

**DEFENDANT’S RIGHT TO BE PRESENT**  
**PARKER WARNING<sup>1</sup>**

(Published Aug 2016; Updated May 2024)<sup>2</sup>

***To the defendant:***

You have the right to be present in court at any proceeding including, in particular, a hearing and trial. Do you understand?

You can, however, by your conduct, waive, give up, forfeit, or lose that right to be present. If you disrupt the proceedings, the law permits the Court to exclude you from the courtroom, commit you to jail, and continue the proceeding, including a hearing or trial, in your absence.<sup>3</sup> Do you understand?

**Defendant at Liberty**

If you deliberately fail to appear here for trial, that will constitute a waiver, a forfeiture, of your right to be present. A warrant will be issued for your arrest. The trial will continue in your absence. If there is a verdict of guilty and you again deliberately fail to appear for sentence, you will be sentenced in your absence and upon your arrest the sentence will be executed. You will also be subject to separate prosecution and separate punishment for bail jumping no matter what happens at this trial. Do you understand?

**Defendant in Jail**

You are presently incarcerated and will of course be brought to court. If you deliberately refuse to come, or in any way obstruct the effort to bring you to court, that will constitute a waiver, a forfeiture, of your right to be present, and the trial will proceed in your absence. Do you understand?

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<sup>1</sup> See *People v Parker*, 57 NY2d 136 (1982) (advising the defendant of the right to be present and the consequence of nonappearance is a predicate to a trial in absentia).

<sup>2</sup> The 2024 update was for the purpose of adding the second sentence in the second paragraph.

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<sup>3</sup> CPL 260.20 [a disruptive defendant “may be removed from the courtroom if, after [the defendant] has been warned by the court that he [or she] will be removed if he continues such conduct, [the defendant] continues to engage in such conduct”]; *People v. Dunton*, 2024 NY Slip Op 02130 (the warning is not necessary when the giving of the warning to a disruptive defendant is “impracticable under the circumstances); Guide to NY Evidence rule 6.03.1 [Exclusion of Disruptive Defendant].