

ASSEMBLY, No. 2551

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 13, 2020

Sponsored by:

Assemblyman DANIEL R. BENSON
District 14 (Mercer and Middlesex)

Co-Sponsored by:

Assemblywoman Speight

SYNOPSIS

Expands pretrial risk assessment to include history of domestic violence abuse and pending charges.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 2/13/2020)

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:*

6

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 and
18 whether any charges are pending involving any crime or offense,
19 including but not limited to any crime or offense involving
20 domestic violence as defined in subsection a. of section 3 of
21 P.L.1991, c.261 (C.2C:25-19);

22 b. The weight of the evidence against the eligible defendant,
23 except that the court may consider the admissibility of any evidence
24 sought to be excluded;

25 c. The history and characteristics of the eligible defendant,
26 including:

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

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

37 (3) whether, at the time of the current offense or arrest, the
38 eligible defendant was subject to or has been previously subject to a
39 domestic violence restraining order and any violations thereof;

40 d. The nature and seriousness of the danger to any other person
41 or the community that would be posed by the eligible defendant's
42 release including whether the defendant has made any specific
43 threat to a victim or witness, if applicable;

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

4 f. The release recommendation of the pretrial services program
5 obtained using a risk assessment instrument under section 11 of
6 P.L.2014, c.31 (C.2A:162-25).
7 (cf: P.L.2014, c.31, s.6)

8
9 2. Section 11 of P.L.2014, c.31 (C.2A:162-25) is amended to
10 read as follows:

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

15 b. The Pretrial Services Program shall, after an eligible
16 defendant is temporarily detained pursuant to subsection a. of
17 section 2 of P.L.2014, c.31 (C.2A:162-16) following the issuance of
18 a complaint-warrant, conduct a risk assessment on that eligible
19 defendant for the purpose of making recommendations to the court
20 concerning an appropriate pretrial release decision, including
21 whether the eligible defendant shall be: released on the eligible
22 defendant's own personal recognizance or on execution of an
23 unsecured appearance bond; released on a non-monetary condition
24 or conditions as set forth under subsection b. of section 3 of
25 P.L.2014, c.31 (C.2A:162-17); released on monetary bail, other than
26 an unsecured appearance bond; released on a combination of
27 monetary bail and non-monetary conditions set forth under section
28 3 of P.L.2014, c.31 (C.2A:162-17); or any other conditions
29 necessary to effectuate the purposes of sections 1 through 11 of
30 P.L.2014, c.31 (C.2A:162-15 et seq.). The risk assessment shall be
31 completed and presented to the court so that the court can, without
32 unnecessary delay, but in no case later than 48 hours after the
33 eligible defendant's commitment to jail, make a pretrial release
34 decision on the eligible defendant pursuant to section 3 of P.L.2014,
35 c.31 (C.2A:162-17).

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

39 (1) The approved risk assessment instrument shall be objective,
40 standardized, and developed based on analysis of empirical data and
41 risk factors relevant to the risk of failure to appear in court when
42 required and the danger to the community while on pretrial release.
43 The risk assessment instrument shall not be required to include
44 factors specifically pertaining to the risk for obstructing or
45 attempting to obstruct the criminal justice process.

46 (2) The approved risk assessment instrument shall gather
47 demographic information about the eligible defendant including, but
48 not limited to, race, ethnicity, gender, financial resources, and

1 socio-economic status. Recommendations for pretrial release shall
2 not be discriminatory based on race, ethnicity, gender, or socio-
3 economic status.

4 (3) The approved risk assessment instrument shall gather
5 information concerning: (a) whether any charges are pending
6 against the eligible defendant involving any crime or offense,
7 including but not limited to any crime or offense involving
8 domestic violence as defined in subsection a. of section 3 of
9 P.L.1991, c.261 (C.2C:25-19); and (b) whether the eligible
10 defendant is subject to or has been previously subject to a domestic
11 violence restraining order and any violations thereof.

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

16
17 3. This act shall take effect immediately.

20 STATEMENT

21
22 This bill amends P.L.2014, c.31 (C.2A:162-15 et. al.), more
23 commonly referred to as the Bail Reform Act, to expand the “Public
24 Safety Assessment” (PSA) or risk assessment instrument to include
25 history of domestic violence abuse and pending charges.

26 Under the provisions of the Bail Reform Act, the Statewide
27 Pretrial Services Program in the Administrative Office of the Courts
28 is responsible for developing a “Public Safety Assessment” (PSA)
29 or risk assessment instrument designed to assist the court in
30 identifying risks concerning a defendant’s risk of failure to appear
31 in court or danger to the community. However, the current risk
32 assessment process does not account for pending charges or history
33 of domestic violence abuse.

34 This bill amends sections 6 and 11 of P.L.2014, c.31 (C.2A:162-
35 20 and C.2A:162-25) of the Bail Reform Act to specifically require
36 the PSA take into account such relevant factors.

37 Currently, section 6 of P.L.2014, c.31 (C.2A:162-20), which
38 concerns information to be considered in making a determination of
39 pretrial detention, requires the court to take into account the nature
40 and circumstances of the current offense charged. The bill amends
41 this section to require the court take into account whether any
42 charges are pending involving any crime or offense, including but
43 not limited to any crime or offense involving domestic violence.
44 The bill also amends this section to require that the court take into
45 account any history of domestic violence and whether, at the time
46 of the current offense or arrest, the eligible defendant was subject to
47 or has been previously subject to a domestic violence restraining
48 order and any violations thereof. In addition, the bill would require

1 the court to take into account whether the defendant has made any
2 specific threat to a victim or witness.

3 The bill amends section 11 of P.L.2014, c.31 (C.2A:162-25),
4 which established the Statewide Pretrial Services Program, to
5 require that the risk assessment instrument gather information
6 concerning whether any charges are pending against the eligible
7 defendant involving any crime or offense, including but not limited
8 to any crime or offense involving domestic violence and whether
9 the eligible defendant is subject to or has been previously subject to
10 a domestic violence restraining order and any violations thereof.