ASSEMBLY, No. 571

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:
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District 39 (Bergen and Passaic)
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SYNOPSIS

Requires defendants charged with certain crimes to be placed in home confinement prior to trial.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.

AN ACT concerning pretrial detention and amending P.L.2014, c.31.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 4 of P.L.2014, c.31 (C.2A:162-18) is amended to read as follows:

4. a. (1) The court may order, before trial, the detention of an eligible defendant charged with any crime, or any offense involving domestic violence as defined in subsection a. of section 3 of P.L.1991, c.261 (C.2C:25-19), enumerated in subsection a. of section 5 of P.L.2014, c.31 (C.2A:162-19), if the prosecutor seeks the pretrial detention of the eligible defendant under section 5 of P.L.2014, c.31 (C.2A:162-19) and after a hearing pursuant to that section the court finds clear and convincing evidence that no amount of monetary bail, non-monetary conditions of pretrial release or combination of monetary bail and conditions would reasonably assure the eligible defendant's appearance in court when required, the protection of the safety of any other person or the community, and that the eligible defendant will not obstruct or attempt to obstruct the criminal justice process. The court may also order the pretrial detention of an eligible defendant when the prosecutor moves for a pretrial detention hearing and the eligible defendant fails to rebut a presumption of pretrial detention that may be established for the crimes enumerated under subsection b. of section 5 of P.L.2014, c.31 (C.2A:162-19).

(2) For purposes of ordering the pretrial detention of an eligible defendant pursuant to this section and section 5 of P.L.2014, c.31 (C.2A:162-19) or pursuant to section 10 of P.L.2014, c.31 (C.2A:162-24), when determining whether no amount of monetary bail, non-monetary conditions or combination of monetary bail and conditions would reasonably assure the eligible defendant's appearance in court when required, the protection of the safety of any other person or the community, or that the eligible defendant will not obstruct or attempt to obstruct the criminal justice process, the court may consider the amount of monetary bail only with respect to whether it will, by itself or in combination with non-monetary conditions, reasonably assure the eligible defendant's appearance in court when required.

b. Regarding the pretrial detention hearing moved for by the prosecutor, except for when an eligible defendant is charged with a crime set forth under paragraph (1) or (2) of subsection b. of section 5 of P.L.2014, c.31 (C.2A:162-19), there shall be a rebuttable presumption that some amount of monetary bail, non-monetary conditions of pretrial release or combination of monetary bail and

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined <u>thus</u> is new matter.

conditions would reasonably assure the eligible defendant's appearance in court when required, the protection of the safety of any other person or the community, and that the eligible defendant will not obstruct or attempt to obstruct the criminal justice process.

c. An eligible defendant may appeal an order of pretrial detention pursuant to the Rules of Court. The appeal shall be heard in an expedited manner. The eligible defendant shall be detained pending the disposition of the appeal.

d. If the court does not order the pretrial detention of an eligible defendant at the conclusion of the pretrial detention hearing under this section and section 5 of P.L.2014, c.31 (C.2A:162-19), the court shall order the release of the eligible defendant. A court that orders the release of an eligible defendant pursuant to section 3 of P.L.2014, c.31 (C.2A:162-17) who is charged with a crime with bail restrictions pursuant to section 1 of P.L.1994, c.144 (C.2A:162-12) or vehicular homicide pursuant to N.J.S.2C:11-5 shall order, in addition to any other condition or combination of conditions, that the defendant be placed in a pretrial home supervision capacity pursuant to subparagraph (k) of paragraph (2) of subsection b. of section 3 of P.L.2014, c.31 (C.2A:162-17).

(cf: P.L.2014, c.31, s.4)

2. This act shall take effect immediately.

STATEMENT

This bill requires persons charged with a crime with bail restrictions or vehicular homicide who are not incarcerated prior to trial to be placed under pretrial home supervision.

P.L.2014, c.31, also known as the "Criminal Justice Reform Law," implemented a recently approved constitutional amendment providing for pretrial detention of certain criminal defendants. (see N.J. Const. (1947), Article I, paragraph 11). Under P.L.2014, c.31, criminal courts are authorized to order the pretrial release of a defendant pending further proceedings, or order pretrial detention of defendants who are found to be a flight risk, a danger to another or the community, or likely to obstruct further criminal proceedings. A court that does not detain a defendant at the conclusion of a pretrial detention hearing is required to order the release of that defendant prior to trial with or without certain conditions placed on the defendant's release.

Section 1 of P.L.1994, c.144 (C.2A:162-12) provides that a person charged with a crime with bail restrictions may only use full cash, certain surety bonds or certain bail bonds as a means of posting bail. These crimes include: murder; manslaughter; kidnapping; sexual assault; robbery; carjacking; arson; causing or risking widespread injury or damage; burglary, theft by extortion; endangering the welfare

of a child; resisting arrest and eluding an officer; escape; corrupting or influencing a jury; possession of weapons for unlawful purposes; weapons training for illegal activities; soliciting or recruiting gang members; human trafficking; any first or second degree drug-related crimes; and certain domestic offenses. Persons charged with these enumerated crimes are not permitted to use the 10% cash option for posting bail. The bill includes vehicular homicide among the list of crimes.

Under this bill, a court that releases a defendant charged with a crime with bail restrictions or vehicular homicide is required to place the defendant under pretrial home supervision as a condition of release. The court may determine whether the defendant is to be monitored with an electronic monitoring device.