

"M" 1 (2015)

Albany, New York

March 6, 2015

TO: All Magistrates

SUBJECT: Reminder About the Purpose and Procedures Related to Bail Forfeitures

When a motorist is arraigned and pleads not guilty, the court may require the posting of bail. If there is no appearance on the return date, the bail is forfeited. Section 514(1) of the Vehicle and Traffic Law requires that the Commissioner be notified within 15 days of any such bail forfeiture. Upon receipt of such a notice, a record of the bail forfeiture is placed on the motorist's driving record and the same number of points as for a conviction of the charge are tentatively assessed against the motorist. In most cases, the forfeiture of bail results in no further action being taken by the Department. However, if bail is forfeited on a charge for which revocation or suspension of the license would be mandatory if the motorist were convicted, the Vehicle and Traffic Law requires the Commissioner to suspend the motorist's license pending submission of the jurisdiction of the court (VTL §510(2)(b)(ii)).

When the motorist submits to the jurisdiction of the court after bail forfeiture, the motorist may either change the plea to guilty or maintain the plea of not guilty and request a trial date. In the case in which the defendant maintains a not guilty plea, a trial date must be set and the case continued. Since the case has never been closed, there is nothing to reopen. While it is true in some situations that the matter will not be further prosecuted because of a substantial lapse of time or the absence of the complaining officer, the court should notify the prosecution of the trial date and to either proceed with the trial on such date, or to dismiss on the trial date for lack of prosecution if this is necessary.

Since the statutes provide for a suspension until submission to the jurisdiction of the court; the court, upon the submission of the motorist, should inform the Department of Motor Vehicles, using the UT-20 (Box 1) that the suspension may be terminated.

There are a limited number of circumstances under which it may be necessary for a court to forward information to the Department subsequent to the reporting of a bail forfeiture. These are as follows:

- (1) When the case is disposed of, via dismissal or conviction, such conviction or dismissal should be reported to the Department on form UT-20.
- (2) If the bail forfeiture is vacated, a certified copy of the order vacating the forfeiture should be submitted.

If the defendant re-appears in relation to the same ticket (but does not vacate the original bail forfeiture), posts bail again, and forfeits bail a second time, no report should be sent to the Department of Motor Vehicles.

Under the Department of Motor Vehicles point system, points are assessed for a bail forfeiture as if the defendant were convicted of the charge. Those points remain on the record, even if the charge is subsequently disposed by conviction of another charge, or by dismissal, unless and until the bail forfeiture is vacated. If, however, the defendant is convicted on the same charge on which bail was forfeited, records of both the bail forfeiture and the conviction are maintained; however, points are only assessed for the conviction.

Please share this information with your staff. Thank you.

J. David Sampson
Executive Deputy Commissioner