SENATE, No. 1204

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 3, 2020

Sponsored by:
Senator JOSEPH P. CRYAN
District 20 (Union)

SYNOPSIS

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

CURRENT VERSION OF TEXT

As introduced.

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

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

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

6. In determining in a pretrial detention hearing 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 take into account information concerning:

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

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

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

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

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

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

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

e. The nature and seriousness of the risk of obstructing or attempting to obstruct the criminal justice process that would be

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.

posed by the eligible defendant's release, if applicable; and

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

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

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

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

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

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

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

(2) The approved risk assessment instrument shall gather demographic information about the eligible defendant including, but not limited to, race, ethnicity, gender, financial resources, and socio-economic status. Recommendations for pretrial release shall

not be discriminatory based on race, ethnicity, gender, or socio-economic status.

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

d. In addition to the pretrial risk assessments made pursuant to this section, the Pretrial Services Program shall monitor appropriate eligible defendants released on conditions as ordered by the court.

(cf: P.L.2014, c.31, s.11)

3. This act shall take effect immediately.

STATEMENT

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

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

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

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

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

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