Requires sharing all discovery no later than 15 days after arraignment for individuals detained in jail and 20 days for all other cases | Requires submission of a Certificate of Compliance (COC) to judge within a specified timeline, and ties requirements to speedy trial provisions (e.g., no case resolution in 180 days for felony or 60-90 days for misdemeanors can risk a case dismissal) | |
| | 2020 (5 KEY CHANGES)** | | | | | | | | | |
| | | Added that court return dates can be set "at the next scheduled session of the appropriate local criminal court" | Added some misdemeanors and nonviolent felonies (e.g., grand larceny, sex trafficking, vehicular assault, any crime resulting in death) to bail eligibility list; Added offenses including "harm of identifiable person or property" (with an already pending case meeting same criteria) to bail eligibility list; Added conditions in which a judge could consider setting bail for certain "persistent offenders" even if the charge was not eligible for bail | | Added "mandatory programming" as an available nonmonetary condition for release | | Amended to allow withholding of identifying witness information with written notice to defense, though information must be shared 15 days before trial for witnesses providing testimony | | Shifted the timeline for sharing all discovery to 20 days after arraignment for individuals detained in jail, and 35 days for all other cases | |
| | 2022 (2 KEY CHANGES)** | | | | 2023 (2 KEY CHANGES)** | | | | | |
| Added three additional exceptions where individual is ineligible for an AT: 1) arrest for alleged crime while on pretrial release; 2) criminal possession of a weapon on school grounds (adult); and 3) hate crime. | | Added additional gun offenses to bail eligibility list; Clarified petit larceny and property damage as "harm to property" unless theft offense is negligible, making repeat such offenses eligible for bail | | Amended language to presumption of release specifically for cases not eligible for bail; Changed to "the kind of and degree of control or restriction necessary to reasonably assure" that an individual returns to court; Added a new release option where judges could both set cash bail and add nonmonetary conditions of release | | | | | COCs filed "in good faith and after exercising due diligence" will not require invalidation of the original COC; Required defense to inform the court and prosecution of any missing discovery and submit challenges to COC validity in written motions | |

*These are the key original provisions included in the 2019 legislation. **Amendments to the legislation were issued in response to stakeholder concerns over certain aspects of the original provisions that emerged during implementation, and some were also responsive to fundamental differences in criminal legal processes between New York City and the rest of the state. For example, the changes to the timeline for court return dates for appearance tickets were altered to take into account that town and village courts only regularly met once a month and could not feasibly meet the shortened arraignment timeline. ***Pretrial supervision and supervised release (SR) were impacted by this provision since it expanded eligibility for these conditions of release as the alternative for individuals with charges previously eligible for bail and as the "least restrictive" option for individuals still eligible for bail, but who would return to court.