

CHAPTER 256

AN ACT concerning firearms and 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 2 of P.L.2014, c.31 (C.2A:162-16) is amended to read as follows:

C.2A:162-16 Detaining eligible defendant during preparation of risk assessment prior to trial.

2. a. An eligible defendant, following the issuance of a complaint-warrant pursuant to the conditions set forth under subsection c. of this section, shall be temporarily detained to allow the Pretrial Services Program to prepare a risk assessment with recommendations on conditions of release pursuant to section 11 of P.L.2014, c.31 (C.2A:162-25) and for the court to issue a pretrial release decision.

b. (1) Except as otherwise provided under sections 4 and 5 of P.L.2014, c.31 (C.2A:162-18 and C.2A:162-19) the court, pursuant to section 3 of P.L.2014, c.31 (C.2A:162-17), shall make a pretrial release decision for the eligible defendant without unnecessary delay, but in no case later than 48 hours after the eligible defendant's commitment to jail. The court shall consider the Pretrial Services Program's risk assessment and recommendations on conditions of release before making any pretrial release decision for the eligible defendant, provided, however, that upon request of the prosecutor, the court may take additional time than established pursuant to this section if the eligible defendant is charged with any crime or offense involving the use or possession of a firearm, but the additional time provided for shall not exceed such time as is reasonably necessary for a firearms ballistic analysis to be conducted and immediately provided to the court and in no event shall exceed seven days.

(2) After considering all the circumstances, the Pretrial Services Program's risk assessment and recommendations on conditions of release, and any information that may be provided by a prosecutor or the eligible defendant, the court shall order that the eligible defendant be:

(a) released on the eligible defendant's own recognizance or on execution of an unsecured appearance bond; or

(b) released on a non-monetary condition or conditions, with the condition or conditions being the least restrictive condition or combination of conditions that the court determines will 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; or

(c) released on monetary bail, other than an unsecured appearance bond, to reasonably assure the eligible defendant's appearance in court when required, or a combination of monetary bail and non-monetary conditions, to 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; or

(d) detained in jail, upon motion of the prosecutor, pending a pretrial detention hearing pursuant to sections 4 and 5 of P.L.2014, c.31 (C.2A:162-18 and C.2A:162-19).

c. A law enforcement officer shall not apply for a complaint-warrant except in accordance with guidelines issued by the Attorney General, and a court may not issue a complaint-warrant except as may be authorized by the Rules of Court.

d. (1) A defendant who is charged on a complaint-summons shall be released from custody and shall not be subject to the provisions of sections 1 through 11 of P.L.2014, c.31 (C.2A:162-15 et seq.).

(2) (a) If a defendant who was released from custody after being charged on a complaint-summons pursuant to paragraph (1) of this subsection is subsequently arrested on a warrant for

failure to appear in court when required, that defendant shall be eligible for release on personal recognizance or release on bail by sufficient sureties at the discretion of the court. If monetary bail was not set when an arrest warrant for the defendant was issued, the defendant shall have monetary bail set without unnecessary delay, but in no case later than 12 hours after arrest. Pursuant to the Rules of Court, if the defendant is unable to post monetary bail, the defendant shall have that bail reviewed promptly and may file an application with the court seeking a bail reduction, which shall be heard in an expedited manner.

(b) If the defendant fails to post the required monetary bail set by the court pursuant to this paragraph, the defendant may not be detained on the charge or charges contained in the complaint-summons beyond the maximum term of incarceration or term of probation supervision for the offense or offenses charged.

2. Section 3 of P.L.2014, c.31 (C.2A:162-17) is amended to read as follows:

C.2A:162-17 Consideration for pretrial release.

3. Except as otherwise provided under sections 4 and 5 of P.L.2014, c.31 (C.2A:162-18 and C.2A:162-19) concerning a hearing on pretrial detention, a court shall make, pursuant to this section, a pretrial release decision for an eligible defendant without unnecessary delay, but in no case later than 48 hours after the eligible defendant's commitment to jail, provided, however, that upon request of the prosecutor, the court may take additional time than established pursuant to this section if the eligible defendant is charged with any crime or offense involving the use or possession of a firearm, but the additional time provided for shall not exceed such time as is reasonably necessary for a firearms ballistic analysis to be conducted and immediately provided to the court and in no event shall exceed seven days.

a. Except as otherwise provided in this subsection, the court shall order the pretrial release of the eligible defendant on personal recognizance or on the execution of an unsecured appearance bond when, after considering all the circumstances, the Pretrial Services Program's risk assessment and recommendations on conditions of release prepared pursuant to section 11 of P.L.2014, c.31 (C.2A:162-25), and any information that may be provided by a prosecutor or the eligible defendant, the court finds that the release 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 presumption of pretrial release pursuant to this subsection shall not apply to an eligible defendant charged with theft of or unlawful taking of a motor vehicle or receiving stolen property where the property involved is a motor vehicle if on one or more prior and separate occasions within the 90-day-period preceding the charge, the defendant was arrested for or convicted of theft of or unlawful taking of a motor vehicle; receiving stolen property where the property involved is a motor vehicle; or a crime under any statute of the United States, this State, or any other state that is substantially equivalent to any of the crimes enumerated in this subsection.

b. (1) If the court does not find, after consideration, that the release described in subsection a. of this section will 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 order the pretrial release of the eligible defendant subject to the following:

- (a) the eligible defendant shall not commit any offense during the period of release;
- (b) the eligible defendant shall avoid all contact with an alleged victim of the crime;

(c) the eligible defendant shall avoid all contact with all witnesses who may testify concerning the offense that are named in the document authorizing the eligible defendant's release or in a subsequent court order; and

(d) any one or more non-monetary conditions as set forth in paragraph (2) of this subsection.

(2) The non-monetary condition or conditions of a pretrial release ordered by the court pursuant to this paragraph shall be the least restrictive condition, or combination of conditions, that the court determines will 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, which may include that the eligible defendant:

(a) remain in the custody of a designated person, who agrees to assume supervision and to report any violation of a release condition to the court, if the designated person is able to reasonably assure the court that the eligible defendant will appear in court when required, will not pose a danger to the safety of any other person or the community and will not obstruct or attempt to obstruct the criminal justice process;

(b) maintain employment or, if unemployed, actively seek employment;

(c) maintain or commence an educational program;

(d) abide by specified restrictions on personal associations, place of abode, or travel;

(e) report on a regular basis to a designated law enforcement agency, or other agency, or pretrial services program;

(f) comply with a specified curfew;

(g) refrain from possessing a firearm, destructive device, or other dangerous weapon;

(h) refrain from excessive use of alcohol or any unlawful use of a narcotic drug or other controlled substance without a prescription by a licensed medical practitioner;

(i) undergo available medical, psychological, or psychiatric treatment, including treatment for drug or alcohol dependency, and remain in a specified institution if required for that purpose;

(j) return to custody for specified hours following release for employment, schooling, or other limited purposes;

(k) be placed in a pretrial home supervision capacity with or without the use of an approved electronic monitoring device. The court may order the eligible defendant to pay all or a portion of the costs of the electronic monitoring, but the court may waive the payment for an eligible defendant who is indigent and who has demonstrated to the court an inability to pay all or a portion of the costs; or

(l) satisfy any other condition that is necessary to 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, which shall not include any prohibition or restriction concerning manufacturing, distributing, or dispensing, or possessing or having under control with intent to manufacture, distribute, or dispense, marijuana or hashish in violation of paragraph (12) of subsection b. of N.J.S.2C:35-5, or possession of marijuana or hashish in violation of paragraph (3) of subsection a. of N.J.S.2C:35-10.

c. (1) If the court does not find, after consideration, that the release described in subsection a. or b. of this section will reasonably assure the eligible defendant's appearance in court when required, the court may order the pretrial release of the eligible defendant on monetary bail, other than an unsecured appearance bond. The court may only impose monetary bail pursuant to this subsection to reasonably assure the eligible defendant's appearance. The court shall not impose the monetary bail to reasonably assure 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 or for the purpose of preventing the release of the eligible defendant.

(2) If the eligible defendant is unable to post the monetary bail imposed by the court pursuant to this subsection, and for that reason remains detained in jail, the provisions of section 8 of P.L.2014, c.31 (C.2A:162-22) shall apply to the eligible defendant.

d. (1) If the court does not find, after consideration, that the release described in subsection a., b., or c. will 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 order the pretrial release of the eligible defendant using a combination of non-monetary conditions as set forth in subsection b. of this section, and monetary bail as set forth in subsection c. of this section.

(2) If the eligible defendant is unable to post the monetary bail imposed by the court in combination with non-monetary conditions pursuant to this subsection, and for that reason remains detained in jail, the provisions of section 8 of P.L.2014, c.31 (C.2A:162-22) shall apply to the eligible defendant.

e. For purposes of the court's consideration for pretrial release described in this section, with respect to whether the particular method of release will reasonably assure that the eligible defendant will not obstruct or attempt to obstruct the criminal justice process, this reasonable assurance may be deemed to exist if the prosecutor does not provide the court with information relevant to the risk of whether the eligible defendant will obstruct or attempt to obstruct the criminal justice process.

3. This act shall take effect immediately.

Approved January 12, 2026.