

SENATE LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

SENATE, No. 701

STATE OF NEW JERSEY

DATED: JANUARY 30, 2020

The Senate Law and Public Safety Committee reports favorably Senate Bill No. 701.

As reported by the committee, this bill establishes a rebuttable presumption that a person who is charged with aggravated assault by strangling a victim of domestic violence is to be detained prior to trial.

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 defendants who are found to be a flight risk, a danger to another or the community, or likely to obstruct further criminal proceedings.

Current law also upgrades the crime of simple assault to aggravated assault if the defendant knowingly or, under circumstances manifesting extreme indifference to the value of human life, recklessly obstructs the breathing or blood circulation of a person who, with respect to the actor, meets the definition of a victim of domestic violence, by applying pressure on the throat or neck or blocking the nose or mouth of the person, thereby causing or attempting to cause bodily injury. It is a crime of the third degree to commit aggravated assault against a victim of domestic violence. A crime of the third degree is punishable by a term of imprisonment of three to five years, a fine up to \$15,000, or both. The presumption of non-imprisonment generally applicable to third degree and fourth degree crimes committed by first-time offenders does not apply to persons who commit aggravated assault against a victim of domestic violence.

Under this bill, if a court finds probable cause that a defendant committed aggravated assault by strangling a domestic violence victim there would be a rebuttable presumption that the person is to be detained pending trial because no amount of monetary bail, non-monetary conditions of release, or combination thereof would reasonably assure the defendant’s appearance in court, the safety of any other person or the community, and that the defendant will not obstruct the criminal justice process. This presumption may be rebutted by the defendant upon a showing of the preponderance of the evidence in support of the defendant. If the defendant is unable to rebut the presumption, the court may order pretrial detention, but if

rebutted, the prosecutor would still have the opportunity to establish grounds for pretrial detention.

A rebuttable presumption currently applies under P.L.2014, c.31 when a prosecutor makes a motion for the pretrial detention of a defendant charged with murder or any crime for which the defendant would be subject to an ordinary or extended term of life imprisonment. This bill extends that presumption to aggravated assault in situations where the defendant is charged with aggravated assault by strangling a victim of domestic violence.

This bill was pre-filed for introduction in the 2020-2021 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.