

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext.103 or <mailto:refdesk@njstatelib.org>

REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: No

LAW/RWH

P.L.2011, CHAPTER 138, *approved November 7, 2011*
Assembly, No. 1491 (*First Reprint*)

1 AN ACT concerning bail and domestic violence and
2 ¹【supplementing Title 2C of the New Jersey Statutes】 amending
3 P.L.1994, c. 144¹.
4

5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*
7

8 ¹【1. a. A person charged with a violation of subsection b. of
9 N.J.S.2C:29-9 for contempt of an order entered under the provisions
10 of the “Prevention of Domestic Violence Act of 1991,” P.L.1991,
11 c.261 (C.2C:25-17 et al.) or an order entered under the provisions of
12 a substantially similar statute under the laws of another state or the
13 United States may post the required amount of bail only in the form
14 of:

15 (1) Full cash;

16 (2) A surety bond executed by a corporation authorized under
17 chapter 31 of Title 17 of the Revised Statutes; or

18 (3) A bail bond secured by real property situated in this State.

19 b. The court shall set bail in the following amounts:

20 (1) When the conduct which constitutes the violation could also
21 constitute a crime, a minimum of \$5,000;

22 (2) When the conduct which constitutes the violation could also
23 constitute a disorderly persons offense, a minimum of \$2,500.】¹
24

25 ¹1. Section 1 of P.L.1994, c. 144 (C.2A:162-12) is amended to
26 read as follows:

27 1. a. As used in this section:

28 "Crime with bail restrictions" means a crime of the first or
29 second degree charged under any of the following sections:

30 (1) Murder 2C:11-3.

31 (2) Manslaughter 2C:11-4.

32 (3) Kidnapping 2C:13-1.

33 (4) Sexual Assault 2C:14-2.

34 (5) Robbery 2C:15-1.

35 (6) Carjacking P.L.1993, c.221, s.1 (C.2C:15-2).

36 (7) Arson and Related Offenses 2C:17-1.

37 (8) Causing or Risking Widespread Injury or Damage 2C:17-2.

38 (9) Burglary 2C:18-2.

39 (10) Theft by Extortion 2C:20-5.

40 (11) Endangering the Welfare of Children 2C:24-4.

41 (12) Resisting Arrest; Eluding Officer 2C:29-2.

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AJU committee amendments adopted October 14, 2010.

- 1 (13) Escape 2C:29-5.
2 (14) Corrupting or Influencing a Jury 2C:29-8.
3 (15) Possession of Weapons for Unlawful Purposes 2C:39-4.
4 (16) Weapons Training for Illegal Activities
5 P.L.1983, c.229, s.1 (C.2C:39-14).
6 (17) Soliciting or Recruiting Gang Members
7 P.L.1999, c.160, s.1 (C.2C:33-28).
8 "Crime with bail restrictions" also includes any first or second
9 degree drug-related crimes under chapter 35 of Title 2C of the New
10 Jersey Statutes and any first or second degree racketeering crimes
11 under chapter 41 of Title 2C of the New Jersey Statutes.
12 "Crime with bail restrictions" also includes any crime or offense
13 involving domestic violence, as defined in subsection a. of section 3
14 of P.L.1991, c. 261 (C.2C:25-19), where the defendant was subject
15 to a temporary or permanent restraining order issued pursuant to the
16 provisions of the "Prevention of Domestic Violence Act of 1991,"
17 P.L.1991, c. 261 (C.2C:25-17 et. al) and is charged with a crime
18 committed against a person protected under the order or where the
19 defendant is charged with contempt pursuant to N.J.S.2C:29-9.
20 b. Subject to the provisions of subsection c. of this section, a
21 person charged with a crime with bail restrictions may post the
22 required amount of bail only in the form of:
23 (1) Full cash;
24 (2) A surety bond executed by a corporation authorized under
25 chapter 31 of Title 17 of the Revised Statutes; or
26 (3) A bail bond secured by real property situated in this State
27 with an unencumbered equity equal to the amount of bail
28 undertaken plus \$20,000.
29 c. There shall be a presumption in favor of the court
30 designating the posting of full United States currency cash bail to
31 the exclusion of other forms of bail when a defendant is charged
32 with an offense as set forth in subsection a. of this section and:
33 (1) has two other indictable cases pending at the time of the
34 arrest; or
35 (2) has two prior convictions for a first or second degree crime
36 or for a violation of section 1 of P.L.1987, c.101 (C.2C:35-7) or any
37 combination thereof; or
38 (3) has one prior conviction for murder, aggravated
39 manslaughter, aggravated sexual assault, kidnapping or bail
40 jumping; or
41 (4) was on parole at the time of the arrest ; or
42 (5) was subject to a temporary or permanent restraining order
43 issued pursuant to the provisions of the "Prevention of Domestic
44 Violence Act of 1991," P.L.1991, c. 261 (C.2C:25-17 et al.), was
45 charged with a crime committed against a person protected under
46 that order, including a charge of contempt pursuant to N.J.S. 2C:29-
47 9, and either: (a) is charged with commission of a domestic

1 violence crime that resulted in serious bodily injury to the victim;
2 or (b) has at least one prior conviction for a crime or offense
3 involving domestic violence against the same victim or has
4 previously violated a final restraining order protecting the same
5 victim,

6 unless the court finds on the record that another form of bail
7 authorized in subsection b. of this section will ensure the
8 defendant's presence in court when required.

9 d. When bail is posted in the form of a bail bond secured by
10 real property, the owner of the real property, whether the person is
11 admitted to bail or a surety, shall also file an affidavit containing:

12 (1) A legal description of the real property;

13 (2) A description of each encumbrance on the real property;

14 (3) The market value of the unencumbered equity owned by the
15 affiant as determined in a full appraisal conducted by an appraiser
16 licensed by the State of New Jersey; and

17 (4) A statement that the affiant is the sole owner of the
18 unencumbered equity.

19 e. Nothing herein is intended to preclude a court from releasing
20 a person on the person's own recognizance when the court
21 determines that such person is deserving.¹

22 (cf: P.L.2007, c.46, s.1)

23

24 2. This act shall take effect immediately.

25

26

27

28

29 Imposes certain bail restrictions on persons charged with
30 violating domestic violence restraining orders.

ASSEMBLY, No. 1491

STATE OF NEW JERSEY 214th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2010 SESSION

Sponsored by:

Assemblywoman CELESTE M. RILEY

District 3 (Salem, Cumberland and Gloucester)

Assemblywoman CLEOPATRA G. TUCKER

District 28 (Essex)

Assemblywoman JOAN M. VOSS

District 38 (Bergen)

Assemblyman RALPH R. CAPUTO

District 28 (Essex)

SYNOPSIS

Imposes certain bail restrictions on persons charged with violating domestic violence restraining orders.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



(Sponsorship Updated As Of: 10/15/2010)

1 AN ACT concerning bail and domestic violence and supplementing
2 Title 2C of the New Jersey Statutes.

3

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

6

7 1. a. A person charged with a violation of subsection b. of
8 N.J.S.2C:29-9 for contempt of an order entered under the provisions
9 of the "Prevention of Domestic Violence Act of 1991," P.L.1991,
10 c.261 (C.2C:25-17 et al.) or an order entered under the provisions of
11 a substantially similar statute under the laws of another state or the
12 United States may post the required amount of bail only in the form
13 of:

14 (1) Full cash;

15 (2) A surety bond executed by a corporation authorized under
16 chapter 31 of Title 17 of the Revised Statutes; or

17 (3) A bail bond secured by real property situated in this State.

18 b. The court shall set bail in the following amounts:

19 (1) When the conduct which constitutes the violation could also
20 constitute a crime, a minimum of \$5,000;

21 (2) When the conduct which constitutes the violation could also
22 constitute a disorderly persons offense, a minimum of \$2,500.

23

24 2. This act shall take effect immediately.

25

26 STATEMENT

27

28 This bill imposes certain bail restrictions and increases the
29 minimum amount of bail for persons who are charged with
30 contempt of a domestic violence restraining order.

31 Currently, it is a crime of the fourth degree for a person to
32 violate a provision in a restraining order when the conduct which
33 constitutes the violation could also constitute a crime or disorderly
34 persons offense (for example, assault or harassment).

35 Generally, the court may allow defendants to be released on bail
36 after they post 10% of the amount of bail in cash. In the case of
37 violations of domestic violence restraining orders, this sum may be
38 as low as \$50. This bill provides that persons charged with violating
39 a restraining order would not be allowed to use this 10% bail
40 option. Instead, these defendants would be required to post bail in
41 the form of full cash, a surety bond, or a bail bond secured by real
42 property located in the State.

43 The bill provides that if the person is charged with conduct
44 constituting a violation that could constitute a crime, bail would be
45 required to be set at a minimum of \$5,000. If the conduct could
46 constitute a disorderly persons offense, bail would be a minimum of
47 \$2,500.

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1491

with committee amendments

STATE OF NEW JERSEY

DATED: OCTOBER 14, 2010

The Assembly Judiciary Committee reports favorably and with committee amendments Assembly Bill No. 1491.

This bill imposes certain bail restrictions on domestic violence offenders.

As originally introduced, the bill had imposed bail restrictions and increased the minimum amount of bail for persons charged with contempt of a domestic violence restraining order pursuant to N.J.S.A.2C:29-9. Under that statute, it is a crime of the fourth degree for a person to violate a provision in a restraining order when the conduct which constitutes the violation could also constitute a crime or disorderly persons offense (for example, assault or harassment).

Generally, the court may allow defendants to be released on bail after they post 10% of the amount of bail in cash. Under the bill as introduced, a person charged with contempt of a domestic violence restraining order could not have used the 10% bail option but would have been required to post bail in the form of full cash, a surety bond, or a bail bond secured by real property situated in the State.

The amendments remove the provision that would have increased the bail amounts for persons charged with contempt and instead expand the current statute which enumerates the crimes with bail restrictions, N.J.S.A.2A:162-12, to include domestic violence crimes. N.J.S.A.2A:162-12 provides that persons charged with certain crimes of the first or second degree may only post bail in the form of full cash, a surety bond or a bail bond secured by real property situated in the State with an unencumbered equity equal to the amount of bail plus \$20,000. Persons charged with these crimes cannot use the 10% cash option for posting bail. Thus, under the amendments, persons charged with domestic violence crimes also could not use the 10% cash option for posting bail and would be restricted to the forms of bail set out in N.J.S.A.2A:162-12.

The bill as amended provides that a crime with bail restrictions also includes any crime or offense involving domestic violence where the person was subject to a temporary or permanent restraining order and is charged with committing a crime against the person protected

by the order, or where the defendant is charged with contempt of a domestic violence restraining order under N.J.S.A.2C:29-9.

This bill was pre-filed for introduction in the 2010-2011 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

COMMITTEE AMENDMENTS

1. Amend the Title to add a reference to P.L.1994, c.144 (C.2A:162-12).
2. Omit section 1 of the bill, which imposed bail restrictions and increased the minimum amount of bail.
3. Amend P.L.1994, c.144 (C.2A:162-12) to add that a crime with bail restrictions includes any crime or offense involving domestic violence where the person was subject to a temporary or permanent restraining order and is charged with committing a crime against the person protected by the order, or where the defendant is charged with contempt of a domestic violence restraining order under N.J.S.A.2C:29-9.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 1491

STATE OF NEW JERSEY

DATED: SEPTEMBER 19, 2011

The Senate Judiciary Committee reports favorably Assembly Bill No. 1491 (1R).

This bill imposes certain bail restrictions on domestic violence offenders.

Generally, the court may allow defendants to be released on bail after they post 10% of the amount of bail in cash. N.J.S.A.2A:162-12 provides that persons charged with certain crimes of the first or second degree may only post bail in the form of full cash, a surety bond or a bail bond secured by real property situated in the State with an unencumbered equity equal to the amount of bail plus \$20,000. Persons charged with these crimes cannot use the 10% cash option for posting bail.

This bill amends N.J.S.A.2A:162-12 to expand the current statute and include certain crimes or offenses involving domestic violence. Under the provisions of the bill, crimes with bail restrictions would also include any crime or offense involving domestic violence where the person was subject to a temporary or permanent restraining order and is charged with committing a crime against the person protected by the order, or where the defendant is charged with contempt of a domestic violence restraining order under N.J.S.A.2C:29-9. Under that statute, it is a crime of the fourth degree for a person to violate a provision in a restraining order when the conduct which constitutes the violation could also constitute a crime or disorderly persons offense.

Thus, persons charged with domestic violence crimes could not use the 10% cash option for posting bail and would be restricted to the forms of bail set out in N.J.S.A.2A:162-12.

Additionally, the bill includes certain domestic violence charges with the category of offenses for which there is a presumption in favor of posting full currency cash bail to the exclusion of other forms of bail. These include matters where the defendant was subject to a restraining order and is charged with a crime against the person protected by that order which resulted in serious bodily injury to that person or the defendant had at least one prior conviction for domestic violence against the person protected by that order.

This bill is identical to Senate Bill No. 2626.

SENATE, No. 2626

STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED JANUARY 10, 2011

Sponsored by:

Senator LORETTA WEINBERG

District 37 (Bergen)

Senator LINDA R. GREENSTEIN

District 14 (Mercer and Middlesex)

Co-Sponsored by:

Senators Allen, Beach, Beck, Cunningham and Ruiz

SYNOPSIS

Imposes certain bail restrictions on persons charged with violating domestic violence restraining orders.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 9/27/2011)

1 AN ACT concerning bail and domestic violence and amending
2 P.L.1994, c. 144.

3

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

6

7 1. Section 1 of P.L.1994, c. 144 (C.2A:162-12) is amended to
8 read as follows:

9 1. a. As used in this section:

10 "Crime with bail restrictions" means a crime of the first or
11 second degree charged under any of the following sections:

- 12 (1) Murder 2C:11-3.
- 13 (2) Manslaughter 2C:11-4.
- 14 (3) Kidnapping 2C:13-1.
- 15 (4) Sexual Assault 2C:14-2.
- 16 (5) Robbery 2C:15-1.
- 17 (6) Carjacking P.L.1993, c.221, s.1 (C.2C:15-2).
- 18 (7) Arson and Related Offenses 2C:17-1.
- 19 (8) Causing or Risking Widespread Injury or Damage 2C:17-2.
- 20 (9) Burglary 2C:18-2.
- 21 (10) Theft by Extortion 2C:20-5.
- 22 (11) Endangering the Welfare of Children 2C:24-4.
- 23 (12) Resisting Arrest; Eluding Officer 2C:29-2.
- 24 (13) Escape 2C:29-5.
- 25 (14) Corrupting or Influencing a Jury 2C:29-8.
- 26 (15) Possession of Weapons for Unlawful Purposes 2C:39-4.
- 27 (16) Weapons Training for Illegal Activities

28 P.L.1983, c.229, s.1 (C.2C:39-14).

29 (17) Soliciting or Recruiting Gang Members

30 P.L.1999, c.160, s.1 (C.2C:33-28).

31 "Crime with bail restrictions" also includes any first or second
32 degree drug-related crimes under chapter 35 of Title 2C of the New
33 Jersey Statutes and any first or second degree racketeering crimes
34 under chapter 41 of Title 2C of the New Jersey Statutes.

35 "Crime with bail restrictions" also includes any crime or offense
36 involving domestic violence, as defined in subsection a. of section 3
37 of P.L.1991, c. 261 (C.2C:25-19), where the defendant was subject
38 to a temporary or permanent restraining order issued pursuant to the
39 provisions of the "Prevention of Domestic Violence Act of 1991,"
40 P.L.1991, c. 261 (C.2C:25-17 et. al) and is charged with a crime
41 committed against a person protected under the order or where the
42 defendant is charged with contempt pursuant to N.J.S.2C:29-9.

43 b. Subject to the provisions of subsection c. of this section, a
44 person charged with a crime with bail restrictions may post the
45 required amount of bail only in the form of:

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 (1) Full cash;

2 (2) A surety bond executed by a corporation authorized under
3 chapter 31 of Title 17 of the Revised Statutes; or

4 (3) A bail bond secured by real property situated in this State
5 with an unencumbered equity equal to the amount of bail
6 undertaken plus \$20,000.

7 c. There shall be a presumption in favor of the court
8 designating the posting of full United States currency cash bail to
9 the exclusion of other forms of bail when a defendant is charged
10 with an offense as set forth in subsection a. of this section and:

11 (1) has two other indictable cases pending at the time of the
12 arrest; or

13 (2) has two prior convictions for a first or second degree crime
14 or for a violation of section 1 of P.L.1987, c.101 (C.2C:35-7) or any
15 combination thereof; or

16 (3) has one prior conviction for murder, aggravated
17 manslaughter, aggravated sexual assault, kidnapping or bail
18 jumping; or

19 (4) was on parole at the time of the arrest ; or

20 (5) was subject to a temporary or permanent restraining order
21 issued pursuant to the provisions of the "Prevention of Domestic
22 Violence Act of 1991," P.L.1991, c. 261 (C.2C:25-17 et al.),
23 was charged with a crime committed against a person protected
24 under that order, including a charge of contempt pursuant to
25 N.J.S.2C:29-9, and either: (a) is charged with commission of a
26 domestic violence crime that resulted in serious bodily injury to the
27 victim; or (b) has at least one prior conviction for a crime or offense
28 involving domestic violence against the same victim or has
29 previously violated a final restraining order protecting the same
30 victim,

31 unless the court finds on the record that another form of bail
32 authorized in subsection b. of this section will ensure the
33 defendant's presence in court when required.

34 d. When bail is posted in the form of a bail bond secured by
35 real property, the owner of the real property, whether the person is
36 admitted to bail or a surety, shall also file an affidavit containing:

37 (1) A legal description of the real property;

38 (2) A description of each encumbrance on the real property;

39 (3) The market value of the unencumbered equity owned by the
40 affiant as determined in a full appraisal conducted by an appraiser
41 licensed by the State of New Jersey; and

42 (4) A statement that the affiant is the sole owner of the
43 unencumbered equity.

44 e. Nothing herein is intended to preclude a court from releasing
45 a person on the person's own recognizance when the court
46 determines that such person is deserving.

47 (cf: P.L.2007, c.46, s.1)

1 2. This act shall take effect immediately.

2

3

4

STATEMENT

5

6 This bill imposes certain bail restrictions on domestic violence
7 offenders.

8 Generally, the court may allow defendants to be released on
9 bail after they post 10% of the amount of bail in cash.
10 N.J.S.A.2A:162-12 provides that persons charged with certain
11 crimes of the first or second degree may only post bail in the form
12 of full cash, a surety bond or a bail bond secured by real property
13 situated in the State with an unencumbered equity equal to the
14 amount of bail plus \$20,000. Persons charged with these crimes
15 cannot use the 10% cash option for posting bail.

16 This bill amends N.J.S.A.2A:162-12 to expand the current statute
17 and include certain crimes or offenses involving domestic violence.
18 Under the provisions of the bill, crimes with bail restrictions would
19 also include any crime or offense involving domestic violence
20 where the person was subject to a temporary or permanent
21 restraining order and is charged with committing a crime against the
22 person protected by the order, or where the defendant is charged
23 with contempt of a domestic violence restraining order under
24 N.J.S.A.2C:29-9. Under that statute, it is a crime of the fourth
25 degree for a person to violate a provision in a restraining order
26 when the conduct which constitutes the violation could also
27 constitute a crime or disorderly persons offense.

28 Thus, persons charged with domestic violence crimes could not
29 use the 10% cash option for posting bail and would be restricted to
30 the forms of bail set out in N.J.S.A.2A:162-12.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE, No. 2626

STATE OF NEW JERSEY

DATED: SEPTEMBER 19, 2011

The Senate Judiciary Committee reports favorably Senate Bill No. 2626.

This bill imposes certain bail restrictions on domestic violence offenders.

Generally, the court may allow defendants to be released on bail after they post 10% of the amount of bail in cash. N.J.S.A.2A:162-12 provides that persons charged with certain crimes of the first or second degree may only post bail in the form of full cash, a surety bond or a bail bond secured by real property situated in the State with an unencumbered equity equal to the amount of bail plus \$20,000. Persons charged with these crimes cannot use the 10% cash option for posting bail.

This bill amends N.J.S.A.2A:162-12 to expand the current statute and include certain crimes or offenses involving domestic violence. Under the provisions of the bill, crimes with bail restrictions would also include any crime or offense involving domestic violence where the person was subject to a temporary or permanent restraining order and is charged with committing a crime against the person protected by the order, or where the defendant is charged with contempt of a domestic violence restraining order under N.J.S.A.2C:29-9. Under that statute, it is a crime of the fourth degree for a person to violate a provision in a restraining order when the conduct which constitutes the violation could also constitute a crime or disorderly persons offense.

Thus, persons charged with domestic violence crimes could not use the 10% cash option for posting bail and would be restricted to the forms of bail set out in N.J.S.A.2A:162-12.

Additionally, the bill includes certain domestic violence charges with the category of offenses for which there is a presumption in favor of posting full currency cash bail to the exclusion of other forms of bail. These include matters where the defendant was subject to a restraining order and is charged with a crime against the person protected by that order which resulted in serious bodily injury to that person or the defendant had at least one prior conviction for domestic violence against the person protected by that order.

This bill is identical to Assembly Bill No. 1491 (1R).

Governor Christie Signs Bill to Impose Stricter Bail Conditions on Domestic Violence Offenders

Thursday, November 10, 2011 Tags: [Ethics and Accountability](#)

Trenton, NJ – Governor Chris Christie today signed legislation to strengthen protections for victims of domestic violence by imposing stricter conditions for bail for domestic violence offenders who violate pre-existing restraining orders or are found in contempt of a restraining order.

"This is a common-sense protection. Those who demonstrate a propensity to re-victimize their victims will find their options for regaining their freedom limited, as well as their opportunity to re-offend," said Governor Christie. "We must always put victims of domestic violence first."

The bill, A-1491, amends current law to limit bail options for persons charged with any crime involving domestic violence where the defendant is subject to a pre-existing temporary or permanent restraining order, and is charged with committing a crime against the person protected by the order. It also imposes bail limitations in cases where the defendant is charged with contempt of a domestic violence restraining order.

In such cases, release is permitted only if the defendant posts the entire bail amount in cash or a surety bond or a bail bond secured by real property. Additionally, the court may order only full cash bail in appropriate cases. Under the new law, defendants will no longer have the option to pay just 10 percent of a specified bail amount for violation of a temporary restraining order. Additionally, when a restraining order is in place and the defendant causes serious bodily injury to the victim or has previously violated a restraining order from that victim or has a previous conviction for domestic violence, there now will be a presumption that the defendant can only post full cash bail thus removing the option of posting any type of bond.

The bill was sponsored by Assemblymembers Celeste Riley (D-Salem, Cumberland and Gloucester), Cleopatra Tucker (D-Essex), Joan Voss (D-Bergen), Ralph Caputo (D-Essex) and Gordon Johnson (D-Bergen).

Press Contact:
Michael Drewniak
Kevin Roberts
609-777-2600

Stay Connected
with Social Media

Stay Connected
with Email Alerts

LIKE THIS PAGE? SHARE IT WITH YOUR FRIENDS.

[SHARE](#) [f](#) [t](#) [e](#) [v](#)

