

# SENATE LAW AND PUBLIC SAFETY COMMITTEE

## STATEMENT TO

### **SENATE, No. 513**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: JUNE 13, 2022

The Senate Law and Public Safety Committee reports favorably and with committee amendments Senate Bill No. 513.

As amended and reported by the committee, this bill establishes a procedure to detain a defendant charged with a firearm-related crime pursuant to the “Graves Act” prior to trial. P.L.1981, c.31, also known as the “Graves Act,” sets forth mandatory minimum terms of imprisonment for individuals convicted of certain crimes involving the use or possession of a firearm.

Under P.L.2014, c.31, also known as the Criminal Justice Reform Law, criminal courts are authorized to order the pretrial release of a defendant pending further proceedings, or order pretrial detention of a defendant who is found to be a flight risk, a danger to another or the community, or likely to obstruct further criminal proceedings. Pretrial detention determinations are based on a risk assessment conducted by the Pretrial Services Program, which assess each eligible defendant detained on a complaint-warrant and makes recommendations to the court as to an appropriate pretrial release decision. Currently, the Criminal Justice Reform Law establishes a rebuttable presumption for some form of pretrial release, except with respect to an eligible defendant charged with murder or a crime for which the eligible defendant would be subject to an ordinary or extended term of life imprisonment.

This bill requires Pretrial Services to recommend no release when a defendant has been charged with certain Graves Act offenses involving the use or possession of a firearm. The bill provides that when a prosecutor files a motion for pretrial detention, the no release recommendation made by Pretrial Services may serve as prima facie evidence to overcome the presumption of release if the court finds probable cause that the eligible defendant is charged with certain firearm crimes for which a mandatory term of imprisonment is imposed under the Graves Act. These offenses would include:

- possession of a sawed-off shotgun or machine gun;
- manufacture, transport, disposition and defacement of a machine gun, sawed-off shotgun, defaced firearm, or assault firearm;

- the commission of the following crimes while in possession of a firearm: murder, manslaughter, aggravated assault robbery, burglary, and escape.

The amended bill also excludes certain Graves Act offenses from Pretrial Service's mandatory no release recommendation. Those offenses include:

- possession of any destructive device or defaced firearm;
- possession of a firearm with an unlawful purpose;
- possession of a firearm that is transferred among, between, or within an association of two or more people, known as a "community gun";
- possession of a firearm while committing certain offenses involving a controlled dangerous substance or a crime of bias intimidation; or
- unlawful possession of handguns, rifles, or shotguns.

This bill was pre-filed for introduction in the 2022-2023 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

As amended and reported by the committee, Senate Bill No. 513 is identical to Assembly Bill No. 2426 (1R), which also was reported by the committee on this date.

#### COMMITTEE AMENDMENTS

The committee amendments:

1) require Pretrial Services to recommend no release when a defendant has been charged with certain Graves Act offenses involving the use or possession of a firearm; and

2) The bill provides that the no release recommendation made by Pretrial Services may serve as prima facie evidence to overcome the presumption of release if the court finds probable cause that the eligible defendant is charged with certain firearm crimes for which a mandatory term of imprisonment is imposed under the Graves Act.