

ASSEMBLY, No. 2248

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblyman RONALD S. DANCER

District 12 (Burlington, Middlesex, Monmouth and Ocean)

SYNOPSIS

Expands pretrial risk assessment to include acquittals for reasons of insanity.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning pretrial risk assessments and amending
2 P.L.2014, c.31.

3

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

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7 1. Section 6 of P.L.2014, c.31 (C.2A:162-20) is amended to
8 read as follows:

9 6. In determining in a pretrial detention hearing whether no
10 amount of monetary bail, non-monetary conditions or combination
11 of monetary bail and conditions would reasonably assure the
12 eligible defendant's appearance in court when required, the
13 protection of the safety of any other person or the community, or
14 that the eligible defendant will not obstruct or attempt to obstruct
15 the criminal justice process, the court may take into account
16 information concerning:

17 a. The nature and circumstances of the offense charged;

18 b. The weight of the evidence against the eligible defendant,
19 except that the court may consider the admissibility of any evidence
20 sought to be excluded;

21 c. The history and characteristics of the eligible defendant,
22 including:

23 (1) the eligible defendant's character, physical and mental
24 condition, family ties, employment, financial resources, length of
25 residence in the community, community ties, past conduct, history
26 relating to drug or alcohol abuse, criminal history, and record
27 concerning appearance at court proceedings; **[and]**

28 (2) whether, at the time of the current offense or arrest, the
29 eligible defendant was on probation, parole, or on other release
30 pending trial, sentencing, appeal, or completion of sentence for an
31 offense under federal law, or the law of this or any other state; and

32 (3) whether, at the time of the current offense or arrest, the
33 eligible defendant was previously charged with a crime for which
34 the eligible defendant was acquitted by reason of insanity pursuant
35 to N.J.S.2C:4-1;

36 d. The nature and seriousness of the danger to any other person
37 or the community that would be posed by the eligible defendant's
38 release, if applicable;

39 e. The nature and seriousness of the risk of obstructing or
40 attempting to obstruct the criminal justice process that would be
41 posed by the eligible defendant's release, if applicable; and

42 f. The release recommendation of the pretrial services program
43 obtained using a risk assessment instrument under section 11 of
44 P.L.2014, c.31 (C.2A:162-25).

45 (cf: P.L.2014, c.31, s.6)

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 thus is new matter.

1 2. Section 11 of P.L.2014, c.31 (C.2A:162-25) is amended to
2 read as follows:

3 11. a. The Administrative Director of the Courts shall
4 establish and maintain a Statewide Pretrial Services Program which
5 shall provide pretrial services to effectuate the purposes of sections
6 1 through 11 of P.L.2014, c.31 (C.2A:162-15 et seq.).

7 b. The Pretrial Services Program shall, after an eligible
8 defendant is temporarily detained pursuant to subsection a. of
9 section 2 of P.L.2014, c.31 (C.2A:162-16) following the issuance of
10 a complaint-warrant, conduct a risk assessment on that eligible
11 defendant for the purpose of making recommendations to the court
12 concerning an appropriate pretrial release decision, including
13 whether the eligible defendant shall be: released on the eligible
14 defendant's own personal recognizance or on execution of an
15 unsecured appearance bond; released on a non-monetary condition
16 or conditions as set forth under subsection b. of section 3 of
17 P.L.2014, c.31 (C.2A:162-17); released on monetary bail, other than
18 an unsecured appearance bond; released on a combination of
19 monetary bail and non-monetary conditions set forth under section
20 3 of P.L.2014, c.31 (C.2A:162-17); or any other conditions
21 necessary to effectuate the purposes of sections 1 through 11 of
22 P.L.2014, c.31 (C.2A:162-15 et seq.). The risk assessment shall be
23 completed and presented to the court so that the court can, without
24 unnecessary delay, but in no case later than 48 hours after the
25 eligible defendant's commitment to jail, make a pretrial release
26 decision on the eligible defendant pursuant to section 3 of P.L.2014,
27 c.31 (C.2A:162-17).

28 c. The pretrial risk assessment shall be conducted using a risk
29 assessment instrument approved by the Administrative Director of
30 the Courts that meets the requirements of this subsection.

31 (1) The approved risk assessment instrument shall be objective,
32 standardized, and developed based on analysis of empirical data and
33 risk factors relevant to the risk of failure to appear in court when
34 required and the danger to the community while on pretrial release.
35 The risk assessment instrument shall not be required to include
36 factors specifically pertaining to the risk for obstructing or
37 attempting to obstruct the criminal justice process.

38 (2) The approved risk assessment instrument shall gather
39 demographic information about the eligible defendant including, but
40 not limited to, race, ethnicity, gender, financial resources, and
41 socio-economic status. Recommendations for pretrial release shall
42 not be discriminatory based on race, ethnicity, gender, or socio-
43 economic status.

44 (3) The approved risk assessment instrument shall gather
45 information concerning whether the eligible defendant was
46 previously charged with a crime for which the defendant was
47 acquitted by reason of insanity pursuant to N.J.S.2C:4-1.

1 d. In addition to the pretrial risk assessments made pursuant to
2 this section, the Pretrial Services Program shall monitor appropriate
3 eligible defendants released on conditions as ordered by the court.
4 (cf: P.L.2014, c.31, s.11)

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6 3. This act shall take effect on the first day of the third month
7 following enactment.

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10 STATEMENT

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12 This bill amends P.L.2014, c.31 (C.2A:162-15 et. al.), also
13 known as the Criminal Justice Reform Act, to expand the “Public
14 Safety Assessment” (PSA) or risk assessment instrument to include
15 in the review of an eligible defendant’s criminal history any
16 acquittals by reason of insanity.

17 Under the Criminal Justice Reform Act, the Statewide Pretrial
18 Services Program in the Administrative Office of the Courts is
19 responsible for developing a PSA or risk assessment instrument
20 designed to assist the court in identifying risks concerning a
21 defendant’s risk of failure to appear in court or danger to the
22 community. This bill amends the Criminal Justice Reform Act to
23 require the PSA to take into account whether an eligible defendant
24 was previously acquitted of a crime by reason of insanity.

25 The bill also amends section 11 of P.L.2014, c.31 (C.2A:162-
26 25), which established the Statewide Pretrial Services Program, to
27 require that the risk assessment instrument gather information
28 concerning whether the eligible defendant has previously been
29 charged with a crime for which the defendant was acquitted by
30 reason of insanity.