

Rules Governing Recognizance, Release, Bail and Remand of a Defendant charged with PL 125.12:

General Rule: When a defendant comes under the control of a court, such court shall, in accordance with [CPL Part 3 Title P](#), by a [securing order](#) release the defendant on the defendant's own [recognizance](#), release the defendant under [non-monetary conditions](#), or, where authorized, [fix bail](#) or [commit the defendant to the custody of the sheriff](#). In all cases, except where another type of securing order is shown to be required by law, the court shall release the defendant pending trial on the defendant's own recognizance, unless it is demonstrated and the court makes an individualized determination that the defendant poses a risk of flight to avoid prosecution. If such a finding is made, the court must select the least restrictive alternative and condition or conditions that will reasonably assure the defendant's return to court. The court shall explain its choice of release, release with conditions, bail or remand on the record or in writing (CPL 510.10(1)). Court must base its determination on available information including [statutory factors](#) relevant to defendant's return to court.

Recognizance: If the court does not fix bail or order remand for this qualifying offense, the court shall release defendant on defendant's own [recognizance](#), unless it finds on the record or in writing that release on recognizance will not reasonably assure defendant's return to court (CPL 510.10(3)).

NB: A local criminal court may not order recognizance or bail when defendant has two previous felony convictions (CPL 530.20(2)(a)); application for recognizance, release or bail may be made to superior court (CPL 530.30(1)(a)).

Release on Conditions: If release on [recognizance](#) would otherwise be authorized or required but the court finds on the record or in writing that release on recognizance will not reasonably assure defendant's return to court, then the court shall [release defendant under non-monetary conditions](#), selecting the least restrictive alternative and conditions that will reasonably assure defendant's return to court (CPL 510.10(3)).

[Electronic monitoring](#) of defendant's location may be ordered only if the court finds, after notice, opportunity to be heard and an individualized determination explained on the record or in writing, that defendant [qualifies for electronic monitoring](#) and no other realistic non-monetary condition or set of non-monetary conditions will suffice to reasonably assure defendant's return to court (CPL 510.40(4)).

PL 125.12 qualifies for electronic monitoring because it is a felony (CPL 510.10(21)).

PL 125.12 qualifies for electronic monitoring, as does any crime, if court by clear and convincing evidence has found that defendant :

- (i) has persistently and willfully failed to appear after notice of scheduled appearances in the case before the court; or
- (ii) has violated an order of protection contrary to PL [215.51](#) while at liberty; or

(iii) while charged with a misdemeanor, has intimidated a victim or witness in violation of PL [215.15](#), [215.16](#) or [215.17](#) or tampered with a witness in violation of PL [215.11](#), [215.12](#) or [215.13](#) while at liberty; or
(iv) while charged with a felony, has committed a felony while at liberty

(CPL 510.10([21](#)), 530.60([2](#))([b](#))).

Qualifying Offense: PL 125.12 is a qualifying offense pursuant to CPL 510.10(4)(j) because it is a crime 'alleged to have caused the death of another person.'

Bail: Pending trial of this qualifying offense, the court may [fix bail](#) (CPL 510.10([4](#))).

Ordered bail must be in a form specified in CPL 520.10([1](#)). If court designates an amount of bail without specifying its form (CPL 520.10([2](#))([a](#))), bail may be posted as either an [unsecured surety bond](#) (CPL 520.10(1)([g](#))) or an [unsecured appearance bond](#) (CPL 520.10(1)([h](#))). If court specifies a form of bail, three or more forms must be specified, one of which must be an [unsecured](#) or [partially secured surety bond](#) (CPL 520.10([2](#))([b](#))).

Remand: Pending trial of this felony qualifying offense, the court may [commit defendant to the custody of the sheriff](#) (CPL 510.10([4](#))).