

SENATE, No. 4575

STATE OF NEW JERSEY
222nd LEGISLATURE

INTRODUCED SEPTEMBER 28, 2026

Sponsored by:
Senator NILSA I. CRUZ-PEREZ
District 5 (Camden and Gloucester)

SYNOPSIS

Concerns consideration of factors by court at hearing for pretrial detention or violation of condition of pretrial release.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning pretrial detention and amending P.L.2014, c.31.

2

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

5

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

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

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

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

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

22 (1) the eligible defendant's character, physical and mental
23 condition, family ties, employment, financial resources, length of
24 residence in the community, community ties, past conduct, history
25 relating to drug or alcohol abuse, criminal history, and record
26 concerning appearances at court proceedings, except with respect to
27 these factors, the court shall not consider manufacturing,
28 distributing, or dispensing, or possessing or having under control
29 with intent to manufacture, distribute, or dispense, marijuana or
30 hashish in violation of paragraph (12) of subsection b. of
31 N.J.S.2C:35-5, or possession of marijuana or hashish in violation of
32 paragraph (3) of subsection a. of N.J.S.2C:35-10; 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;

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

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

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

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 no release when a defendant has been charged with any crime for
2 which the eligible defendant would be subject to a mandatory term
3 of imprisonment pursuant to subsection c. of N.J.S.2C:43-6 for a
4 crime involving the use or possession of a firearm other than a
5 violation of:

6 (1) subsection a. or d. of N.J.S.2C:39-3;

7 (2) paragraph (1) or (2) of subsection a. of N.J.S.2C:39-4;

8 (3) subsection a. of section 1 of P.L.1998, c.26 (C.2C:39-4.1); or

9 (4) paragraph (1) of subsection b. or paragraph (1) or (2) of
10 subsection c. of N.J.S.2C:39-5.

11 g. Pretrial services shall recommend no release of a defendant
12 who has been extradited to this State from another jurisdiction if the
13 court finds that, at the time of the extradition, the defendant was
14 located in the other jurisdiction in order to avoid prosecution for a
15 crime committed in this State or service of a criminal sentence
16 imposed by a court of this State.

17 (cf: P.L.2022, c.43, s.2)

18
19 2. Section 10 of P.L.2014, c.31 (C.2A:162-24) is amended to
20 read as follows:

21 10. a. **【Upon】** Except as otherwise provided in this section, upon
22 motion of a prosecutor , when an eligible defendant is released from
23 custody before trial pursuant to section 3 or 8 of P.L.2014, c.31
24 (C.2A:162-17 or C.2A:162-22), the court**【,】** :

25 (1) upon a finding that the eligible defendant while on release
26 has violated a restraining order or condition of release, shall revoke
27 the eligible defendant's release and order that the eligible defendant
28 be detained pending trial:

29 (1) for a period of not less than 30 days for a first violation;

30 (2) for a period of not less than 60 days for a second violation;

31 (3) for a period of not less than 120 days for a third violation;

32 (4) pending the final disposition of the matter for a fourth
33 violation; and

34 (2) **【or】** upon a finding of probable cause to believe that the
35 eligible defendant has committed a new crime while on release,
36 **【may not】** shall revoke the eligible defendant's release and order
37 that the eligible defendant be detained pending trial unless the
38 court, after considering all relevant circumstances including but not
39 limited to the nature and seriousness of the **【violation or】** criminal
40 act committed, finds clear and convincing evidence that **【no】**
41 monetary bail, non-monetary conditions of release, or combination
42 of monetary bail and conditions would reasonably assure the
43 eligible defendant's appearance in court when required, the
44 protection of the safety of any other person or the community, or
45 that the eligible defendant will not obstruct or attempt to obstruct
46 the criminal justice process.

1 b. A court shall not revoke an eligible defendant's release and
2 order that the eligible defendant be detained pending trial based on
3 manufacturing, distributing, or dispensing, or possessing or having
4 under control with intent to manufacture, distribute, or dispense,
5 marijuana or hashish in violation of paragraph (12) of subsection b.
6 of N.J.S.2C:35-5, or possession of marijuana or hashish in violation
7 of paragraph (3) of subsection a. of N.J.S.2C:35-10.
8 (cf: P.L.2021, c.19, s.9)

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

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

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

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

40 (1) (a) The approved risk assessment instrument shall be
41 objective, standardized, and developed based on analysis of
42 empirical data and risk factors relevant to the risk of failure to
43 appear in court when required and the danger to the community
44 while on pretrial release. Under the approved risk assessment, a
45 defendant's lack of significant ties to the State shall weigh in favor
46 of pretrial detention. In evaluating whether a defendant has
47 significant ties to the State, the Pretrial Services Program shall
48 consider:

- i. the location of the defendant's family;
- ii. the length of time the defendant at any time was physically present in the State and the duration of any absence;
- iii. the location of the defendant's property; and
- iv. the extent to which the defendant has ties to the State such as voting registration, State or local tax return filing, vehicle registration, driver's license, social relationships, and receipt of services.

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.

(b) The approved risk assessment instrument shall consider any prior charge, including any charge of delinquency, conviction, or adjudication of delinquency, or civil penalty. However, the approved risk assessment instrument shall not consider a charge, including any charge of delinquency, conviction, or adjudication of delinquency, or civil penalty if the act was an unlawful act and not a crime or offense, based on a violation of any of the following, as risk factors relevant to the risk of failure to appear in court when required and the danger to the community while on pretrial release: manufacturing, distributing, or dispensing, or possessing or having under control with intent to manufacture, distribute, or dispense, marijuana or hashish in violation of paragraph (11) of subsection b. of N.J.S.2C:35-5, or a lesser amount of marijuana or hashish in violation of paragraph (12) of subsection b. of that section; or a violation of either of those paragraphs and a violation of subsection a. of section 1 of P.L.1987, c.101 (C.2C:35-7) or subsection a. of section 1 of P.L.1997, c.327 (C.2C:35-7.1) for distributing, dispensing, or possessing with intent to distribute or dispense, on or within 1,000 feet of any school property, or on or within 500 feet of the real property comprising a public housing facility, public park, or public building; or obtaining, possessing, using, being under the influence of, or failing to make lawful disposition of marijuana or hashish in violation of paragraph (3) or (4) of subsection a., or subsection b., or subsection c. of N.J.S.2C:35-10; or a violation involving marijuana or hashish as described herein and a violation of N.J.S.2C:36-2 for using or possessing with intent to use drug paraphernalia with that marijuana or hashish.

(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.

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.

1 e. The Pretrial Services Program shall compile its findings and
2 issue an annual report to the Governor and, pursuant to section 2 of
3 P.L.1991, c.164 (C.52:14-19.1), to the Legislature summarizing, for
4 each case following a pretrial detention hearing, whether the
5 defendant was detained or released pending trial and whether the
6 court's decision to detain or release the defendant is in accordance
7 with or contrary to the recommendation of the Pretrial Services
8 Program. The report shall not include the personal identifying
9 information of any defendant.

10 (cf: P.L.2021, c.19, s.10)

11
12 4. This act shall take effect on the first day of the second month
13 next following the date of enactment.

14 15 16 STATEMENT

17
18 This bill concerns the consideration of factors by the court at a
19 hearing for pretrial detention or the violation of a condition of
20 pretrial release.

21 Under current law, criminal courts may order the pretrial
22 detention of a defendant who is found to be a flight risk, a danger to
23 another or the community, or likely to obstruct further criminal
24 proceedings. In making this determination, the court is required to
25 consider an number of factors, including the recommendation of the
26 Pretrial Services Program (PSP), based on a risk assessment
27 instrument approved by the Administrative Director of the Courts.

28 The provisions of the bill provide that under the approved risk
29 assessment, the fact that a defendant lacks significant ties to the
30 State is to weigh in favor of a recommendation to detain the
31 defendant pending trial. In evaluating whether a defendant has
32 significant ties, the PSP is required to consider the: location of the
33 defendant's family; length of time the defendant was physically
34 present in the State and duration of any absence; location of the
35 defendant's property; and extent to which the defendant has ties to
36 the State such as voting registration, State or local tax return filing,
37 vehicle registration, driver's license, social relationships, and receipt
38 of services.

39 Under current law, the PSP is required to recommend no release
40 when a defendant has been charged with any crime for which the
41 eligible defendant would be subject to a mandatory term of
42 imprisonment for certain crimes involving the use or possession of
43 a firearm. Under the bill, the PSP also is required to recommend no
44 release of a defendant who has been extradited to this State from
45 another jurisdiction if the court finds that the defendant was in the
46 other jurisdiction to avoid prosecution or service of a criminal
47 sentence.

1 Current law permits a court to revoke pretrial release and order
2 detention pending trial if a defendant violates a condition of release
3 or commits a new crime while on release, but only if it finds by
4 clear and convincing evidence that no monetary bail or conditions
5 of release would reasonably assure the defendant's appearance in
6 court and the public's safety, or that the eligible defendant will not
7 obstruct or attempt to obstruct the criminal justice process.

8 This bill provides that if a defendant who is granted pretrial
9 release violates a restraining order or condition of release, the court
10 is required to revoke the defendant's release and order the defendant
11 to be detained pending trial for a period of not less than 30 days for
12 a first violation; a period of not less than 60 days for a second
13 violation; a period of not less than 120 days for a third violation;
14 and pending the final disposition of the matter for a fourth
15 violation. The bill further provides that if there is probable cause to
16 believe that the defendant committed a new crime while on release,
17 the court is required to revoke the defendant's release and order the
18 defendant to be detained pending trial unless it finds by clear and
19 convincing evidence that monetary bail, non-monetary bail, or
20 conditions of release would reasonably assure the defendant's
21 appearance in court and the public's safety, or that the eligible
22 defendant will not obstruct or attempt to obstruct the criminal
23 justice process.

24 Finally, the provisions of the bill require the PSP to compile its
25 findings and issue an annual report to the Governor and the
26 Legislature summarizing, for each case following a pretrial
27 detention hearing, whether the defendant was detained or released
28 pending trial and whether the court's decision to detain or release
29 the defendant is in accordance with or contrary to the
30 recommendation of the PSP. The report is not to include the
31 personal identifying information of any defendant.