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Report of the Joint Committee on Criminal Justice  
[Trenton, N.J.: Joint Committee on Criminal Justice, 2014]  
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- "Christie praises, signs bail system overhaul," The Record, 8-12-14
- "A 'Step in the Right Direction,'" The Times, 8-12-14
- "On City Hall steps, Christie vows to work with Jackson to build a better Trenton," The Times, 8-12-14
- "Governor signs bail alternative for the poor," The Star-Ledger, 8-12-14
- "Christie signs bail reform at City Hall," The Trentonian, 8-12-14
- "Christie signs first piece of bail overhaul," The Press of Atlantic City, 8-12-14
- "Christie signs bail overhaul legislation," Asbury Park Press, 8-12-14
- "Christie signs bail overhaul legislation," The Philadelphia Inquirer, 8-12-14
- "Christie Signs Bail Reform Bill," [www.wbgo.org/newsarticle/christie-signs-bail-reform-bill](http://www.wbgo.org/newsarticle/christie-signs-bail-reform-bill), 8-12-14
- "NJ bail system overhaul signed into law," [nj1015.com/nj-bail-system-overhaul-signed-into-law](http://nj1015.com/nj-bail-system-overhaul-signed-into-law), 8-12-14
- "Sweeney on bail," South Jersey Times, 8-12-14

LAW/RWH

§§1-11,20 -  
C.2A:162-15 to  
2A:162-26  
§§12-15,17-19 -  
C.2B:1-7 to  
2B:1-13  
§21 - Note

P.L.2014, CHAPTER 31, *approved August 11, 2014*  
Senate, No.946 (*Third Reprint*)

1 AN ACT concerning court administration, supplementing Titles 2A  
2 and 2B of the New Jersey Statutes, and amending P.L.1995,  
3 c.325.

4

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

7

8 <sup>3</sup>[<sup>1</sup>1. (New section) For any crime committed on or after the  
9 effective date of this section:

10 a. Subject to excludable time as set forth in subsection b. of  
11 this section:

12 (1) (a) A defendant who has been charged with a crime and for  
13 whom pretrial detention is ordered pursuant to sections 5 and 6 of  
14 P.L. , c. (C. ) (pending before the Legislature as this bill)  
15 shall not remain detained in jail for more than 90 days on that  
16 charge prior to the return of an indictment. If the defendant is not  
17 indicted within the specified 90 days, the defendant shall be  
18 released from jail upon motion of the defendant or on the court's  
19 own motion. Notwithstanding the court's previous findings for  
20 ordering the defendant's pretrial detention, the court shall release  
21 the defendant on the defendant's own recognizance or set  
22 appropriate non-monetary conditions for the defendant's release.

23 (b) If the defendant is charged or indicted on another matter, the  
24 time calculations set forth in subparagraph (a) of this paragraph for  
25 each matter shall run independently.

26 (2) (a) Except as otherwise provided in this paragraph, a  
27 defendant who has been indicted and for whom pretrial detention is  
28 ordered pursuant to sections 5 and 6 of P.L. , c. (C. )  
29 (pending before the Legislature as this bill) shall not remain  
30 detained in jail for more than 180 days on that charge following the  
31 return or unsealing of the indictment, whichever is later, before  
32 commencement of the trial. The 180-day time period shall  
33 commence to run from the date the indictment is returned, or the

**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:

<sup>1</sup>Senate SBA committee amendments adopted June 5, 2014.

<sup>2</sup>Senate floor amendments adopted June 12, 2014.

<sup>3</sup>Senate floor amendments adopted July 31, 2014.

1 defendant, if a juvenile, has been waived to adult court. In the  
2 event a defendant's trial does not begin within the specified 180  
3 days, the defendant shall be released from jail upon motion of the  
4 defendant or the court's own motion, unless the court finds that  
5 <sup>2</sup>[an injustice would follow] a substantial and unjustifiable risk to  
6 the safety of any other person or the community or obstruction of  
7 the criminal justice process would result<sup>2</sup> from <sup>2</sup>[strict compliance  
8 with]<sup>2</sup> the defendant's release<sup>2</sup>]. If the court finds, in the  
9 extraordinary case, that there has been a significant showing that an  
10 injustice would follow from strict compliance with the defendant's  
11 release]<sup>2</sup> from custody, <sup>2</sup>so that no appropriate conditions for the  
12 defendant's release could reasonably address that risk. If the court  
13 so finds,<sup>2</sup> the court may allocate an additional period of time in  
14 which the defendant's trial shall commence before the defendant is  
15 released. Notwithstanding the court's previous findings for ordering  
16 the defendant's pretrial detention, the court shall release the  
17 defendant on the defendant's own recognizance or set appropriate  
18 non-monetary conditions for the defendant's release to  
19 <sup>2</sup>[reasonable] reasonably<sup>2</sup> assure <sup>2</sup>the<sup>2</sup> defendant's appearance in  
20 court.

21 (b) (i) For the purposes of this paragraph, a trial is considered to  
22 have commenced when the court determines that the parties are  
23 present and directs them to proceed to voir dire or to opening  
24 argument, or to the hearing of any motions that had been reserved  
25 for the time of trial.

26 (ii) The return of a superseding indictment against a defendant  
27 shall extend the time for the trial to commence.

28 (iii) If an indictment is dismissed without prejudice upon motion  
29 of the defendant for any reason, and a subsequent indictment is  
30 returned, the time for trial shall begin running from the date of the  
31 return of the subsequent indictment.

32 (iv) A trial ordered after a mistrial or upon a motion for a new  
33 trial shall commence within 120 days of the entry of the order of the  
34 court. A trial ordered upon the reversal of a judgment by any  
35 appellate court shall commence within 120 days of the service of  
36 that court's trial mandate.

37 (c) If the defendant is indicted on another matter, the time  
38 calculations set forth in this paragraph for each matter shall run  
39 independently.

40 b. (1) The following periods shall be excluded in computing  
41 the time in which a case shall be indicted or tried:

42 (a) The time resulting from an examination and hearing on  
43 competency and the period during which the defendant is  
44 incompetent to stand trial or incapacitated;

45 (b) The time from the filing to the disposition of a defendant's  
46 application for supervisory treatment pursuant to N.J.S.2C:36A-1 or  
47 N.J.S.2C:43-12 et seq., special probation pursuant to N.J.S.2C:35-

1 14. <sup>2</sup>[regular] drug or alcohol treatment as a condition of<sup>2</sup>  
 2 probation <sup>2</sup>[drug court]<sup>2</sup> pursuant to N.J.S.2C:45-1, or other  
 3 pretrial treatment or supervisory program;

4 (c) The time from the filing to the final disposition of a motion  
 5 made before trial by the prosecutor or the defendant;

6 (d) The time resulting from a continuance granted, in the court's  
 7 discretion, at the defendant's request or at the request of both  
 8 parties;

9 (e) The time resulting from the detention of a defendant in  
 10 another jurisdiction provided the prosecutor has been diligent and  
 11 has made reasonable efforts to obtain the defendant's presence;

12 (f) The time resulting from exceptional circumstances  
 13 including, but not limited to, a natural disaster, the unavoidable  
 14 unavailability of a defendant, material witness or other evidence,  
 15 when there is a reasonable expectation that the defendant, witness  
 16 or evidence will become available in the near future;

17 (g) On motion of the prosecutor, the delay resulting when the  
 18 court finds that the case is complex due to the number of defendants  
 19 or the nature of the prosecution;

20 (h) The time resulting from a severance of codefendants when  
 21 that severance permits only one trial to commence within the time  
 22 period for trial set forth in this section;

23 (i) <sup>2</sup>[The time resulting from a defendant being joined for trial  
 24 with a codefendant for whom the time for trial has not run and there  
 25 is good cause for not granting a severance;

26 (j)<sup>2</sup> The time resulting from a defendant's failure to appear for  
 27 a court proceeding;

28 <sup>2</sup>[(k)] (j)<sup>2</sup> The time resulting from a disqualification or recusal  
 29 of a judge;

30 <sup>2</sup>[(l)] (k)<sup>2</sup> The time for other periods of delay not specifically  
 31 enumerated if the court finds good cause for the delay;

32 <sup>2</sup>(l) The time resulting from a failure by the defendant to provide  
 33 timely and complete discovery;<sup>2</sup> and

34 (m) Any other time otherwise required by statute.

35 (2) <sup>2</sup>[The prosecutor shall be responsible for calculating  
 36 excludable time pursuant to the provisions of this subsection.

37 (3)<sup>2</sup> The failure by the prosecutor to provide timely and complete  
 38 discovery shall not be considered excludable time unless the  
 39 discovery only became available after the time set for discovery.

40 c. The Supreme Court may adopt Rules of Court necessary to  
 41 implement the provisions of this section.<sup>1</sup>]<sup>3</sup>

42  
 43 <sup>1</sup>[1.] <sup>3</sup>[<sup>2</sup>.<sup>1</sup>] 1.<sup>3</sup> (New section) The provisions of <sup>1</sup>sections  
 44 <sup>3</sup>[<sup>2</sup>] 1<sup>3</sup> through 11 of<sup>1</sup> P.L. , c. (C. ) (pending before the  
 45 Legislature as this bill) shall be liberally construed to effectuate the  
 46 purpose of <sup>1</sup>primarily<sup>1</sup> relying upon <sup>1</sup>[contempt of court  
 47 proceedings or criminal sanctions] <sup>2</sup>[conditions of release<sup>1</sup> instead

1 of] <sup>3</sup>pretrial release by non-monetary<sup>3</sup> means <sup>3</sup>[other than<sup>2</sup>  
 2 financial loss <sup>2</sup>, such as conditions of release,<sup>2</sup>]<sup>3</sup> to <sup>1</sup>[ensure]  
 3 reasonably assure<sup>1</sup> <sup>3</sup>[the] an eligible<sup>3</sup> <sup>2</sup>defendant's<sup>2</sup> appearance  
 4 <sup>2</sup>[of the defendant, that the defendant will not pose a danger to] in  
 5 court when required, the protection of the safety of<sup>2</sup> any <sup>2</sup>other<sup>2</sup>  
 6 person or the community, <sup>2</sup>that the <sup>3</sup>eligible<sup>3</sup> defendant will not  
 7 obstruct or attempt to obstruct the criminal justice process,<sup>2</sup> and that  
 8 the <sup>3</sup>eligible<sup>3</sup> defendant will comply with all conditions of <sup>1</sup>[bail]  
 9 release<sup>1</sup> <sup>2</sup>, while authorizing the court <sup>3</sup>, upon motion of a  
 10 prosecutor,<sup>3</sup> to order pretrial detention of the <sup>3</sup>eligible<sup>3</sup> defendant  
 11 when it finds clear and convincing evidence that no condition or  
 12 combination of conditions can reasonably assure the effectuation of  
 13 these goals<sup>2</sup>. Monetary bail <sup>2</sup>[shall] may<sup>2</sup> be set <sup>3</sup>for an eligible  
 14 defendant<sup>3</sup> <sup>1</sup>only <sup>3</sup>[after <sup>2</sup>[a] the<sup>2</sup> defendant's commitment to jail  
 15 and<sup>1</sup>]<sup>3</sup> when it is determined that no other conditions of release will  
 16 reasonably assure the <sup>3</sup>eligible<sup>3</sup> defendant's appearance in court  
 17 <sup>1</sup>[and that the defendant does not present a danger to any person or  
 18 the community]<sup>1</sup> <sup>2</sup>when required<sup>2</sup>.

19 <sup>1</sup>For the purposes of sections <sup>3</sup>[2] <sup>1</sup> through 11 of P.L. \_\_\_\_\_,  
 20 c. (C. \_\_\_\_\_) (pending before the Legislature as this bill), "  
 21 <sup>3</sup>eligible<sup>3</sup> defendant" shall mean a person <sup>3</sup>[who is arrested on  
 22 warrant] for whom a complaint-warrant is issued<sup>3</sup> for an initial  
 23 charge involving an indictable offense or a disorderly persons  
 24 offense unless otherwise provided in sections <sup>3</sup>[2] <sup>1</sup> through 11 of  
 25 P.L. \_\_\_\_\_, c. (C. \_\_\_\_\_) (pending before the Legislature as this bill).<sup>1</sup>

27 <sup>1</sup>[2.(New section) Upon the appearance before a court of a  
 28 defendant charged with an offense, the court shall issue an order  
 29 that the defendant be:

- 30 a. released on conditions including the execution of a bail bond  
 31 pursuant to subsection b. of section 3 of P.L. \_\_\_\_\_, c. (C. \_\_\_\_\_)  
 32 (pending before the Legislature as this bill);  
 33 b. released on his own personal recognizance; or  
 34 c. detained pursuant to section 4 of P.L. \_\_\_\_\_, c. (C. \_\_\_\_\_)  
 35 (pending before the Legislature as this bill).]<sup>1</sup>

37 <sup>3</sup>[<sup>1</sup>3.] <sup>2</sup> (New section) <sup>3</sup>[For any] a. An eligible<sup>3</sup> defendant  
 38 <sup>3</sup>[committed to jail, the] , following the issuance of a complaint-  
 39 warrant pursuant to the conditions set forth under subsection c. of  
 40 this section, shall be temporarily detained to allow the Pretrial  
 41 Services Program to prepare a risk assessment with  
 42 recommendations on conditions of release pursuant to section 11 of  
 43 P.L. \_\_\_\_\_, c. (C. \_\_\_\_\_) (pending before the Legislature as this bill)  
 44 and for the court to issue a pretrial release decision.

45 b. (1) Except as otherwise provided under sections 4 and 5 of  
 46 P.L. \_\_\_\_\_, c. (C. \_\_\_\_\_) (pending before the Legislature as this bill),

1 the<sup>3</sup> court<sup>3</sup>, pursuant to section 3 of P.L. , c. (C. ) (pending  
 2 before the Legislature as this bill),<sup>3</sup> shall make a pretrial release  
 3 decision for the <sup>3</sup>eligible<sup>3</sup> defendant without unnecessary delay, but  
 4 in no case later than 48 hours after the <sup>3</sup>eligible<sup>3</sup> defendant's  
 5 commitment to jail. <sup>3</sup>The court shall consider the Pretrial Services  
 6 Program's risk assessment and recommendations on conditions of  
 7 release before making any pretrial release decision for the eligible  
 8 defendant.

9 (2)<sup>3</sup> After considering <sup>3</sup>all<sup>3</sup> the <sup>3</sup>【defendant's】<sup>3</sup> circumstances  
 10 <sup>3</sup>【and】<sup>3</sup> the Pretrial Services Program's risk assessment and  
 11 <sup>3</sup>【recommendation】 recommendations<sup>3</sup> on conditions of release  
 12 <sup>3</sup>【completed pursuant to section 11 of P.L. , c. (C. )  
 13 (pending before the Legislature as this bill)】<sup>3</sup>, and any information  
 14 that may be provided by a prosecutor or the eligible defendant<sup>3</sup>, the  
 15 court shall order that the <sup>3</sup>eligible<sup>3</sup> defendant be:

16 <sup>3</sup>【a.】 (a)<sup>3</sup> released on the <sup>3</sup>eligible<sup>3</sup> defendant's own  
 17 recognizance or on execution of an unsecured appearance bond; or

18 <sup>3</sup>【b.】 (b)<sup>3</sup> released on a non-monetary condition or conditions,  
 19 with the condition or conditions being the least restrictive condition  
 20 or combination of conditions that the court determines will  
 21 reasonably assure the <sup>3</sup>eligible<sup>3</sup> <sup>2</sup>defendant's<sup>2</sup> appearance <sup>2</sup>【of the  
 22 defendant as】 in court when<sup>2</sup> required <sup>2</sup>【by the court, or】<sup>2</sup>, the  
 23 protection of<sup>2</sup> the safety of any other person <sup>2</sup>【and of】 or<sup>2</sup> the  
 24 community, or <sup>2</sup>【both】 that the <sup>3</sup>eligible<sup>3</sup> defendant will not  
 25 obstruct or attempt to obstruct the criminal justice process<sup>2</sup>; or

26 <sup>3</sup>【c.】 (c)<sup>3</sup> released on monetary bail, other than an unsecured  
 27 appearance bond, to reasonably assure the <sup>3</sup>eligible<sup>3</sup> <sup>2</sup>defendant's<sup>2</sup>  
 28 appearance <sup>2</sup>【of the defendant as】 in court when<sup>2</sup> required <sup>2</sup>【by the  
 29 court】<sup>2</sup>, or a combination of monetary bail and non-monetary  
 30 conditions, to reasonably assure the <sup>3</sup>eligible<sup>3</sup> <sup>2</sup>defendant's<sup>2</sup>  
 31 appearance <sup>2</sup>【of the defendant as】 in court when<sup>2</sup> required <sup>2</sup>【by the  
 32 court, or】<sup>2</sup>, the protection of<sup>2</sup> the safety of any other person <sup>2</sup>【and  
 33 of】 or<sup>2</sup> the community, or <sup>2</sup>【both】 that the <sup>3</sup>eligible<sup>3</sup> defendant will  
 34 not obstruct or attempt to obstruct the criminal justice process<sup>2</sup>; or

35 <sup>3</sup>【d.】 (d) detained in jail,<sup>3</sup> upon motion of the prosecutor,  
 36 <sup>3</sup>【detained in jail】<sup>3</sup> pending a pretrial detention hearing pursuant to  
 37 sections <sup>3</sup>【5】 <sup>4</sup> and <sup>3</sup>【6】 <sup>5</sup> of P.L. , c. (C. ) (pending  
 38 before the Legislature as this bill).<sup>1</sup>

39 <sup>3</sup>c. A law enforcement officer shall not apply for a complaint-  
 40 warrant except in accordance with guidelines issued by the Attorney  
 41 General, and a court may not issue a complaint-warrant except as  
 42 may be authorized by the Rules of Court.

43 d. (1) A defendant who is charged on a complaint-summons  
 44 shall be released from custody and shall not be subject to the

1 provisions of sections 1 through 11 of P.L. , c. (C. )  
 2 (pending before the Legislature as this bill).

3 (2) (a) If a defendant who was released from custody after  
 4 being charged on a complaint-summons pursuant to paragraph (1)  
 5 of this subsection is subsequently arrested on a warrant for failure  
 6 to appear in court when required, that defendant shall be eligible for  
 7 release on personal recognizance or release on bail by sufficient  
 8 sureties at the discretion of the court. If monetary bail was not set  
 9 when an arrest warrant for the defendant was issued, the defendant  
 10 shall have monetary bail set without unnecessary delay, but in no  
 11 case later than 12 hours after arrest. Pursuant to the Rules of Court,  
 12 if the defendant is unable to post monetary bail, the defendant shall  
 13 have that bail reviewed promptly and may file an application with  
 14 the court seeking a bail reduction, which shall be heard in an  
 15 expedited manner.

16 (b) If the defendant fails to post the required monetary bail set  
 17 by the court pursuant to this paragraph, the defendant may not be  
 18 detained on the charge or charges contained in the complaint-  
 19 summons beyond the maximum term of incarceration or term of  
 20 probation supervision for the offense or offenses charged.<sup>3</sup>

21  
 22 <sup>1</sup>[3.] <sup>3</sup>[4.] <sup>3</sup> (New section) <sup>1</sup>[a.]<sup>1</sup> Except as <sup>3</sup>otherwise<sup>3</sup>  
 23 provided under <sup>1</sup>[section 4] sections <sup>3</sup>[5] <sup>4</sup> and <sup>3</sup>[6] <sup>5</sup> of  
 24 P.L. , c. (C. ) (pending before the Legislature as this bill)  
 25 <sup>1</sup>[.] concerning<sup>1</sup> a <sup>1</sup>hearing on <sup>3</sup>[the]<sup>3</sup> pretrial detention <sup>3</sup>[of a  
 26 defendant]<sup>3 2, 2 3</sup>[for any defendant who is committed to jail and] a  
 27 court shall make, pursuant to this section, a pretrial release decision  
 28 for an eligible defendant without unnecessary delay, but<sup>3</sup> in no case  
 29 later than 48 hours after <sup>3</sup>[that] the eligible defendant's<sup>3</sup>  
 30 commitment <sup>3</sup>[:] to jail.<sup>3</sup>

31 a. The<sup>1</sup> court shall order the pretrial release of <sup>1</sup>[a] the<sup>1</sup>  
 32 <sup>3</sup>eligible<sup>3</sup> defendant on personal recognizance <sup>1</sup>or on the execution  
 33 of an unsecured appearance bond<sup>1</sup> when, after considering all the  
 34 circumstances <sup>3</sup>[and] <sup>3</sup> the Pretrial Services Program's risk  
 35 assessment<sup>1 3</sup>and recommendations on conditions of release  
 36 prepared pursuant to section 11 of P.L. , c. (C. ) (pending  
 37 before the Legislature as this bill)<sup>3</sup> , <sup>3</sup>and any information that may  
 38 be provided by a prosecutor or the eligible defendant,<sup>3</sup> the court  
 39 <sup>3</sup>[determines] finds<sup>3</sup> that <sup>2</sup>[a defendant will appear <sup>1</sup>in court<sup>1</sup> as]  
 40 the release would reasonably assure the <sup>3</sup>eligible<sup>3</sup> defendant's  
 41 appearance in court when<sup>2</sup> required <sup>1</sup>[either before or after  
 42 conviction and the defendant] , <sup>2</sup>[and<sup>1</sup> will not pose a danger to]  
 43 the protection of the safety of<sup>2</sup> any <sup>1</sup>other<sup>1</sup> person or the community  
 44 <sup>1</sup>[, or obstruct or attempt to obstruct justice, and that the defendant  
 45 will comply with all conditions of release]<sup>1 2</sup>, and that the <sup>3</sup>eligible<sup>3</sup>



1 defendant will not obstruct or attempt to obstruct the criminal  
2 justice process<sup>2</sup>.

3 b. <sup>1</sup>【Except as provided under section 4 of P.L. ,  
4 c. (C. ) (pending before the Legislature as this bill), if】 (1) If<sup>1</sup>  
5 <sup>2</sup>【a】 the<sup>2</sup> court <sup>2</sup>【determines】 does not <sup>3</sup>【determine】 find<sup>3</sup> , after  
6 consideration,<sup>2</sup> that the release described in subsection a. of this  
7 section will <sup>2</sup>【not】<sup>2</sup> reasonably <sup>1</sup>【ensure the appearance of the  
8 person】 assure <sup>2</sup>【that】<sup>2</sup> the <sup>2</sup>【defendant will appear】 <sup>3</sup>eligible<sup>3</sup>  
9 defendant's appearance<sup>2</sup> in court<sup>1</sup> <sup>2</sup>【as】 when<sup>2</sup> required <sup>1,1</sup> <sup>2</sup>【or  
10 will <sup>1</sup>【endanger the safety of】 not pose a danger to<sup>1</sup> the protection  
11 of the safety of<sup>2</sup> any other person or the community, <sup>1</sup>【or will not  
12 prevent the person from obstructing or attempting to obstruct the  
13 criminal justice process,<sup>1</sup> <sup>2</sup>and that the <sup>3</sup>eligible<sup>3</sup> defendant will  
14 not obstruct or attempt to obstruct the criminal justice process,<sup>2</sup> the  
15 court may order the pretrial release of the <sup>1</sup>【person】 <sup>3</sup>eligible<sup>3</sup>  
16 defendant subject to <sup>3</sup>【one or more of】<sup>3</sup> the following <sup>3</sup>【non-  
17 monetary conditions<sup>1</sup>】<sup>3</sup> :

18 <sup>1</sup>【(1) subject to the condition that】 (a)<sup>1</sup> the <sup>1</sup>【person】 <sup>3</sup>eligible<sup>3</sup>  
19 defendant shall<sup>1</sup> not commit any <sup>1</sup>【crime】 offense<sup>1</sup> during the  
20 period of release <sup>1</sup>【and】 ;

21 (b) the <sup>3</sup>eligible<sup>3</sup> defendant shall<sup>1</sup> avoid all contact with an  
22 alleged victim of the crime <sup>1,1</sup> <sup>3</sup>【and】<sup>3</sup>

23 <sup>1</sup>(c) the <sup>3</sup>eligible<sup>3</sup> defendant shall avoid all contact<sup>1</sup> with  
24 <sup>1</sup>【potential】 all<sup>1</sup> witnesses <sup>3</sup>who may testify concerning the offense  
25 that are<sup>3</sup> <sup>1</sup>named in the document authorizing the <sup>3</sup>eligible<sup>3</sup>  
26 defendant's release<sup>1</sup> <sup>3</sup>【who may testify concerning the offense】<sup>3</sup> <sup>1</sup>【;  
27 or<sup>3</sup> <sup>3</sup>or in a subsequent court order; and

28 (d) any one or more non-monetary conditions as set forth in  
29 paragraph (2) of this subsection<sup>3</sup> .<sup>1</sup>

30 (2) <sup>1</sup>【subject to】 The <sup>3</sup>non-monetary<sup>3</sup> condition or conditions of  
31 a pretrial release ordered by the court pursuant to this <sup>3</sup>【subsection】  
32 paragraph<sup>3</sup> shall be<sup>1</sup> the least restrictive condition, or combination  
33 of conditions, that the court determines will reasonably <sup>1</sup>【ensure】  
34 assure<sup>1</sup> the <sup>3</sup>eligible<sup>3</sup> <sup>2</sup>defendant's<sup>2</sup> appearance <sup>2</sup>【of the <sup>1</sup>【person】  
35 defendant<sup>1</sup> as in court when<sup>2</sup> required <sup>1</sup>【and】 <sup>2</sup>【or<sup>1</sup>】 , the  
36 protection of<sup>2</sup> the safety of any other person <sup>2</sup>【and】 or<sup>2</sup> the  
37 community, <sup>2</sup>【<sup>1</sup>or both】 and that the <sup>3</sup>eligible<sup>3</sup> defendant will not  
38 obstruct or attempt to obstruct the criminal justice process<sup>2</sup> .<sup>1</sup> which  
39 may include <sup>1</sup>【the condition】<sup>1</sup> that the <sup>1</sup>【person】 <sup>3</sup>eligible<sup>3</sup>  
40 defendant<sup>1</sup>:

41 (a) remain in the custody of a designated person, who agrees to  
42 assume supervision and to report any violation of a release  
43 condition to the court, if the designated person is <sup>2</sup>【reasonably】<sup>2</sup>  
44 able to <sup>1</sup>【ensure to】 <sup>2</sup>reasonably<sup>2</sup> assure<sup>1</sup> the court that the

- 1 <sup>3</sup>eligible<sup>3</sup> defendant will appear <sup>3</sup>[as] in court when<sup>3</sup> required  
2 <sup>2</sup>[and] <sup>2</sup>, <sup>2</sup> will not pose a danger to the safety of any other person or  
3 the community <sup>2</sup>, and will not obstruct or attempt to obstruct the  
4 criminal justice process<sup>2</sup> ;
- 5 (b) maintain employment, or, if unemployed, actively seek  
6 employment;
- 7 (c) maintain or commence an educational program;
- 8 (d) abide by specified restrictions on personal associations,  
9 place of abode, or travel;
- 10 (e) report on a regular basis to a designated law enforcement  
11 agency, <sup>1</sup>or other agency, or<sup>1</sup> pretrial services <sup>1</sup>[agency, or other  
12 agency] program<sup>1</sup>;
- 13 (f) comply with a specified curfew;
- 14 (g) refrain from possessing a firearm, destructive device, or  
15 other dangerous weapon;
- 16 (h) refrain from excessive use of alcohol, or any use of a  
17 narcotic drug or other controlled substance without a prescription  
18 by a licensed medical practitioner;
- 19 (i) undergo available medical, psychological, or psychiatric  
20 treatment, including treatment for drug or alcohol dependency, and  
21 remain in a specified institution if required for that purpose;
- 22 (j) return to custody for specified hours following release for  
23 employment, schooling, or other limited purposes;
- 24 (k) <sup>3</sup>be placed in a pretrial home supervision capacity with or  
25 without the use of an approved electronic monitoring device. The  
26 court may order the eligible defendant to pay all or a portion of the  
27 costs of the electronic monitoring, but the court may waive the  
28 payment for an eligible defendant who is indigent and who has  
29 demonstrated to the court an inability to pay all or a portion of the  
30 costs; or
- 31 (l) <sup>3</sup>satisfy any other condition that is <sup>1</sup>[reasonably]<sup>1</sup> necessary  
32 to <sup>1</sup>[ensure] <sup>2</sup>[reasonable] reasonably<sup>2</sup> assure<sup>1</sup> the <sup>3</sup>eligible<sup>3</sup>  
33 <sup>2</sup>defendant's<sup>2</sup> appearance <sup>2</sup>[of the <sup>1</sup>[person] defendant<sup>1</sup> as] in  
34 court when<sup>2</sup> required <sup>1</sup>[and to ensure] <sup>2</sup>[or<sup>1</sup>] , the protection of<sup>2</sup>  
35 the safety of any other person <sup>2</sup>[and] or<sup>2</sup> the community <sup>1</sup>, <sup>2</sup>[or  
36 both<sup>1</sup>] and that the <sup>3</sup>eligible<sup>3</sup> defendant will not obstruct or attempt  
37 to obstruct the criminal justice process<sup>2 3</sup> [; or
- 38 (l) be placed in a pretrial home supervision capacity with or  
39 without the use of an approved electronic monitoring device. The  
40 <sup>1</sup>court may order the defendant to pay all or a portion of the<sup>1</sup> costs  
41 <sup>1</sup>[attributable to] of<sup>1</sup> the electronic monitoring <sup>1</sup>[of an offender  
42 shall be borne by the Pretrial Services Unit in the county in which  
43 the defendant resides]<sup>1 2</sup>, and the court may waive the payment for  
44 a defendant who is indigent and who has demonstrated to the court  
45 an inability to pay all or a portion of the costs<sup>2 3</sup> ] .

1 c. <sup>1</sup>Except as provided under section 4 of P.L. \_\_\_\_\_,  
 2 c. (C. \_\_\_\_\_) (pending before the Legislature as this bill), if <sup>1</sup>(1) If  
 3 the court <sup>2</sup>**[determines]** does not <sup>3</sup>**[determine]** find<sup>3</sup> , after  
 4 consideration,<sup>2</sup> that the release described in subsection a. or b. of  
 5 this section will <sup>2</sup>**[not]**<sup>2</sup> reasonably assure <sup>2</sup>**[that]**<sup>2</sup> the <sup>2</sup>**[defendant**  
 6 will appear] <sup>3</sup>eligible<sup>3</sup> defendant's appearance<sup>2</sup> in court <sup>2</sup>**[as]**  
 7 when<sup>2</sup> required, the court may order the pretrial release of the  
 8 <sup>3</sup>eligible<sup>3</sup> defendant on monetary bail, other than an unsecured  
 9 appearance bond. The court may only impose <sup>3</sup>**[a financial**  
 10 condition set forth in] monetary bail pursuant to<sup>3</sup> this subsection to  
 11 reasonably assure the <sup>3</sup>eligible<sup>3</sup> defendant's appearance. The court  
 12 shall not impose the <sup>3</sup>**[condition]** monetary bail<sup>3</sup> to reasonably  
 13 assure the <sup>2</sup>protection of the<sup>2</sup> safety of any other person or <sup>2</sup>**[of]**<sup>2</sup>  
 14 the community <sup>2</sup>or that the <sup>3</sup>eligible<sup>3</sup> defendant will not obstruct or  
 15 attempt to obstruct the criminal justice process<sup>2</sup> , or <sup>3</sup>**[impose the**  
 16 condition]<sup>3</sup> for the purpose of preventing the release of the  
 17 <sup>3</sup>eligible<sup>3</sup> defendant.

18 <sup>2</sup>(2) <sup>3</sup>If the eligible defendant is unable to post the monetary bail  
 19 imposed by the court pursuant to this subsection, and for that reason  
 20 remains detained in jail, the provisions of section 8 of P.L. \_\_\_\_\_,  
 21 c. (C. \_\_\_\_\_) (pending before the Legislature as this bill) shall apply  
 22 to the eligible defendant.<sup>3</sup> <sup>2</sup>**[If a defendant is unable to initially post**  
 23 monetary bail after being set by the court, nothing in sections 2  
 24 through 11 of P.L. \_\_\_\_\_, c. (C. \_\_\_\_\_) (pending before the Legislature  
 25 as this bill) shall preclude, at any time thereafter, a defendant from  
 26 posting the monetary bail previously set by the court to secure  
 27 pretrial release from jail.

28 <sup>2</sup>(3) <sup>3</sup>**[Nothing in sections 2 through 11 of P.L. \_\_\_\_\_, c. (C. \_\_\_\_\_)**  
 29 (pending before the Legislature as this bill) shall preclude the court  
 30 from modifying the amount of monetary bail set pursuant to this  
 31 subsection, whether or not this modification is done in combination  
 32 with a court's ordering of one or more non-monetary conditions for  
 33 pretrial release as set forth in subsection d. of this section.]<sup>3</sup>

34 d. <sup>3</sup>(1) <sup>3</sup>If<sup>1</sup> the court <sup>2</sup>**[determines]** does not <sup>3</sup>**[determine]** find<sup>3</sup> ,  
 35 after consideration,<sup>2</sup> that the <sup>1</sup>**[conditions under]** release described  
 36 in<sup>1</sup> subsection <sup>1</sup>a.,<sup>1</sup> b. <sup>1</sup>, or c.<sup>1</sup> will <sup>2</sup>**[not]**<sup>2</sup> reasonably <sup>1</sup>**[ensure the**  
 37 appearance of the person] assure <sup>2</sup>**[that]**<sup>2</sup> the <sup>2</sup>**[defendant will**  
 38 appear] <sup>3</sup>eligible<sup>3</sup> defendant's appearance<sup>2</sup> in court<sup>1</sup> <sup>2</sup>**[as]** when<sup>2</sup>  
 39 required <sup>1</sup>,<sup>1</sup> <sup>2</sup>**[or]**<sup>2</sup> <sup>1</sup>**[will endanger]**<sup>1</sup> <sup>2</sup>the protection of<sup>2</sup> the safety  
 40 of any other person or the community, <sup>1</sup>**[or will not prevent the**  
 41 person from obstructing or attempting to obstruct the criminal  
 42 justice process,]<sup>1</sup> <sup>2</sup>and that the <sup>3</sup>eligible<sup>3</sup> defendant will not  
 43 obstruct or attempt to obstruct the criminal justice process,<sup>2</sup> the  
 44 court may <sup>1</sup>**[set bail for the offense charged in accordance with**  
 45 current statutory law and court rule] order the pretrial release of the

1 <sup>3</sup>eligible<sup>3</sup> defendant using a combination of <sup>3</sup>monetary bail and<sup>3</sup>  
 2 non-monetary conditions as set forth in <sup>3</sup>subsections<sup>3</sup> subsection<sup>3</sup>  
 3 b. <sup>3</sup>of this section,<sup>3</sup> and <sup>3</sup>monetary bail as set forth in subsection<sup>3</sup> c.  
 4 of this section<sup>1</sup>.

5 <sup>3</sup>(2) If the eligible defendant is unable to post the monetary bail  
 6 imposed by the court in combination with non-monetary conditions  
 7 pursuant to this subsection, and for that reason remains detained in  
 8 jail, the provisions of section 8 of P.L. , c. (C. ) (pending  
 9 before the Legislature as this bill) shall apply to the eligible  
 10 defendant.<sup>3</sup>

11 <sup>1</sup>d. The court may at any time amend an order made pursuant to  
 12 this section to impose additional or different conditions of release.  
 13 The court may not impose a financial condition that results in the  
 14 pretrial detention of the person.<sup>1</sup>

15 <sup>2</sup>e. For purposes of the court's consideration for pretrial release  
 16 described in <sup>3</sup>subsections a., b., and d. of<sup>3</sup> this section, with  
 17 respect to whether the particular <sup>3</sup>form<sup>3</sup> method<sup>3</sup> of release will  
 18 reasonably assure that the <sup>3</sup>eligible<sup>3</sup> defendant will not obstruct or  
 19 attempt to obstruct the criminal justice process, this reasonable  
 20 assurance may be deemed to exist if the prosecutor does not provide  
 21 the court with information relevant to the risk of whether the  
 22 <sup>3</sup>eligible<sup>3</sup> defendant will obstruct or attempt to obstruct the criminal  
 23 justice process.<sup>2</sup>

24  
 25 <sup>1</sup>[4.] <sup>3</sup>[5.1] 4.<sup>3</sup> (New section) a. <sup>3</sup>(1)<sup>3</sup> The court may order <sup>3</sup>,  
 26 before trial,<sup>3</sup> the detention of <sup>3</sup>[a] an eligible<sup>3</sup> defendant <sup>1</sup>charged  
 27 with <sup>3</sup>[a] any<sup>3</sup> crime<sup>1 2</sup>, or <sup>3</sup>[an] any<sup>3</sup> offense involving domestic  
 28 violence as defined in subsection a. of section 3 of P.L.1991, c.261  
 29 (C.2C:25-19),<sup>2</sup> <sup>3</sup>before trial<sup>3</sup> enumerated in subsection a. of  
 30 section 5 of P.L. , c. (C. ) (pending before the Legislature as  
 31 this bill),<sup>3</sup> if <sup>2</sup>[,] <sup>3</sup>[a] the<sup>3</sup> prosecutor seeks the pretrial detention of  
 32 the <sup>3</sup>eligible<sup>3</sup> defendant under section <sup>3</sup>[6] 5<sup>3</sup> of  
 33 P.L. , c. (C. ) (pending before the Legislature as this bill)  
 34 <sup>3</sup>[,]<sup>3</sup> and<sup>2</sup> after a hearing pursuant to <sup>1</sup>[the]<sup>1</sup> <sup>2</sup>that<sup>2</sup> section <sup>1</sup>[5]  
 35 <sup>2</sup>[6.<sup>1</sup> of P.L. , c. (C. ) (pending before the Legislature as  
 36 this bill),<sup>2</sup> the court <sup>1</sup>[is clearly convinced] finds clear and  
 37 convincing evidence<sup>1</sup> that no amount of <sup>1</sup>[sureties] monetary bail<sup>1</sup>,  
 38 non-monetary conditions of pretrial release or combination of  
 39 <sup>1</sup>[sureties] monetary bail<sup>1</sup> and conditions would <sup>1</sup>[ensure]  
 40 reasonably assure<sup>1</sup> the <sup>3</sup>eligible<sup>3</sup> defendant's appearance <sup>2</sup>[as] in  
 41 court when<sup>2</sup> required, <sup>2</sup>[protect] the protection of<sup>2</sup> the safety of any  
 42 <sup>1</sup>other<sup>1</sup> person or <sup>2</sup>[of]<sup>2</sup> the community, <sup>2</sup>[or prevent] and that<sup>2</sup> the  
 43 <sup>3</sup>eligible<sup>3</sup> defendant <sup>2</sup>[from obstructing or attempting] will not  
 44 obstruct or attempt<sup>2</sup> to obstruct the criminal justice process. <sup>1</sup>The  
 45 court may also order the pretrial detention of <sup>3</sup>[a] an eligible<sup>3</sup>

1 defendant when <sup>2</sup>[a] the prosecutor moves for a pretrial detention  
 2 hearing and the <sup>2</sup> <sup>3</sup>eligible<sup>3</sup> defendant fails to rebut a presumption of  
 3 pretrial detention that may be established for the crimes enumerated  
 4 under subsection b. of section <sup>3</sup>[6] <sup>5</sup> of P.L. , c. (C. )  
 5 (pending before the Legislature as this bill).<sup>1</sup>

6 <sup>3</sup>(2) For purposes of ordering the pretrial detention of an eligible  
 7 defendant pursuant to this section and section 5 of P.L. , c. (C. )  
 8 (pending before the Legislature as this bill) or pursuant to section  
 9 10 of P.L. , c. (C. ) (pending before the Legislature as this  
 10 bill), when determining whether no amount of monetary bail, non-  
 11 monetary conditions or combination of monetary bail and  
 12 conditions would reasonably assure the eligible defendant's  
 13 appearance in court when required, the protection of the safety of  
 14 any other person or the community, or that the eligible defendant  
 15 will not obstruct or attempt to obstruct the criminal justice process,  
 16 the court may consider the amount of monetary bail only with  
 17 respect to whether it will, by itself or in combination with non-  
 18 monetary conditions, reasonably assure the eligible defendant's  
 19 appearance in court when required.<sup>3</sup>

20 b. <sup>2</sup>[Except <sup>1</sup>[where] for] Regarding the pretrial detention  
 21 hearing moved for by the prosecutor, except for<sup>2</sup> when<sup>1</sup> <sup>3</sup>[a] an  
 22 eligible<sup>3</sup> defendant <sup>2</sup>is<sup>2</sup> charged with a crime <sup>2</sup>[is subject to a  
 23 hearing upon the motion of the prosecutor <sup>1</sup>[or upon the court's  
 24 own motion]<sup>1</sup> as]<sup>2</sup> set forth under <sup>1</sup>[paragraphs (1) and (2) of]<sup>1</sup>  
 25 <sup>2</sup>paragraph (1) <sup>3</sup>or (2)<sup>3</sup> of<sup>2</sup> <sup>3</sup>[subsection a. <sup>2</sup>or]<sup>3</sup> subsection b.<sup>2</sup> of  
 26 section <sup>1</sup>[5] <sup>3</sup>[6.1] <sup>5</sup> of P.L. , c. (C. ) (pending before the  
 27 Legislature as this bill), there shall be a rebuttable presumption that  
 28 some amount of <sup>1</sup>[sureties] monetary bail<sup>1</sup>, non-monetary  
 29 conditions of pretrial release or combination of <sup>1</sup>[sureties]  
 30 monetary bail<sup>1</sup> and conditions would <sup>1</sup>[ensure] reasonably assure<sup>1</sup>  
 31 the <sup>3</sup>eligible<sup>3</sup> defendant's appearance <sup>2</sup>[as] in court when<sup>2</sup> required,  
 32 <sup>2</sup>[protect] the protection of<sup>2</sup> the safety of <sup>1</sup>any other person or  
 33 <sup>2</sup>[of<sup>1</sup>]<sup>2</sup> the community, and <sup>2</sup>[prevent] that<sup>2</sup> the <sup>3</sup>eligible<sup>3</sup>  
 34 defendant <sup>2</sup>[from obstructing or attempting] will not obstruct or  
 35 attempt<sup>2</sup> to obstruct the criminal justice process.

36 c. <sup>3</sup>[A] An eligible<sup>3</sup> defendant <sup>1</sup>[shall have the right to] may<sup>1</sup>  
 37 appeal an order of <sup>1</sup>pretrial<sup>1</sup> detention <sup>1</sup>[before trial to the Appellate  
 38 Division of the Superior Court, which may make a determination as  
 39 to whether an amount of sureties, non-monetary conditions of  
 40 pretrial release or combination of sureties and conditions would  
 41 assure the defendant's appearance as required, protect the safety of  
 42 any person or of the community, or prevent the defendant from  
 43 obstructing or attempting to obstruct the criminal justice process.  
 44 An appeal filed under this subsection] pursuant to the Rules of  
 45 Court. The appeal<sup>1</sup> shall be heard <sup>1</sup>[and decided no later than 30

1 days following the initial order of detention] in an expedited  
 2 manner. The <sup>3</sup>eligible<sup>3</sup> defendant shall be detained pending the  
 3 disposition of the appeal<sup>1</sup>.

4 <sup>3</sup>d. If the court does not order the pretrial detention of an eligible  
 5 defendant at the conclusion of the pretrial detention hearing under  
 6 this section and section 5 of P.L. , c. (C. ) (pending before  
 7 the Legislature as this bill), the court shall order the release of the  
 8 eligible defendant pursuant to section 3 of P.L. , c. (C. )  
 9 (pending before the Legislature as this bill).<sup>3</sup>

10  
 11 <sup>1</sup>[5.] <sup>3</sup>[6.1] <sup>5</sup>.<sup>3</sup> (New section) a. <sup>1</sup>A prosecutor may file a  
 12 motion with the court at any time <sup>3</sup>[subject to the limitations set  
 13 forth in subsection d. of this section]<sup>3</sup> , including any time before  
 14 or after <sup>3</sup>[a] an eligible<sup>3</sup> defendant's release pursuant to section  
 15 <sup>3</sup>[4] <sup>3</sup> of P.L. , c. (C. ) (pending before the Legislature as  
 16 this bill), seeking the pretrial detention of <sup>3</sup>[any] an eligible<sup>3</sup>  
 17 defendant for:

18 (1) any crime of the first or second degree enumerated under  
 19 subsection d. of section 2 of P.L.1997, c.117 (C.2C:43-7.2);

20 (2) any crime for which the <sup>2</sup>[maximum sentence is] <sup>3</sup>eligible<sup>3</sup>  
 21 defendant would be subject to an ordinary or extended term of<sup>2</sup> life  
 22 imprisonment;

23 (3) any crime if the <sup>3</sup>eligible<sup>3</sup> defendant has been convicted of  
 24 two or more offenses under paragraph (1) or (2) of this subsection;

25 (4) any crime <sup>2</sup>[involving a] enumerated under paragraph (2) of  
 26 subsection b. of section 2 of P.L.1994, c.133 (C.2C:7-2) or crime  
 27 involving human trafficking pursuant to section 1 of P.L.2005, c.77  
 28 (C.2C:13-8) or P.L.2013, c.51 (C.52:17B-237 et al.) when the<sup>2</sup>  
 29 victim <sup>2</sup>[who]<sup>2</sup> is a minor <sup>2</sup>, or the crime of endangering the  
 30 welfare of a child under N.J.S.2C:24-4<sup>2</sup> ;

31 (5) any crime enumerated under subsection c. of N.J.S.2C:43-6;  
 32 <sup>2</sup>[or]<sup>2</sup>

33 (6) <sup>2</sup>any crime or offense involving domestic violence as defined  
 34 in subsection a. of section 3 of P.L.1991, c.261 (C.2C:25-19); or

35 (7)<sup>2</sup> any other crime for which the prosecutor believes there is a  
 36 serious risk that:

37 (a) the <sup>3</sup>eligible<sup>3</sup> defendant will not appear in court as required;

38 (b) the <sup>3</sup>eligible<sup>3</sup> defendant will pose a danger to any other  
 39 person or the community; or

40 (c) the <sup>3</sup>eligible<sup>3</sup> defendant will obstruct or attempt to obstruct  
 41 justice, or threaten, injure, or intimidate, or attempt to threaten,  
 42 injure or intimidate, a prospective witness or juror.

43 b. When a motion for pretrial detention is filed pursuant to  
 44 subsection a. of this section, there shall be a rebuttable presumption  
 45 that the <sup>3</sup>eligible<sup>3</sup> defendant shall be detained pending trial because  
 46 no amount of monetary bail, non-monetary condition or

1 combination of monetary bail and conditions would reasonably  
 2 assure <sup>3</sup>the eligible defendant's appearance in court when required,  
 3 the protection of<sup>3</sup> the safety of any other person or the community,  
 4 <sup>3</sup>and that the eligible defendant will not obstruct or attempt to  
 5 obstruct the criminal justice process,<sup>3</sup> if the court finds probable  
 6 cause that the <sup>3</sup>eligible<sup>3</sup> defendant:

7 (1) committed murder pursuant to N.J.S.2C:11-3; or

8 (2) committed any crime for which the <sup>2</sup>[maximum sentence is]  
 9 <sup>3</sup>eligible<sup>3</sup> defendant would be subject to an ordinary or extended  
 10 term of<sup>2</sup> life imprisonment.

11 c.<sup>1</sup> A court shall hold a hearing to determine whether any  
 12 <sup>1</sup>[condition] amount of monetary bail or non-monetary conditions<sup>1</sup>  
 13 or combination of <sup>1</sup>monetary bail and<sup>1</sup> conditions <sup>1</sup>, including  
 14 those<sup>1</sup> set forth under subsection b. of section <sup>1</sup>[3] <sup>3</sup>[4.1] <sup>3</sup> of  
 15 P.L. , c. (C. ) (pending before the Legislature as this bill)  
 16 will <sup>1</sup>[ensure] reasonably assure<sup>1</sup> the <sup>3</sup>eligible<sup>3</sup> defendant's  
 17 appearance <sup>2</sup>[as] in court when<sup>2</sup> required, <sup>2</sup>[protect] the protection  
 18 of<sup>2</sup> the safety of any <sup>1</sup>other<sup>1</sup> person or <sup>2</sup>[of]<sup>2</sup> the community, <sup>2</sup>[or  
 19 prevent] and that<sup>2</sup> the <sup>3</sup>eligible<sup>3</sup> defendant <sup>2</sup>[from obstructing or  
 20 attempting] will not obstruct or attempt<sup>2</sup> to obstruct the criminal  
 21 justice process <sup>1</sup>[:

22 (1) Upon motion of the prosecutor in a case that involves:

23 (a) a crime enumerated under subsection d. of section 2 of  
 24 P.L.1997, c.117 (C.2C:43-7.2);

25 (b) an offense for which the maximum sentence is life  
 26 imprisonment;

27 (c) any indictable offense if the defendant has been convicted of  
 28 two or more offenses under paragraph (1) or (2) of this subsection.

29 (d) any indictable offense where the victim is a minor; or

30 (e) any indictable offense enumerated under subsection c. of  
 31 N.J.S.2C:43-6.

32 (2) Upon motion of the prosecutor or upon the court's own  
 33 motion, in a case that involves a serious risk:

34 (a) that the defendant will flee;

35 (b) that the defendant will pose a danger to any person or the  
 36 community; or

37 (c) that the defendant will obstruct or attempt to obstruct justice,  
 38 or threaten, injure, or intimidate, or attempt to threaten, injure or  
 39 intimidate, a prospective witness or juror.

40 b. The] <sup>2</sup> .<sup>2</sup>

41 d. <sup>3</sup>(1)<sup>3</sup> Except as otherwise provided in this subsection, the  
 42 pretrial detention<sup>1</sup> hearing shall be held <sup>1</sup>[immediately upon] no  
 43 later than<sup>1</sup> the <sup>3</sup>eligible<sup>3</sup> defendant's first appearance unless the  
 44 <sup>3</sup>eligible<sup>3</sup> defendant, or the prosecutor, seeks a continuance. <sup>1</sup>If a  
 45 prosecutor files a motion for pretrial detention after the <sup>3</sup>eligible<sup>3</sup>  
 46 defendant's first appearance has taken place or if <sup>3</sup>[there is]<sup>3</sup> no

1 first appearance<sup>3</sup> is required<sup>3</sup>, the court shall schedule the pretrial  
2 detention hearing to take place within three working days of the  
3 date on which the prosecutor's motion was filed, unless the  
4 prosecutor or the<sup>3</sup> eligible<sup>3</sup> defendant seeks a continuance.<sup>1</sup> Except  
5 for good cause, a continuance on motion of the <sup>3</sup>eligible<sup>3</sup> defendant  
6 may not exceed five days, not including any intermediate Saturday,  
7 Sunday, or legal holiday. Except for good cause, a continuance on  
8 motion of the prosecutor may not exceed three days, not including  
9 any intermediate Saturday, Sunday, or legal holiday.

10 <sup>1</sup>**【During a<sup>3</sup>(2)<sup>3</sup>** Upon the filing of a motion by the prosecutor  
11 seeking the pretrial detention of the<sup>3</sup> eligible<sup>3</sup> defendant and during  
12 any<sup>1</sup> continuance<sup>1</sup> that may be granted by the court<sup>1</sup>, the <sup>3</sup>eligible<sup>3</sup>  
13 defendant shall be detained <sup>1</sup>**【, and the<sup>3</sup>** in jail<sup>3</sup>, unless the eligible  
14 defendant was previously released from custody before trial, in  
15 which case the court shall issue a notice to appear to compel the  
16 appearance of the eligible defendant at the detention hearing<sup>3</sup>.  
17 **The<sup>1</sup>** court, on motion of the prosecutor or sua sponte, may order  
18 that, while in custody, <sup>3</sup>**【a<sup>3</sup>** an eligible<sup>3</sup> defendant who appears to  
19 be a drug dependent person receive an assessment to determine  
20 whether that<sup>3</sup> eligible<sup>3</sup> defendant is drug dependent.<sup>3</sup> <sup>3</sup>**【<sup>1</sup>If the**  
21 defendant was previously released<sup>2</sup> from custody before trial<sup>2</sup>, the  
22 court shall issue a notice to appear to compel the appearance of the  
23 defendant at the detention hearing.<sup>1</sup><sup>3</sup>

24 <sup>1</sup>**【c.】** e. (1)<sup>1</sup> At the <sup>1</sup>pretrial detention<sup>1</sup> hearing, the <sup>3</sup>eligible<sup>3</sup>  
25 defendant has the right to be represented by counsel, and, if  
26 financially unable to obtain adequate representation, to have  
27 counsel appointed. The <sup>3</sup>eligible<sup>3</sup> defendant shall be afforded an  
28 opportunity to testify, to present witnesses, to cross-examine  
29 witnesses who appear at the hearing, and to present information by  
30 proffer or otherwise. The rules concerning admissibility of evidence  
31 in criminal trials shall not apply to the presentation and  
32 consideration of information at the hearing. <sup>1</sup>**【The facts the court**  
33 **uses to support a<sup>1</sup>**

34 (2) In pretrial detention proceedings for which there is no  
35 indictment, the prosecutor shall establish probable cause that the  
36 <sup>3</sup> eligible<sup>3</sup> defendant committed the predicate offense. A  
37 presumption of pretrial detention as provided in subsection b. of  
38 this section may be rebutted by proof provided by the<sup>3</sup> eligible<sup>3</sup>  
39 defendant, the prosecutor, or from other materials submitted to the  
40 court. The standard of proof for a rebuttal of the presumption of  
41 pretrial detention shall be a preponderance of the evidence. If proof  
42 cannot be established to rebut the presumption, the court may order  
43 the<sup>3</sup> eligible<sup>3</sup> defendant's pretrial detention. If the presumption is  
44 rebutted by sufficient proof, the prosecutor shall have the  
45 opportunity to establish that the grounds for pretrial detention exist  
46 pursuant to this section.



1       (3) Except when <sup>3</sup>[a] an eligible<sup>3</sup> defendant has failed to rebut a  
 2 presumption of pretrial detention<sup>3</sup> pursuant to subsection b. of this  
 3 section<sup>3</sup> , the court's<sup>1</sup> finding<sup>1</sup> to support an order of pretrial  
 4 detention<sup>1</sup> pursuant to section <sup>1</sup>[4] <sup>3</sup>[5<sup>1</sup>] <sup>4</sup> of  
 5 P.L. , c. (C. ) (pending before the Legislature as this bill)  
 6 that no <sup>1</sup>[condition] amount of monetary bail, non-monetary  
 7 conditions<sup>1</sup> or combination of <sup>1</sup>monetary bail and<sup>1</sup> conditions will  
 8 reasonably <sup>1</sup>[ensure] assure<sup>1</sup> the <sup>3</sup>eligible<sup>3</sup> defendant's appearance  
 9 <sup>2</sup>[as] in court when<sup>2</sup> required, <sup>2</sup>[protect] the protection of<sup>2</sup> the  
 10 safety of any <sup>1</sup>other<sup>1</sup> person or <sup>2</sup>[of]<sup>2</sup> the community, <sup>2</sup>[or prevent]  
 11 and that<sup>2</sup> the <sup>3</sup>eligible<sup>3</sup> defendant <sup>2</sup>[from obstructing or attempting]  
 12 will not obstruct or attempt<sup>2</sup> to obstruct the criminal justice process  
 13 shall be supported by clear and convincing evidence. <sup>1</sup>[The  
 14 defendant may be detained pending completion of the hearing.]<sup>1</sup>

15       <sup>1</sup>[d.] f.<sup>1</sup> The hearing may be reopened, before or after a  
 16 determination by the court, at any time before trial, if the court  
 17 finds that information exists that was not known to the <sup>1</sup>[movant]  
 18 prosecutor or the <sup>3</sup>eligible<sup>3</sup> defendant<sup>1</sup> at the time of the hearing  
 19 and that has a material bearing on the issue <sup>3</sup>of<sup>3</sup> whether there are  
 20 conditions of release that will reasonably <sup>1</sup>[ensure] assure<sup>1</sup> the  
 21 <sup>3</sup>eligible<sup>3</sup> defendant's appearance <sup>2</sup>[as] in court when<sup>2</sup> required,  
 22 <sup>2</sup>[protect] the protection of<sup>2</sup> the safety of any <sup>1</sup>other<sup>1</sup> person or  
 23 <sup>2</sup>[of]<sup>2</sup> the community, or <sup>2</sup>[prevent] that<sup>2</sup> the <sup>3</sup>eligible<sup>3</sup> defendant  
 24 <sup>2</sup>[from obstructing or attempting] will not obstruct or attempt<sup>2</sup> to  
 25 obstruct the criminal justice process.

26  
 27       <sup>1</sup>[6.] <sup>3</sup>[7.] <sup>6.</sup><sup>3</sup> (New section) In determining <sup>1</sup>in a pretrial  
 28 detention hearing<sup>1</sup> whether no amount of <sup>1</sup>[sureties] monetary  
 29 bail<sup>1</sup>, non-monetary conditions <sup>1</sup>[of pretrial release,]<sup>1</sup> or  
 30 combination of <sup>1</sup>[sureties] monetary bail<sup>1</sup> and conditions would  
 31 <sup>1</sup>[ensure] reasonably assure<sup>1</sup> the <sup>3</sup>eligible<sup>3</sup> defendant's appearance  
 32 <sup>2</sup>[as] in court when<sup>2</sup> required, <sup>2</sup>[protect] the protection of<sup>2</sup> the  
 33 safety of any <sup>1</sup>other<sup>1</sup> person or <sup>2</sup>[of]<sup>2</sup> the community, or <sup>2</sup>[prevent]  
 34 that<sup>2</sup> the <sup>3</sup>eligible<sup>3</sup> defendant <sup>2</sup>[from obstructing or attempting] will  
 35 not obstruct or attempt<sup>2</sup> to obstruct the criminal justice process, the  
 36 court <sup>1</sup>[shall] may<sup>1</sup> take into account <sup>1</sup>[the available]<sup>1</sup> information  
 37 concerning:

38       a. The nature and <sup>3</sup>[circumstance] circumstances<sup>3</sup> of the  
 39 offense charged <sup>3</sup>[, including whether the offense is a crime <sup>2</sup>or  
 40 offense<sup>2</sup> enumerated under <sup>1</sup>[subsection d. of section 2 of P.L.1997,  
 41 c.117 (C.2C:43-7.2), is an indictable offense where the victim is a  
 42 minor, or involves a firearm, explosive, or destructive device]  
 43 paragraphs (1) through <sup>2</sup>[(5)] (6)<sup>2</sup> of subsection a. of section 6 of

1 P.L. , c. (C. ) (pending before the Legislature as this  
2 bill)<sup>1</sup>];

3 b. The weight of the evidence against the <sup>3</sup>eligible<sup>3</sup> defendant,  
4 except that the court may consider the admissibility of any evidence  
5 sought to be excluded;

6 c. The history and characteristics of the <sup>3</sup>eligible<sup>3</sup> defendant,  
7 including:

8 (1) the <sup>3</sup>eligible<sup>3</sup> defendant's character, physical and mental  
9 condition, family ties, employment, financial resources, length of  
10 residence in the community, community ties, past conduct, history  
11 relating to drug or alcohol abuse, criminal history, and record  
12 concerning appearance at court proceedings; and

13 (2) whether, at the time of the current offense or arrest, the  
14 <sup>3</sup>eligible<sup>3</sup> defendant was on probation, parole, or on other release  
15 pending trial, sentencing, appeal, or completion of sentence for an  
16 offense under federal <sup>1</sup>[or State]<sup>1</sup> law <sup>1</sup>, or the law of this or any  
17 other state<sup>1</sup>;

18 d. The nature and seriousness of the danger to any <sup>1</sup>other<sup>1</sup>  
19 person or the community that would be posed by the <sup>1</sup>[person's]  
20 <sup>3</sup>eligible<sup>3</sup> defendant's<sup>1</sup> release <sup>3</sup>, if applicable<sup>3</sup> ;

21 e. <sup>2</sup>The nature and seriousness of the risk of obstructing or  
22 attempting to obstruct the criminal justice process that would be  
23 posed by the <sup>3</sup>eligible<sup>3</sup> defendant's release <sup>3</sup>, if applicable<sup>3</sup> ; and

24 f.<sup>2</sup> The release recommendation of the pretrial services  
25 <sup>1</sup>[agency] program<sup>1</sup> obtained using a <sup>1</sup>[validated]<sup>1</sup> risk assessment  
26 instrument under section <sup>1</sup>[9] 11<sup>1</sup> of P.L. , c. (C. ) (pending  
27 before the Legislature as this bill).

28

29 <sup>1</sup>[7.(New section) a. If a defendant is released on personal  
30 recognizance or released on conditions pursuant to section 3 of  
31 P.L. , c. (C. ) (pending before the Legislature as this bill),  
32 the court shall:

33 (1) include a written statement that sets forth all the conditions  
34 to which the release is subject, in a manner sufficiently clear and  
35 specific to serve as a guide for the defendant's conduct; and

36 (2) advise the defendant of:

37 (a) the penalties for violating a condition of release, including  
38 the penalties for committing an offense while on pretrial release;  
39 and

40 (b) the consequences of violating a condition of release,  
41 including the immediate issuance of a warrant for the person's  
42 arrest.

43 b. If the court disapproves a recommendation made in a  
44 validated risk assessment instrument when setting release  
45 conditions, the release order shall include a written explanation.]<sup>1</sup>

1 <sup>3</sup>[8.] 7.<sup>3</sup> (New section) a. In a <sup>1</sup>pretrial<sup>1</sup> detention order issued  
 2 pursuant to <sup>1</sup>[section 4] sections <sup>3</sup>[5] 4<sup>3</sup> and <sup>3</sup>[6<sup>1</sup>] 5<sup>3</sup> of P.L. ,  
 3 c. (C. ) (pending before the Legislature as this bill), the court  
 4 shall:

5 (1) include written findings of fact and a written statement of  
 6 the reasons for the detention; and

7 (2) direct that the <sup>1</sup>[person] <sup>3</sup>eligible<sup>3</sup> defendant<sup>1</sup> be afforded  
 8 reasonable opportunity for private consultation with counsel.

9 b. The court may, by subsequent order, permit the temporary  
 10 release of the <sup>1</sup>[person] <sup>3</sup>eligible<sup>3</sup> defendant<sup>1</sup> subject to appropriate  
 11 restrictive conditions, which may include but shall not be limited to  
 12 <sup>1</sup>[State] pretrial<sup>1</sup> supervision, to the extent that the court  
 13 determines <sup>3</sup>[such] the<sup>3</sup> release to be necessary for preparation of  
 14 the <sup>1</sup>[person's] <sup>3</sup>eligible<sup>3</sup> defendant's<sup>1</sup> defense or for another  
 15 compelling reason.  
 16

17 <sup>3</sup>8. (New section) a. Concerning an eligible defendant subject to  
 18 pretrial detention as ordered by a court pursuant to sections 4 and 5  
 19 of P.L. , c. (C. ) (pending before the Legislature as this bill)  
 20 or an eligible defendant who is detained in jail due to the inability  
 21 to post the monetary bail imposed by the court pursuant to  
 22 subsection c. or d. of section 3 of P.L. , c. (C. ) (pending  
 23 before the Legislature as this bill):

24 (1) (a) The eligible defendant shall not remain detained in jail  
 25 for more than 90 days, not counting excludable time for reasonable  
 26 delays as set forth in subsection b. of this section, prior to the return  
 27 of an indictment. If the eligible defendant is not indicted within  
 28 that period of time, the eligible defendant shall be released from jail  
 29 unless, on motion of the prosecutor, the court finds that a  
 30 substantial and unjustifiable risk to the safety of any other person or  
 31 the community or the obstruction of the criminal justice process  
 32 would result from the eligible defendant's release from custody, so  
 33 that no appropriate conditions for the eligible defendant's release  
 34 could reasonably address that risk, and also finds that the failure to  
 35 indict the eligible defendant in accordance with the time  
 36 requirement set forth in this subparagraph was not due to  
 37 unreasonable delay by the prosecutor. If the court finds that a  
 38 substantial and unjustifiable risk to the safety of any other person or  
 39 the community or the obstruction of the criminal justice process  
 40 would result, and also finds that the failure to indict the eligible  
 41 defendant in accordance with the time requirement set forth in this  
 42 subparagraph was not due to unreasonable delay by the prosecutor,  
 43 the court may allocate an additional period of time, not to exceed 45  
 44 days, in which the return of an indictment shall occur.  
 45 Notwithstanding the court's previous findings for ordering the  
 46 eligible defendant's pretrial detention, or if the court currently does  
 47 not find a substantial and unjustifiable risk or finds unreasonable

1 delay by the prosecutor as described in this subparagraph, the court  
2 shall order the release of the eligible defendant pursuant to section 3  
3 of P.L. , c. (C. ) (pending before the Legislature as this bill).

4 (b) If the eligible defendant is charged or indicted on another  
5 matter resulting in the eligible defendant's pretrial detention, the  
6 time calculations set forth in subparagraph (a) of this paragraph for  
7 each matter shall run independently.

8 (2) (a) An eligible defendant who has been indicted shall not  
9 remain detained in jail for more than 180 days on that charge  
10 following the return or unsealing of the indictment, whichever is  
11 later, not counting excludable time for reasonable delays as set forth  
12 in subsection b. of this section, before commencement of the trial.  
13 If the trial does not commence within that period of time, the  
14 eligible defendant shall be released from jail unless, on motion of  
15 the prosecutor, the court finds that a substantial and unjustifiable  
16 risk to the safety of any other person or the community or the  
17 obstruction of the criminal justice process would result from the  
18 eligible defendant's release from custody, so that no appropriate  
19 conditions for the eligible defendant's release could reasonably  
20 address that risk, and also finds that the failure to commence trial in  
21 accordance with the time requirement set forth in this subparagraph  
22 was not due to unreasonable delay by the prosecutor. If the court  
23 finds that a substantial and unjustifiable risk to the safety of any  
24 other person or the community or the obstruction of the criminal  
25 justice process would result, and also finds that the failure to  
26 commence trial in accordance with the time requirement set forth in  
27 this subparagraph was not due to unreasonable delay by the  
28 prosecutor, the court may allocate an additional period of time in  
29 which the eligible defendant's trial shall commence.  
30 Notwithstanding the court's previous findings for ordering the  
31 eligible defendant's pretrial detention, or if the court currently does  
32 not find a substantial and unjustifiable risk or finds unreasonable  
33 delay by the prosecutor as described in this subparagraph, the court  
34 shall order the release of the eligible defendant pursuant to section 3  
35 of P.L. , c. (C. ) (pending before the Legislature as this bill).  
36 Notwithstanding any other provision of this section, an eligible  
37 defendant shall be released from jail pursuant to section 3 of  
38 P.L. , c. (C. ) (pending before the Legislature as this bill)  
39 after a release hearing if, two years after the court's issuance of the  
40 pretrial detention order for the eligible defendant, excluding any  
41 delays attributable to the eligible defendant, the prosecutor is not  
42 ready to proceed to voir dire or to opening argument, or to the  
43 hearing of any motions that had been reserved for the time of trial.

44 (b) (i) For the purposes of this paragraph, a trial is considered  
45 to have commenced when the court determines that the parties are  
46 present and directs them to proceed to voir dire or to opening  
47 argument, or to the hearing of any motions that had been reserved  
48 for the time of trial.

- 1       (ii) The return of a superseding indictment against the eligible  
2 defendant shall extend the time for the trial to commence.
- 3       (iii) If an indictment is dismissed without prejudice upon motion  
4 of the eligible defendant for any reason, and a subsequent  
5 indictment is returned, the time for trial shall begin running from  
6 the date of the return of the subsequent indictment.
- 7       (iv) A trial ordered after a mistrial or upon a motion for a new  
8 trial shall commence within 120 days of the entry of the order of the  
9 court. A trial ordered upon the reversal of a judgment by any  
10 appellate court shall commence within 120 days of the service of  
11 that court's trial mandate.
- 12       (c) If the eligible defendant is indicted on another matter  
13 resulting in the eligible defendant's pretrial detention, the time  
14 calculations set forth in this paragraph for each matter shall run  
15 independently.
- 16       b. (1) The following periods shall be excluded in computing  
17 the time in which a case shall be indicted or tried:
- 18       (a) The time resulting from an examination and hearing on  
19 competency and the period during which the eligible defendant is  
20 incompetent to stand trial or incapacitated;
- 21       (b) The time from the filing to the disposition of an eligible  
22 defendant's application for supervisory treatment pursuant to  
23 N.J.S.2C:36A-1 or N.J.S.2C:43-12 et seq., special probation  
24 pursuant to N.J.S.2C:35-14, drug or alcohol treatment as a condition  
25 of probation pursuant to N.J.S.2C:45-1, or other pretrial treatment  
26 or supervisory program;
- 27       (c) The time from the filing to the final disposition of a motion  
28 made before trial by the prosecutor or the eligible defendant;
- 29       (d) The time resulting from a continuance granted, in the court's  
30 discretion, at the eligible defendant's request or at the request of  
31 both the eligible defendant and the prosecutor;
- 32       (e) The time resulting from the detention of an eligible  
33 defendant in another jurisdiction provided the prosecutor has been  
34 diligent and has made reasonable efforts to obtain the eligible  
35 defendant's presence;
- 36       (f) The time resulting from exceptional circumstances  
37 including, but not limited to, a natural disaster, the unavoidable  
38 unavailability of an eligible defendant, material witness or other  
39 evidence, when there is a reasonable expectation that the eligible  
40 defendant, witness or evidence will become available in the near  
41 future;
- 42       (g) On motion of the prosecutor, the delay resulting when the  
43 court finds that the case is complex due to the number of defendants  
44 or the nature of the prosecution;
- 45       (h) The time resulting from a severance of codefendants when  
46 that severance permits only one trial to commence within the time  
47 period for trial set forth in this section;

- 1     (i) The time resulting from an eligible defendant's failure to  
 2 appear for a court proceeding;
- 3     (j) The time resulting from a disqualification or recusal of a  
 4 judge;
- 5     (k) The time resulting from a failure by the eligible defendant to  
 6 provide timely and complete discovery;
- 7     (l) The time for other periods of delay not specifically  
 8 enumerated if the court finds good cause for the delay; and
- 9     (m) Any other time otherwise required by statute.
- 10    (2) The failure by the prosecutor to provide timely and complete  
 11 discovery shall not be considered excludable time unless the  
 12 discovery only became available after the time set for discovery.<sup>3</sup>  
 13
- 14    <sup>1</sup>9. (New section) a. <sup>2</sup>(1)<sup>2</sup> If <sup>3</sup>[a] an eligible<sup>3</sup> defendant is  
 15 released <sup>2</sup>from jail pursuant to section <sup>3</sup>[1] 3 or 8<sup>3</sup> of P.L. ,  
 16 c. (C. ) (pending before the Legislature as this bill), <sup>3</sup>[or after  
 17 a pretrial release hearing<sup>2</sup> pursuant to section 4 of  
 18 P.L. , c. (C. ) (pending before the Legislature as this bill),  
 19 or after a pretrial detention hearing pursuant to sections 5 and 6 of  
 20 P.L. , c. (C. ) (pending before the Legislature as this bill),]<sup>3</sup>  
 21 the court shall, in the document authorizing the <sup>3</sup>eligible<sup>3</sup>  
 22 defendant's release, notify the <sup>3</sup>eligible<sup>3</sup> defendant of:
- 23     <sup>2</sup>[(1)] (a)<sup>2</sup> all the conditions, if any, to which the release is  
 24 subject, in a manner sufficiently clear and specific to serve as a  
 25 guide for the <sup>3</sup>eligible<sup>3</sup> defendant's conduct; and
- 26     <sup>2</sup>[(2)] (b)<sup>2</sup> the penalties for <sup>3</sup>and other consequences of<sup>3</sup>  
 27 violating a condition of release, <sup>3</sup>[including the penalties for  
 28 committing an offense while on pretrial release, and the  
 29 consequences of violating a condition of release,]<sup>3</sup> which may  
 30 include the immediate issuance of a warrant for the <sup>3</sup>eligible<sup>3</sup>  
 31 defendant's arrest.
- 32     <sup>2</sup>[b.] The failure of the court to notify the <sup>3</sup>eligible<sup>3</sup> defendant of  
 33 any penalty or consequence for violating a condition of release as  
 34 required by this subparagraph shall not preclude any remedy  
 35 authorized under the law for any violation committed by the  
 36 <sup>3</sup>eligible<sup>3</sup> defendant.
- 37     (2)<sup>2</sup> If the court <sup>3</sup>[disapproves,] enters an order that is contrary  
 38 to<sup>3</sup> a recommendation made in a risk assessment when <sup>3</sup>determining  
 39 a method of release or<sup>3</sup> setting release conditions, the court shall  
 40 provide an explanation in the document <sup>3</sup>[authorizing] that  
 41 authorizes<sup>3</sup> the <sup>3</sup>eligible<sup>3</sup> defendant's release.<sup>1</sup>
- 42     <sup>2</sup>b. Notwithstanding any law to the contrary, <sup>3</sup>[a] an eligible<sup>3</sup>  
 43 defendant who is released from jail on personal recognizance or  
 44 subject only to non-monetary conditions pursuant to section <sup>3</sup>[1] 3  
 45 or 8<sup>3</sup> of P.L. , c. (C. ) (pending before the Legislature as this  
 46 bill) <sup>3</sup>[after remaining detained in jail, or after a pretrial release

1 hearing pursuant to section 4 of P.L. , c. (C. ) (pending  
 2 before the Legislature as this bill), or after a pretrial detention  
 3 hearing pursuant to sections 5 and 6 of P.L. , c. (C. )  
 4 (pending before the Legislature as this bill),<sup>3</sup> shall not be assessed  
 5 any fee or other monetary assessment related to processing the  
 6 <sup>3</sup>eligible<sup>3</sup> defendant's release.<sup>2</sup>

7  
 8 <sup>1</sup>[9.] 10.<sup>1</sup> (New section) <sup>1</sup>[a. When] Upon motion of a  
 9 prosecutor, when<sup>1</sup> <sup>3</sup>[a] an eligible<sup>3</sup> defendant <sup>2</sup>[charged with a  
 10 crime enumerated in <sup>1</sup>[paragraph] paragraphs<sup>1</sup> (1) <sup>1</sup>through (5)<sup>1</sup> of  
 11 subsection a. of section <sup>1</sup>[5] <sup>6</sup><sup>1</sup> of P.L. , c. (C. ) (pending  
 12 before the Legislature as this bill)]<sup>2</sup> is released from custody before  
 13 trial <sup>3</sup>pursuant to section 3 or 8 of P.L. , c. (C. ) (pending  
 14 before the Legislature as this bill)<sup>3</sup> , the court, upon a finding that  
 15 the <sup>3</sup>eligible<sup>3</sup> defendant while on release has <sup>1</sup>[willfully]<sup>1</sup> violated  
 16 a restraining order or condition of release <sup>2</sup>[designed to protect any  
 17 <sup>1</sup>other<sup>1</sup> person or the safety of the community]<sup>2</sup>, or upon a finding  
 18 of probable cause to believe that the <sup>3</sup>eligible<sup>3</sup> defendant has  
 19 committed a new crime <sup>1</sup>[of the first or second degree]<sup>1</sup> while on  
 20 release, may <sup>2</sup>[<sup>1</sup>modify the defendant's condition of release, or<sup>1</sup>]<sup>2</sup>  
 21 <sup>3</sup>not<sup>3</sup> revoke the <sup>3</sup>eligible<sup>3</sup> defendant's release and order that the  
 22 <sup>3</sup>eligible<sup>3</sup> defendant be detained pending trial <sup>3</sup>[provided that]  
 23 unless<sup>3</sup> the court <sup>1</sup>[is clearly convinced] <sup>2</sup>, <sup>3</sup>after<sup>3</sup> considering all  
 24 relevant circumstances including but not limited to the nature and  
 25 seriousness of the violation or criminal act committed,<sup>2</sup> finds clear  
 26 and convincing evidence<sup>1</sup> that no <sup>1</sup>[condition] monetary bail, non-  
 27 monetary conditions of release<sup>1</sup> or combination of <sup>1</sup>monetary bail  
 28 and<sup>1</sup> conditions <sup>1</sup>[that the defendant is likely to abide by]<sup>1</sup> would  
 29 reasonably <sup>1</sup>[protect] assure<sup>1</sup> <sup>2</sup>the <sup>3</sup>eligible<sup>3</sup> defendant's  
 30 appearance in court when required, the protection of<sup>2</sup> the safety of  
 31 <sup>1</sup>any other person or <sup>2</sup>[of]<sup>2</sup> the community <sup>1</sup>[or any person]<sup>1</sup> <sup>2</sup>, or  
 32 that the <sup>3</sup>eligible<sup>3</sup> defendant will not obstruct or attempt to obstruct  
 33 the criminal justice process<sup>2</sup>.

34 <sup>1</sup>[b. In addition to revocation of release as authorized by this  
 35 section, a violation of a condition of pretrial release imposed  
 36 pursuant to subsection b. of section 3 of P.L. , c. (C. )  
 37 (pending before the Legislature as this bill) or any other law, may  
 38 subject the defendant to civil contempt, criminal contempt,  
 39 forfeiture of bail, or any combination of these sanctions and any  
 40 other sanctions authorized by law.]<sup>1</sup>

41  
 42 <sup>1</sup>[10.] 11.<sup>1</sup> (New section) a. The Administrative Director of the  
 43 <sup>1</sup>[Administrative Office of the]<sup>1</sup> Courts shall establish and  
 44 maintain a <sup>1</sup>Statewide<sup>1</sup> Pretrial Services <sup>1</sup>[Unit in each county]  
 45 Program<sup>1</sup> which shall provide pretrial <sup>1</sup>[release investigation]<sup>1</sup>

1 services to effectuate the purposes of <sup>1</sup>sections <sup>3</sup>[2] 1<sup>3</sup> through 11  
2 of<sup>1</sup> P.L. , c. (C. ) (pending before the Legislature as this  
3 bill).

4 b. <sup>1</sup>[The Pretrial Services Unit established under this section  
5 shall be supervised by a Chief Pretrial Services Officer appointed  
6 by the Administrative Director of the Administrative Office of the  
7 Courts.

8 c.<sup>1</sup> The Pretrial Services <sup>1</sup>[Unit] Program<sup>1</sup> shall <sup>1, 3</sup>[within 48  
9 hours of a defendant's commitment to jail,<sup>1</sup>] after an eligible  
10 defendant is temporarily detained pursuant to subsection a. of  
11 section 2 of P.L. , c. (C. ) (pending before the Legislature as  
12 this bill) following the issuance of a complaint-warrant,<sup>3</sup> conduct  
13 [, prior to a bail hearing or first appearance, an] a risk<sup>1</sup> assessment  
14 [of all criminal defendants]<sup>1 3</sup>on that eligible defendant<sup>3</sup> for the  
15 purpose of making recommendations to the court concerning <sup>1</sup>[the]  
16 an<sup>1</sup> appropriate <sup>1</sup>[disposition] pretrial release <sup>3</sup>[determination<sup>1</sup>]  
17 decision<sup>3</sup>, including whether the <sup>3</sup>eligible<sup>3</sup> defendant shall be:  
18 released on <sup>1</sup>[his] the <sup>3</sup>eligible<sup>3</sup> defendant's<sup>1</sup> own personal  
19 recognizance <sup>1</sup>or on execution of an unsecured appearance bond<sup>1</sup>;  
20 released <sup>1</sup>on a non-monetary condition or conditions as set forth  
21 under subsection b. of section <sup>3</sup>[4] 3<sup>3</sup> of P.L. , c. (C. )  
22 (pending before the Legislature as this bill); released<sup>1 3</sup>[upon  
23 execution of a] on monetary<sup>3</sup> bail <sup>3</sup>[bond]<sup>3 1</sup>, other than an  
24 unsecured appearance bond<sup>1</sup>; released on a <sup>1</sup>[condition or]<sup>1</sup>  
25 combination of <sup>1</sup>monetary bail and non-monetary<sup>1</sup> conditions set  
26 forth under <sup>1</sup>[subsection b. of]<sup>1</sup> section <sup>1</sup>[3] <sup>3</sup>[4]<sup>1</sup> 3<sup>3</sup> of P.L. ,  
27 c. (C. ) (pending before the Legislature as this bill); or any  
28 other conditions necessary to effectuate the purposes of <sup>1</sup>sections  
29 <sup>3</sup>[2] 1<sup>3</sup> through 11 of<sup>1</sup> P.L. , c. (C. ) (pending before the  
30 Legislature as this bill). <sup>3</sup>The risk assessment shall be completed  
31 and presented to the court so that the court can, without unnecessary  
32 delay, but in no case later than 48 hours after the eligible  
33 defendant's commitment to jail, make a pretrial release decision on  
34 the eligible defendant pursuant to section 3 of P.L. , c. (C. )  
35 (pending before the Legislature as this bill).<sup>3</sup>

36 <sup>1</sup>[d.] c.<sup>1</sup> The pretrial <sup>3</sup>risk<sup>3</sup> assessment shall be conducted using  
37 a <sup>1</sup>[validated]<sup>1</sup> risk assessment instrument <sup>1</sup>[and shall] <sup>3</sup>[which  
38 may<sup>1</sup> include an examination of the factors set forth in <sup>1</sup>[section 5]  
39 sections 4 and 7<sup>1</sup> of P.L. , c. (C. ) (pending before the  
40 Legislature as this bill)] approved by the Administrative Director of  
41 the Courts that meets the requirements of this subsection.

42 (1) The approved risk assessment instrument shall be objective,  
43 standardized, and developed based on analysis of empirical data and  
44 risk factors relevant to the risk of failure to appear in court when  
45 required and the danger to the community while on pretrial release<sup>3</sup>.



1 <sup>2</sup>The risk assessment instrument shall not be required to include  
 2 factors specifically pertaining to the risk <sup>3</sup>[that the defendant will  
 3 obstruct or attempt] for obstructing or attempting<sup>3</sup> to obstruct the  
 4 criminal justice process.<sup>2</sup>

5 <sup>3</sup>(2) The approved risk assessment instrument shall gather  
 6 demographic information about the eligible defendant including, but  
 7 not limited to, race, ethnicity, gender, financial resources, and  
 8 socio-economic status. Recommendations for pretrial release shall  
 9 not be discriminatory based on race, ethnicity, gender, or socio-  
 10 economic status.<sup>3</sup>

11 <sup>1</sup>[e.] d.<sup>1</sup> In addition to the pretrial <sup>3</sup>risk<sup>3</sup> assessments made  
 12 pursuant to this section, the Pretrial Services <sup>1</sup>[Unit] Program<sup>1</sup>  
 13 shall monitor <sup>2</sup>[each defendant] appropriate <sup>3</sup>eligible<sup>3</sup> defendants<sup>2</sup>  
 14 released <sup>2</sup>on conditions as ordered by the court<sup>2</sup> <sup>3</sup>[pursuant to  
 15 <sup>1</sup>[subsection b. of]<sup>1</sup> section <sup>1</sup>[3] <sup>2</sup>1 or<sup>2</sup> <sup>4</sup>1 of P.L. , c. (C. )  
 16 (pending before the Legislature as this bill) <sup>1</sup>[to ensure that the  
 17 defendant adheres to the condition or combination of the conditions  
 18 of the defendant's release ordered by] <sup>2</sup>[, on non-surety release,  
 19 including release on personal recognizance, personal bond,  
 20 unsecured appearance bond, nonmonetary condition or conditions,  
 21 or cash deposit or percentage deposit with the registry of<sup>1</sup> the  
 22 court] , or after a pretrial detention hearing pursuant to sections 5  
 23 and 6 of P.L. , c. (C. ) (pending before the Legislature as  
 24 this bill), provided that the Pretrial Services Program shall not be  
 25 required to monitor any defendant who satisfies a financial  
 26 condition of release ordered by a court pursuant to subsection c. or  
 27 d. of section 4 of P.L. , c. (C. ) (pending before the  
 28 Legislature as this bill) through a surety bond executed by a  
 29 company authorized to do so under chapter 31 of Title 17 of the  
 30 Revised Statutes<sup>2</sup>]<sup>3</sup>.

31  
 32 <sup>1</sup>[11.] 12.<sup>1</sup> (New section) a. The Supreme Court, subject to the  
 33 limitations set forth in subsection b. of this section, may adopt  
 34 Rules of Court to revise or supplement filing fees and other  
 35 statutory fees payable to the court for the sole purpose of funding:

36 (1) <sup>1</sup>[the provision to the poor of legal assistance in civil  
 37 matters by Legal Services of New Jersey and its affiliates] the  
 38 development, maintenance and administration of a Statewide  
 39 Pretrial Services Program<sup>1</sup>;

40 (2) the development, maintenance and administration of a  
 41 Statewide digital e-court information system; and

42 (3) <sup>1</sup>[the development, maintenance and administration of a  
 43 Pretrial Services Unit established in each county] the provision to  
 44 the poor of legal assistance in civil matters by Legal Services of  
 45 New Jersey and its affiliates<sup>1</sup>.

1 b. All existing filing fees and other statutory fees payable to  
2 the court on the effective date of this section shall not be increased  
3 or supplemented<sup>1</sup> more than \$50 in the aggregate for each fee  
4 beginning on the effective date of this section.

5 c. As used in sections 12 through 19 of<sup>1</sup> P.L. , c. (C. )  
6 (pending before the Legislature as this bill):

7 “Digital e-court information system” shall mean a Statewide  
8 integrated system that includes but is not limited to electronic filing,  
9 electronic service of process, electronic document management,  
10 electronic case management, electronic financial management, and  
11 public access to digital court records; and

12 “Pretrial Service Unit Services Program<sup>1</sup>” shall mean the  
13 pretrial service unit services program<sup>1</sup> established pursuant to  
14 section 10 11<sup>1</sup> of P.L. , c. (C. ) (pending before the  
15 Legislature as this bill).

16  
17 12. 13.<sup>1</sup> (New section) The rules proposed pursuant to  
18 section 11 12<sup>1</sup> of P.L. , c. (C. ) (pending before the  
19 Legislature as this bill) shall be publicly announced by the Supreme  
20 Court. On the same day on which the rule or rules are publicly  
21 announced, the Supreme Court shall deliver true copies to the  
22 President of the Senate, the Speaker of the General Assembly, and  
23 the Governor. The Supreme Court shall provide the public with a  
24 reasonable opportunity to comment on the proposed rule or rules.  
25 The rule or rules shall take effect on the date provided by the  
26 Supreme Court.

27  
28 13. 14.<sup>1</sup> (New section) a. There is established in the General  
29 Fund a dedicated, non-lapsing fund to be known as the “21st  
30 Century Justice Improvement Fund,” which shall be credited  
31 annually with a sum equal to the revenue to be derived annually  
32 from the incremental amount of any filing fees or other statutory  
33 fees payable to the court that are revised or supplemented pursuant  
34 to sections 12 and 13 of<sup>1</sup> P.L. , c. (C. ) (pending before the  
35 Legislature as this bill) and the related fee revisions as provided by  
36 operation of N.J.S.22A:2-5 and section 2 of P.L.1993, c.74  
37 (C.22A:5-1). The fund shall be administered by the State Treasurer.  
38 Interest and other income earned on monies in the fund shall be  
39 credited to the fund. Monies credited to the fund shall be  
40 appropriated annually and used exclusively for the purposes of  
41 funding:

42 (1) the development, maintenance and administration of a  
43 Statewide digital e-court information system<sup>1</sup> Pretrial Services  
44 Program<sup>1</sup>;

45 (2) the provision to the poor of legal assistance in civil  
46 matters by Legal Services of New Jersey and its affiliates; and

1 (3)]<sup>1</sup> the development, maintenance and administration of a  
 2 <sup>1</sup>[Pretrial Services Unit in each county] Statewide digital e-court  
 3 information system; and

4 (3) the provision to the poor of legal assistance in civil matters  
 5 by Legal Services of New Jersey and its affiliates<sup>1</sup>.

6 b. Any amount remaining in the fund after the appropriation of  
 7 funds as provided in paragraphs (1), (2) <sup>1</sup>[or] and<sup>1</sup> (3) of  
 8 subsection a. of this section shall be retained by the Judiciary for  
 9 the <sup>2</sup>[sole]<sup>2</sup> purpose of developing, maintaining and administering  
 10 <sup>2</sup>the Pretrial Services Program or for<sup>2</sup> court information technology.  
 11 The monies credited to the fund shall not be used for any purpose  
 12 other than those purposes set forth in <sup>3</sup>[<sup>1</sup>sections 12 through 19 of<sup>1</sup>]  
 13 this section and section 15 of<sup>3</sup> P.L. , c. (C. ) (pending  
 14 before the Legislature as this bill).

15  
 16 <sup>1</sup>[14.] 15.<sup>1</sup> (New section) <sup>1</sup>[To the extent that sufficient funds  
 17 are available, monies] Monies<sup>1</sup> annually credited in the “21st  
 18 Century Justice Improvement Fund” shall be allocated <sup>1</sup>[pursuant to  
 19 the following priority] as follows<sup>1</sup>:

20 a. <sup>1</sup>[The first]<sup>1</sup> <sup>2</sup>[\$15] \$22<sup>2</sup> million credited annually <sup>1</sup>[in]  
 21 to<sup>1</sup> the fund shall be appropriated annually to the Judiciary to be  
 22 used to fund the development, maintenance and administration of a  
 23 <sup>1</sup>Statewide<sup>1</sup> Pretrial Services <sup>1</sup>[Unit in each county] Program<sup>1</sup>  
 24 established pursuant to section <sup>1</sup>[10] 11<sup>1</sup> of P.L. , c. (C. )  
 25 (pending before the Legislature as this bill) <sup>1</sup>[.]:<sup>1</sup>

26 b. <sup>1</sup>[From amounts remaining in the fund after the  
 27 appropriation of funds as provided in subsection a. of this section,  
 28 an amount not exceeding]<sup>1</sup> <sup>2</sup>[\$17] \$10<sup>2</sup> million <sup>1</sup>credited annually  
 29 to the fund<sup>1</sup> shall be appropriated annually to the Judiciary to be  
 30 used to fund the development, maintenance and administration of a  
 31 Statewide digital e-court information system <sup>1</sup>[, which  
 32 appropriations shall include amounts necessary to pay all service  
 33 charges or other costs assessed by financial institutions or other  
 34 entities for the use of credit cards, debit cards, electronic funds  
 35 transfer, or any other method deemed feasible by the Administrative  
 36 Office of the Courts]<sup>1</sup> . An appropriation made pursuant to this  
 37 <sup>1</sup>[section] subsection<sup>1</sup> shall not be used to replace appropriations  
 38 from other sources for Judiciary information technology <sup>1</sup>[.]; and<sup>1</sup>

39 c. <sup>1</sup>[From amounts remaining in the fund after the  
 40 appropriation of funds as provided in subsections a. and b. of this  
 41 section, an amount not exceeding]<sup>1</sup> \$10.1 million credited annually  
 42 <sup>1</sup>[in] to<sup>1</sup> the fund shall be appropriated annually to the Department  
 43 of the Treasury for distribution to Legal Services of New Jersey and  
 44 its affiliates to facilitate the provision to the poor of legal assistance  
 45 in civil matters, which shall supplement other funds as may be

1 appropriated from any other source in a fiscal year for the same  
 2 purpose. All State funds distributed to Legal Services of New  
 3 Jersey shall be used exclusively for the provision to the poor of  
 4 legal assistance in civil matters.

5 d. <sup>1</sup>From amounts remaining in the fund after the  
 6 appropriation of funds as provided in subsections a., b., and c. of  
 7 this section, an amount not exceeding \$10 million shall be  
 8 appropriated annually to the General Fund.

9 e. <sup>1</sup>Any amount remaining in the fund after the appropriation of  
 10 funds as provided in subsections a., b., <sup>1</sup>and<sup>1</sup> c. <sup>1</sup>and d.<sup>1</sup> of this  
 11 section shall be retained by the Judiciary for the <sup>2</sup>sole<sup>2</sup> purpose of  
 12 developing, maintaining, and administering <sup>2</sup>the Pretrial Services  
 13 Program or for<sup>2</sup> court information technology. The monies credited  
 14 to the fund shall not be used for any purpose other than those  
 15 purposes set forth in <sup>3</sup><sup>1</sup>sections 12 through 19 of<sup>1</sup> this section and  
 16 section 14 of<sup>3</sup> P.L. , c. (C. ) (pending before the Legislature  
 17 as this bill).

18

19 <sup>1</sup>15.<sup>1</sup> Section 6 of P.L.1995, c.325 (C.2B:1-5) is amended  
 20 to read as follows:

21 6. a. <sup>1</sup>(1)<sup>1</sup> Notwithstanding the provisions of any other law  
 22 to the contrary, the [Supreme Court, the Superior Court and the Tax  
 23 Court, and the various municipal and joint municipal courts when  
 24 permitted by resolution of the appropriate municipal governing  
 25 bodies, are] <sup>1</sup>Administrative Director of the Administrative Office  
 26 of the Courts is] Supreme Court, the Superior Court and the Tax  
 27 Court, and the various municipal and joint municipal courts when  
 28 permitted by resolution of the appropriate municipal governing  
 29 bodies, are<sup>1</sup> authorized to establish systems to accept the payment  
 30 of <sup>1</sup>filing fees, administrative charges, fines and penalties imposed  
 31 for violations of Title 39 of the Revised Statutes,<sup>1</sup> civil and  
 32 criminal fines and penalties [and] <sup>1</sup>[, all] and<sup>1</sup> other judicially  
 33 imposed financial obligations <sup>1</sup>[, and related charges]<sup>1</sup> by <sup>1</sup>credit or  
 34 debit<sup>1</sup> card based payment, electronic funds transfer, or any other  
 35 <sup>1</sup>electronic<sup>1</sup> method deemed feasible by the [Supreme Court]  
 36 <sup>1</sup>Administrative Office of the Courts] Supreme Court<sup>1</sup>.

37 <sup>1</sup>(2) The various municipal and joint municipal courts, when  
 38 permitted by resolution of the appropriate municipal governing  
 39 bodies, are authorized to establish systems to accept the payment of  
 40 filing fees, administrative charges, fines and penalties imposed for  
 41 violations of Title 39 of the Revised Statutes, civil and criminal  
 42 fines and penalties, all other judicially imposed financial  
 43 obligations, and related charges by card based payment, electronic  
 44 funds transfer, or any other method deemed feasible by the  
 45 Administrative Office of the Courts.<sup>1</sup>

1 b. No person or organization that is a defendant in a criminal  
2 matter shall be entitled to offer a credit card for the payment of bail  
3 or for the payment of fines or penalties related to the imposition of  
4 a sentence, for a crime of the first, second or third degree under  
5 Title 2C of the New Jersey Statutes.

6 c. If not legally prohibited by an association, financial  
7 institution, or **[by an]** a card issuer, **1**[any court or]**1** the  
8 Administrative Office of the Courts **1**, pursuant to the Rules of  
9 Court,**1** is authorized to assess **[and]** collect **1,1** and pay **1**[from  
10 receipts]**1** service charges [related to] and other costs **1**[associated  
11 with] resulting from**1** the collection of filing fees, administrative  
12 fees, judicially imposed financial obligations, and related charges  
13 owed to [or collected by] **1**[the] a**1** court when **1**parties process  
14 these fees, judicially imposed financial obligations, and related  
15 charges using**1** credit cards, debit cards [or] electronic funds  
16 transfer systems, or any other **1**[methods] electronic method**1**  
17 deemed feasible by the **1**[Administrative Office of the Courts are  
18 utilized] Supreme Court**1**. **1**[Alternatively, the Administrative  
19 Office of the Courts may pay such] Any**1** service charges and other  
20 costs **1**[out of the monies appropriated to the Judiciary] assessed  
21 and collected by the Administrative Office of the Courts**1** pursuant  
22 to **1**[subsection b. of] this**1** section **1**[14 of P.L. , c. (C. )  
23 (pending before the Legislature as this bill)] with the exception of  
24 those charges or costs assessed and collected on behalf of municipal  
25 and joint municipal courts, shall be deposited in the “Court  
26 Computer Information System Fund” established by subsection c. of  
27 section 1 of P.L.1994, c.54 (C.2B:1-4)**1** .

28 d. The Supreme Court of the State of New Jersey **[shall]**  
29 **1**[may] shall**1** adopt Rules of Court appropriate or necessary to  
30 effectuate the purposes of this section.

31 (cf: P.L.1995, c.325, s.6)

32  
33 **1**[16.] 17.**1** (New section) **2**a.**2** Not later than the sixth month  
34 after the end of each State fiscal year, the Administrative Director  
35 of the Courts shall submit a report to the Governor, the President of  
36 the Senate, and the Speaker of the General Assembly describing the  
37 Judiciary’s use of funding pursuant to sections **1**[10] 12**1** through  
38 **1**[18] 3**1**[19] 15**3** of P.L. , c. (C. ) (pending before the  
39 Legislature as this bill) and the Judiciary’s progress toward the  
40 development **1**[and deployment] , maintenance and administration**1**  
41 of a Statewide **3**[Pretrial Services Program and Statewide]**3**  
42 digital e-court information system **1**[and the development and  
43 maintenance of the Pretrial Service Unit]**1** .

44 **2**b. **3**[In addition to the information provided by the  
45 Administrative Director of the Courts in each annual report

1 pursuant to subsection a. of this section, in the reports submitted  
 2 next following the fifth and tenth anniversaries of the effective date  
 3 of sections 1 through 11 of P.L. , c. (C. ) (pending before  
 4 the Legislature as this bill), the director shall provide information  
 5 about the impact of P.L. , c. (C. ) (pending before the  
 6 Legislature as this bill) on the Judiciary's administration of criminal  
 7 justice】 Not later than the sixth month after the end of each State  
 8 fiscal year, the Administrative Director of the Courts shall submit a  
 9 report to the Governor, the President of the Senate, the Speaker of  
 10 the General Assembly, and the Pretrial Services Program Review  
 11 Commission established by section 20 of P.L. , c. (C. )  
 12 (pending before the Legislature as this bill) on the development and  
 13 administration of the Statewide Pretrial Services Program<sup>3 2</sup>  
 14

15 <sup>1</sup>【17.】 18.<sup>1</sup> (New section) Not later than the sixth month after  
 16 the end of each State fiscal year, Legal Services of New Jersey,  
 17 through the Department of the Treasury, shall submit to the  
 18 Governor, the President of the Senate, the Speaker of the General  
 19 Assembly, and the State Auditor a detailed financial statement  
 20 describing how funds appropriated in the prior fiscal year pursuant  
 21 to <sup>3</sup>sections 14 and 15 of<sup>3</sup> P.L. , c. (C. ) (pending before  
 22 the Legislature as this bill) were used for the provision to the poor  
 23 of legal assistance in civil matters. The use of public funds  
 24 appropriated to Legal Services of New Jersey shall be subject to  
 25 oversight by the State Auditor.  
 26

27 <sup>1</sup>【18.】 19.<sup>1</sup> (New section) a. The authority of the Supreme  
 28 Court to revise or supplement filing fees and other statutory fees  
 29 payable to the court pursuant to sections <sup>1</sup>【11】 12<sup>1</sup> and <sup>1</sup>【12】 13<sup>1</sup>  
 30 of P.L. , c. (C. ) (pending before the Legislature as this  
 31 bill) shall expire on the first day of the seventh month next  
 32 following the date of enactment of those sections, except that any  
 33 filing fees and other statutory fees payable to the court that have  
 34 been revised or supplemented pursuant to those sections shall  
 35 continue in effect, subject to the provisions of this section.

36 b. Within 30 days of the fifth anniversary of the effective date  
 37 of the Rules of Court first adopted pursuant to <sup>1</sup>sections 12 and 13  
 38 of<sup>1</sup> P.L. , c. (C. ) (pending before the Legislature as this  
 39 bill), and additionally within 30 days of the tenth anniversary of  
 40 that effective date, the Court may review all filing fees and other  
 41 statutory fees revised or supplemented pursuant to <sup>1</sup>sections 12 and  
 42 13 of<sup>1</sup> P.L. , c. (C. ) (pending before the Legislature as this  
 43 bill) through its rulemaking process, which includes a reasonable  
 44 opportunity for public comment, to determine if the fees should  
 45 remain unchanged as originally adopted pursuant to <sup>1</sup>【P.L. ,  
 46 c. (C. ) (pending before the Legislature as this bill)】 those  
 47 sections<sup>1</sup> or be reduced to reflect the funding needs associated with

1 <sup>1</sup> [developing, maintaining and administering the Statewide digital  
2 e-court information system; and

3 c. On or after five years following the effective date of the  
4 Rules of Court first adopted pursuant to P.L. , c. (C. )  
5 (pending before the Legislature as this bill), if the annual grants  
6 provided to Legal Services of New Jersey by the Board of Trustees  
7 of the Income on Non-Interest Bearing Lawyers' Trust Accounts  
8 (IOLTA) Fund of the Bar of New Jersey, as established and  
9 operated pursuant to the Rules of Court, for use by Legal Services  
10 of New Jersey and its affiliates, equal or exceed \$25 million based  
11 on the most currently available information from the Supreme Court  
12 or as indicated in the most recently published annual report by the  
13 trustees, then beginning with the fiscal year next following the  
14 fiscal year in which the grants equaled or exceeded \$25 million:

15 (1) The monies to be annually credited to the "21<sup>st</sup> Century  
16 Justice Improvement Fund" established by section 13 of  
17 P.L. , c. (C. ) (pending before the Legislature as this bill) for  
18 appropriation to the Department of the Treasury for distribution to  
19 Legal Services of New Jersey and its affiliates pursuant to  
20 subsection b. of section 4 of P.L. , c. (C. ) (pending before  
21 the Legislature as this bill) shall no longer be credited to the "21<sup>st</sup>  
22 Century Justice Improvement Fund." The remainder of any monies  
23 in the "21<sup>st</sup> Century Justice Improvement Fund" that exceeds \$17  
24 million, as set forth in subsection a. of section 4 of P.L. ,  
25 c. (C. ) (pending before the Legislature as this bill), shall be  
26 deposited in the General Fund; and

27 (2) All filing fees and other statutory fees revised or  
28 supplemented pursuant to P.L. , c. (C. ) (pending before the  
29 Legislature as this bill) shall be reduced so that the fees payable to  
30 the court shall total no more than \$17 million annually and,  
31 pursuant to subsection a. of section 4 of P.L. , c. (C. )  
32 (pending before the Legislature as this bill), shall be used to fund  
33 the development, maintenance and administration of the Statewide  
34 digital e-court information system] the purposes set forth in section  
35 14 of P.L. , c. (C. ) (pending before the Legislature as this  
36 bill) for which the "21st Century Justice Improvement Fund"  
37 provides monies<sup>1</sup>.

38  
39 <sup>3</sup>20. (New section) a. There is hereby created, in but not of the  
40 Department of Law and Public Safety, a commission to be known  
41 as the Pretrial Services Program Review Commission, consisting of  
42 17 members as follows: the Attorney General, or his designee; two  
43 members of the Senate, who shall each be of different political  
44 parties, appointed by the Senate President; two members of the  
45 General Assembly, who shall each be of different political parties,  
46 appointed by the Speaker of the General Assembly; the  
47 Administrative Director of the Courts, or his designee; two county  
48 prosecutors, appointed by the Governor based upon the

1 recommendation of the County Prosecutors Association of the State  
2 of New Jersey; the Public Defender, or his designee; the following  
3 ex-officio public members: the President of the New Jersey State  
4 Conference of the National Association for the Advancement of  
5 Colored People, the President of the Latino Action Network, the  
6 Executive Director of the American Civil Liberties Union of New  
7 Jersey, the New Jersey State Director of the Drug Policy Alliance,  
8 and the President and Chief Executive Officer of the New Jersey  
9 Institute for Social Justice; and the following appointed public  
10 members: a county or municipal law enforcement officer appointed  
11 by the Governor, and two additional members having experience  
12 with, possessing a background in, or demonstrating a specialized  
13 knowledge of, the legal, policy, or social aspects of criminal justice  
14 pretrial release and detention programs, one appointed by the  
15 Governor upon the recommendation of the President of the Senate,  
16 and one appointed by the Governor upon the recommendation of the  
17 Speaker of the General Assembly.

18 b. (1) The members' terms shall be as follows:

19 (a) The State and county ex-officio members shall serve during  
20 their elective or appointed term of office;

21 (b) The ex-officio public members shall serve during their term  
22 of office; and

23 (c) (i) The appointed public members shall each be appointed  
24 for a term of three years, except that of the two members with  
25 experience, background, or specialized knowledge of criminal  
26 justice pretrial release and detention programs first appointed, the  
27 member appointed by the Governor upon the recommendation of  
28 the Speaker of the General Assembly shall serve for a term of two  
29 years, and the member appointed by the Governor upon the  
30 recommendation of the Senate President shall serve for a term of  
31 three years.

32 (ii) Each member appointed shall hold office for the term of  
33 appointment and until a successor shall have been appointed and  
34 qualified.

35 (iii) Any vacancy in the appointed membership of the  
36 commission shall be filled by appointment in the same manner as  
37 the original appointment was made.

38 c. (1) The commission shall organize as soon as may be  
39 practicable upon the ex-officio designation and appointment of a  
40 majority of its authorized membership. The members shall elect  
41 one of the members to serve as chair, and one to serve as vice-chair,  
42 and the chair may appoint a secretary, who need not be a member of  
43 the commission.

44 (2) The commission shall meet at the call of the chair, or when  
45 requested by a majority of its members, at those times and places  
46 within the State of New Jersey as the chair shall determine. A  
47 majority of the commission's authorized membership shall



1 constitute a quorum for the transaction of any business, including  
 2 the adoption of any commission recommendations.

3 d. The members of the commission shall serve without  
 4 compensation, but shall be eligible for reimbursement for necessary  
 5 and reasonable expenses incurred in the performance of their  
 6 official duties within the limits of funds appropriated or otherwise  
 7 made available to the commission for its purposes.

8 e. The Division of Criminal Justice in the Department of Law  
 9 and Public Safety shall, at the direction of the Attorney General,  
 10 provide legal, stenographic, technical, clerical, and other staff and  
 11 resource assistance to the commission, and additionally the  
 12 commission may incur expenses as may be necessary in order to  
 13 perform its duties within the limits of funds appropriated or  
 14 otherwise made available to it for its purposes.

15 f. It shall be the duty of the commission to:

16 (1) Review the annual report of the Administrative Director of  
 17 the Courts concerning the development and administration of the  
 18 Statewide Pretrial Services Program that is submitted to the  
 19 commission pursuant to subsection b. of section 17 of P.L. \_\_\_\_\_,  
 20 c. (C. \_\_\_\_\_) (pending before the Legislature as this bill);

21 (2) Examine the existing law concerning pretrial release and  
 22 detention established by sections 1 through 11 of P.L. \_\_\_\_\_,  
 23 c. (C. \_\_\_\_\_) (pending before the Legislature as this bill);

24 (3) Research criminal justice pretrial release and detention  
 25 programs from other states and jurisdictions; and

26 (4) Make recommendations for legislation related to paragraphs  
 27 (1) through (3) of this subsection.

28 g. The commission shall report annually to the Governor, to the  
 29 Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1),  
 30 and to the Supreme Court, its activities, as well as its findings and  
 31 recommendations, if any, for legislation.<sup>3</sup>

32

33 <sup>1</sup>[19.]<sup>3</sup>[20.]<sup>1</sup> 21. a.<sup>3</sup> Sections 1 through <sup>1</sup>[6 and 8 through 9]  
 34 <sup>1</sup>11<sup>3</sup> and section 20<sup>3</sup> of this act shall take effect <sup>1</sup>[immediately but  
 35 shall remain inoperative until] <sup>2</sup>[on the first day of the 13th month  
 36 next following<sup>1</sup> the date of approval by the voters of] <sup>3</sup>on<sup>3</sup> the same  
 37 day that<sup>2</sup> a constitutional amendment to Article I, paragraph 11 of  
 38 the New Jersey Constitution authorizing the courts to deny pretrial  
 39 release of certain defendants <sup>1</sup>[; sections 7 and 10 of this act shall  
 40 take effect on the first day of the third month following enactment]  
 41 <sup>2</sup>[and that amendment becoming] <sup>3</sup>[, approved by the voters of this  
 42 State, becomes<sup>2</sup> part of the New Jersey Constitution as provided by  
 43 paragraph 6 of Article IX of same<sup>1</sup>] takes effect<sup>3</sup>; <sup>2</sup>and<sup>2</sup> sections  
 44 <sup>1</sup>[11 and] <sup>1</sup>12 <sup>1</sup>through 19 of this act<sup>1</sup> shall take <sup>1</sup>[affect] effect<sup>1</sup>  
 45 immediately <sup>1</sup>[; and sections 13 through 18 shall take effect on July  
 46 1, 2014]<sup>1</sup>.

1       <sup>3</sup>b. Sections 1 through 11 of this act shall apply to any eligible  
2 defendant who is arrested on or after the effective date of those  
3 sections, regardless of whether the crime or offense related to the  
4 arrest was allegedly committed before, on, or after the effective date  
5 of those sections.

6       c. With respect to any delay to the effective date of sections 1  
7 through 11 of this act based on the requirement to amend Article I,  
8 paragraph 11 of the New Jersey Constitution as set forth in  
9 subsection a. of this section, nothing shall be construed to affect the  
10 court's existing authority to revoke pretrial release prior to the  
11 effective date of those sections.

12       d. The Supreme Court may adopt Rules of Court and take any  
13 administrative action necessary to implement the provisions of this  
14 act, including the adoption of rules or anticipatory administrative  
15 action in advance of the effective date of sections 1 through 11 of  
16 this act as set forth in subsection a. of this section.<sup>3</sup>

17  
18  
19  
20

21       Implements constitutional amendment authorizing denial of  
22 pretrial release; establishes speedy trial time frames; reforms bail  
23 proceedings; adds non-monetary bail alternatives; and authorizes  
24 Judiciary to revise fees for these and other court-related programs.

# SENATE, No. 946

## STATE OF NEW JERSEY 216th LEGISLATURE

INTRODUCED JANUARY 27, 2014

**Sponsored by:**

**Senator DONALD NORCROSS**

**District 5 (Camden and Gloucester)**

**Senator NICHOLAS P. SCUTARI**

**District 22 (Middlesex, Somerset and Union)**

**Senator PETER J. BARNES, III**

**District 18 (Middlesex)**

**Co-Sponsored by:**

**Senator Stack**

**SYNOPSIS**

Implements constitutional amendment providing for pretrial detention of certain criminal defendants; establishes non-monetary bail alternatives for release; authorizes Judiciary to revise fees for certain legal programs and services.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 5/13/2014)**

S946 NORCROSS, SCUTARI

2

1 AN ACT concerning court administration, supplementing Titles 2A  
2 and 2B of the New Jersey Statutes, and amending P.L.1995,  
3 c.325.

4

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

7

8 1. (New section) The provisions of P.L. , c. (C. )  
9 (pending before the Legislature as this bill) shall be liberally  
10 construed to effectuate the purpose of relying upon contempt of  
11 court proceedings or criminal sanctions instead of financial loss to  
12 ensure the appearance of the defendant, that the defendant will not  
13 pose a danger to any person or the community, and that the  
14 defendant will comply with all conditions of bail. Monetary bail  
15 shall be set when it is determined that no other conditions of release  
16 will reasonably assure the defendant's appearance in court and that  
17 the defendant does not present a danger to any person or the  
18 community.

19

20 2. (New section) Upon the appearance before a court of a  
21 defendant charged with an offense, the court shall issue an order  
22 that the defendant be:

23 a. released on conditions including the execution of a bail bond  
24 pursuant to subsection b. of section 3 of P.L. , c. (C. )  
25 (pending before the Legislature as this bill);

26 b. released on his own personal recognizance; or

27 c. detained pursuant to section 4 of P.L. , c. (C. )  
28 (pending before the Legislature as this bill).

29

30 3. (New section) a. Except as provided under section 4 of  
31 P.L. , c. (C. ) (pending before the Legislature as this bill), a  
32 court shall order the pretrial release of a defendant on personal  
33 recognizance when, after considering all the circumstances, the  
34 court determines that a defendant will appear as required either  
35 before or after conviction and the defendant will not pose a danger  
36 to any person or the community, or obstruct or attempt to obstruct  
37 justice, and that the defendant will comply with all conditions of  
38 release.

39 b. Except as provided under section 4 of P.L. , c. (C. )  
40 (pending before the Legislature as this bill), if a court determines  
41 that the release described in subsection a. of this section will not  
42 reasonably ensure the appearance of the person as required or will  
43 endanger the safety of any other person or the community, or will  
44 not prevent the person from obstructing or attempting to obstruct

**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 the criminal justice process, the court may order the pretrial release  
2 of the person:

3 (1) subject to the condition that the person not commit any  
4 crime during the period of release and avoid all contact with an  
5 alleged victim of the crime and with potential witnesses who may  
6 testify concerning the offense; or

7 (2) subject to the least restrictive condition, or combination of  
8 conditions, that the court determines will reasonably ensure the  
9 appearance of the person as required and the safety of any other  
10 person and the community, which may include the condition that  
11 the person:

12 (a) remain in the custody of a designated person, who agrees to  
13 assume supervision and to report any violation of a release  
14 condition to the court, if the designated person is reasonably able to  
15 ensure to the court that the defendant will appear as required and  
16 will not pose a danger to the safety of any other person or the  
17 community;

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

20 (c) maintain or commence an educational program;

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

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

25 (f) comply with a specified curfew;

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

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

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

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

36 (k) satisfy any other condition that is reasonably necessary to  
37 ensure the appearance of the person as required and to ensure the  
38 safety of any other person and the community; or

39 (l) be placed in a pretrial home supervision capacity with or  
40 without the use of an approved electronic monitoring device. The  
41 costs attributable to the electronic monitoring of an offender shall  
42 be borne by the Pretrial Services Unit in the county in which the  
43 defendant resides.

44 c. Except as provided under section 4 of P.L. , c. (C. )  
45 (pending before the Legislature as this bill), if the court determines  
46 that the conditions under subsection b. will not reasonably ensure  
47 the appearance of the person as required or will endanger the safety  
48 of any other person or the community, or will not prevent the

1 person from obstructing or attempting to obstruct the criminal  
2 justice process, the court may set bail for the offense charged in  
3 accordance with current statutory law and court rule.

4 d. The court may at any time amend an order made pursuant to  
5 this section to impose additional or different conditions of release.  
6 The court may not impose a financial condition that results in the  
7 pretrial detention of the person.

8  
9 4. (New section) a. The court may order the detention of a  
10 defendant before trial if, after a hearing pursuant to the section 5 of  
11 P.L. , c. (C. ) (pending before the Legislature as this bill),  
12 the court is clearly convinced that no amount of sureties, non-  
13 monetary conditions of pretrial release or combination of sureties  
14 and conditions would ensure the defendant's appearance as  
15 required, protect the safety of any person or of the community, or  
16 prevent the defendant from obstructing or attempting to obstruct the  
17 criminal justice process.

18 b. Except where a defendant charged with a crime is subject to  
19 a hearing upon the motion of the prosecutor or upon the court's own  
20 motion as set forth under paragraphs (1) and (2) of subsection a. of  
21 section 5 of P.L. , c. (C. ) (pending before the Legislature as  
22 this bill), there shall be a rebuttable presumption that some amount  
23 of sureties, non-monetary conditions of pretrial release or  
24 combination of sureties and conditions would ensure the  
25 defendant's appearance as required, protect the safety of the  
26 community, and prevent the defendant from obstructing or  
27 attempting to obstruct the criminal justice process.

28 c. A defendant shall have the right to appeal an order of detention  
29 before trial to the Appellate Division of the Superior Court, which may  
30 make a determination as to whether an amount of sureties, non-  
31 monetary conditions of pretrial release or combination of sureties and  
32 conditions would assure the defendant's appearance as required,  
33 protect the safety of any person or of the community, or prevent the  
34 defendant from obstructing or attempting to obstruct the criminal  
35 justice process. An appeal filed under this subsection shall be heard  
36 and decided no later than 30 days following the initial order of  
37 detention.

38  
39 5. (New section) a. A court shall hold a hearing to determine  
40 whether any condition or combination of conditions set forth under  
41 subsection b. of section 3 of P.L. , c. (C. ) (pending before  
42 the Legislature as this bill) will ensure the defendant's appearance  
43 as required, protect the safety of any person or of the community, or  
44 prevent the defendant from obstructing or attempting to obstruct the  
45 criminal justice process:

46 (1) Upon motion of the prosecutor in a case that involves:

47 (a) a crime enumerated under subsection d. of section 2 of  
48 P.L.1997, c.117 (C.2C:43-7.2);

- 1 (b) an offense for which the maximum sentence is life  
2 imprisonment;
- 3 (c) any indictable offense if the defendant has been convicted of  
4 two or more offenses under paragraph (1) or (2) of this subsection.
- 5 (d) any indictable offense where the victim is a minor; or
- 6 (e) any indictable offense enumerated under subsection c. of  
7 N.J.S.2C:43-6.
- 8 (2) Upon motion of the prosecutor or upon the court's own  
9 motion, in a case that involves a serious risk:
- 10 (a) that the defendant will flee;
- 11 (b) that the defendant will pose a danger to any person or the  
12 community; or
- 13 (c) that the defendant will obstruct or attempt to obstruct justice,  
14 or threaten, injure, or intimidate, or attempt to threaten, injure or  
15 intimidate, a prospective witness or juror.
- 16 b. The hearing shall be held immediately upon the defendant's  
17 first appearance unless the defendant, or the prosecutor, seeks a  
18 continuance. Except for good cause, a continuance on motion of the  
19 defendant may not exceed five days, not including any intermediate  
20 Saturday, Sunday, or legal holiday. Except for good cause, a  
21 continuance on motion of the prosecutor may not exceed three days,  
22 not including any intermediate Saturday, Sunday, or legal holiday.
- 23 During a continuance, the defendant shall be detained, and the  
24 court, on motion of the prosecutor or sua sponte, may order that,  
25 while in custody, a defendant who appears to be a drug dependent  
26 person receive an assessment to determine whether that defendant is  
27 drug dependent.
- 28 c. At the hearing, the defendant has the right to be represented  
29 by counsel, and, if financially unable to obtain adequate  
30 representation, to have counsel appointed. The defendant shall be  
31 afforded an opportunity to testify, to present witnesses, to cross-  
32 examine witnesses who appear at the hearing, and to present  
33 information by proffer or otherwise. The rules concerning  
34 admissibility of evidence in criminal trials shall not apply to the  
35 presentation and consideration of information at the hearing. The  
36 facts the court uses to support a finding pursuant to section 4 of  
37 P.L. , c. (C. ) (pending before the Legislature as this bill)  
38 that no condition or combination of conditions will reasonably  
39 ensure the defendant's appearance as required, protect the safety of  
40 any person or of the community, or prevent the defendant from  
41 obstructing or attempting to obstruct the criminal justice process  
42 shall be supported by clear and convincing evidence. The defendant  
43 may be detained pending completion of the hearing.
- 44 d. The hearing may be reopened, before or after a  
45 determination by the court, at any time before trial, if the court  
46 finds that information exists that was not known to the movant at  
47 the time of the hearing and that has a material bearing on the issue  
48 whether there are conditions of release that will reasonably ensure

1 the defendant's appearance as required, protect the safety of any  
2 person or of the community, or prevent the defendant from  
3 obstructing or attempting to obstruct the criminal justice process.

4  
5 6. (New section) In determining whether no amount of  
6 sureties, non-monetary conditions of pretrial release, or  
7 combination of sureties and conditions would ensure the  
8 defendant's appearance as required, protect the safety of any person  
9 or of the community, or prevent the defendant from obstructing or  
10 attempting to obstruct the criminal justice process, the court shall  
11 take into account the available information concerning:

12 a. The nature and circumstance of the offense charged,  
13 including whether the offense is a crime enumerated under  
14 subsection d. of section 2 of P.L.1997, c.117 (C.2C:43-7.2), is an  
15 indictable offense where the victim is a minor, or involves a  
16 firearm, explosive, or destructive device;

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

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

21 (1) the defendant's character, physical and mental condition,  
22 family ties, employment, financial resources, length of residence in  
23 the community, community ties, past conduct, history relating to  
24 drug or alcohol abuse, criminal history, and record concerning  
25 appearance at court proceedings; and

26 (2) whether, at the time of the current offense or arrest, the  
27 defendant was on probation, parole, or on other release pending  
28 trial, sentencing, appeal, or completion of sentence for an offense  
29 under federal or State law;

30 d. The nature and seriousness of the danger to any person or  
31 the community that would be posed by the person's release;

32 e. The release recommendation of the pretrial services agency  
33 obtained using a validated risk assessment instrument under section  
34 9 of P.L. , c. (C. ) (pending before the Legislature as this  
35 bill).

36  
37 7. (New section) a. If a defendant is released on personal  
38 recognizance or released on conditions pursuant to section 3 of  
39 P.L. , c. (C. ) (pending before the Legislature as this bill),  
40 the court shall:

41 (1) include a written statement that sets forth all the conditions  
42 to which the release is subject, in a manner sufficiently clear and  
43 specific to serve as a guide for the defendant's conduct; and

44 (2) advise the defendant of:

45 (a) the penalties for violating a condition of release, including  
46 the penalties for committing an offense while on pretrial release;  
47 and



1 (b) the consequences of violating a condition of release,  
2 including the immediate issuance of a warrant for the person's  
3 arrest.

4 b. If the court disapproves a recommendation made in a  
5 validated risk assessment instrument when setting release  
6 conditions, the release order shall include a written explanation.

7

8 8. (New section) a. In a detention order issued pursuant to  
9 section 4 of P.L. , c. (C. )(pending before the Legislature as  
10 this bill), the court shall:

11 (1) include written findings of fact and a written statement of  
12 the reasons for the detention; and

13 (2) direct that the person be afforded reasonable opportunity for  
14 private consultation with counsel.

15 b. The court may, by subsequent order, permit the temporary  
16 release of the person subject to appropriate restrictive conditions,  
17 which may include but shall not be limited to State supervision, to  
18 the extent that the court determines such release to be necessary for  
19 preparation of the person's defense or for another compelling  
20 reason.

21

22 9. (New section) a. When a defendant charged with a crime  
23 enumerated in paragraph (1) of subsection a. of section 5 of P.L. ,  
24 c. (C. )(pending before the Legislature as this bill) is released  
25 from custody before trial, the court, upon a finding that the  
26 defendant while on release has willfully violated a restraining order  
27 or condition of release designed to protect any person or the safety  
28 of the community, or upon a finding of probable cause to believe  
29 that the defendant has committed a new crime of the first or second  
30 degree while on release, may revoke the defendant's release and  
31 order that the defendant be detained pending trial provided that the  
32 court is clearly convinced that no condition or combination of  
33 conditions that the defendant is likely to abide by would reasonably  
34 protect the safety of the community or any person.

35 b. In addition to revocation of release as authorized by this  
36 section, a violation of a condition of pretrial release imposed  
37 pursuant to subsection b. of section 3 of P.L. ,  
38 c. (C. )(pending before the Legislature as this bill) or any other  
39 law, may subject the defendant to civil contempt, criminal  
40 contempt, forfeiture of bail, or any combination of these sanctions  
41 and any other sanctions authorized by law.

42

43 10. (New section) a. The Administrative Director of the  
44 Administrative Office of the Courts shall establish and maintain a  
45 Pretrial Services Unit in each county which shall provide pretrial  
46 release investigation services to effectuate the purposes of P.L. ,  
47 c. (C. )(pending before the Legislature as this bill).

1       b. The Pretrial Services Unit established under this section  
2 shall be supervised by a Chief Pretrial Services Officer appointed  
3 by the Administrative Director of the Administrative Office of the  
4 Courts.

5       c. The Pretrial Services Unit shall conduct, prior to a bail  
6 hearing or first appearance, an assessment of all criminal defendants  
7 for the purpose of making recommendations to the court concerning  
8 the appropriate disposition, including whether the defendant shall  
9 be: released on his own personal recognizance; released upon  
10 execution of a bail bond; released on a condition or combination of  
11 conditions set forth under subsection b. of section 3 of P.L.       ,  
12 c. (C.       ) (pending before the Legislature as this bill); or any  
13 other conditions necessary to effectuate the purposes of P.L.       ,  
14 c. (C.       ) (pending before the Legislature as this bill).

15       d. The pretrial assessment shall be conducted using a validated  
16 risk assessment instrument and shall include an examination of the  
17 factors set forth in section 5 of P.L.       , c. (C.       ) (pending before  
18 the Legislature as this bill).

19       e. In addition to the pretrial assessments made pursuant to this  
20 section, the Pretrial Services Unit shall monitor each defendant  
21 released pursuant to subsection b. of section 3 of P.L.       ,  
22 c. (C.       ) (pending before the Legislature as this bill) to ensure  
23 that the defendant adheres to the condition or combination of the  
24 conditions of the defendant's release ordered by the court.

25

26       11. (New section) a. The Supreme Court, subject to the  
27 limitations set forth in subsection b. of this section, may adopt  
28 Rules of Court to revise or supplement filing fees and other  
29 statutory fees payable to the court for the sole purpose of funding:

30       (1) the provision to the poor of legal assistance in civil matters  
31 by Legal Services of New Jersey and its affiliates;

32       (2) the development, maintenance and administration of a  
33 Statewide digital e-court information system; and

34       (3) the development, maintenance and administration of a  
35 Pretrial Services Unit established in each county.

36       b. All existing filing fees and other statutory fees payable to  
37 the court on the effective date of this section shall not be increased  
38 more than \$50 in the aggregate for each fee beginning on the  
39 effective date of this section.

40       c. As used in P.L.       , c. (C.       ) (pending before the  
41 Legislature as this bill):

42       “Digital e-court information system” shall mean a Statewide  
43 integrated system that includes but is not limited to electronic filing,  
44 electronic service of process, electronic document management,  
45 electronic case management, electronic financial management, and  
46 public access to digital court records; and

1 “Pretrial Service Unit” shall mean the pretrial service unit  
2 established pursuant to section 10 of P.L. , c. (C. ) (pending  
3 before the Legislature as this bill).

4  
5 12. (New section) The rules proposed pursuant to section 11 of  
6 P.L. , c. (C. ) (pending before the Legislature as this bill)  
7 shall be publicly announced by the Supreme Court. On the same  
8 day on which the rule or rules are publicly announced, the Supreme  
9 Court shall deliver true copies to the President of the Senate, the  
10 Speaker of the General Assembly, and the Governor. The Supreme  
11 Court shall provide the public with a reasonable opportunity to  
12 comment on the proposed rule or rules. The rule or rules shall take  
13 effect on the date provided by the Supreme Court.

14  
15 13. (New section) a. There is established in the General Fund a  
16 dedicated, non-lapsing fund to be known as the “21<sup>st</sup> Century  
17 Justice Improvement Fund,” which shall be credited annually with a  
18 sum equal to the revenue to be derived annually from the  
19 incremental amount of any filing fees or other statutory fees  
20 payable to the court that are revised or supplemented pursuant to  
21 P.L. , c. (C. ) (pending before the Legislature as this bill)  
22 and the related fee revisions as provided by operation of  
23 N.J.S.22A:2-5 and section 2 of P.L.1993, c.74 (C.22A:5-1). The  
24 fund shall be administered by the State Treasurer. Interest and  
25 other income earned on monies in the fund shall be credited to the  
26 fund. Monies credited to the fund shall be appropriated annually  
27 and used exclusively for the purposes of funding:

28 (1) the development, maintenance and administration of a  
29 Statewide digital e-court information system;

30 (2) the provision to the poor of legal assistance in civil matters  
31 by Legal Services of New Jersey and its affiliates; and

32 (3) the development, maintenance and administration of a  
33 Pretrial Services Unit in each county.

34 b. Any amount remaining in the fund after the appropriation of  
35 funds as provided in paragraphs (1), (2) or (3) of subsection a. of  
36 this section shall be retained by the Judiciary for the sole purpose of  
37 developing, maintaining and administering court information  
38 technology. The monies credited to the fund shall not be used for  
39 any purpose other than those purposes set forth in P.L. ,  
40 c. (C. ) (pending before the Legislature as this bill).

41  
42 14. (New section) To the extent that sufficient funds are  
43 available, monies annually credited in the “21<sup>st</sup> Century Justice  
44 Improvement Fund” shall be allocated pursuant to the following  
45 priority:

46 a. The first \$15 million credited annually in the fund shall be  
47 appropriated annually to the Judiciary to be used to fund the  
48 development, maintenance and administration of a Pretrial Services

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10

1 Unit in each county established pursuant to section 10 of P.L. ,  
2 c. (C. ) (pending before the Legislature as this bill).

3 b. From amounts remaining in the fund after the appropriation  
4 of funds as provided in subsection a. of this section, an amount not  
5 exceeding \$17 million shall be appropriated annually to the  
6 Judiciary to be used to fund the development, maintenance and  
7 administration of a Statewide digital e-court information system,  
8 which appropriations shall include amounts necessary to pay all  
9 service charges or other costs assessed by financial institutions or  
10 other entities for the use of credit cards, debit cards, electronic  
11 funds transfer, or any other method deemed feasible by the  
12 Administrative Office of the Courts. An appropriation made  
13 pursuant to this section shall not be used to replace appropriations  
14 from other sources for Judiciary information technology.

15 c. From amounts remaining in the fund after the appropriation  
16 of funds as provided in subsections a. and b. of this section, an  
17 amount not exceeding \$10.1 million credited annually in the fund  
18 shall be appropriated annually to the Department of the Treasury for  
19 distribution to Legal Services of New Jersey and its affiliates to  
20 facilitate the provision to the poor of legal assistance in civil  
21 matters, which shall supplement other funds as may be appropriated  
22 from any other source in a fiscal year for the same purpose. All  
23 State funds distributed to Legal Services of New Jersey shall be  
24 used exclusively for the provision to the poor of legal assistance in  
25 civil matters.

26 d. From amounts remaining in the fund after the appropriation  
27 of funds as provided in subsections a., b., and c. of this section, an  
28 amount not exceeding \$10 million shall be appropriated annually to  
29 the General Fund.

30 e. Any amount remaining in the fund after the appropriation of  
31 funds as provided in subsections a., b., c. and d. of this section shall  
32 be retained by the Judiciary for the sole purpose of developing,  
33 maintaining, and administering court information technology. The  
34 monies credited to the fund shall not be used for any purpose other  
35 than those purposes set forth in P.L. , c. (C. ) (pending  
36 before the Legislature as this bill).

37  
38 15. Section 6 of P.L.1995, c.325 (C.2B:1-5) is amended to read  
39 as follows:

40 6. a. (1) Notwithstanding the provisions of any other law to the  
41 contrary, the **【**Supreme Court, the Superior Court and the Tax  
42 Court, and the various municipal and joint municipal courts when  
43 permitted by resolution of the appropriate municipal governing  
44 bodies, are**】** Administrative Director of the Administrative Office of  
45 the Courts is authorized to establish systems to accept the payment  
46 of filing fees, administrative charges, fines and penalties imposed  
47 for violations of Title 39 of the Revised Statutes, civil and criminal  
48 fines and penalties **【and】** , all other judicially imposed financial

1 obligations, and related charges by card based payment, electronic  
2 funds transfer, or any other method deemed feasible by the  
3 **【Supreme Court】** Administrative Office of the Courts.

4 (2) The various municipal and joint municipal courts, when  
5 permitted by resolution of the appropriate municipal governing  
6 bodies, are authorized to establish systems to accept the payment of  
7 filing fees, administrative charges, fines and penalties imposed for  
8 violations of Title 39 of the Revised Statutes, civil and criminal  
9 fines and penalties, all other judicially imposed financial  
10 obligations, and related charges by card based payment, electronic  
11 funds transfer, or any other method deemed feasible by the  
12 Administrative Office of the Courts.

13 b. No person or organization that is a defendant in a criminal  
14 matter shall be entitled to offer a credit card for the payment of bail  
15 or for the payment of fines or penalties related to the imposition of  
16 a sentence, for a crime of the first, second or third degree under  
17 Title 2C of the New Jersey Statutes.

18 c. If not legally prohibited by an association, financial  
19 institution, or 【by an】 a card issuer, any court or the Administrative  
20 Office of the Courts is authorized to assess 【and】 , collect and pay  
21 from receipts service charges 【related to】 and other costs associated  
22 with the collection of filing fees, administrative fees, judicially  
23 imposed financial obligations, and related charges owed to 【or  
24 collected by】 the court when credit cards, debit cards 【or】 ,  
25 electronic funds transfer systems, or any other methods deemed  
26 feasible by the Administrative Office of the Courts are utilized.  
27 Alternatively, the Administrative Office of the Courts may pay such  
28 service charges and other costs out of the monies appropriated to  
29 the Judiciary pursuant to subsection b. of section 14 of P.L. \_\_\_\_\_,  
30 c. (C. \_\_\_\_\_) (pending before the Legislature as this bill).

31 d. The Supreme Court of the State of New Jersey **【shall】** may  
32 adopt Rules of Court appropriate or necessary to effectuate the  
33 purposes of this section.

34 (cf: P.L.1995, c.325, s.6)

35  
36 16. (New section) Not later than the sixth month after the end of  
37 each State fiscal year, the Administrative Director of the Courts  
38 shall submit a report to the Governor, the President of the Senate,  
39 and the Speaker of the General Assembly describing the Judiciary's  
40 use of funding pursuant to sections 10 through 18 of P.L. \_\_\_\_\_,  
41 c. (C. \_\_\_\_\_) (pending before the Legislature as this bill) and the  
42 Judiciary's progress toward the development and deployment of a  
43 Statewide digital e-court information system and the development  
44 and maintenance of the Pretrial Service Unit.

45  
46 17. (New section) Not later than the sixth month after the end of  
47 each State fiscal year, Legal Services of New Jersey, through the

1 Department of the Treasury, shall submit to the Governor, the  
2 President of the Senate, the Speaker of the General Assembly, and  
3 the State Auditor a detailed financial statement describing how  
4 funds appropriated in the prior fiscal year pursuant to  
5 P.L. , c. (C. ) (pending before the Legislature as this bill)  
6 were used for the provision to the poor of legal assistance in civil  
7 matters. The use of public funds appropriated to Legal Services of  
8 New Jersey shall be subject to oversight by the State Auditor.

9  
10 18. (New section) a. The authority of the Supreme Court to  
11 revise or supplement filing fees and other statutory fees payable to  
12 the court pursuant to sections 11 and 12 of P.L. , c. (C. )  
13 (pending before the Legislature as this bill) shall expire on the first  
14 day of the seventh month next following the date of enactment of  
15 those sections, except that any filing fees and other statutory fees  
16 payable to the court that have been revised or supplemented  
17 pursuant to those sections shall continue in effect, subject to the  
18 provisions of this section.

19 b. Within 30 days of the fifth anniversary of the effective date  
20 of the Rules of Court first adopted pursuant to P.L. ,  
21 c. (C. ) (pending before the Legislature as this bill), and  
22 additionally within 30 days of the tenth anniversary of that effective  
23 date, the Court may review all filing fees and other statutory fees  
24 revised or supplemented pursuant to P.L. , c. (C. ) (pending  
25 before the Legislature as this bill) through its rulemaking process,  
26 which includes a reasonable opportunity for public comment, to  
27 determine if the fees should remain unchanged as originally adopted  
28 pursuant to P.L. , c. (C. ) (pending before the Legislature as  
29 this bill) or be reduced to reflect the funding needs associated with  
30 developing, maintaining and administering the Statewide digital e-  
31 court information system; and

32 c. On or after five years following the effective date of the  
33 Rules of Court first adopted pursuant to P.L. , c. (C. )  
34 (pending before the Legislature as this bill), if the annual grants  
35 provided to Legal Services of New Jersey by the Board of Trustees  
36 of the Income on Non-Interest Bearing Lawyers' Trust Accounts  
37 (IOLTA) Fund of the Bar of New Jersey, as established and  
38 operated pursuant to the Rules of Court, for use by Legal Services  
39 of New Jersey and its affiliates, equal or exceed \$25 million based  
40 on the most currently available information from the Supreme Court  
41 or as indicated in the most recently published annual report by the  
42 trustees, then beginning with the fiscal year next following the  
43 fiscal year in which the grants equaled or exceeded \$25 million:

44 (1) The monies to be annually credited to the "21<sup>st</sup> Century  
45 Justice Improvement Fund" established by section 13 of  
46 P.L. , c. (C. ) (pending before the Legislature as this bill) for  
47 appropriation to the Department of the Treasury for distribution to  
48 Legal Services of New Jersey and its affiliates pursuant to

1 subsection b. of section 4 of P.L. , c. (C. ) (pending before  
2 the Legislature as this bill) shall no longer be credited to the “21<sup>st</sup>  
3 Century Justice Improvement Fund.” The remainder of any monies  
4 in the “21<sup>st</sup> Century Justice Improvement Fund” that exceeds \$17  
5 million, as set forth in subsection a. of section 4 of P.L. ,  
6 c. (C. ) (pending before the Legislature as this bill), shall be  
7 deposited in the General Fund; and

8 (2) All filing fees and other statutory fees revised or  
9 supplemented pursuant to P.L. , c. (C. ) (pending before the  
10 Legislature as this bill) shall be reduced so that the fees payable to  
11 the court shall total no more than \$17 million annually and,  
12 pursuant to subsection a. of section 4 of P.L. , c. (C. )  
13 (pending before the Legislature as this bill), shall be used to fund  
14 the development, maintenance and administration of the Statewide  
15 digital e-court information system.

16  
17 19. Sections 1 through 6 and 8 through 9 of this act shall take  
18 effect immediately but shall remain inoperative until the date of  
19 approval by the voters of a constitutional amendment to Article I,  
20 paragraph 11 of the New Jersey Constitution authorizing the courts to  
21 deny pretrial release of certain defendants; sections 7 and 10 of this  
22 act shall take effect on the first day of the third month following  
23 enactment; sections 11 and 12 shall take affect immediately; and  
24 sections 13 through 18 shall take effect on July 1, 2014.

25

26

27

#### STATEMENT

28

29 This bill reforms the manner in which bail determinations in  
30 criminal cases are made in this State, and authorizes the Supreme  
31 Court to adopt Rules of Court to revise or supplement filing fees and  
32 other statutory fees in order to fund certain legal programs and  
33 services.

34 Under the sections pertaining to bail reform, the bill implements an  
35 amendment to the New Jersey State Constitution which modifies the  
36 constitutional right to bail and authorizes courts to deny pretrial  
37 release of certain offenders. The sections of the bill pertaining to  
38 pretrial detention are to remain inoperative until the enactment of an  
39 amendment to Article I, paragraph 11 of the New Jersey State  
40 Constitution authorizing the courts to deny pretrial release to certain  
41 defendants.

42 The criteria and procedure to be followed by a court in denying  
43 pretrial release are outlined under the provisions of the bill. Upon a  
44 motion by the prosecutor, the court is to hold a hearing to determine  
45 whether to order the detention of the defendant if that defendant is  
46 charged with: (1) a crime under the No Early Release Act, (2) an  
47 offense for which the maximum sentence is life imprisonment, (3) an  
48 indictable offense if the defendant has been convicted of two or more

1 crimes under the No Early Release Act or for which the maximum  
2 sentence is life imprisonment, (4) an indictable offense for which the  
3 victim is a minor, or (5) a crime that imposes a mandatory minimum  
4 term of imprisonment and parole ineligibility under the "Graves Act."  
5 In addition, the bill provides that a court may hold a detention hearing  
6 upon a motion of the prosecutor or the court in any case that involves a  
7 serious risk the defendant will flee, obstruct or attempt to obstruct  
8 justice, or threaten, injure, or intimidate a prospective witness or  
9 juror. The bill sets forth a presumption that a defendant will not be  
10 detained prior to trial unless that defendant meets the above criteria  
11 necessary for a detention hearing.

12 The bill requires that a detention hearing be held immediately  
13 upon the defendant's first appearance before the court unless the  
14 court orders a continuance. During a continuance, a defendant may,  
15 by motion of the court or the prosecution, receive an assessment to  
16 determine whether the defendant is a drug dependant person.  
17 During the hearing, a defendant is afforded the right to be  
18 represented by counsel, have an opportunity to testify, to present  
19 witnesses, and to cross-examine witnesses who appear at the  
20 hearing.

21 In determining whether to deny pretrial release, the bill requires  
22 a court to take into account the nature and circumstances of the  
23 offense charged, the weight of the evidence against the defendant,  
24 and certain criteria regarding the history and characteristics of the  
25 defendant which are enumerated under the bill. The bill further  
26 requires that a defendant who is subject to detention receive a  
27 written detention order that sets forth the reasons for the detention,  
28 and directs that the defendant be afforded a reasonable opportunity  
29 to privately consult with an attorney. The bill also affords a  
30 defendant the right to appeal an order of detention before trial to the  
31 Appellate Division of the Superior Court. An appeal filed by the  
32 defendant is required to be heard and decided no later than 30 days  
33 following the initial order of detention.

34 In addition, this bill provides a court with non-monetary release  
35 alternatives to setting bail for defendants charged with a crime to  
36 ensure that a defendant appears for trial. If a court determines that  
37 a defendant should not be released on his or her own recognizance,  
38 but does not pose a threat to any person or the community, the court  
39 may impose one or a combination of non-monetary release  
40 conditions set forth in the bill in place of setting bail.

41 The bill requires that a defendant who is released on personal  
42 recognizance or released with conditions receive a written notice  
43 advising the defendant of the release conditions and the  
44 consequences of violating those conditions. A defendant released  
45 from custody may have his or her release revoked and be subject to  
46 pretrial detention if that defendant was charged with a crime for  
47 which he or she is eligible for pretrial detention, and the defendant  
48 while on release has violated a restraining order, a condition of



1 release, or the court has probable cause to believe that the defendant  
2 has committed a new crime. In addition, a defendant who violates  
3 pretrial release conditions may be subject to civil contempt,  
4 criminal contempt, forfeiture of bail, or any combination of those  
5 sanctions imposed by the court.

6 In order to assist with pretrial determinations, the bill establishes  
7 a Pretrial Services Unit within each county to assess criminal  
8 defendants prior to a bail hearing or first appearance for the purpose  
9 of making recommendations to the court concerning the appropriate  
10 disposition. The bill requires that the pretrial assessment be  
11 conducted using a validated risk assessment instrument and include  
12 an examination that weighs the factors used to determine whether a  
13 defendant should be detained prior to trial. The Pretrial Services  
14 Unit also is required to monitor defendants who are released on  
15 conditions to ensure that they adhere to the condition, or conditions,  
16 of release ordered by the court.

17 In addition, the bill provides that the Supreme Court may,  
18 subject to limitations provided in the bill, adopt Rules of Court to  
19 revise or supplement filing fees and other statutory fees payable to  
20 the court for the sole purpose of funding: (1) the development,  
21 maintenance, and administration of a “Statewide digital e-court  
22 information system,” that incorporates electronic filing, service of  
23 process, document and case management, financial management,  
24 and public access to digital court records; (2) the development,  
25 maintenance, and administration of a Pretrial Services Unit in each  
26 county; and (3) the provision of legal assistance to the poor in civil  
27 matters by Legal Services of New Jersey.

28 The bill would establish in the General Fund a dedicated, non-  
29 lapsing fund to be known as the “21<sup>st</sup> Century Justice Improvement  
30 Fund.” This fund would be annually credited with a sum equal to  
31 the revenue to be derived annually from the incremental amounts of  
32 any fees payable to the court that are revised or supplemented  
33 pursuant to the bill and the related fee revisions as provided by  
34 operation of N.J.S.22A:2-5 (*fees payable in the Appellate Division,*  
35 *designated to be the same as those payable in the Supreme Court*)  
36 and section 2 of P.L.1993, c.74 (C.22A:5-1) (*fees payable in the*  
37 *Tax Court, designated to be the same as those payable in the*  
38 *Superior Court*). The fund would be administered by the State  
39 Treasurer.

40 To the extent that sufficient funds are available, monies annually  
41 credited in the “21<sup>st</sup> Century Justice Improvement Fund” would be  
42 allocated as follows:

43 (1) the first \$15 million would be appropriated annually to the  
44 Judiciary to be used to fund the development, maintenance and  
45 administration of a Pretrial Services Unit in each county;

46 (2) from any amounts remaining thereafter, up to \$17 million  
47 would be appropriated annually to the Judiciary for the

1 development, maintenance, and administration of the Statewide  
2 digital e-court information system;

3 (3) from any amounts remaining thereafter, up to \$10.1 million  
4 would be appropriated annually to the Department of the Treasury  
5 for distribution to Legal Services of New Jersey and its affiliates to  
6 facilitate the provision to the poor of legal assistance in civil  
7 matters. Additionally, this amount, as well as all other State funds  
8 distributed to Legal Services of New Jersey, would be required to  
9 be used exclusively for the provision of legal assistance to the poor  
10 in civil matters; and

11 (4) Any remaining amounts would be retained by the Judiciary  
12 for the sole purpose of developing, maintaining, and administering  
13 court information technology.

14 With regard to the monies from the “21<sup>st</sup> Century Justice  
15 Improvement Fund,” to be appropriated and distributed to Legal  
16 Services of New Jersey and its affiliates, this method of funding is  
17 only intended to provide monies to the organization and its affiliates  
18 until such time that the State’s fiscal health improves, at which  
19 point it is anticipated that such monies may be directly provided  
20 from the State’s General Fund.

21 No later than the sixth month after the end of each State fiscal  
22 year the Administrative Director of the Courts would submit a  
23 report to the Governor, the President of the Senate, and the Speaker  
24 of the General Assembly describing the Judiciary’s use of funding  
25 provided through the bill and its progress toward the development  
26 and deployment of the Statewide digital e-court information system  
27 and the development and maintenance of the Pretrial Services Unit.  
28 As part of the reporting requirement, Legal Services of New Jersey  
29 also would submit a detailed financial statement to the same parties  
30 plus the State Auditor, describing how funds provided pursuant to  
31 the bill were used for the provision of legal assistance to the poor in  
32 civil matters. Additionally, the bill requires that the use of public  
33 funds appropriated to Legal Services of New Jersey would be  
34 subject to oversight by the State Auditor.

35 As part of its development of the Statewide digital e-court  
36 information system, the Administrative Office of the Courts would  
37 be authorized to establish systems to accept the payment of filing  
38 fees, administrative charges, fines and penalties imposed for motor  
39 vehicle violations under Title 39 of the Revised Statutes, civil and  
40 criminal penalties, other judicially imposed financial obligations,  
41 and related charges by card based payment, electronic funds  
42 transfer, or other methods the office deems feasible. The various  
43 municipal and joint municipal courts, when permitted by resolution  
44 of the appropriate municipal governing bodies, also would be  
45 authorized to establish such systems. These provisions, which  
46 amend existing law pertaining to electronic payment or fund  
47 transfer systems, also intend to clarify that the Administrative  
48 Office of the Courts or any particular State, municipal, or joint

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1 municipal court could assess service charges and other costs  
2 associated with the collection of any fees, charges, fines, penalties,  
3 or obligations.

4 The authority of the Supreme Court to revise or supplement any  
5 filing fees and other statutory fees under the bill would expire  
6 approximately seven months after the enactment of those sections  
7 of the bill establishing that authority, except that any fees that have  
8 been revised or supplemented would continue in effect, subject to  
9 the bill's provisions.

# SENATE JUDICIARY COMMITTEE

## STATEMENT TO

### SENATE, No. 946

# STATE OF NEW JERSEY

DATED: MARCH 24, 2014

The Senate Judiciary Committee reports favorably Senate Bill No. 946.

This bill reforms the manner in which bail determinations in criminal cases are made in this State, and authorizes the Supreme Court to adopt Rules of Court to revise or supplement filing fees and other statutory fees in order to assist in funding the bail reform and certain other legal programs and services.

Under the sections pertaining to bail reform, the bill would implement an amendment to the New Jersey State Constitution, if enacted, that modified the constitutional right to bail (see N.J. Const. (1947), Article I, paragraph 11) and instead authorize courts to order the pretrial detention of certain offenders. The sections of the bill pertaining to pretrial detention would remain inoperative until the enactment of the relevant constitutional amendment.

The procedure to be followed by a court for ordering pretrial detention is outlined under the provisions of the bill.

A defendant would have a presumption against pretrial detention, unless the defendant met one of the bill's enumerated criteria for a detention hearing. Upon a motion by the prosecutor, the court would hold a hearing to determine whether to order the detention of the defendant if that defendant is charged with: (1) a crime listed in subsection d. of section 2 of P.L.1997, c.117 (C.2C:43-7.2), part of the State's "No Early Release Act," (2) an offense for which the maximum sentence is life imprisonment, (3) any indictable offense for which the victim is a minor, (4) a crime that imposes a mandatory minimum term of imprisonment and parole ineligibility, due to the use or possession of a firearm while in the course of committing or attempting to commit the crime, as set forth in subsection c. of N.J.S.2C:43-6, part of the Graves Act (P.L.1981, c.31), or (5) any indictable offense, if the defendant has been convicted of any two or more of: (a) the above described offenses; or (b) the offenses set forth below, for which either the prosecutor or court may initiate a pretrial detention hearing.

In addition to the above criteria setting out prosecutor-initiated detention hearings, the bill provides that a court may also hold a detention hearing, upon a motion of either the prosecutor or as initiated by the court in any case that involves a serious risk that the defendant: (1) will flee; (2) will pose a danger to any person or the community; or

(3) obstruct justice, or threaten, injure, or intimidate a prospective witness or juror, or attempt to do any such act of obstruction, threat, or injury.

The bill would require that a detention hearing be held immediately upon the defendant's first appearance before the court unless the court orders a continuance. During a continuance, a defendant may, by motion of the court or the prosecution, receive an assessment to determine whether the defendant is a drug dependant person. During the hearing, a defendant would be afforded the right to be represented by counsel, have an opportunity to testify, to present witnesses, and to cross-examine witnesses who appear at the hearing.

In determining whether to order pretrial detention, the bill would require the court to take into account the nature and circumstances of the offense charged, the weight of the evidence against the defendant, and the history and characteristics of the defendant, such as the defendant's character, and physical and mental condition, whether the defendant is currently on probation or parole, and the seriousness of the danger to any person or the community posed by the defendant's release. The court would also consider the release recommendation presented by the appropriate county-level Pretrial Services Unit, which units would be established by the bill.

If subject to pretrial detention, the bill requires that the defendant receive a written detention order that sets forth the reasons for the detention, and directs that the defendant be afforded a reasonable opportunity to privately consult with an attorney. The bill also affords a defendant the right to appeal an order of detention before trial to the Appellate Division of the Superior Court. An appeal filed by the defendant would be heard and decided no later than 30 days following the initial order of detention.

In addition, this bill provides a court with non-monetary release alternatives to setting bail for defendants charged with a crime to ensure that a defendant appears for trial. If a court determines that a defendant should not be released on his or her own recognizance, but does not pose a threat to any person or the community, the court may impose one or a combination of non-monetary release conditions set forth in the bill in place of setting bail, including such conditions as: remaining in the custody of a designated person, who agrees to assume supervision; maintaining employment, or, if unemployed, actively seeking employment; or abiding by specified restrictions on personal associations.

The bill would require that a defendant who is released on personal recognizance or released with conditions receive a written notice advising the defendant of the release conditions and the consequences of violating those conditions. A defendant released from custody may have his or her release revoked and be subject to pretrial detention if that defendant was charged with a crime for which he or she is eligible for pretrial detention, and the defendant while on release violated a

restraining order, a condition of release, or the court has probable cause to believe that the defendant has committed a new crime. In addition, a defendant who violates pretrial release conditions may be subject to civil contempt, criminal contempt, forfeiture of bail, or any combination of those sanctions imposed by the court.

In order to assist with pretrial detention proceedings, the bill establishes a Pretrial Services Unit within each county to assess criminal defendants prior to a bail hearing or first appearance for the purpose of making recommendations to the court concerning the appropriate disposition. The bill would require that the pretrial assessment be conducted using a validated risk assessment instrument and include an examination that weighs the factors used to determine whether a defendant should be detained prior to trial. The Pretrial Services Unit also would be required to monitor defendants who are released on conditions to ensure that they adhere to the condition, or conditions, of release ordered by the court.

To help pay for the above described bail reform, as well as additional court functions and assistance with legal services, the bill provides that the Supreme Court may, subject to limitations provided in the bill, adopt Rules of Court to revise or supplement filing fees and other statutory fees payable to the court for the sole purpose of funding: (1) the development, maintenance, and administration of a Pretrial Services Unit in each county; (2) the development, maintenance, and administration of a Statewide digital e-court information system, that incorporates electronic filing, service of process, document and case management, financial management, and public access to digital court records; and (3) the provision of legal assistance to the poor in civil matters by Legal Services of New Jersey.

The bill would establish in the General Fund a dedicated, non-lapsing fund to be known as the “21<sup>st</sup> Century Justice Improvement Fund.” This fund would be annually credited with a sum equal to the yearly revenue to be derived from the incremental amounts of any fees payable to the court that are revised or supplemented pursuant to the bill and the related fee revisions as provided by operation of N.J.S.22A:2-5 (*fees payable in the Appellate Division, designated to be the same as those payable in the Supreme Court*) and section 2 of P.L.1993, c.74 (C.22A:5-1) (*fees payable in the Tax Court, designated to be the same as those payable in the Superior Court*). The fund would be administered by the State Treasurer.

To the extent that sufficient funds are available, monies annually credited in the “21<sup>st</sup> Century Justice Improvement Fund” would be allocated as follows:

(1) the first \$15 million would be appropriated annually to the Judiciary to be used to fund the development, maintenance and administration of a Pretrial Services Unit in each county;

(2) from any amounts remaining thereafter, up to \$17 million would be appropriated annually to the Judiciary for the development,

maintenance, and administration of the Statewide digital e-court information system;

(3) from any amounts remaining thereafter, up to \$10.1 million would be appropriated annually to the Department of the Treasury for distribution to Legal Services of New Jersey and its affiliates to facilitate the provision to the poor of legal assistance in civil matters. Additionally, this amount, as well as all other State funds distributed to Legal Services of New Jersey, would be required to be used exclusively for the provision of legal assistance to the poor in civil matters; and

(4) Any remaining amounts would be retained by the Judiciary for the sole purpose of developing, maintaining, and administering court information technology.

With regard to the monies from the “21<sup>st</sup> Century Justice Improvement Fund,” to be appropriated and distributed to Legal Services of New Jersey and its affiliates, this method of funding is only intended to provide monies to the organization and its affiliates until such time that the State’s fiscal health improves, at which point it is anticipated that such monies may be directly provided from the State’s General Fund.

No later than the sixth month after the end of each State fiscal year the Administrative Director of the Courts would submit a report to the Governor, the President of the Senate, and the Speaker of the General Assembly describing the Judiciary’s use of funding provided through the bill and its progress toward the development and deployment of the Statewide digital e-court information system and the development and maintenance of the Pretrial Services Unit. As part of the reporting requirement, Legal Services of New Jersey also would submit a detailed financial statement to the same parties plus the State Auditor, describing how funds provided pursuant to the bill were used for the provision of legal assistance to the poor in civil matters. Additionally, the bill requires that the use of public funds appropriated to Legal Services of New Jersey would be subject to oversight by the State Auditor.

As part of its development of the Statewide digital e-court information system, the Administrative Office of the Courts would be authorized to establish systems to accept the payment of filing fees, administrative charges, fines and penalties imposed for motor vehicle violations under Title 39 of the Revised Statutes, civil and criminal penalties, other judicially imposed financial obligations, and related charges by card based payment, electronic funds transfer, or other methods the office deems feasible. The various municipal and joint municipal courts, when permitted by resolution of the appropriate municipal governing bodies, also would be authorized to establish such systems. These provisions, which amend existing law pertaining to electronic payment or fund transfer systems, also intend to clarify that the Administrative Office of the Courts or any particular State,

municipal, or joint municipal court could assess service charges and other costs associated with the collection of any fees, charges, fines, penalties, or obligations.

The authority of the Supreme Court to revise or supplement any filing fees and other statutory fees under the bill would expire approximately seven months after the enactment of those sections of the bill establishing that authority, except that any fees that have been revised or supplemented would continue in effect, subject to the following:

Within 30 days of the fifth anniversary of the effective date of the Rules of Court first adopted concerning any fees, and additionally within 30 days of the tenth anniversary of that effective date, the Supreme Court may review all such fees revised or supplemented utilizing its rulemaking process, which includes a reasonable opportunity for public comment, to determine if the fees should remain unchanged as originally adopted pursuant to the bill or be reduced to reflect the funding needs associated with developing, maintaining, and administering the Statewide digital e-court information system; and

On or after five years from the effective date of the Rules of Court first adopted concerning any fees, if the annual grants provided to Legal Services of New Jersey by the Board of Trustees of the Interest on Lawyers' Trust Accounts (IOLTA) Fund of the Bar of New Jersey, as established and operated pursuant to the Rules of Court, for use by Legal Services of New Jersey and its affiliates, equal or exceed \$25 million based on the most currently available information from the Supreme Court or as indicated in the most recently published annual report by the trustees of that fund, then, beginning with the fiscal year next following the fiscal year in which the grants equaled or exceeded \$25 million:

(1) the monies to be annually credited to the "21st Century Justice Improvement Fund" established by the bill for appropriation to the Department of the Treasury for distribution to Legal Services of New Jersey and its affiliates shall no longer be credited to the "21st Century Justice Improvement Fund," and the remainder of any monies in the fund that exceeds \$17 million shall be deposited in the General Fund; and

(2) all filing fees and other statutory fees revised or supplemented pursuant to the bill will be reduced so that the fees payable to the court should total no more than \$17 million annually, and shall be used to fund the Statewide digital e-court information system.



# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

### **SENATE, No. 946**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: JUNE 5, 2014

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 946, with committee amendments.

As amended, this bill concerns several aspects of court administration. It would: (1) establish statutory speedy trial deadlines for persons being detained in jail, both pre- and post-indictment; (2) reform the manner in which determinations for bail and other forms of criminal pretrial release are made; (3) provide courts with the authority to deny pretrial release and instead order pretrial detention; and (4) authorize the Judiciary to revise and supplement fees to help fund a pretrial risk assessment and monitoring program, and other court-related programs and services.

The provisions concerning categories (1) through (3), set forth as sections 1 through 11 of the bill, could only be implemented after enactment of an amendment to the New Jersey Constitution modifying the current constitutional right to bail for all persons (see N.J. Const. (1947), Article I, paragraph 11). These provisions would take effect on the first day of the 13th month next following the date of voter approval of such an amendment and the amendment becoming part of the constitution. The provisions concerning category (4), sections 12 through 19 of the bill, authorizing the Judiciary to revise and supplement fees for the pretrial assessment and monitoring program related to the bill and for other court-related programs and services would take effect immediately.

*Speedy trial deadlines:*

Based on suggested pre- and post-indictment deadlines contained in recommendations 10 through 14 of the publicly released March 10, 2014 report of the New Jersey Supreme Court's Joint Committee on Criminal Justice, the bill would establish the following deadlines:

- A person who has been charged with a crime and for whom pretrial detention is ordered could not remain detained in jail for more than 90 days on that charge prior to the return of an indictment. If the person is not indicted within the specified 90 days, the person would be released from jail upon motion of the person or on the court's own motion. Notwithstanding the court's previous findings (discussed in more detail below) for ordering the person's pretrial detention, the

court would release the person on the person's own recognizance or set appropriate non-monetary conditions for the person's release.

- A person who has been indicted and for whom pretrial detention is ordered could not remain detained in jail for more than 180 days on that charge following the return or unsealing of the indictment, whichever is later, before commencement of the trial. The 180-day time period would commence to run from the date the indictment is returned, or the person, if a juvenile, has been waived to adult court. In the event a person's trial does not begin within the specified 180 days, the person would be released from jail upon motion of the person or the court's own motion, unless the court finds that an injustice would follow from strict compliance with the person's release. If the court found, in the extraordinary case, that there has been a significant showing that an injustice would follow from strict compliance with the person's release from custody, the court could allocate an additional period of time in which the person's trial would commence before the person is released. Notwithstanding the court's previous findings for ordering the person's pretrial detention, the court would release the person on the person's own recognizance or set appropriate non-monetary conditions for the person's release to reasonable assure the person's appearance in court.

- In the event of a trial ordered after a mistrial or upon a motion for a new trial, such trial would commence within 120 days of the entry of the order of the court. A trial ordered upon the reversal of a judgment by any appellate court would commence within 120 days of the service of that court's trial mandate.

For any of the above deadlines, the bill sets forth periods, as calculated by the prosecutor, which would be excluded in computing the time within which a case would need to be indicted or tried, which include:

(1) the time resulting from an examination and hearing on competency and the period during which the person is incompetent to stand trial or incapacitated;

(2) the time from the filing to the disposition of a person's application for supervisory treatment pursuant to N.J.S.2C:36A-1 or N.J.S.2C:43-12 et seq., special probation pursuant to N.J.S.2C:35-14, regular probation drug court pursuant to N.J.S.2C:45-1, or other pretrial treatment or supervisory program;

(3) the time from the filing to the final disposition of a motion made before trial by the prosecutor or the person;

(4) the time resulting from a continuance granted, in the court's discretion, at the person's request or at the request of both parties;

(5) the time resulting from the detention of the person in another jurisdiction provided the prosecutor has been diligent and has made reasonable efforts to obtain the person's presence;

(6) the time resulting from exceptional circumstances including, but not limited to, a natural disaster, the unavoidable unavailability of

the person, material witness or other evidence, when there is a reasonable expectation that the person, witness or evidence will become available in the near future; and

(7) on motion of the prosecutor, the delay resulting when the court finds that the case is complex due to the number of defendants or the nature of the prosecution.

The speedy trial deadlines established by the bill would apply to any person who committed a crime on or after the applicable provisions became effective (the first day of the 13th month next following the date of approval of the constitutional amendment.

*Reforms for bail and other pretrial release determinations:*

To help support the bill's bail and other pretrial release reforms, the Administrative Director of the Courts would establish and maintain a Statewide Pretrial Services Program.

Under the program, a risk assessment would be conducted on any person committed to jail after being arrested on warrant for an initial charge involving an indictable offense or disorderly persons offense. This assessment would occur within 48 hours of the person's commitment to jail. The purpose of the assessment would be to make recommendations to the court concerning an appropriate pretrial release determination, including whether the person would be released: on the person's own personal recognizance or on execution of an unsecured appearance bond; on a non-monetary condition or conditions enumerated in the bill, including such conditions as avoiding contact with an alleged victim or witness, or reporting on a regular basis to a designated law enforcement agency; upon execution of a bail bond, other than an unsecured appearance bond; or, on a combination of monetary bail and non-monetary conditions. The Pretrial Services Program would also monitor each person granted any form of non-surety pretrial release by the court, including release on personal recognizance, unsecured appearance bond, or non-monetary condition or conditions.

The bill would require that the court make a pretrial release decision "without unnecessary delay," but in no case later than 48 hours after the commitment to jail. The court would consider the person's circumstances and the risk assessment performed by the Pretrial Services Program before making any pretrial release decision. When making that decision, if the court disapproved of a recommended condition of release made in the risk assessment, it would provide an explanation for such in the document authorizing the person's release.

The court would order pretrial release of the person on the person's own recognizance on execution of an unsecured appearance bond whenever the court determined that the person would appear in court as required, and would not pose a danger to any other person or the community.

However, if the court had concerns with the person's future court appearances or posing a danger to other persons or the community, it could alternatively order pretrial release subject to one or more non-monetary conditions, including but not limited to: avoiding contact with an alleged victim or witness; reporting on a regular basis to a designated law enforcement agency; remaining in the custody of a designated person who agrees to assume supervision and report violations of any release condition; or complying with a specified curfew. Such condition or conditions would be the least restrictive means determined by the court to be necessary to reasonably assure the person's court appearance and the safety of other persons and the community.

If release on non-monetary conditions alone would not reasonably assure the person's future court appearances, the court could instead order that person's pretrial release on monetary bail by means other than an unsecured appearance bond. The court could only impose such a financial condition to reasonably assure the person's future appearance. It could not impose such a condition to reasonably assure the safety of any other person or the community, or do so for the purpose of preventing the person's release.

If the court was not satisfied that monetary bail alone could reasonably assure future court appearances, or if the safety of other persons or the community was still a factor, the court could instead order pretrial release subject to a combination of monetary bail and non-monetary conditions.

Whenever a person was released, the court would notify the person of the conditions, if any, to which the release is subject, as well as the consequences for violating any such conditions, including the immediate issuance of a warrant for the person's arrest, and the criminal penalties for any such violation.

A person out of jail on pretrial release could have the conditions of the release modified or have the release revoked by a court, upon motion by a prosecutor, for violating a restraining order or condition of release, or a finding of probable cause that the person committed a new crime while on release, if the person was someone who was out on release after being charged with: (1) a crime of the first or second degree enumerated under subsection d. of section 2 of P.L.1997, c.117 (C.2C:43-7.2), part of the State's "No Early Release Act"; (2) a crime for which the maximum sentence is life imprisonment; (3) any crime, if previously convicted of two or more crimes described in categories (1) or (2); (4) any crime involving a victim who is a minor; and (5) any crime that imposes a mandatory minimum term of imprisonment and parole ineligibility, due to the use or possession of a firearm while in the course of committing or attempting to commit the crime, as set forth in subsection c. of N.J.S.2C:43-6, part of the Graves Act (P.L.1981, c.31). The court could only take action to modify or revoke the person's pretrial release on a finding by clear and convincing

evidence that no monetary bail, non-monetary conditions of release, or combination thereof imposed on the person would reasonably protect the safety of any other person or the community.

*Denial of pretrial release / pretrial detention:*

Concerning the new authority for denying a person pretrial release, a prosecutor could file a motion, before or after a person secures pretrial release, seeking the pretrial detention of a person. Such detention would only be available for a person who was charged with any of the above described crimes that permit a court to modify or revoke a pretrial release, or for any other crime for which the prosecutor believes there is a serious risk that the person would not appear in court, would pose a danger to any other person or the community, or would obstruct or attempt to obstruct justice or threaten, injure, or intimidate a prospective witness or juror. A prosecutor, in seeking a pretrial detention proceeding for which there is no indictment, would be required to establish probable cause that the person committed the predicate offense.

Upon the filing of the motion for pretrial detention, and during any continuance of such motion, the person would be detained in jail, unless the person was previously released, in which case the court would instead issue a notice to compel the person's appearance at the pretrial detention hearing.

The court would hold a hearing to determine whether any amount of monetary bail, non-monetary conditions, or combination thereof could reasonably assure the person's future court appearance, or protect persons, the community, or the criminal justice process. In making a determination for or against pretrial detention, the court could rely upon the nature and circumstances of the offense charged, the weight of evidence against the person, the person's history and characteristics, and the recommendations concerning appropriate pretrial release determinations by the Pretrial Services Program risk assessment. Such determination would generally be supported by clear and convincing evidence for the court to order pretrial detention.

However, for the crime of murder or any crime for which the maximum sentence is life imprisonment, if the court found probable cause that a person committed such crime, there would be a rebuttable presumption that the person must be detained pending trial, because no amount of monetary bail, non-monetary conditions or release, or combination thereof would reasonably assure the safety of any other person or the community. This presumption could be rebutted by the person upon a showing of the preponderance of the evidence in support of the person. If the person cannot rebut the presumption, the court could order pretrial detention, but if rebutted, the prosecutor would have the opportunity to still establish grounds for pretrial detention.

*Court fees to support pretrial assessments, other court-related services and programs*

To help pay for the bill's new pretrial assessments and monitoring, as well as additional court-related programs and services, the bill provides that the Supreme Court may adopt Rules of Court to revise or supplement filing fees and other statutory fees payable to the court for the sole purpose of funding: (1) the development, maintenance, and administration of the above described Statewide Pretrial Services Program; (2) the development, maintenance, and administration of a Statewide digital e-court information system, that incorporates electronic filing, service of process, document and case management, financial management, and public access to digital court records; and (3) the provision of legal assistance to the poor in civil matters by Legal Services of New Jersey. As a limit on the court's authority, all existing filing and statutory fees could not be increased or supplemented more than \$50 in the aggregate for each such fee.

The bill would establish in the General Fund a dedicated, non-lapsing fund to be known as the "21st Century Justice Improvement Fund." This fund would be annually credited with a sum equal to the yearly revenue to be derived from the incremental amounts of any fees payable to the court that are revised or supplemented pursuant to the bill and the related fee revisions as provided by operation of N.J.S.22A:2-5 (*fees payable in the Appellate Division, designated to be the same as those payable in the Supreme Court*) and section 2 of P.L.1993, c.74 (C.22A:5-1) (*fees payable in the Tax Court, designated to be the same as those payable in the Superior Court*). The fund would be administered by the State Treasurer.

Monies annually credited in the "21st Century Justice Improvement Fund" would be allocated as follows:

(1) \$15 million would be appropriated annually to the Judiciary to be used for the Pretrial Services Program;

(2) \$17 million would be appropriated annually to the Judiciary for the Statewide digital e-court information system;

(3) \$10.1 million would be appropriated annually to the Department of the Treasury for distribution to Legal Services of New Jersey and its affiliates to facilitate the provision to the poor of legal assistance in civil matters; and

(4) Any remaining amounts still in the fund would be retained by the Judiciary for the sole purpose of developing, maintaining, and administering court information technology.

No later than the sixth month after the end of each State fiscal year the Administrative Director of the Courts would submit a report to the Governor, the President of the Senate, and the Speaker of the General Assembly describing the Judiciary's use of funding provided through the bill and its progress toward the development, maintenance and administration of the Statewide Pretrial Services Program and Statewide digital e-court information system. Legal Services of New Jersey also would submit a detailed financial statement to the same parties plus the State Auditor, describing how funds provided pursuant

to the bill were used for the provision of legal assistance to the poor in civil matters. Additionally, the bill requires that the use of public funds appropriated to Legal Services of New Jersey would be subject to oversight by the State Auditor.

The authority of the Supreme Court to revise or supplement any filing fees and other statutory fees under the bill would expire approximately seven months after the enactment of those sections of the bill establishing that authority, except that any fees that have been revised or supplemented would continue in effect, subject to the following:

Within 30 days of the fifth anniversary of the effective date of the Rules of Court first adopted concerning any fees, and additionally within 30 days of the tenth anniversary of that effective date, the Supreme Court could review all such fees revised or supplemented utilizing its rulemaking process, which includes a reasonable opportunity for public comment, to determine if the fees should remain unchanged as originally adopted pursuant to the bill or be reduced to reflect the funding needs associated with the purposes set forth in the bill for which the “21st Century Justice Improvement Fund” provides monies.

Finally, concerning court fees, as well as judicially imposed financial obligations, and related charges owed to a court when such are processed using credit cards, debit cards, or any other accepted electronic method, the bill updates existing law to authorize, pursuant to Rules of Court, the Administrative Office of the Courts to assess, collect, and pay service charges and other costs resulting from the collection and processing of such fees, obligations, and charges. Any service charges and other costs assessed and collected by the Administrative Office of the Courts, with the exception of those charges or costs assessed and collected on behalf of municipal courts, would be deposited in the “Court Computer Information System Fund” established by subsection c. of section 1 of P.L.1994, c.54 (C.2B:1-4).

#### COMMITTEE AMENDMENTS:

The committee amendments to the bill:

- establish the statutory pre- and post-indictment speedy trial deadlines described above;
- re-title the court’s Pretrial Services Unit as the Pretrial Services Program, to be operated on a Statewide basis without the requirement of operating in each county;
- replace references to “sureties” with the term “monetary bail”;
- clarify that all persons committed to jail after being arrested on warrant for an initial charge involving an indictable offense or disorderly persons offense would be subject to a risk assessment by the Pretrial Services Program, and thereafter given consideration for pretrial release or detention under the bill’s provisions;

- require courts to make pretrial release decisions without unnecessary delay, but in no case later than 48 hours after a person's commitment to jail;
- require consideration of the person's circumstances and the Pretrial Services Program risk assessment before a court makes a pretrial release decision;
- clarify the courts' options for pretrial release based on monetary bail, non-monetary conditions, or a combination thereof;
- indicate that monetary bail may only be imposed to reasonably assure a person's future court appearance, and not to reasonably assure the safety of any other person or the community, or for the purpose of preventing pretrial release;
- clarify the role of prosecutors in filing motions seeking a person's pretrial detention;
- specify that pretrial detention hearings, if occurring after a person's first court appearance or if there is no first appearance, would be scheduled within three working days of the prosecutor's motion filing, unless the prosecutor or the person seeks a continuance;
- indicate that upon the filing of a pretrial detention motion, and during any continuance thereof, the person would be detained in jail; but if the person was previously released the court would instead issue a notice to compel the person's appearance at the pretrial detention hearing;
- require that for a pretrial detention hearing for which there is no indictment, the prosecutor would be required to establish probable cause that the person committed the predicate offense;
- provide for a rebuttable presumption that a person be detained pending trial for the crime of murder or any crime for which the maximum sentence is life imprisonment, if the court found probable cause that the person committed such crime;
- concerning expenditures from the "21st Century Justice Improvement Fund," eliminate the specified order in which monies credited annually are to be appropriated;
- eliminate the appropriation of funds going to the General Fund (not to exceed \$10 million), following the specified appropriations for the Pretrial Services Program, Statewide digital e-court information system, and Legal Services of New Jersey;
- eliminate the process under which Legal Services of New Jersey would cease getting monies from the fund if the organization received annual grants of \$25 million or more from the State Bar's Board of Trustees of Income on Non-Interest Bearing Lawyers' Trust Accounts, thereby allowing the organization to continue receiving monies from the fund;
- restore the authority of the various State and municipal courts to establish systems to accept payments of court fees, judicially imposed obligations, and related charges by various electronic methods, and clarify the authority of the Administrative Office of the Courts to



assess, collect, and pay service charges and other costs resulting from the collection of such fees, obligations, and related charges;

- require that service charges and other costs collected by the Administrative Office of the Courts would be deposited in the “Court Computer Information System Fund,” except for those charges and costs assessed and collected on behalf of municipal courts;

- update internal references and cross-references to the various sections of the bill to reflect the renumbering of sections and other changes made by the amendments;

- update the effective date to specify that the sections concerning the Judiciary’s authority to revise and supplement fees for the pretrial assessment and monitoring program related to the bill and for other court-related programs and services would take effect immediately, while the remainder of the bill would take effect after voter approval of a constitutional amendment concerning the denial of pretrial release as described above; and

- update the bill synopsis to reflect the various changes made by the amendments.

**FISCAL IMPACT:**

The Office of Legislative Services (OLS) notes that the implementation of speedy trial deadlines and bail reforms would most likely decrease the number of individuals incarcerated in the county jails awaiting trials thus generating an indeterminate savings for the counties. The savings per each county would be determined by the number of individuals released as a result of this bill. These savings could be offset by the proposed requirement that all persons committed to jail after being arrested on warrant remain incarcerated until the AOC conducts risk assessments rather than be allowed to post immediate bail. The bill requires that these assessments occur within 48 hours of incarceration. The AOC would incur undetermined costs to establish the new Statewide Pretrial Services Program for these assessments and to conduct the assessments.

The OLS also notes that implementation of the speedy trial provisions enumerated in the bill would impose additional responsibilities upon the courts, prosecutors and public defenders. In order to meet the requirements for speedy trial, the courts would require an undetermined number of judges to expedite these trials, and prosecutors and public defenders offices would require staff to research and prepare for trial within the allotted time at an undetermined cost.

The OLS notes that the bill also gives the AOC the authority to increase court fees in order to fund (1) the proposed Statewide Pretrial Services Program (\$15 million), (2) a Statewide digital e-court information system (\$17 million) and (3) funding for Legal Services of New Jersey (\$10.1 million). Any funds collected above the specified amounts would be retained by the Judiciary for the development,

maintenance and administration of court information technology. The AOC has informally indicated that it would increase fees to raise \$42 million, the amount necessary to fund the purposes outlined in the bill. The OLS also notes that since the fees to be increased are not specified by the bill, the actual amount of collections is unknown and therefore it cannot estimate with any reliability the amount of revenue that would be generated by the bill.

**STATEMENT TO**  
**[First Reprint]**  
**SENATE, No. 946**

with Senate Floor Amendments  
(Proposed by Senator NORCROSS)

ADOPTED: JUNE 12, 2014

These floor amendments to the bill, concerning speedy trial time frames, bail reforms including non-monetary bail alternatives and pretrial detention, and authorization for the Judiciary to revise fees for these and other court-related programs, do the following:

- for speedy trial deadlines, add another reason for which time would not be calculated against such deadlines, covering time resulting from the failure by the defendant to provide timely and complete discovery;

- remove, as a reason to not calculate time against the speedy trial deadlines, any time resulting from a defendant being joined for trial with a codefendant for whom the time for trial has not run and there is good cause for not granting severance, because this scenario is otherwise covered by provisions concerning not calculating time for delays due to complex cases based on the number of defendants;

- clarify the court's review of a defendant's potential risk for obstructing or attempting to obstruct the criminal justice process under the various available options for pretrial release, and indicate that a reasonable assurance against such risk may be deemed to exist if the prosecutor does not provide the court with information relevant thereto;

- indicate that the risk assessment instrument used for making assessment reports would not be required to include factors concerning the risk that the defendant would obstruct or attempt to obstruct the criminal justice process because this risk is not properly measurable by such instrument;

- clarify that only a prosecutor could initiate, by motion, a hearing seeking the pretrial detention of the defendant;

- add that any crime or offense involving domestic violence would constitute an act for which a prosecutor could present a motion to the court seeking the pretrial detention of the defendant;

- in the list of crimes and offenses against victims who are minors, for which a prosecutor could seek the pretrial detention of the defendant, limit these crimes to sexual offenses enumerated under paragraph (2) of subsection b. of section 2 of P.L.1994, c.133 (C.2C:7-2) or crimes involving human trafficking, or the crime of engendering the welfare of a child;

- indicate that, with respect to the pretrial release of a defendant, a failure by the court to notify the released defendant of any penalty or

consequences for violating a condition of release would not preclude any remedy authorized by law for any violation committed by the defendant;

- provide that a defendant who is released from jail on personal recognizance or subject only to non-monetary conditions could not be assessed any fee or other monetary assessment related to processing the defendant's release;

- limit the monitoring responsibilities of the Statewide Pretrial Services Program to those "appropriate defendants" given pretrial release on court-ordered conditions, and not require any monitoring of defendants released on a financial condition satisfied by commercial surety bond;

- increase the appropriation for the Statewide Pretrial Services Program, from \$15 million to \$22 million, and decrease the appropriation for the Statewide digital e-court information system, from \$17 million to \$10 million;

- provide that monies leftover in the "21st Century Justice Improvement Fund," after using monies as set forth in the bill for the Statewide Pretrial Services Program, Statewide digital e-court information system, and Legal Services of New Jersey, shall be retained by the Judiciary for the Pretrial Services Program or court information technology;

- create an additional reporting requirement for the Administrative Director of the Courts, concerning the implementation of the bill's speedy trial deadlines, bail and other pretrial release reforms, and pretrial detention proceedings, to address the impact of the bill's provisions on the Judiciary's administration of criminal justice in the fifth and tenth years following their implementation; and

- update the effective date to specify that the sections concerning the Judiciary's authority to revise and supplement fees for the pretrial assessment and monitoring program related to the bill and for other court-related programs and services would take effect immediately, while the remainder of the bill would take effect on the same day that a constitutional amendment modifying the current right to bail for all persons became part of the Constitution.

# LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

## SENATE, No. 946

### STATE OF NEW JERSEY 216th LEGISLATURE

DATED: JUNE 24, 2014

#### SUMMARY

- Synopsis:** Implements constitutional amendment authorizing denial of pretrial release; establishes speedy trial time frames; reforms bail proceedings; adds non-monetary bail alternatives; and authorizes Judiciary to revise fees for these and other court-related programs.
- Type of Impact:** County government inmate housing savings, County government speedy trial expenditures, General Fund revenue and expenditures.
- Agencies Affected:** County corrections agencies, County prosecutors, Judiciary, State Office of the Public Defender, Department of Law and Public Safety.

#### Office of Legislative Services Estimate-Immediate Impact

<b>Fiscal Impact</b>	<b><u>FY 2015</u></b>	<b><u>FY 2016</u></b>	<b><u>FY 2017</u></b>
<b>State Revenue</b>	\$42.1 million	\$42.1 million	\$42.1 million
<b>State Expenditures- Legal Services of NJ</b>	\$10.1 million	\$10.1 million	\$10.1 million
<b>State Expenditures- Statewide digital e- court information system</b>	\$10 million	\$10 million	\$10 million

#### Office of Legislative Services Estimate-Additional Impact If Constitution Amended

<b>Fiscal Impact</b>	<b><u>Year 1</u></b>	<b><u>Year 2</u></b>	<b><u>Year 3</u></b>
<b>State Expenditures- Judiciary</b>	\$19.9 million	\$35 million	\$35 million
<b>State Expenditures- Other</b>	Indeterminate Increase– See comments below		
<b>County Expenditures</b>	Indeterminate Impact– See comments below		

- The Office of Legislative Services (OLS) concludes that the aggregate fiscal impact of Senate No. 946 (2R), as well as the timing of portions of that impact, is indeterminate. The OLS estimates that State revenue will increase by \$42.1 million annually, as has been indicated by the Judiciary. The OLS also estimates that State expenditures will increase by up to \$10.1 million annually due to the dedication of increased judicial revenues to increased State funding for Legal Services of New Jersey and its affiliates. Expenditures by the Judiciary on a Statewide digital e-court information system will also increase by up to \$10 million annually, due to the dedication of increased judicial revenues. The bill will also result in additional State expenditures of an indeterminate amount, and will also have an indeterminate impact on county expenditures, if an amendment to the State Constitution authorizing the courts to deny pretrial release of certain defendants is approved.
- According to the Administrative Office of the Courts (AOC), the bill's provisions regarding bail reform and speedy trial deadlines (which are contingent upon approval of the requisite constitutional amendment) would require the hiring of staff to administer risk assessments and monitor defendants pending trial (including electronic monitoring, drug testing, and treatment services) at a cost of \$35 million annually plus an additional \$2.4 million in one-time costs to establish a fully integrated information technology system dedicated to the work of the Pretrial Services Unit. Utilizing this information, the OLS estimate illustrates the impact of the bill on the Judiciary as if the requisite constitutional amendment were approved and the applicable provisions of the bill were implemented the following January, and assumes that in the implementation fiscal year half the annual costs plus the initial information technology cost will be incurred. Given these cost estimates, at full implementation the bill will result in aggregate State expenditures that will exceed additional State revenue by at least \$13 million annually.
- The OLS concludes that the implementation of bail reforms and speedy trial deadlines would most likely decrease the number of individuals incarcerated in the county jails awaiting trials thus generating an indeterminate savings for the counties. Each county's savings would be determined by the number of individuals released as a result of this bill. The OLS further notes that these savings could be offset in small, perhaps insignificant degree by the bill's requirement that all persons committed to jail after being arrested on warrant remain incarcerated until the AOC conducts risk assessments and the courts conduct hearings for pretrial release or pretrial detention.
- The OLS also notes that implementation of the speedy trial provisions enumerated in the bill would impose additional responsibilities upon State and county prosecutors and the State Office of the Public Defender, as well as the courts, increasing county and State costs by an indeterminate amount.
- The AOC estimates that the increase in fees to be enacted by court rule as authorized by section 12 of the bill will result in \$42.1 million annually for deposit in the "21<sup>st</sup> Century Justice Improvement Fund" to fund a Statewide Pretrial Services Program, a statewide digital e-court information system, and Legal Services of New Jersey. The OLS has utilized that estimate to illustrate the bill's potential impact, but notes that the AOC has not provided any detailed data upon which the estimate is based. The OLS further notes that the projected annual revenue increase may not be achieved in the first fiscal year if the effective date of fee increases is significantly delayed by the rule adoption process.

## BILL DESCRIPTION

Senate Bill No. 946 (2R) of 2014 concerns several aspects of court administration. It would: (1) establish statutory speedy trial deadlines for persons being detained in jail, both pre- and post-indictment; (2) reform the manner in which determinations for bail and other forms of criminal pretrial release are made; (3) provide courts with the authority to deny pretrial release and instead order pretrial detention; and (4) authorize the Judiciary to revise and supplement fees to help fund a pretrial risk assessment and monitoring program, and other court-related programs and services.

The provisions concerning categories (1) through (3) listed above would only be implemented after enactment of an amendment to the New Jersey Constitution modifying the current constitutional right to bail for all persons. These provisions would take effect on the same day that a constitutional amendment, after approval by the voters, becomes part of the Constitution.

The provisions concerning category (4), authorizing the Judiciary to revise and supplement fees for the pretrial assessment and monitoring program related to the bill and for other court-related programs and services would take effect immediately.

### Speedy trial deadlines

The bill would establish the following deadlines:

- A person who has been charged with a crime and for whom pretrial detention is ordered by the court pursuant to the bill could not remain detained in jail for more than 90 days on that charge prior to the return of an indictment. If the person is not indicted within the specified 90 days, the person would be released from jail upon motion of the person or on the court's own motion. Notwithstanding the court's previous findings for ordering the person's pretrial detention (discussed in more detail below), the court would release the person on the person's own recognizance or set appropriate non-monetary conditions for the person's release.

- A person who has been indicted and for whom pretrial detention is ordered by the court could not remain detained in jail for more than 180 days on that charge following the return or unsealing of the indictment, whichever is later, before commencement of the trial. In the event a person's trial does not begin within the specified 180 days, the person would be released from jail upon motion of the person or the court's own motion, unless the court finds that a substantial and unjustifiable risk to the safety of any other person or the community or the obstruction of the criminal justice process would result from the defendant's release from custody, so that no appropriate conditions for the defendant's release could reasonably address that risk. If the court so finds, the court may allocate an additional period of time in which the defendant's trial shall commence before the defendant is released. Notwithstanding the court's previous findings for ordering the person's pretrial detention, the court would release the person on the person's own recognizance or set appropriate non-monetary conditions for the person's release to reasonably assure the person's appearance in court.

- In the event of a trial ordered after a mistrial or upon a motion for a new trial, such trial would commence within 120 days of the entry of the order of the court. A trial ordered upon the reversal of a judgment by any appellate court would commence within 120 days of the service of that court's trial mandate.

For any of the above deadlines, the bill sets forth certain periods which would be excluded in computing the time within which a case would need to be indicted or tried.

The speedy trial deadlines established by the bill would apply to any person who committed a crime on or after the applicable provisions became effective (which are tied to the approval of the constitutional amendment).

*Reforms for bail and other pretrial release determinations*

To help support the bill's bail and other pretrial release reforms, the Administrative Director of the Courts would establish and maintain a Statewide Pretrial Services Program.

Under the program, a risk assessment would be conducted on any person committed to jail after being arrested on warrant for an initial charge involving an indictable offense or disorderly persons offense within 48 hours of the person's commitment to jail for the purpose of making recommendations to the court concerning an appropriate pretrial release determination. The Pretrial Services Program would also monitor each person released on court-ordered conditions, but not including those persons who satisfy a financial condition of release through a surety bond executed by a properly authorized company to do so.

The bill would require that the court make a pretrial release decision "without unnecessary delay," but in no case later than 48 hours after the commitment to jail. The court would consider the person's circumstances and the risk assessment performed by the Pretrial Services Program before making any pretrial release decision.

A person out of jail on pretrial release could have the release revoked by a court, upon motion by a prosecutor, for violating a restraining order or condition of release, or a finding of probable cause that the person committed a new crime while on release. The court could only take action to revoke the person's pretrial release on a finding by clear and convincing evidence that no monetary bail, non-monetary conditions of release, or combination thereof imposed on the person would reasonably assure the person's appearance in court, the protection of the safety of any other person or the community, or that the person would not obstruct or attempt to obstruct the criminal justice system.

*Denial of pretrial release / pretrial detention*

Concerning the new authority for denying a person pretrial release (if approved by constitutional amendment), a prosecutor could file a motion seeking the pretrial detention of a person who was charged with certain crimes. The prosecutor, in seeking a pretrial detention proceeding for which there is no indictment, would be required to establish probable cause that the person committed the predicate offense.

Upon the filing of the motion for pretrial detention, and during any continuance of such motion, the person would be detained in jail, unless the person was previously released from custody, in which case the court would instead issue a notice to compel the person's appearance at the pretrial detention hearing.

The court would hold a hearing to determine whether any amount of monetary bail, non-monetary conditions, or combination thereof could reasonably assure the person's future court appearance, the protection of the safety of any other person or the community, or that the person would not obstruct or attempt to obstruct the criminal justice process.

The court, in making its determination for or against pretrial detention, could rely upon such factors as the nature and circumstances of the offense charged, the weight of evidence against the person, the person's history and characteristics, and the recommendations concerning appropriate pretrial release determinations by the Pretrial Services Program risk assessment.

*Court fees to support pretrial assessments, other court-related services and programs*

The bill provides that the Supreme Court may adopt Rules of Court to revise or supplement filing fees and other statutory fees payable to the court for the purpose of funding: (1) the development, maintenance, and administration of the above described Statewide Pretrial Services Program; (2) the development, maintenance, and administration of a Statewide digital e-court information system; and (3) the provision of legal assistance to the poor in civil matters by Legal



Services of New Jersey. All existing filing and statutory fees could not be increased or supplemented more than \$50 in the aggregate for each such fee.

The bill would establish in the General Fund a dedicated, non-lapsing fund to be known as the “21st Century Justice Improvement Fund.” This fund would be annually credited with a sum equal to the yearly revenue to be derived from the incremental amounts of any fees payable to the court that are revised or supplemented pursuant to the bill and the related fee revisions as provided by operation of N.J.S.22A:2-5 (fees payable in the Appellate Division, designated to be the same as those payable in the Supreme Court) and section 2 of P.L.1993, c.74 (C.22A:5-1) (fees payable in the Tax Court, designated to be the same as those payable in the Superior Court). The fund would be administered by the State Treasurer.

Monies annually credited in the “21st Century Justice Improvement Fund” would be allocated as follows:

(1) \$22 million would be appropriated annually to the Judiciary to be used for the Pretrial Services Program;

(2) \$10 million would be appropriated annually to the Judiciary for the Statewide digital e-court information system;

(3) \$10.1 million would be appropriated annually to the Department of the Treasury for distribution to Legal Services of New Jersey and its affiliates to facilitate the provision to the poor of legal assistance in civil matters; and

(4) Any remaining amounts still in the fund would be retained by the Judiciary for the purpose of developing, maintaining, and administering the Pretrial Services Program or for court information technology.

No later than the sixth month after the end of each State fiscal year the Administrative Director of the Courts would submit a report to the Governor, the President of the Senate, and the Speaker of the General Assembly describing the Judiciary’s use of funding provided through the bill and its progress toward the development, maintenance and administration of the Statewide Pretrial Services Program and Statewide digital e-court information system. In addition, for the reports submitted next following the fifth and tenth anniversaries of the implementation of (1) the speedy trial deadlines, (2) bail and other pretrial release reforms, and (3) pretrial detention proceedings, the director would provide information about the impact of the bill’s provisions on the Judiciary’s administration of criminal justice.

Legal Services of New Jersey also would submit a detailed financial statement to the Governor and legislative leadership, as well as the State Auditor, describing how funds provided pursuant to the bill were used for the provision of legal assistance to the poor in civil matters. Additionally, the bill requires that the use of public funds appropriated to Legal Services of New Jersey would be subject to oversight by the State Auditor.

The authority of the Supreme Court to revise or supplement any filing fees and other statutory fees would expire approximately seven months after the enactment of those sections of the bill establishing that authority, except that any fees that have been revised or supplemented would continue in effect, subject to the following:

Within 30 days of the fifth anniversary of the effective date of the Rules of Court first adopted concerning any fees, and additionally within 30 days of the tenth anniversary of that effective date, the Supreme Court could review all such fees revised or supplemented utilizing its rulemaking process, which includes a reasonable opportunity for public comment, to determine if the fees should remain unchanged as originally adopted pursuant to the bill or be reduced to reflect the funding needs associated with the purposes set forth in the bill for which the “21st Century Justice Improvement Fund” provides monies.

Finally, concerning court fees, as well as judicially imposed financial obligations, and related charges owed to a court when such are processed using credit cards, debit cards, or any other

accepted electronic method, the bill updates existing law to authorize, pursuant to Rules of Court, the Administrative Office of the Courts to assess, collect, and pay service charges and other costs resulting from the collection and processing of such fees, obligations, and charges. Any service charges and other costs assessed and collected by the Administrative Office of the Courts, with the exception of those charges or costs assessed and collected on behalf of municipal courts, would be deposited in the “Court Computer Information System Fund” established by subsection c. of section 1 of P.L.1994, c.54 (C.2B:1-4).

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

No information was provided.

### ***JUDICIAL BRANCH***

The AOC informs the OLS that it anticipates increasing revenue by \$42.1 million, which would be annually dedicated for a Statewide Pretrial Services Program (\$22 million), a Statewide digital e-court information system (\$10 million), and Legal Services of New Jersey (\$10.1 million).

The AOC further states that the bill would require the Judiciary to establish a new Pretrial Services Program to administer risk assessments to the approximately 85,000 defendants “committed to jail.” The Judiciary estimates that the results of the risk assessment would require pretrial monitoring of 25,000 defendants by the Pretrial Services Program. The AOC notes that the Judiciary would need approximately 400 new employees to administer risk assessments and monitor defendants pending trial. In addition, funds would be necessary for electronic monitoring, drug testing, and treatment services at a cost of \$35 million plus an additional \$2.4 million in initial costs to establish a fully integrated information technology system dedicated to the work of the Pretrial Services Unit.

The AOC adds that this estimate does not encompass the fiscal impact of the speedy trial provision contained in the bill. To accomplish this, the Judiciary would need an unknown number of additional staff.

### ***OFFICE OF LEGISLATIVE SERVICES***

Based in part on the estimates of revenue and expenditures provided by the AOC, OLS concludes that the aggregate fiscal impact of Senate No. 946 (2R), as well as the timing of portions of that impact, is indeterminate. The OLS estimates that State revenue will increase by \$42.1 million annually, as has been indicated by the Judiciary. The OLS also estimates that State costs will increase by up to \$10.1 million annually due to the dedication of increased judicial revenues to increased State funding for Legal Services of New Jersey and its affiliates. Expenditures by the Judiciary on a Statewide digital e-court information system will also increase by up to \$10 million annually, due to the dedication of increased judicial revenues. The bill will also result in additional State costs of an indeterminate amount, and will also have an indeterminate impact on county costs, if an amendment to the State Constitution authorizing the courts to deny pretrial release of certain defendants is approved.

Revenues: the AOC estimates that the increase in fees to be enacted by court rule as authorized by section 12 of the bill will result in \$42.1 million annually for deposit in the “21<sup>st</sup> Century Justice Improvement Fund” to fund the Pretrial Services Program, a statewide digital e-court information system, and Legal Services of New Jersey. The OLS has utilized that estimate to illustrate the bill’s potential impact, but notes that the AOC has not provided any detailed data upon which the estimate is based. Absent information on which filing and other fees would be increased or supplemented and the actual amount of those increases or supplements, the OLS notes the possibility that actual revenues could vary from the AOC’s estimate. The OLS further notes that the projected annual revenue increase may not be achieved in the first fiscal year if the effective date of fee increases is significantly delayed by the rule adoption process.

State expenditures: The bill increases State expenditures by \$10.1 million annually, due to the dedication of increased judicial revenues to increased State funding for Legal Services of New Jersey and its affiliates. Expenditures by the Judiciary on a Statewide digital e-court information system will also increase by up to \$10 million annually, due to the dedication of increased judicial revenues and the bill’s stipulation that the appropriation of dedicated revenues shall not replace appropriation from mother sources for Judiciary information technology.

A Statewide Pretrial Services Program, the outcome of the speedy trial and bail reform provisions of the bill, could be implemented only after adoption of an amendment to the New Jersey Constitution modifying the current constitutional right to bail for all persons (see N.J. Const. (1947), Article I, paragraph 11). It is thus uncertain if and when additional costs to the State would result from those provisions of the bill. The AOC’s estimate of the need for additional staff to administer risk assessments and monitor defendants pending trial (including electronic monitoring, drug testing, and treatment services) and its estimate of the associated costs of establishing and operating the Pretrial Services Unit assumes approval of the requisite constitutional amendment in the near future. The OLS notes that these estimates may understate the cost if the requisite constitutional amendment is not enacted until several years after the bill is approved.

Neither the Department of Law and Public Safety nor the Office of the Public Defender provided the OLS with any estimate of the bill’s impact on the prosecutorial costs of the Division of Criminal Justice or the provision of legal representation to defendants in criminal cases, respectively. The implementation of the speedy trial provisions enumerated in the bill would impose additional responsibilities upon those State agencies, increasing State costs by unknown amounts.

The OLS concludes that, assuming full implementation of all of the bill’s provisions and given the estimates of revenue and costs that would result, the additional costs to the State will exceed the amount of additional State revenue by at least \$13 million annually. However, in each fiscal year following approval of the bill until the requisite constitutional amendment is approved, the additional State revenue resulting from the bill will exceed additional State costs by about \$22 million annually. The OLS notes that this revenue is dedicated to the future costs of implementing establishing and operating the Pretrial Services Unit should the constitution be amended as required for that unit’s responsibilities to commence, so if a constitutional amendment does not occur in the near future, the point at which this net State impact has the same impact on State budgeting will be postponed.

County expenditures: the OLS concludes that the implementation of speedy trial deadlines and bail reforms would most likely decrease the number of individuals incarcerated in the county jails awaiting trials thus generating an indeterminate savings for the counties. Each county’s savings would be determined by the number of individuals released as a result of this bill.

Information obtained from the New Jersey Association of Counties (NJAC) indicates that there are about 13,000 inmates housed in county jails on any given day. About 12 percent, or 1,560 of these inmates are non-violent offenders who cannot make bail of \$2,500 or less. The average length of stay for an inmate who cannot make bail and is pending trial is about 314 days. The NJAC notes that it costs the counties about \$100 per day to house an inmate in a county correctional facility. The OLS notes that, assuming that individuals who are released under the provisions of this bill would have served 314 days in jail, at a cost of \$100 per day, for every individual who is released from county jails, county governments could save about \$31,400. While these data would suggest a savings to counties of about \$49 million, the actual impact could be considerably less, depending on the distribution of inmates and the difference between average and marginal cost of incarceration. This also assumes approval of the requisite constitutional amendment in the near future; if a substantial amount of time elapses before that occurs, this actual impact could vary significantly from this estimate.

The OLS further notes that these savings could be offset in small, perhaps insignificant degree by the bill's requirement that all persons committed to jail after being arrested on warrant remain incarcerated up to 48 hours until the AOC conducts risk assessments and the courts conduct hearings for pretrial release or pretrial detention. Under current law and practice there are some instances where individuals can obtain release more quickly than would occur under the bill's provisions.

*Section:           Judiciary*

*Analyst:          Anne Raughley  
                      Principal Fiscal Analyst*

*Approved:        David J. Rosen  
                      Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

STATEMENT TO  
[Second Reprint]  
**SENATE, No. 946**

with Senate Floor Amendments  
(Proposed by Senator NORCROSS)

ADOPTED: JUNE 31, 2014

These floor amendments make changes to the bill, which concerns several aspects of court administration, including the establishment of statutory speedy trial deadlines, reforms for bail and other forms of pretrial release, pretrial detention, and the Judiciary's authorization to revise fees for these matters and other court-related programs.

*Eligible defendants:*

The amendments define an eligible defendant, who would be subject to the bill's sections concerning speedy trial deadlines, bail as well as other pretrial release reforms, and pretrial detention proceedings, as "a person for whom a complaint-warrant is issued for an initial charge involving an indictable offense or disorderly persons offense," unless otherwise provided in the bill.

The bill's provisions would apply to any eligible defendant who is arrested, and for whom a complaint-warrant is issued, on or after the effective date of the aforementioned sections (which are tied to the approval of a constitutional amendment modifying the right to bail for all persons in order to permit court-ordered pretrial detention – see N.J. Const. (1947), Article I, paragraph 11). It would not matter whether the crime or offense was allegedly committed by the eligible defendant before, on, or after the effective date of those sections, as the bill intends to maintain a uniform system of criminal justice reform for all eligible defendants arrested in the wake of the bill's enactment. As an example, an eligible defendant arrested post-enactment for an act of murder from 20 years ago, still subject to prosecution because it is a crime with no statute of limitations, would be detained subject to a pretrial release risk assessment, and subsequently, pretrial release or detention as determined in accordance with the bill's provisions.

The amendments add new provisions concerning defendants who are arrested, then charged on complaint-summons and subsequently released from custody; but these defendants, not being "eligible defendants" held on a complaint-warrant, would not generally fall under the scope of the bill. For any such defendant released from custody after being charged on a complaint-summons, the bill would require, if that defendant was subsequently arrested on a warrant for failure to appear in court, eligibility for release on personal recognizance or on bail by sufficient sureties. If bail was not initially set when the warrant was issued, it would be set without unnecessary delay, but not later than 12 hours after arrest; any bail would also be

reviewed promptly if the defendant was unable to post bail. Additionally, a defendant failing to post bail could not be detained on the charges set forth in the complaint-summons beyond the maximum term of incarceration or term of probation supervision for such charges.

*Speedy trial deadlines:*

For eligible defendants imprisoned pursuant to the bill on pretrial detention, the bill's 90-day period for indictment or release from jail, and post-indictment, 180-day period for commencement of trial release from jail remain, but are moved from section 1 to section 8 to follow the relevant pretrial detention sections of the bill, and are further clarified to indicate that these periods are subject to excludable time for reasonable delays (which are based on the same reasons set forth in previous versions of the bill and remain unchanged by the floor amendments). Also, concerning the first release period, based on the prosecutor's failure to indict, the amendments would now authorize the court, upon motion by a prosecutor, to delay the eligible defendant's release, not to exceed an additional 45 days, based on a finding that (1) immediate release represented a substantial and unjustifiable risk of safety or obstruction of the criminal justice process, and (2) the failure to indict within the designated time was not due to unreasonable delay by the prosecutor; this is the same standard in the bill for delaying release, upon motion by the prosecutor, under the second period for an indicted eligible defendant awaiting commencement of trial, although the finding on no unreasonable delay attributable to the prosecutor would be based upon the failure to commence trial.

The amendments additionally add a final cap, of two years, excluding any delays attributable to the defendant, following the court's issuance of a pretrial detention order, in which a trial must begin against an indicted eligible defendant, measured by the prosecutor's readiness to proceed to voir dire or to opening argument, or to the hearing of any motions that had been reserved for the time of trial; if trial is not commenced at this point due to lack of prosecutor readiness, the eligible defendant would be released from jail after a release hearing pending further action on the trial.

As to post-detention release from jail, either for failure to indict or to commence trial, such release would be ordered by the court following the bill's hierarchy of pretrial release considerations, first considering release on personal recognizance (or execution of an unsecured appearance bond), then non-monetary conditions, then monetary bail, and, lastly, a combination of non-monetary conditions and monetary bail.

*Reforms for bail and other pretrial release determinations:*

Concerning the pretrial release risk assessment instrument to be used in making recommendations to the court on appropriate pretrial release determinations, the amendments would require the instrument

to be approved by the Administrative Director of the Courts. The approved risk assessment instrument would be objective, standardized, and developed based on an analysis of empirical data and relevant risk factors. The instrument would not be individually tailored to each eligible defendant; the risk measurements, as established, would instead be applied equally to all eligible defendants.

The risk assessment instrument would gather demographic information about each eligible defendant including, but not limited to, race, ethnicity, gender, financial resources, and socio-economic status. However, the amendments provide that recommendations for pretrial or release could not be discriminatory based on race, ethnicity, gender, or socio-economic status.

Under the amendments, a risk assessment would be conducted on every eligible defendant and presented to a court for a pretrial release determination after the eligible defendant's temporary detention following issuance of a complaint-warrant. The risk assessment would be completed and presented to the court so that the court could, without unnecessary delay, but in no case later than 48 hours after the eligible defendant's commitment to jail, make its pretrial release decision on the eligible defendant. This 48-hour release decision deadline would not apply if pretrial detention was instead under consideration due to the nature of the charge in the complaint-warrant (see below).

The amendments provide that the court would consider the release recommendations from the risk assessment, the eligible defendant's circumstances, and any information provided by the prosecutor before making any pretrial release decision. When making that decision, if the court entered an order that is contrary to a recommendation of release in the risk assessment, it would provide an explanation for such in the document authorizing the release. With respect to the pretrial release hierarchy of options available to the court following the risk assessment (release on personal recognizance, non-monetary conditions, monetary bail, or a combination of non-monetary conditions and monetary bail), the amendments leave the arranged order of this hierarchy unchanged.

However, concerning release on monetary bail or a combination of non-monetary conditions and monetary bail, the amendments add new pretrial protections for those eligible defendants who are unable to post the bail imposed by the court. Because this failure to post bail would result in such eligible defendants remaining detained in jail, the amendments would require that the provisions in the bill concerning the speedy trial deadlines for release upon the expiration of the periods of time within which the prosecutor must act to indict and commence trial (90 days and 180 days, respectively), the consideration of reasonable delays thereto, and the court's authority, on motion of the prosecutor, to allocate additional periods of time for indicting and commencing trial before release, discussed above for eligible

defendants ordered into pretrial detention, would apply to these eligible defendants as well.

*Denial of pretrial release / pretrial detention:*

As to an eligible defendant subject to possible pretrial detention, the amendments do not change the list of crimes and offenses that would trigger such detention eligibility. This list of crimes and offenses still includes: (1) a crime of the first or second degree enumerated under subsection d. of section 2 of P.L.1997, c.117 (C.2C:43-7.2), part of the State's "No Early Release Act"; (2) a crime for which the eligible defendant would be subject to an ordinary or extended term of life imprisonment; (3) any crime, if previously convicted of two or more crimes described in categories (1) or (2); (4) any criminal sexual offense enumerated under paragraph (2) of subsection b. of section 2 of P.L.1994, c.133 (C.2C:7-2) or crime involving human trafficking pursuant to section 1 of P.L.2005, c.77 (C.2C:13-8) or P.L.2013, c.51 (C.52:17B-237 et al.) when the victim is a minor, or the crime of endangering the welfare of a child under N.J.S.2C:24-4; (5) any crime that imposes a mandatory minimum term of imprisonment and parole ineligibility, due to the use or possession of a firearm while in the course of committing or attempting to commit the crime, as set forth in subsection c. of N.J.S.2C:43-6, part of the Graves Act (P.L.1981, c.31); (6) 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 (7) any other crime for which the prosecutor believes there is a serious risk that the eligible defendant would not appear in court, would pose a danger to another person or the community, or would obstruct or attempt to obstruct justice or threaten, injure, or intimidate a prospective witness or juror.

For pretrial detention hearings, when determining that no amount of monetary bail, non-monetary conditions or combination thereof would reasonably assure a future court appearance, safety of any other person or the community, or that the eligible defendant will not obstruct the criminal justice process, the amendments clarify that the court may only consider issues on the amount of monetary bail with respect to whether it will, by itself or with non-monetary conditions, reasonably assure the eligible defendant's appearance in court when required (and not consider the other factors of safety and obstruction). Additionally, the amendments provide that an eligible defendant who is released instead of detained following a pretrial detention hearing would be released pursuant to the aforementioned hierarchy of options available to the court (release on personal recognizance, non-monetary conditions, monetary bail, or a combination of non-monetary conditions and monetary bail).

*Reporting and Commission Review:*

The amendments provide that not later than the sixth month after the end of each fiscal year, the Administrative Director of the Courts would submit two reports. The first report, describing the Judiciary's



use of the funding and progress toward the development, maintenance and administration of a Statewide digital e-court information system, would be submitted to the Governor, the Senate President, and the Speaker of the General Assembly. The second report, concerning the development and administration of the Statewide Pretrial Services Program, would be submitted to the same parties, as well as to the newly created Pretrial Services Program Review Commission established by the amendments.

The commission would consist of the following 17 members: the Attorney General, or his designee; two members of the Senate, who would each be of different political parties, appointed by the Senate President; two members of the General Assembly, who would each be of different political parties, appointed by the Speaker of the General Assembly; the Administrative Director of the Courts, or his designee; two county prosecutors, appointed by the Governor based upon the recommendation of the County Prosecutors Association of the State of New Jersey; the Public Defender, or his designee; the following ex-officio public members: the President of the New Jersey State Conference of the National Association for the Advancement of Colored People, the President of the Latino Action Network, the Executive Director of the American Civil Liberties Union of New Jersey, the New Jersey State Director of the Drug Policy Alliance, and the President and Chief Executive Officer of the New Jersey Institute for Social Justice; and the following appointed public members: a county or municipal law enforcement officer appointed by the Governor, and two additional members having experience with, possessing a background in, or demonstrating a specialized knowledge of, the legal, policy, or social aspects of criminal justice pretrial release and detention programs, one appointed by the Governor upon the recommendation of the President of the Senate, and one appointed by the Governor upon the recommendation of the Speaker of the General Assembly.

The commission would meet from time to time and review the annual report on the Pretrial Services Program submitted by the Administrative Director of the Courts, examine the provisions of the bill once enacted into law concerning pretrial release and detention, and research release and detention programs from other states and jurisdictions. It would file an annual report with the Governor, Legislature, and Supreme Court on its activities, along with any findings and recommendations for legislation resulting from its work.

*Court fees to support pretrial risk assessments, other court-related services and programs:*

The amendments make corrections to the cross-referencing of sections in the bill for the “21st Century Justice Improvement Fund,” and the purposes set forth in the bill for which that fund provides monies (sections 14 and 15). The amendments do not make any substantive changes concerning these and other related sections

addressing the Judiciary's authority to revise or supplement filing fees and other statutory fees, and the Judiciary's use of those fees to support the new Pretrial Services Program established by the bill and other enumerated court-related programs (Statewide digital e-court information system; Legal Services of New Jersey).

*Effective date:*

Lastly, regarding the bill's effective date, in addition to the new language concerning the application of the bill to all eligible defendants arrested on or after the effective date, discussed above, the amendments also:

- indicate that, with respect to any delay to the effective date of the sections tied to the approval of the constitutional amendment modifying the right to bail (sections 1 through 11), nothing would be construed to affect the court's existing authority to revoke pretrial release prior to the effective date of those sections; and

- provide that the Supreme Court would have the authority to adopt rules and take all other appropriate administrative action necessary to implement the provisions of the bill.

# LEGISLATIVE FISCAL ESTIMATE

[Third Reprint]

## SENATE, No. 946

### STATE OF NEW JERSEY 216th LEGISLATURE

DATED: AUGUST 11, 2014

#### SUMMARY

- Synopsis:** Implements constitutional amendment providing for pretrial detention of certain criminal defendants; establishes non-monetary bail alternatives for release; authorizes Judiciary to revise fees for certain legal programs and services.
- Type of Impact:** County government inmate housing savings, county government speedy trial expenditures, General Fund revenue and expenditures.
- Agencies Affected:** County corrections agencies, county prosecutors, Judiciary, State Office of the Public Defender, Department of Law and Public Safety.

#### Office of Legislative Services Estimate-Immediate Impact

<b>Fiscal Impact</b>	<b><u>FY 2015</u></b>	<b><u>FY 2016</u></b>	<b><u>FY 2017</u></b>
<b>State Revenue</b>	\$42.1 million	\$42.1 million	\$42.1 million
<b>State Expenditures- Legal Services of NJ</b>	\$10.1 million	\$10.1 million	\$10.1 million
<b>State Expenditures- Statewide digital e- court information system</b>	\$10 million	\$10 million	\$10 million

#### Office of Legislative Services Estimate-Additional Impact If Constitution Amended

<b>Fiscal Impact</b>	<b><u>Year 1</u></b>	<b><u>Year 2</u></b>	<b><u>Year 3</u></b>
<b>State Expenditures- Judiciary</b>	\$19.9 million	\$35 million	\$35 million
<b>State Expenditures- Other</b>	Indeterminate Increase– See comments below		
<b>County Expenditures</b>	Indeterminate Impact– See comments below		

- The Office of Legislative Services (OLS) concludes that the aggregate fiscal impact of Senate No. 946 (3R), as well as the timing of portions of that impact, is indeterminate. The OLS estimates that State revenue will increase by \$42.1 million annually, as has been indicated by the Judiciary. The OLS also estimates that State expenditures will increase by up to \$10.1 million annually due to the dedication of increased judicial revenues to increased State funding for Legal Services of New Jersey and its affiliates. Expenditures by the Judiciary on a Statewide digital e-court information system will also increase by up to \$10 million annually, due to the dedication of increased judicial revenues. The bill will also result in additional State expenditures of an indeterminate amount, and will also have an indeterminate impact on county expenditures, if an amendment to the State Constitution modifying the right to bail for all persons in order to permit court-ordered pretrial detention is approved.
- According to the Administrative Office of the Courts (AOC), the bill's provisions regarding non-monetary bail alternatives and speedy trial deadlines (which are contingent upon approval of the requisite constitutional amendment) that require the creation of a Statewide Pretrial Services Program would necessitate the hiring of staff to administer risk assessments and monitor defendants pending trial (including electronic monitoring, drug testing, and treatment services) at a cost of \$35 million annually plus an additional \$2.4 million in one-time costs to establish a fully integrated information technology system dedicated to the work of the Pretrial Services Unit. Utilizing this information, the OLS estimate illustrates the impact of the bill on the Judiciary as if the requisite constitutional amendment were approved and the applicable provisions of the bill were implemented the following January, and assumes that in the implementation fiscal year half the annual costs plus the initial information technology cost will be incurred. Given these cost estimates, at full implementation the bill will result in aggregate State expenditures that will exceed additional State revenue by at least \$13 million annually.
- The OLS concludes that the implementation of bail reforms and speedy trial deadlines would most likely decrease the number of individuals incarcerated in the county jails awaiting trials thus generating an indeterminate savings for the counties. Each county's savings would be determined by the number of individuals released as a result of this bill. The OLS further notes that these savings could be offset in small, perhaps insignificant degree by the bill's requirement that all persons committed to jail after being arrested on warrant remain incarcerated until the AOC conducts risk assessments and the courts conduct hearings for pretrial release or pretrial detention.
- The OLS also notes that implementation of the speedy trial provisions enumerated in the bill would impose additional responsibilities upon State and county prosecutors and the State Office of the Public Defender, as well as the courts, increasing county and State costs by an indeterminate amount.
- The AOC estimates that the increase in fees to be enacted by court rule as authorized by section 12 of the bill will result in \$42.1 million annually for deposit in the "21<sup>st</sup> Century Justice Improvement Fund" to fund a Statewide Pretrial Services Program, a statewide digital e-court information system, and Legal Services of New Jersey. The OLS has utilized that estimate to illustrate the bill's potential impact, but notes that the AOC has not provided any detailed data upon which the estimate is based. The OLS further notes that the projected

annual revenue increase may not be achieved in the first fiscal year if the effective date of fee increases is significantly delayed by the rule adoption process.

- The OLS further notes that the Department of Law and Public Safety may incur additional expenses in an indeterminate amount to support the activities of the Pretrial Services Program Review Commission which would be established by the bill.

## **BILL DESCRIPTION**

Senate Bill No. 946 (3R) of 2014 concerns several aspects of court administration. It would: (1) establish statutory speedy trial deadlines for persons being detained in jail, both pre- and post-indictment; (2) reform the manner in which determinations for bail and other forms of criminal pretrial release are made; (3) provide courts with the authority to deny pretrial release and instead order pretrial detention; and (4) authorize the Judiciary to revise and supplement fees to help fund a pretrial risk assessment and monitoring program, and other court-related programs and services.

The provisions concerning categories (1) through (3) listed above would only be implemented after enactment of an amendment to the New Jersey Constitution modifying the current constitutional right to bail for all persons. These provisions would take effect on the same day that a constitutional amendment, after approval by the voters, becomes part of the Constitution.

The provisions concerning category (4), authorizing the Judiciary to revise and supplement fees for the pretrial assessment and monitoring program related to the bill and for other court-related programs and services would take effect immediately.

### *Speedy trial deadlines*

The bill would establish the following deadlines:

- A person who has been charged with a crime and for whom pretrial detention is ordered by the court pursuant to the bill could not remain detained in jail for more than 90 days on that charge prior to the return of an indictment. If the person is not indicted within the specified 90 days, the person would be released from jail upon motion of the person or on the court's own motion unless, on motion of the prosecutor, the court finds that a substantial and unjustifiable risk to the safety of any other person or the community or the obstruction of the criminal justice process would result from the defendant's release, and also finds that the failure to indict in accordance with the time requirements was not due to unreasonable delay by the prosecutor. If the court makes these findings it may allocate an additional period of up to 45 days in which the return of an indictment shall occur. Notwithstanding the court's previous findings for ordering the person's pretrial detention (discussed in more detail below), the court would release the person on the person's own recognizance or set appropriate non-monetary conditions for the person's release.

- A person who has been indicted and for whom pretrial detention is ordered by the court could not remain detained in jail for more than 180 days on that charge following the return or unsealing of the indictment, whichever is later, not counting excludable time for reasonable delays as set forth in the bill, before commencement of the trial. In the event a person's trial does not begin within the specified 180 days, the person would be released from jail unless on motion of the prosecutor the court finds that a substantial and unjustifiable risk to the safety of any other person or the community or the obstruction of the criminal justice process would result from the defendant's release from custody, so that no appropriate conditions for the defendant's

release could reasonably address that risk, and also finds that the failure to commence trial in accordance with the time requirement was not due to unreasonable delay by the prosecutor. If the court so finds, the court may allocate an additional period of time in which the defendant's trial shall commence before the defendant is released. Notwithstanding the court's previous findings for ordering the person's pretrial detention, the court would release the person on the person's own recognizance or set appropriate non-monetary conditions for the person's release to reasonably assure the person's appearance in court.

- In the event of a trial ordered after a mistrial or upon a motion for a new trial, such trial would commence within 120 days of the entry of the order of the court. A trial ordered upon the reversal of a judgment by any appellate court would commence within 120 days of the service of that court's trial mandate.

For any of the above deadlines, the bill sets forth certain periods which would be excluded in computing the time within which a case would need to be indicted or tried.

The speedy trial deadlines established by the bill would apply to any person who committed a crime on or after the effective date of the applicable provisions (which are tied to the approval of the constitutional amendment).

#### Reforms for bail and other pretrial release determinations

To help support the bill's bail and other pretrial release reforms, the Administrative Director of the Courts would establish and maintain a Statewide Pretrial Services Program.

Under the program, a risk assessment would be conducted on any person for whom a complaint-warrant is issued for an initial charge involving an indictable offense or disorderly persons offense within 48 hours of the person's commitment to jail for the purpose of making recommendations to the court concerning an appropriate pretrial release determination. The Statewide Pretrial Services Program would also monitor appropriate persons released on court-ordered conditions.

The bill would require that the court make a pretrial release decision "without unnecessary delay," but in no case later than 48 hours after the commitment to jail. The court would consider the person's circumstances and the risk assessment performed by the Statewide Pretrial Services Program before making any pretrial release decision.

A person out of jail on pretrial release could have the release revoked by a court, upon motion by a prosecutor, for violating a restraining order or condition of release, or a finding of probable cause that the person committed a new crime while on release. The court could only take action to revoke the person's pretrial release on a finding by clear and convincing evidence that no monetary bail, non-monetary conditions of release, or combination thereof imposed on the person would reasonably assure the person's appearance in court, the protection of the safety of any other person or the community, or that the person would not obstruct or attempt to obstruct the criminal justice system.

#### Denial of pretrial release / pretrial detention

Concerning the new authority for denying a person pretrial release (if approved by constitutional amendment), a prosecutor could file a motion seeking the pretrial detention of a person who was charged with certain crimes. The prosecutor, in seeking a pretrial detention proceeding for which there is no indictment, would be required to establish probable cause that the person committed the predicate offense.

Upon the filing of the motion for pretrial detention, and during any continuance of such motion, the person would be detained in jail, unless the person was previously released from custody, in which case the court would instead issue a notice to compel the person's appearance at the pretrial detention hearing.

The court would hold a hearing to determine whether any amount of monetary bail, non-monetary conditions, or combination thereof could reasonably assure the person's future court appearance, the protection of the safety of any other person or the community, or that the person would not obstruct or attempt to obstruct the criminal justice process.

The court, in making its determination for or against pretrial detention, could rely upon such factors as the nature and circumstances of the offense charged, the weight of evidence against the person, the person's history and characteristics, and the recommendations concerning appropriate pretrial release determinations by the Statewide Pretrial Services Program risk assessment.

*Court fees to support pretrial assessments, other court-related services and programs*

The bill provides that the Supreme Court may adopt Rules of Court to revise or supplement filing fees and other statutory fees payable to the court for the purpose of funding: (1) the development, maintenance, and administration of the above described Statewide Pretrial Services Program; (2) the development, maintenance, and administration of a Statewide digital e-court information system; and (3) the provision of legal assistance to the poor in civil matters by Legal Services of New Jersey. All existing filing and statutory fees could not be increased or supplemented more than \$50 in the aggregate for each such fee.

The bill would establish in the General Fund a dedicated, non-lapsing fund to be known as the "21st Century Justice Improvement Fund." This fund would be annually credited with a sum equal to the yearly revenue to be derived from the incremental amounts of any fees payable to the court that are revised or supplemented pursuant to the bill and the related fee revisions as provided by operation of N.J.S.22A:2-5 (fees payable in the Appellate Division, designated to be the same as those payable in the Supreme Court) and section 2 of P.L.1993, c.74 (C.22A:5-1) (fees payable in the Tax Court, designated to be the same as those payable in the Superior Court). The fund would be administered by the State Treasurer.

Monies annually credited in the "21st Century Justice Improvement Fund" would be allocated as follows:

(1) \$22 million would be appropriated annually to the Judiciary to be used for the Statewide Pretrial Services Program;

(2) \$10 million would be appropriated annually to the Judiciary for the Statewide digital e-court information system;

(3) \$10.1 million would be appropriated annually to the Department of the Treasury for distribution to Legal Services of New Jersey and its affiliates to facilitate the provision to the poor of legal assistance in civil matters; and

(4) Any remaining amounts still in the fund would be retained by the Judiciary for the purpose of developing, maintaining, and administering the Statewide Pretrial Services Program or for court information technology.

No later than the sixth month after the end of each State fiscal year the Administrative Director of the Courts would submit a report to the Governor, the President of the Senate, and the Speaker of the General Assembly describing the Judiciary's use of funding provided through the bill and its progress toward the development, maintenance and administration of the Statewide Pretrial Services Program and Statewide digital e-court information system. In addition, for the reports submitted next following the fifth and tenth anniversaries of the implementation of (1) the speedy trial deadlines, (2) bail and other pretrial release reforms, and (3) pretrial detention proceedings, the director would provide information about the impact of the bill's provisions on the Judiciary's administration of criminal justice.

Legal Services of New Jersey also would submit a detailed financial statement to the Governor and legislative leadership, as well as the State Auditor, describing how funds provided pursuant to the bill were used for the provision of legal assistance to the poor in civil matters.

Additionally, the bill requires that the use of public funds appropriated to Legal Services of New Jersey would be subject to oversight by the State Auditor.

The authority of the Supreme Court to revise or supplement any filing fees and other statutory fees would expire approximately seven months after the enactment of those sections of the bill establishing that authority, except that any fees that have been revised or supplemented would continue in effect, subject to the following:

Within 30 days of the fifth anniversary of the effective date of the Rules of Court first adopted concerning any fees, and additionally within 30 days of the tenth anniversary of that effective date, the Supreme Court could review all such fees revised or supplemented utilizing its rulemaking process, which includes a reasonable opportunity for public comment, to determine if the fees should remain unchanged as originally adopted pursuant to the bill or be reduced to reflect the funding needs associated with the purposes set forth in the bill for which the “21st Century Justice Improvement Fund” provides monies.

Finally, concerning court fees, as well as judicially imposed financial obligations, and related charges owed to a court when such are processed using credit cards, debit cards, or any other accepted electronic method, the bill updates existing law to authorize, pursuant to Rules of Court, the Administrative Office of the Courts to assess, collect, and pay service charges and other costs resulting from the collection and processing of such fees, obligations, and charges. Any service charges and other costs assessed and collected by the Administrative Office of the Courts, with the exception of those charges or costs assessed and collected on behalf of municipal courts, would be deposited in the “Court Computer Information System Fund” established by subsection c. of section 1 of P.L.1994, c.54 (C.2B:1-4).

#### Reporting and commission review

The bill provides that not later than the sixth month after the end of each fiscal year, the Administrative Director of the Courts would submit two reports. The first report, describing the Judiciary’s use of the funding and progress toward the development, maintenance and administration of a Statewide digital e-court information system, would be submitted to the Governor, the Senate President, and the Speaker of the General Assembly. The second report, concerning the development and administration of the Statewide Pretrial Services Program, would be submitted to the same parties, as well as to the Pretrial Services Program Review Commission that would newly created by the bill.

The commission would consist of the following 17 members: the Attorney General, or his designee; two members of the Senate, who would each be of different political parties, appointed by the Senate President; two members of the General Assembly, who would each be of different political parties, appointed by the Speaker of the General Assembly; the Administrative Director of the Courts, or his designee; two county prosecutors, appointed by the Governor based upon the recommendation of the County Prosecutors Association of the State of New Jersey; the Public Defender, or his designee; the following ex-officio public members: the President of the New Jersey State Conference of the National Association for the Advancement of Colored People, the President of the Latino Action Network, the Executive Director of the American Civil Liberties Union of New Jersey, the New Jersey State Director of the Drug Policy Alliance, and the President and Chief Executive Officer of the New Jersey Institute for Social Justice; and the following appointed public members: a county or municipal law enforcement officer appointed by the Governor, and two additional members having experience with, possessing a background in, or demonstrating a specialized knowledge of, the legal, policy, or social aspects of criminal justice pretrial release and detention programs, one appointed by the Governor upon the recommendation of the President of the Senate, and one appointed by the Governor upon the recommendation of the Speaker of the General Assembly.



The commission would meet from time to time and review the annual report on the Pretrial Services Program submitted by the Administrative Director of the Courts, examine the provisions of the bill once enacted into law concerning pretrial release and detention, and research release and detention programs from other states and jurisdictions. It would file an annual report with the Governor, Legislature, and Supreme Court on its activities, along with any findings and recommendations for legislation resulting from its work.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

No information was provided.

### ***JUDICIAL BRANCH***

The AOC informed the OLS that it anticipates increasing revenue by \$42.1 million, which would be annually dedicated for a Statewide Pretrial Services Program (\$22 million), a Statewide digital e-court information system (\$10 million), and Legal Services of New Jersey (\$10.1 million).

The AOC further stated that the bill would require the Judiciary to establish a new Pretrial Services Program to administer risk assessments to the approximately 85,000 eligible defendants. The Judiciary estimated that the results of the risk assessment would require pretrial monitoring of 25,000 defendants by the Pretrial Services Program. The AOC notes that the Judiciary would need approximately 400 new employees to administer risk assessments and monitor defendants pending trial. In addition, funds would be necessary for electronic monitoring, drug testing, and treatment services at a cost of \$35 million plus an additional \$2.4 million in initial costs to establish a fully integrated information technology system dedicated to the work of the Pretrial Services Unit.

The AOC added that this estimate did not encompass the fiscal impact of the speedy trial provision contained in the bill. To accomplish this, the Judiciary would need an unknown number of additional staff.

### ***OFFICE OF LEGISLATIVE SERVICES***

Based in part on the estimates of revenue and expenditures provided by the AOC, OLS concludes that the aggregate fiscal impact of Senate No. 946 (3R), as well as the timing of portions of that impact, is indeterminate. The OLS estimates that State revenue will increase by \$42.1 million annually, as has been indicated by the Judiciary. The OLS also estimates that State costs will increase by up to \$10.1 million annually due to the dedication of increased judicial revenues to increased State funding for Legal Services of New Jersey and its affiliates. Expenditures by the Judiciary on a Statewide digital e-court information system will also increase by up to \$10 million annually, due to the dedication of increased judicial revenues. The bill will also result in additional State costs of an indeterminate amount, and will also have an indeterminate impact on county costs, if an amendment to the State Constitution authorizing the courts to deny pretrial release of certain defendants is approved.

Revenues: the AOC estimates that the increase in fees to be enacted by court rule as authorized by section 12 of the bill will result in \$42.1 million annually for deposit in the “21<sup>st</sup> Century Justice Improvement Fund” to fund the Statewide Pretrial Services Program, a statewide digital

e-court information system, and Legal Services of New Jersey. The OLS has utilized that estimate to illustrate the bill's potential impact, but notes that the AOC has not provided any detailed data upon which the estimate is based. Absent information on which filing and other fees would be increased or supplemented and the actual amount of those increases or supplements, the OLS notes the possibility that actual revenues could vary from the AOC's estimate. The OLS further notes that the projected annual revenue increase may not be achieved in the first fiscal year if the effective date of fee increases is significantly delayed by the rule adoption process.

State expenditures: The bill increases State expenditures by \$10.1 million annually, due to the dedication of increased judicial revenues to increased State funding for Legal Services of New Jersey and its affiliates. Expenditures by the Judiciary on a Statewide digital e-court information system will also increase by up to \$10 million annually, due to the dedication of increased judicial revenues and the bill's stipulation that the appropriation of dedicated revenues shall not replace appropriation from mother sources for Judiciary information technology.

A Statewide Pretrial Services Program, the outcome of the speedy trial and bail reform provisions of the bill, could be implemented only after adoption of an amendment to the New Jersey Constitution modifying the current constitutional right to bail for all persons (see N.J. Const. (1947), Article I, paragraph 11). It is thus uncertain if and when additional costs to the State would result from those provisions of the bill. The AOC's estimate of the need for additional staff to administer risk assessments and monitor defendants pending trial (including electronic monitoring, drug testing, and treatment services) and its estimate of the associated costs of establishing and operating the Statewide Pretrial Services Program assumes approval of the requisite constitutional amendment in the near future. The OLS notes that these estimates may understate the cost if the requisite constitutional amendment is not enacted until several years after the bill is approved.

Neither the Department of Law and Public Safety nor the Office of the Public Defender provided the OLS with any estimate of the bill's impact on the prosecutorial costs of the Division of Criminal Justice and provision of services to the Pretrial Services Program Review Commission, and the provision of legal representation to defendants in criminal cases, respectively. The implementation of the speedy trial provisions enumerated in the bill would impose additional responsibilities upon those State agencies, increasing State costs by unknown amounts.

The OLS concludes that, assuming full implementation of all of the bill's provisions and given the estimates of revenue and costs that would result, the additional costs to the State will exceed the amount of additional State revenue by at least \$13 million annually. However, in each fiscal year following approval of the bill until the requisite constitutional amendment is approved, the additional State revenue resulting from the bill will exceed additional State costs by about \$22 million annually. The OLS notes that this revenue is dedicated to the future costs of implementing establishing and operating the Statewide Pretrial Services Program should the constitution be amended as required for that unit's responsibilities to commence, so if a constitutional amendment does not occur in the near future, the point at which this net State impact has the same impact on State budgeting will be postponed.

County expenditures: The OLS concludes that the implementation of speedy trial deadlines and bail reforms would most likely decrease the number of individuals incarcerated in the county jails awaiting trials thus generating an indeterminate savings for the counties. Each county's savings would be determined by the number of individuals released as a result of this bill.

Information obtained from the New Jersey Association of Counties indicates that there are about 13,000 inmates housed in county jails on any given day. About 12 percent, or 1,560 of these inmates are non-violent offenders who cannot make bail of \$2,500 or less. The average length of stay for an inmate who cannot make bail and is pending trial is about 314 days. The New Jersey Association of Counties notes that it costs the counties about \$100 per day to house an inmate in a county correctional facility. The OLS notes that, assuming that individuals who are released under the provisions of this bill would have served 314 days in jail, at a cost of \$100 per day, for every individual who is released from county jails, county governments could save about \$31,400. While these data would suggest a savings to counties of about \$49 million, the actual impact could be considerably less, depending on the distribution of inmates and the difference between average and marginal cost of incarceration. This also assumes approval of the requisite constitutional amendment in the near future; if a substantial amount of time elapses before that occurs, this actual impact could vary significantly from this estimate.

The OLS further notes that these savings could be offset in small, perhaps insignificant degree by the bill's requirement that all persons committed to jail after being arrested on warrant remain incarcerated up to 48 hours until the AOC conducts risk assessments and the courts conduct hearings for pretrial release or pretrial detention. Under current law and practice there are some instances where individuals can obtain release more quickly than would occur under the bill's provisions.

*Section:*            *Judiciary*  
*Analyst:*         *Anne Raughley*  
                         *Principal Fiscal Analyst*  
*Approved:*       *David J. Rosen*  
                         *Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

**ASSEMBLY, No. 1910**

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**STATE OF NEW JERSEY**

**216th LEGISLATURE**

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PRE-FILED FOR INTRODUCTION IN THE 2014 SESSION

**Sponsored by:**

**Assemblyman JOHN J. BURZICHELLI**

**District 3 (Cumberland, Gloucester and Salem)**

**Assemblywoman BONNIE WATSON COLEMAN**

**District 15 (Hunterdon and Mercer)**

**Assemblywoman L. GRACE SPENCER**

**District 29 (Essex)**

**Assemblyman JOHN F. MCKEON**

**District 27 (Essex and Morris)**

**Assemblyman RAJ MUKHERJI**

**District 33 (Hudson)**

**SYNOPSIS**

Implements constitutional amendment providing for pretrial detention of certain criminal defendants; establishes non-monetary bail alternatives for release; authorizes Judiciary to revise fees for certain legal programs and services.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel



**(Sponsorship Updated As Of: 6/13/2014)**

1 AN ACT concerning court administration, supplementing Titles 2A  
2 and 2B of the New Jersey Statutes, and amending P.L.1995,  
3 c.325.  
4

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

8 1. (New section) The provisions of P.L. , c. (C. )  
9 (pending before the Legislature as this bill) shall be liberally  
10 construed to effectuate the purpose of relying upon contempt of  
11 court proceedings or criminal sanctions instead of financial loss to  
12 ensure the appearance of the defendant, that the defendant will not  
13 pose a danger to any person or the community, and that the  
14 defendant will comply with all conditions of bail. Monetary bail  
15 shall be set when it is determined that no other conditions of release  
16 will reasonably assure the defendant's appearance in court and that  
17 the defendant does not present a danger to any person or the  
18 community.  
19

20 2. (New section) Upon the appearance before a court of a  
21 defendant charged with an offense, the court shall issue an order  
22 that the defendant be:

23 a. released on conditions including the execution of a bail bond  
24 pursuant to subsection b. of section 3 of P.L. , c. (C. )  
25 (pending before the Legislature as this bill);

26 b. released on his own personal recognizance; or

27 c. detained pursuant to section 4 of P.L. , c. (C. )  
28 (pending before the Legislature as this bill).  
29

30 3. (New section) a. Except as provided under section 4 of  
31 P.L. , c. (C. ) (pending before the Legislature as this bill), a  
32 court shall order the pretrial release of a defendant on personal  
33 recognizance when, after considering all the circumstances, the  
34 court determines that a defendant will appear as required either  
35 before or after conviction and the defendant will not pose a danger  
36 to any person or the community, or obstruct or attempt to obstruct  
37 justice, and that the defendant will comply with all conditions of  
38 release.

39 b. Except as provided under section 4 of P.L. , c. (C. )  
40 (pending before the Legislature as this bill), if a court determines  
41 that the release described in subsection a. of this section will not  
42 reasonably ensure the appearance of the person as required or will  
43 endanger the safety of any other person or the community, or will  
44 not prevent the person from obstructing or attempting to obstruct

**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 the criminal justice process, the court may order the pretrial release  
2 of the person:

3 (1) subject to the condition that the person not commit any  
4 crime during the period of release and avoid all contact with an  
5 alleged victim of the crime and with potential witnesses who may  
6 testify concerning the offense; or

7 (2) subject to the least restrictive condition, or combination of  
8 conditions, that the court determines will reasonably ensure the  
9 appearance of the person as required and the safety of any other  
10 person and the community, which may include the condition that  
11 the person:

12 (a) remain in the custody of a designated person, who agrees to  
13 assume supervision and to report any violation of a release  
14 condition to the court, if the designated person is reasonably able to  
15 ensure to the court that the defendant will appear as required and  
16 will not pose a danger to the safety of any other person or the  
17 community;

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

20 (c) maintain or commence an educational program;

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

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

25 (f) comply with a specified curfew;

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

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

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

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

36 (k) satisfy any other condition that is reasonably necessary to  
37 ensure the appearance of the person as required and to ensure the  
38 safety of any other person and the community; or

39 (l) be placed in a pretrial home supervision capacity with or  
40 without the use of an approved electronic monitoring device. The  
41 costs attributable to the electronic monitoring of an offender shall  
42 be borne by the Pretrial Services Unit in the county in which the  
43 defendant resides.

44 c. Except as provided under section 4 of P.L. , c. (C. )  
45 (pending before the Legislature as this bill), if the court determines  
46 that the conditions under subsection b. will not reasonably ensure  
47 the appearance of the person as required or will endanger the safety

1 of any other person or the community, or will not prevent the  
2 person from obstructing or attempting to obstruct the criminal  
3 justice process, the court may set bail for the offense charged in  
4 accordance with current statutory law and court rule.

5 d. The court may at any time amend an order made pursuant to  
6 this section to impose additional or different conditions of release.  
7 The court may not impose a financial condition that results in the  
8 pretrial detention of the person.

9  
10 4. (New section) a. The court may order the detention of a  
11 defendant before trial if, after a hearing pursuant to the section 5 of  
12 P.L. , c. (C. ) (pending before the Legislature as this bill),  
13 the court is clearly convinced that no amount of sureties, non-  
14 monetary conditions of pretrial release or combination of sureties  
15 and conditions would ensure the defendant's appearance as  
16 required, protect the safety of any person or of the community, or  
17 prevent the defendant from obstructing or attempting to obstruct the  
18 criminal justice process.

19 b. Except where a defendant charged with a crime is subject to  
20 a hearing upon the motion of the prosecutor or upon the court's own  
21 motion as set forth under paragraphs (1) and (2) of subsection a. of  
22 section 5 of P.L. , c. (C. ) (pending before the Legislature as  
23 this bill), there shall be a rebuttable presumption that some amount  
24 of sureties, non-monetary conditions of pretrial release or  
25 combination of sureties and conditions would ensure the  
26 defendant's appearance as required, protect the safety of the  
27 community, and prevent the defendant from obstructing or  
28 attempting to obstruct the criminal justice process.

29 c. A defendant shall have the right to appeal an order of detention  
30 before trial to the Appellate Division of the Superior Court, which may  
31 make a determination as to whether an amount of sureties, non-  
32 monetary conditions of pretrial release or combination of sureties and  
33 conditions would assure the defendant's appearance as required,  
34 protect the safety of any person or of the community, or prevent the  
35 defendant from obstructing or attempting to obstruct the criminal  
36 justice process. An appeal filed under this subsection shall be heard  
37 and decided no later than 30 days following the initial order of  
38 detention.

39  
40 5. (New section) a. A court shall hold a hearing to determine  
41 whether any condition or combination of conditions set forth under  
42 subsection b. of section 3 of P.L. , c. (C. ) (pending before  
43 the Legislature as this bill) will ensure the defendant's appearance  
44 as required, protect the safety of any person or of the community, or  
45 prevent the defendant from obstructing or attempting to obstruct the  
46 criminal justice process:

47 (1) Upon motion of the prosecutor in a case that involves:

- 1 (a) a crime enumerated under subsection d. of section 2 of  
2 P.L.1997, c.117 (C.2C:43-7.2);
- 3 (b) an offense for which the maximum sentence is life  
4 imprisonment;
- 5 (c) any indictable offense if the defendant has been convicted of  
6 two or more offenses under paragraph (1) or (2) of this subsection.
- 7 (d) any indictable offense where the victim is a minor; or
- 8 (e) any indictable offense enumerated under subsection c. of  
9 N.J.S.2C:43-6.
- 10 (2) Upon motion of the prosecutor or upon the court's own  
11 motion, in a case that involves a serious risk:
- 12 (a) that the defendant will flee;
- 13 (b) that the defendant will pose a danger to any person or the  
14 community; or
- 15 (c) that the defendant will obstruct or attempt to obstruct justice,  
16 or threaten, injure, or intimidate, or attempt to threaten, injure or  
17 intimidate, a prospective witness or juror.
- 18 b. The hearing shall be held immediately upon the defendant's  
19 first appearance unless the defendant, or the prosecutor, seeks a  
20 continuance. Except for good cause, a continuance on motion of the  
21 defendant may not exceed five days, not including any intermediate  
22 Saturday, Sunday, or legal holiday. Except for good cause, a  
23 continuance on motion of the prosecutor may not exceed three days,  
24 not including any intermediate Saturday, Sunday, or legal holiday.
- 25 During a continuance, the defendant shall be detained, and the  
26 court, on motion of the prosecutor or sua sponte, may order that,  
27 while in custody, a defendant who appears to be a drug dependent  
28 person receive an assessment to determine whether that defendant is  
29 drug dependent.
- 30 c. At the hearing, the defendant has the right to be represented  
31 by counsel, and, if financially unable to obtain adequate  
32 representation, to have counsel appointed. The defendant shall be  
33 afforded an opportunity to testify, to present witnesses, to cross-  
34 examine witnesses who appear at the hearing, and to present  
35 information by proffer or otherwise. The rules concerning  
36 admissibility of evidence in criminal trials shall not apply to the  
37 presentation and consideration of information at the hearing. The  
38 facts the court uses to support a finding pursuant to section 4 of  
39 P.L. , c. (C. ) (pending before the Legislature as this bill)  
40 that no condition or combination of conditions will reasonably  
41 ensure the defendant's appearance as required, protect the safety of  
42 any person or of the community, or prevent the defendant from  
43 obstructing or attempting to obstruct the criminal justice process  
44 shall be supported by clear and convincing evidence. The defendant  
45 may be detained pending completion of the hearing.
- 46 d. The hearing may be reopened, before or after a  
47 determination by the court, at any time before trial, if the court



1 finds that information exists that was not known to the movant at  
2 the time of the hearing and that has a material bearing on the issue  
3 whether there are conditions of release that will reasonably ensure  
4 the defendant's appearance as required, protect the safety of any  
5 person or of the community, or prevent the defendant from  
6 obstructing or attempting to obstruct the criminal justice process.

7  
8 6. (New section) In determining whether no amount of sureties,  
9 non-monetary conditions of pretrial release, or combination of  
10 sureties and conditions would ensure the defendant's appearance as  
11 required, protect the safety of any person or of the community, or  
12 prevent the defendant from obstructing or attempting to obstruct the  
13 criminal justice process, the court shall take into account the  
14 available information concerning:

15 a. The nature and circumstance of the offense charged,  
16 including whether the offense is a crime enumerated under  
17 subsection d. of section 2 of P.L.1997, c.117 (C.2C:43-7.2), is an  
18 indictable offense where the victim is a minor, or involves a  
19 firearm, explosive, or destructive device;

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

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

24 (1) the defendant's character, physical and mental condition,  
25 family ties, employment, financial resources, length of residence in  
26 the community, community ties, past conduct, history relating to  
27 drug or alcohol abuse, criminal history, and record concerning  
28 appearance at court proceedings; and

29 (2) whether, at the time of the current offense or arrest, the  
30 defendant was on probation, parole, or on other release pending  
31 trial, sentencing, appeal, or completion of sentence for an offense  
32 under federal or State law;

33 d. The nature and seriousness of the danger to any person or  
34 the community that would be posed by the person's release;

35 e. The release recommendation of the pretrial services agency  
36 obtained using a validated risk assessment instrument under section  
37 9 of P.L. , c. (C. ) (pending before the Legislature as this  
38 bill).

39

40 7. (New section) a. If a defendant is released on personal  
41 recognizance or released on conditions pursuant to section 3 of  
42 P.L. , c. (C. ) (pending before the Legislature as this bill),  
43 the court shall:

44 (1) include a written statement that sets forth all the conditions  
45 to which the release is subject, in a manner sufficiently clear and  
46 specific to serve as a guide for the defendant's conduct; and

47 (2) advise the defendant of:

1 (a) the penalties for violating a condition of release, including  
2 the penalties for committing an offense while on pretrial release;  
3 and

4 (b) the consequences of violating a condition of release,  
5 including the immediate issuance of a warrant for the person's  
6 arrest.

7 b. If the court disapproves a recommendation made in a  
8 validated risk assessment instrument when setting release  
9 conditions, the release order shall include a written explanation.

10

11 8. (New section) a. In a detention order issued pursuant to  
12 section 4 of P.L. , c. (C. )(pending before the Legislature as  
13 this bill), the court shall:

14 (1) include written findings of fact and a written statement of  
15 the reasons for the detention; and

16 (2) direct that the person be afforded reasonable opportunity for  
17 private consultation with counsel.

18 b. The court may, by subsequent order, permit the temporary  
19 release of the person subject to appropriate restrictive conditions,  
20 which may include but shall not be limited to State supervision, to  
21 the extent that the court determines such release to be necessary for  
22 preparation of the person's defense or for another compelling  
23 reason.

24

25 9. (New section) a. When a defendant charged with a crime  
26 enumerated in paragraph (1) of subsection a. of section 5 of P.L. ,  
27 c. (C. )(pending before the Legislature as this bill) is released  
28 from custody before trial, the court, upon a finding that the  
29 defendant while on release has willfully violated a restraining order  
30 or condition of release designed to protect any person or the safety  
31 of the community, or upon a finding of probable cause to believe  
32 that the defendant has committed a new crime of the first or second  
33 degree while on release, may revoke the defendant's release and  
34 order that the defendant be detained pending trial provided that the  
35 court is clearly convinced that no condition or combination of  
36 conditions that the defendant is likely to abide by would reasonably  
37 protect the safety of the community or any person.

38 b. In addition to revocation of release as authorized by this  
39 section, a violation of a condition of pretrial release imposed  
40 pursuant to subsection b. of section 3 of P.L. ,  
41 c. (C. )(pending before the Legislature as this bill) or any other  
42 law, may subject the defendant to civil contempt, criminal  
43 contempt, forfeiture of bail, or any combination of these sanctions  
44 and any other sanctions authorized by law.

45

46 10. (New section) a. The Administrative Director of the  
47 Administrative Office of the Courts shall establish and maintain a

- 1 Pretrial Services Unit in each county which shall provide pretrial  
2 release investigation services to effectuate the purposes of P.L. ,  
3 c. (C. ) (pending before the Legislature as this bill).
- 4 b. The Pretrial Services Unit established under this section  
5 shall be supervised by a Chief Pretrial Services Officer appointed  
6 by the Administrative Director of the Administrative Office of the  
7 Courts.
- 8 c. The Pretrial Services Unit shall conduct, prior to a bail  
9 hearing or first appearance, an assessment of all criminal defendants  
10 for the purpose of making recommendations to the court concerning  
11 the appropriate disposition, including whether the defendant shall  
12 be: released on his own personal recognizance; released upon  
13 execution of a bail bond; released on a condition or combination of  
14 conditions set forth under subsection b. of section 3 of P.L. , c.  
15 (C. ) (pending before the Legislature as this bill); or any other  
16 conditions necessary to effectuate the purposes of P.L. ,  
17 c. (C. ) (pending before the Legislature as this bill).
- 18 d. The pretrial assessment shall be conducted using a validated  
19 risk assessment instrument and shall include an examination of the  
20 factors set forth in section 5 of P.L. , c. (C. ) (pending before  
21 the Legislature as this bill).
- 22 e. In addition to the pretrial assessments made pursuant to this  
23 section, the Pretrial Services Unit shall monitor each defendant  
24 released pursuant to subsection b. of section 3 of P.L. ,  
25 c. (C. ) (pending before the Legislature as this bill) to ensure  
26 that the defendant adheres to the condition or combination of the  
27 conditions of the defendant's release ordered by the court.  
28
- 29 11. (New section) a. The Supreme Court, subject to the  
30 limitations set forth in subsection b. of this section, may adopt  
31 Rules of Court to revise or supplement filing fees and other  
32 statutory fees payable to the court for the sole purpose of funding:
- 33 (1) the provision to the poor of legal assistance in civil matters  
34 by Legal Services of New Jersey and its affiliates;
- 35 (2) the development, maintenance and administration of a  
36 Statewide digital e-court information system; and
- 37 (3) the development, maintenance and administration of a  
38 Pretrial Services Unit established in each county.
- 39 b. All existing filing fees and other statutory fees payable to  
40 the court on the effective date of this section shall not be increased  
41 more than \$50 in the aggregate for each fee beginning on the  
42 effective date of this section.
- 43 c. As used in P.L. , c. (C. ) (pending before the  
44 Legislature as this bill):
- 45 "Digital e-court information system" shall mean a Statewide  
46 integrated system that includes but is not limited to electronic filing,  
47 electronic service of process, electronic document management,

1 electronic case management, electronic financial management, and  
2 public access to digital court records; and

3 “Pretrial Service Unit” shall mean the pretrial service unit  
4 established pursuant to section 10 of P.L. , c. (C. ) (pending  
5 before the Legislature as this bill).

6  
7 12. (New section) The rules proposed pursuant to section 11 of  
8 P.L. , c. (C. ) (pending before the Legislature as this bill)  
9 shall be publicly announced by the Supreme Court. On the same  
10 day on which the rule or rules are publicly announced, the Supreme  
11 Court shall deliver true copies to the President of the Senate, the  
12 Speaker of the General Assembly, and the Governor. The Supreme  
13 Court shall provide the public with a reasonable opportunity to  
14 comment on the proposed rule or rules. The rule or rules shall take  
15 effect on the date provided by the Supreme Court.

16  
17 13. (New section) a. There is established in the General Fund a  
18 dedicated, non-lapsing fund to be known as the “21<sup>st</sup> Century  
19 Justice Improvement Fund,” which shall be credited annually with a  
20 sum equal to the revenue to be derived annually from the  
21 incremental amount of any filing fees or other statutory fees  
22 payable to the court that are revised or supplemented pursuant to  
23 P.L. , c. (C. ) (pending before the Legislature as this bill)  
24 and the related fee revisions as provided by operation of  
25 N.J.S.22A:2-5 and section 2 of P.L.1993, c.74 (C.22A:5-1). The  
26 fund shall be administered by the State Treasurer. Interest and  
27 other income earned on monies in the fund shall be credited to the  
28 fund. Monies credited to the fund shall be appropriated annually  
29 and used exclusively for the purposes of funding:

30 (1) the development, maintenance and administration of a  
31 Statewide digital e-court information system;

32 (2) the provision to the poor of legal assistance in civil matters  
33 by Legal Services of New Jersey and its affiliates; and

34 (3) the development, maintenance and administration of a  
35 Pretrial Services Unit in each county.

36 b. Any amount remaining in the fund after the appropriation of  
37 funds as provided in paragraphs (1), (2) or (3) of subsection a. of  
38 this section shall be retained by the Judiciary for the sole purpose of  
39 developing, maintaining and administering court information  
40 technology. The monies credited to the fund shall not be used for  
41 any purpose other than those purposes set forth in P.L. ,  
42 c. (C. ) (pending before the Legislature as this bill).

43  
44 14. (New section) To the extent that sufficient funds are  
45 available, monies annually credited in the “21<sup>st</sup> Century Justice  
46 Improvement Fund” shall be allocated pursuant to the following  
47 priority:

- 1 a. The first \$15 million credited annually in the fund shall be  
2 appropriated annually to the Judiciary to be used to fund the  
3 development, maintenance and administration of a Pretrial Services  
4 Unit in each county established pursuant to section 10 of P.L. ,  
5 c. (C. ) (pending before the Legislature as this bill).
- 6 b. From amounts remaining in the fund after the appropriation  
7 of funds as provided in subsection a. of this section, an amount not  
8 exceeding \$17 million shall be appropriated annually to the  
9 Judiciary to be used to fund the development, maintenance and  
10 administration of a Statewide digital e-court information system,  
11 which appropriations shall include amounts necessary to pay all  
12 service charges or other costs assessed by financial institutions or  
13 other entities for the use of credit cards, debit cards, electronic  
14 funds transfer, or any other method deemed feasible by the  
15 Administrative Office of the Courts. An appropriation made  
16 pursuant to this section shall not be used to replace appropriations  
17 from other sources for Judiciary information technology.
- 18 c. From amounts remaining in the fund after the appropriation  
19 of funds as provided in subsections a. and b. of this section, an  
20 amount not exceeding \$10.1 million credited annually in the fund  
21 shall be appropriated annually to the Department of the Treasury for  
22 distribution to Legal Services of New Jersey and its affiliates to  
23 facilitate the provision to the poor of legal assistance in civil  
24 matters, which shall supplement other funds as may be appropriated  
25 from any other source in a fiscal year for the same purpose. All  
26 State funds distributed to Legal Services of New Jersey shall be  
27 used exclusively for the provision to the poor of legal assistance in  
28 civil matters.
- 29 d. From amounts remaining in the fund after the appropriation  
30 of funds as provided in subsections a., b., and c. of this section, an  
31 amount not exceeding \$10 million shall be appropriated annually to  
32 the General Fund.
- 33 e. Any amount remaining in the fund after the appropriation of  
34 funds as provided in subsections a., b., c. and d. of this section shall  
35 be retained by the Judiciary for the sole purpose of developing,  
36 maintaining, and administering court information technology. The  
37 monies credited to the fund shall not be used for any purpose other  
38 than those purposes set forth in P.L. , c. (C. ) (pending  
39 before the Legislature as this bill).

40  
41 15. Section 6 of P.L.1995, c.325 (C.2B:1-5) is amended to read  
42 as follows:

- 43 6. a. (1) Notwithstanding the provisions of any other law to the  
44 contrary, the **【**Supreme Court, the Superior Court and the Tax  
45 Court, and the various municipal and joint municipal courts when  
46 permitted by resolution of the appropriate municipal governing  
47 bodies, are**】** Administrative Director of the Administrative Office of

1 the Courts is authorized to establish systems to accept the payment  
2 of filing fees, administrative charges, fines and penalties imposed  
3 for violations of Title 39 of the Revised Statutes, civil and criminal  
4 finances and penalties [and] , all other judicially imposed financial  
5 obligations, and related charges by card based payment, electronic  
6 funds transfer, or any other method deemed feasible by the  
7 **【Supreme Court】** Administrative Office of the Courts.

8 (2) The various municipal and joint municipal courts, when  
9 permitted by resolution of the appropriate municipal governing  
10 bodies, are authorized to establish systems to accept the payment of  
11 filing fees, administrative charges, fines and penalties imposed for  
12 violations of Title 39 of the Revised Statutes, civil and criminal  
13 finances and penalties, all other judicially imposed financial  
14 obligations, and related charges by card based payment, electronic  
15 funds transfer, or any other method deemed feasible by the  
16 Administrative Office of the Courts.

17 b. No person or organization that is a defendant in a criminal  
18 matter shall be entitled to offer a credit card for the payment of bail  
19 or for the payment of fines or penalties related to the imposition of  
20 a sentence, for a crime of the first, second or third degree under  
21 Title 2C of the New Jersey Statutes.

22 c. If not legally prohibited by an association, financial  
23 institution, or [by an] a card issuer, any court or the Administrative  
24 Office of the Courts is authorized to assess [and] , collect and pay  
25 from receipts service charges [related to] and other costs associated  
26 with the collection of filing fees, administrative fees, judicially  
27 imposed financial obligations, and related charges owed to [or  
28 collected by] the court when credit cards, debit cards [or] ,  
29 electronic funds transfer systems, or any other methods deemed  
30 feasible by the Administrative Office of the Courts are utilized.  
31 Alternatively, the Administrative Office of the Courts may pay such  
32 service charges and other costs out of the monies appropriated to  
33 the Judiciary pursuant to subsection b. of section 14 of P.L. \_\_\_\_\_,  
34 c. (C. \_\_\_\_\_) (pending before the Legislature as this bill).

35 d. The Supreme Court of the State of New Jersey **【shall】** may  
36 adopt Rules of Court appropriate or necessary to effectuate the  
37 purposes of this section.

38 (cf: P.L.1995, c.325, s.6)

39

40 16. (New section) Not later than the sixth month after the end of  
41 each State fiscal year, the Administrative Director of the Courts  
42 shall submit a report to the Governor, the President of the Senate,  
43 and the Speaker of the General Assembly describing the Judiciary's  
44 use of funding pursuant to sections 10 through 18 of P.L. \_\_\_\_\_,  
45 c. (C. \_\_\_\_\_) (pending before the Legislature as this bill) and the  
46 Judiciary's progress toward the development and deployment of a

1 Statewide digital e-court information system and the development  
2 and maintenance of the Pretrial Service Unit.

3  
4 17. (New section) Not later than the sixth month after the end of  
5 each State fiscal year, Legal Services of New Jersey, through the  
6 Department of the Treasury, shall submit to the Governor, the  
7 President of the Senate, the Speaker of the General Assembly, and  
8 the State Auditor a detailed financial statement describing how  
9 funds appropriated in the prior fiscal year pursuant to  
10 P.L. , c. (C. ) (pending before the Legislature as this bill)  
11 were used for the provision to the poor of legal assistance in civil  
12 matters. The use of public funds appropriated to Legal Services of  
13 New Jersey shall be subject to oversight by the State Auditor.

14  
15 18. (New section) a. The authority of the Supreme Court to  
16 revise or supplement filing fees and other statutory fees payable to  
17 the court pursuant to sections 11 and 12 of P.L. , c. (C. )  
18 (pending before the Legislature as this bill) shall expire on the first  
19 day of the seventh month next following the date of enactment of  
20 those sections, except that any filing fees and other statutory fees  
21 payable to the court that have been revised or supplemented  
22 pursuant to those sections shall continue in effect, subject to the  
23 provisions of this section.

24 b. Within 30 days of the fifth anniversary of the effective date  
25 of the Rules of Court first adopted pursuant to P.L. ,  
26 c. (C. ) (pending before the Legislature as this bill), and  
27 additionally within 30 days of the tenth anniversary of that effective  
28 date, the Court may review all filing fees and other statutory fees  
29 revised or supplemented pursuant to P.L. , c. (C. ) (pending  
30 before the Legislature as this bill) through its rulemaking process,  
31 which includes a reasonable opportunity for public comment, to  
32 determine if the fees should remain unchanged as originally adopted  
33 pursuant to P.L. , c. (C. ) (pending before the Legislature as  
34 this bill) or be reduced to reflect the funding needs associated with  
35 developing, maintaining and administering the Statewide digital e-  
36 court information system; and

37 c. On or after five years following the effective date of the  
38 Rules of Court first adopted pursuant to P.L. , c. (C. )  
39 (pending before the Legislature as this bill), if the annual grants  
40 provided to Legal Services of New Jersey by the Board of Trustees  
41 of the Income on Non-Interest Bearing Lawyers' Trust Accounts  
42 (IOLTA) Fund of the Bar of New Jersey, as established and  
43 operated pursuant to the Rules of Court, for use by Legal Services  
44 of New Jersey and its affiliates, equal or exceed \$25 million based  
45 on the most currently available information from the Supreme Court  
46 or as indicated in the most recently published annual report by the

1 trustees, then beginning with the fiscal year next following the  
2 fiscal year in which the grants equaled or exceeded \$25 million:

3 (1) The monies to be annually credited to the “21<sup>st</sup> Century  
4 Justice Improvement Fund” established by section 13 of  
5 P.L. , c. (C. ) (pending before the Legislature as this bill) for  
6 appropriation to the Department of the Treasury for distribution to  
7 Legal Services of New Jersey and its affiliates pursuant to  
8 subsection b. of section 4 of P.L. , c. (C. ) (pending before  
9 the Legislature as this bill) shall no longer be credited to the “21<sup>st</sup>  
10 Century Justice Improvement Fund.” The remainder of any monies  
11 in the “21<sup>st</sup> Century Justice Improvement Fund” that exceeds \$17  
12 million, as set forth in subsection a. of section 4 of P.L. ,  
13 c. (C. ) (pending before the Legislature as this bill), shall be  
14 deposited in the General Fund; and

15 (2) All filing fees and other statutory fees revised or  
16 supplemented pursuant to P.L. , c. (C. ) (pending before the  
17 Legislature as this bill) shall be reduced so that the fees payable to  
18 the court shall total no more than \$17 million annually and,  
19 pursuant to subsection a. of section 4 of P.L. , c. (C. )  
20 (pending before the Legislature as this bill), shall be used to fund  
21 the development, maintenance and administration of the Statewide  
22 digital e-court information system.

23  
24 19. Sections 1 through 6 and 8 through 9 of this act shall take  
25 effect immediately but shall remain inoperative until the date of  
26 approval by the voters of a constitutional amendment to Article I,  
27 paragraph 11 of the New Jersey Constitution authorizing the courts to  
28 deny pretrial release of certain defendants; sections 7 and 10 of this  
29 act shall take effect on the first day of the third month following  
30 enactment; sections 11 and 12 shall take affect immediately; and  
31 sections 13 through 18 shall take effect on July 1, 2014.

32

33

34

#### STATEMENT

35

36 This bill reforms the manner in which bail determinations in  
37 criminal cases are made in this State, and authorizes the Supreme  
38 Court to adopt Rules of Court to revise or supplement filing fees and  
39 other statutory fees in order to fund certain legal programs and  
40 services.

41 Under the sections pertaining to bail reform, the bill implements an  
42 amendment to the New Jersey State Constitution which modifies the  
43 constitutional right to bail and authorizes courts to deny pretrial  
44 release of certain offenders. The sections of the bill pertaining to  
45 pretrial detention are to remain inoperative until the enactment of an  
46 amendment to Article I, paragraph 11 of the New Jersey State



1 Constitution authorizing the courts to deny pretrial release to certain  
2 defendants.

3 The criteria and procedure to be followed by a court in denying  
4 pretrial release are outlined under the provisions of the bill. Upon a  
5 motion by the prosecutor, the court is to hold a hearing to determine  
6 whether to order the detention of the defendant if that defendant is  
7 charged with: (1) a crime under the No Early Release Act, (2) an  
8 offense for which the maximum sentence is life imprisonment, (3) an  
9 indictable offense if the defendant has been convicted of two or more  
10 crimes under the No Early Release Act or for which the maximum  
11 sentence is life imprisonment, (4) an indictable offense for which the  
12 victim is a minor, or (5) a crime that imposes a mandatory minimum  
13 term of imprisonment and parole ineligibility under the "Graves Act."  
14 In addition, the bill provides that a court may hold a detention hearing  
15 upon a motion of the prosecutor or the court in any case that involves a  
16 serious risk the defendant will flee, obstruct or attempt to obstruct  
17 justice, or threaten, injure, or intimidate a prospective witness or  
18 juror. The bill sets forth a presumption that a defendant will not be  
19 detained prior to trial unless that defendant meets the above criteria  
20 necessary for a detention hearing.

21 The bill requires that a detention hearing be held immediately  
22 upon the defendant's first appearance before the court unless the  
23 court orders a continuance. During a continuance, a defendant may,  
24 by motion of the court or the prosecution, receive an assessment to  
25 determine whether the defendant is a drug dependant person.  
26 During the hearing, a defendant is afforded the right to be  
27 represented by counsel, have an opportunity to testify, to present  
28 witnesses, and to cross-examine witnesses who appear at the  
29 hearing.

30 In determining whether to deny pretrial release, the bill requires  
31 a court to take into account the nature and circumstances of the  
32 offense charged, the weight of the evidence against the defendant,  
33 and certain criteria regarding the history and characteristics of the  
34 defendant which are enumerated under the bill. The bill further  
35 requires that a defendant who is subject to detention receive a  
36 written detention order that sets forth the reasons for the detention,  
37 and directs that the defendant be afforded a reasonable opportunity  
38 to privately consult with an attorney. The bill also affords a  
39 defendant the right to appeal an order of detention before trial to the  
40 Appellate Division of the Superior Court. An appeal filed by the  
41 defendant is required to be heard and decided no later than 30 days  
42 following the initial order of detention.

43 In addition, this bill provides a court with non-monetary release  
44 alternatives to setting bail for defendants charged with a crime to  
45 ensure that a defendant appears for trial. If a court determines that  
46 a defendant should not be released on his or her own recognizance,  
47 but does not pose a threat to any person or the community, the court

1 may impose one or a combination of non-monetary release  
2 conditions set forth in the bill in place of setting bail.

3 The bill requires that a defendant who is released on personal  
4 recognizance or released with conditions receive a written notice  
5 advising the defendant of the release conditions and the  
6 consequences of violating those conditions. A defendant released  
7 from custody may have his or her release revoked and be subject to  
8 pretrial detention if that defendant was charged with a crime for  
9 which he or she is eligible for pretrial detention, and the defendant  
10 while on release has violated a restraining order, a condition of  
11 release, or the court has probable cause to believe that the defendant  
12 has committed a new crime. In addition, a defendant who violates  
13 pretrial release conditions may be subject to civil contempt,  
14 criminal contempt, forfeiture of bail, or any combination of those  
15 sanctions imposed by the court.

16 In order to assist with pretrial determinations, the bill establishes  
17 a Pretrial Services Unit within each county to assess criminal  
18 defendants prior to a bail hearing or first appearance for the purpose  
19 of making recommendations to the court concerning the appropriate  
20 disposition. The bill requires that the pretrial assessment be  
21 conducted using a validated risk assessment instrument and include  
22 an examination that weighs the factors used to determine whether a  
23 defendant should be detained prior to trial. The Pretrial Services  
24 Unit also is required to monitor defendants who are released on  
25 conditions to ensure that they adhere to the condition, or conditions,  
26 of release ordered by the court.

27 In addition, the bill provides that the Supreme Court may,  
28 subject to limitations provided in the bill, adopt Rules of Court to  
29 revise or supplement filing fees and other statutory fees payable to  
30 the court for the sole purpose of funding: (1) the development,  
31 maintenance, and administration of a “Statewide digital e-court  
32 information system,” that incorporates electronic filing, service of  
33 process, document and case management, financial management,  
34 and public access to digital court records; (2) the development,  
35 maintenance, and administration of a Pretrial Services Unit in each  
36 county; and (3) the provision of legal assistance to the poor in civil  
37 matters by Legal Services of New Jersey.

38 The bill would establish in the General Fund a dedicated, non-  
39 lapsing fund to be known as the “21<sup>st</sup> Century Justice Improvement  
40 Fund.” This fund would be annually credited with a sum equal to  
41 the revenue to be derived annually from the incremental amounts of  
42 any fees payable to the court that are revised or supplemented  
43 pursuant to the bill and the related fee revisions as provided by  
44 operation of N.J.S.22A:2-5 (*fees payable in the Appellate Division,*  
45 *designated to be the same as those payable in the Supreme Court*)  
46 and section 2 of P.L.1993, c.74 (C.22A:5-1) (*fees payable in the*  
47 *Tax Court, designated to be the same as those payable in the*

1 *Superior Court*). The fund would be administered by the State  
2 Treasurer.

3 To the extent that sufficient funds are available, monies annually  
4 credited in the “21<sup>st</sup> Century Justice Improvement Fund” would be  
5 allocated as follows:

6 (1) the first \$15 million would be appropriated annually to the  
7 Judiciary to be used to fund the development, maintenance and  
8 administration of a Pretrial Services Unit in each county;

9 (2) from any amounts remaining thereafter, up to \$17 million  
10 would be appropriated annually to the Judiciary for the  
11 development, maintenance, and administration of the Statewide  
12 digital e-court information system;

13 (3) from any amounts remaining thereafter, up to \$10.1 million  
14 would be appropriated annually to the Department of the Treasury  
15 for distribution to Legal Services of New Jersey and its affiliates to  
16 facilitate the provision to the poor of legal assistance in civil  
17 matters. Additionally, this amount, as well as all other State funds  
18 distributed to Legal Services of New Jersey, would be required to  
19 be used exclusively for the provision of legal assistance to the poor  
20 in civil matters; and

21 (4) Any remaining amounts would be retained by the Judiciary  
22 for the sole purpose of developing, maintaining, and administering  
23 court information technology.

24 With regard to the monies from the “21<sup>st</sup> Century Justice  
25 Improvement Fund,” to be appropriated and distributed to Legal  
26 Services of New Jersey and its affiliates, this method of funding is  
27 only intended to provide monies to the organization and its affiliates  
28 until such time that the State’s fiscal health improves, at which  
29 point it is anticipated that such monies may be directly provided  
30 from the State’s General Fund.

31 No later than the sixth month after the end of each State fiscal  
32 year the Administrative Director of the Courts would submit a  
33 report to the Governor, the President of the Senate, and the Speaker  
34 of the General Assembly describing the Judiciary’s use of funding  
35 provided through the bill and its progress toward the development  
36 and deployment of the Statewide digital e-court information system  
37 and the development and maintenance of the Pretrial Services Unit.  
38 As part of the reporting requirement, Legal Services of New Jersey  
39 also would submit a detailed financial statement to the same parties  
40 plus the State Auditor, describing how funds provided pursuant to  
41 the bill were used for the provision of legal assistance to the poor in  
42 civil matters. Additionally, the bill requires that the use of public  
43 funds appropriated to Legal Services of New Jersey would be  
44 subject to oversight by the State Auditor.

45 As part of its development of the Statewide digital e-court  
46 information system, the Administrative Office of the Courts would  
47 be authorized to establish systems to accept the payment of filing

1 fees, administrative charges, fines and penalties imposed for motor  
2 vehicle violations under Title 39 of the Revised Statutes, civil and  
3 criminal penalties, other judicially imposed financial obligations,  
4 and related charges by card based payment, electronic funds  
5 transfer, or other methods the office deems feasible. The various  
6 municipal and joint municipal courts, when permitted by resolution  
7 of the appropriate municipal governing bodies, also would be  
8 authorized to establish such systems. These provisions, which  
9 amend existing law pertaining to electronic payment or fund  
10 transfer systems, also intend to clarify that the Administrative  
11 Office of the Courts or any particular State, municipal, or joint  
12 municipal court could assess service charges and other costs  
13 associated with the collection of any fees, charges, fines, penalties,  
14 or obligations.

15 The authority of the Supreme Court to revise or supplement any  
16 filing fees and other statutory fees under the bill would expire  
17 approximately seven months after the enactment of those sections  
18 of the bill establishing that authority, except that any fees that have  
19 been revised or supplemented would continue in effect, subject to  
20 the bill's provisions.

# ASSEMBLY JUDICIARY COMMITTEE

## STATEMENT TO

### ASSEMBLY, No. 1910

with committee amendments

# STATE OF NEW JERSEY

DATED: JUNE 12, 2014

The Assembly Judiciary Committee reports favorably and with committee amendments Assembly Bill No. 1910.

This bill, as amended, concerns several aspects of court administration. It would: (1) establish statutory speedy trial deadlines for persons being detained in jail, both pre- and post-indictment; (2) reform the manner in which determinations for bail and other forms of criminal pretrial release are made; (3) provide courts with the authority to deny pretrial release and instead order pretrial detention; and (4) authorize the Judiciary to revise and supplement fees to help fund a pretrial risk assessment and monitoring program, and other court-related programs and services.

The provisions concerning categories (1) through (3), set forth as sections 1 through 11 of the bill, could only be implemented after enactment of an amendment to the New Jersey Constitution modifying the current constitutional right to bail for all persons (see N.J. Const. (1947), Article I, paragraph 11). These provisions would take effect on the same day that a constitutional amendment, after approval by the voters, became part of the Constitution.

The provisions concerning category (4), sections 12 through 19 of the bill, authorizing the Judiciary to revise and supplement fees for the pretrial assessment and monitoring program related to the bill and for other court-related programs and services would take effect immediately.

*Speedy trial deadlines:*

Based in part on suggested pre- and post-indictment deadlines contained in recommendations 10 through 14 of the March 10, 2014 report of the New Jersey Supreme Court's Joint Committee on Criminal Justice, the bill would establish the following deadlines:

- A person who has been charged with a crime and for whom pretrial detention is ordered pursuant to the bill could not remain detained in jail for more than 90 days on that charge prior to the return of an indictment. If the person is not indicted within the specified 90 days, the person would be released from jail upon motion of the person or on the court's own motion. Notwithstanding the court's previous

findings for ordering the person's pretrial detention (discussed in more detail below), the court would release the person on the person's own recognizance or set appropriate non-monetary conditions for the person's release.

- A person who has been indicted and for whom pretrial detention is ordered could not remain detained in jail for more than 180 days on that charge following the return or unsealing of the indictment, whichever is later, before commencement of the trial. The 180-day time period would commence to run from the date the indictment is returned, or the person, if a juvenile, has been waived to adult court. In the event a person's trial does not begin within the specified 180 days, the person would be released from jail upon motion of the person or the court's own motion, unless the court finds that a substantial and unjustifiable risk to the safety of any other person or the community or the obstruction of the criminal justice process would result from the defendant's release from custody, so that no appropriate conditions for the defendant's release could reasonably address that risk. If the court so finds, the court may allocate an additional period of time in which the defendant's trial shall commence before the defendant is released. Notwithstanding the court's previous findings for ordering the person's pretrial detention, the court would release the person on the person's own recognizance or set appropriate non-monetary conditions for the person's release to reasonably assure the person's appearance in court.

- In the event of a trial ordered after a mistrial or upon a motion for a new trial, such trial would commence within 120 days of the entry of the order of the court. A trial ordered upon the reversal of a judgment by any appellate court would commence within 120 days of the service of that court's trial mandate.

For any of the above deadlines, the bill sets forth periods which would be excluded in computing the time within which a case would need to be indicted or tried, including:

(1) the time resulting from an examination and hearing on competency and the period during which the person is incompetent to stand trial or incapacitated;

(2) the time from the filing to the disposition of a person's application for supervisory treatment pursuant to N.J.S.2C:36A-1 or N.J.S.2C:43-12 et seq., special probation pursuant to N.J.S.2C:35-14, drug or alcohol treatment as a condition of parole pursuant to N.J.S.2C:45-1, or other pretrial treatment or supervisory program;

(3) the time from the filing to the final disposition of a motion made before trial by the prosecutor or the person;

(4) the time resulting from a continuance granted, in the court's discretion, at the person's request or at the request of both parties;

(5) the time resulting from the detention of the person in another jurisdiction provided the prosecutor has been diligent and has made reasonable efforts to obtain the person's presence;

(6) the time resulting from exceptional circumstances including, but not limited to, a natural disaster, the unavoidable unavailability of the person, material witness or other evidence, when there is a reasonable expectation that the person, witness or evidence will become available in the near future; and

(7) on motion of the prosecutor, the delay resulting when the court finds that the case is complex due to the number of defendants or the nature of the prosecution.

The speedy trial deadlines established by the bill would apply to any person who committed a crime on or after the applicable provisions became effective (which are tied to the approval of the constitutional amendment).

*Reforms for bail and other pretrial release determinations:*

To help support the bill's bail and other pretrial release reforms, the Administrative Director of the Courts would establish and maintain a Statewide Pretrial Services Program.

Under the program, a risk assessment would be conducted on any person committed to jail after being arrested on warrant for an initial charge involving an indictable offense or disorderly persons offense. This assessment would occur within 48 hours of the person's commitment to jail. The purpose of the assessment would be to make recommendations to the court concerning an appropriate pretrial release determination, including whether the person would be released: on the person's own personal recognizance or on execution of an unsecured appearance bond; on a non-monetary condition or conditions enumerated in the bill, including such conditions as avoiding contact with an alleged victim or witness, or reporting on a regular basis to a designated law enforcement agency; upon execution of a bail bond, other than an unsecured appearance bond; or, on a combination of monetary bail and non-monetary conditions. The Pretrial Services Program would also monitor each person released on court-ordered conditions, but not including those persons who satisfy a financial condition of release through a surety bond executed by a properly authorized company to do so.

The bill would require that the court make a pretrial release decision "without unnecessary delay," but in no case later than 48 hours after the commitment to jail. The court would consider the person's circumstances and the risk assessment performed by the Pretrial Services Program before making any pretrial release decision. When making that decision, if the court disapproved of a recommended condition of release made in the risk assessment, it would provide an explanation for such in the document authorizing the person's release.

The court would order pretrial release of the person on the person's own recognizance or on execution of an unsecured appearance bond whenever the court determined that such release would reasonably assure the person's appearance in court when required, the protection

of the safety of any other person or the community, and that the defendant would not obstruct or attempt to obstruct the criminal justice process (such as by intimidating the alleged victim or potential witnesses).

However, if the court had concerns, after consideration, with the person's future court appearances, posing a danger to other persons or the community, or interference with the criminal justice process, it could alternatively order pretrial release subject to one or more non-monetary conditions, including but not limited to: avoiding contact with an alleged victim or witness; reporting on a regular basis to a designated law enforcement agency; remaining in the custody of a designated person who agrees to assume supervision and report violations of any release condition; or complying with a specified curfew. Such condition or conditions would be the least restrictive means determined by the court to be necessary to reasonably assure the person's court appearance, the safety of other persons and the community, and non-interference with the criminal justice process.

If release on non-monetary conditions alone, after consideration, would not reasonably assure the person's future court appearances, the court could instead order that person's pretrial release on monetary bail by means other than an unsecured appearance bond. The court could only impose such a financial condition to reasonably assure the person's future appearance. It could not impose such a condition to reasonably assure the safety of any other person or the community or non-interference with the criminal justice process, or do so for the purpose of preventing the person's release.

If the court was not satisfied that monetary bail alone could reasonably assure future court appearances, or if the safety of other persons or the community or obstruction of the criminal justice process was still a factor, the court could instead order pretrial release subject to a combination of monetary bail and non-monetary conditions.

Whenever a person was released, the court would notify the person of the conditions, if any, to which the release is subject, as well as the consequences for violating any such conditions, including the immediate issuance of a warrant for the person's arrest, and the criminal penalties for any such violation. If the person was released on personal recognizance or subject only to non-monetary conditions, the person could not be assessed any fee or other monetary assessment related to processing the release.

A person out of jail on pretrial release could have the release revoked by a court, upon motion by a prosecutor, for violating a restraining order or condition of release, or a finding of probable cause that the person committed a new crime while on release. The court could only take action to revoke the person's pretrial release on a finding by clear and convincing evidence that no monetary bail, non-monetary conditions of release, or combination thereof imposed on the person would reasonably assure the person's appearance in court, the



protection of the safety of any other person or the community, or that the person would not obstruct or attempt to obstruct the criminal justice system.

*Denial of pretrial release / pretrial detention:*

Concerning the new authority for denying a person pretrial release, a prosecutor could file a motion, before or after a person secures pretrial release, seeking the pretrial detention of a person. Such detention would only be available for a person who was charged with: (1) a crime of the first or second degree enumerated under subsection d. of section 2 of P.L.1997, c.117 (C.2C:43-7.2), part of the State's "No Early Release Act"; (2) a crime for which the person would be subject to an ordinary or extended term of life imprisonment; (3) any crime, if previously convicted of two or more crimes described in categories (1) or (2); (4) any criminal sexual offense enumerated under paragraph (2) of subsection b. of section 2 of P.L.1994, c.133 (C.2C:7-2) or crime involving human trafficking pursuant to section 1 of P.L.2005, c.77 (C.2C:13-8) or P.L.2013, c.51 (C.52:17B-237 et al.) when the victim is a minor, or the crime of endangering the welfare of a child under N.J.S.2C:24-4; (5) any crime that imposes a mandatory minimum term of imprisonment and parole ineligibility, due to the use or possession of a firearm while in the course of committing or attempting to commit the crime, as set forth in subsection c. of N.J.S.2C:43-6, part of the Graves Act (P.L.1981, c.31); (6) 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); or (7) any other crime for which the prosecutor believes there is a serious risk that the person would not appear in court, would pose a danger to any other person or the community, or would obstruct or attempt to obstruct justice or threaten, injure, or intimidate a prospective witness or juror. A prosecutor, in seeking a pretrial detention proceeding for which there is no indictment, would be required to establish probable cause that the person committed the predicate offense.

Upon the filing of the motion for pretrial detention, and during any continuance of such motion, the person would be detained in jail, unless the person was previously released from custody, in which case the court would instead issue a notice to compel the person's appearance at the pretrial detention hearing.

The court would hold a hearing to determine whether any amount of monetary bail, non-monetary conditions, or combination thereof could reasonably assure the person's future court appearance, the protection of the safety of any other person or the community, or that the person would not obstruct or attempt to obstruct the criminal justice process. Generally, there would be a rebuttable presumption for some form of pretrial release, except with respect to a person charged with a "No Early Release Act" crime, a crime for which the person would be subject to an ordinary or extended term of life imprisonment, or murder. With respect to those latter two categories

of crimes, there would be a rebuttable presumption that the person must be detained pending trial. This presumption could be rebutted by the person upon a showing of the preponderance of the evidence in support of the person. If the person cannot rebut the presumption, the court could order pretrial detention, but if rebutted, the prosecutor would have the opportunity to still establish grounds for pretrial detention.

The court, in making its determination for or against pretrial detention, could rely upon such factors as the nature and circumstances of the offense charged, the weight of evidence against the person, the person's history and characteristics, and the recommendations concerning appropriate pretrial release determinations by the Pretrial Services Program risk assessment.

*Court fees to support pretrial assessments, other court-related services and programs*

To help pay for the bill's new pretrial assessments and monitoring, as well as additional court-related programs and services, the bill provides that the Supreme Court may adopt Rules of Court to revise or supplement filing fees and other statutory fees payable to the court for the purpose of funding: (1) the development, maintenance, and administration of the above described Statewide Pretrial Services Program; (2) the development, maintenance, and administration of a Statewide digital e-court information system, that incorporates electronic filing, service of process, document and case management, financial management, and public access to digital court records; and (3) the provision of legal assistance to the poor in civil matters by Legal Services of New Jersey. As a limit on the court's authority, all existing filing and statutory fees could not be increased or supplemented more than \$50 in the aggregate for each such fee.

The bill would establish in the General Fund a dedicated, non-lapsing fund to be known as the "21st Century Justice Improvement Fund." This fund would be annually credited with a sum equal to the yearly revenue to be derived from the incremental amounts of any fees payable to the court that are revised or supplemented pursuant to the bill and the related fee revisions as provided by operation of N.J.S.22A:2-5 (*fees payable in the Appellate Division, designated to be the same as those payable in the Supreme Court*) and section 2 of P.L.1993, c.74 (C.22A:5-1) (*fees payable in the Tax Court, designated to be the same as those payable in the Superior Court*). The fund would be administered by the State Treasurer.

Monies annually credited in the "21st Century Justice Improvement Fund" would be allocated as follows:

- (1) \$22 million would be appropriated annually to the Judiciary to be used for the Pretrial Services Program;
- (2) \$10 million would be appropriated annually to the Judiciary for the Statewide digital e-court information system;

(3) \$10.1 million would be appropriated annually to the Department of the Treasury for distribution to Legal Services of New Jersey and its affiliates to facilitate the provision to the poor of legal assistance in civil matters; and

(4) Any remaining amounts still in the fund would be retained by the Judiciary for the purpose of developing, maintaining, and administering the Pretrial Services Program or for court information technology.

No later than the sixth month after the end of each State fiscal year the Administrative Director of the Courts would submit a report to the Governor, the President of the Senate, and the Speaker of the General Assembly describing the Judiciary's use of funding provided through the bill and its progress toward the development, maintenance and administration of the Statewide Pretrial Services Program and Statewide digital e-court information system. In addition, for the reports submitted next following the fifth and tenth anniversaries of the implementation of (1) the speedy trial deadlines, (2) bail and other pretrial release reforms, and (3) pretrial detention proceedings (all described above), the director would provide information about the impact of the bill's provisions on the Judiciary's administration of criminal justice.

Legal Services of New Jersey also would submit a detailed financial statement to the Governor and legislative leadership, as well as the State Auditor, describing how funds provided pursuant to the bill were used for the provision of legal assistance to the poor in civil matters. Additionally, the bill requires that the use of public funds appropriated to Legal Services of New Jersey would be subject to oversight by the State Auditor.

The authority of the Supreme Court to revise or supplement any filing fees and other statutory fees would expire approximately seven months after the enactment of those sections of the bill establishing that authority, except that any fees that have been revised or supplemented would continue in effect, subject to the following:

Within 30 days of the fifth anniversary of the effective date of the Rules of Court first adopted concerning any fees, and additionally within 30 days of the tenth anniversary of that effective date, the Supreme Court could review all such fees revised or supplemented utilizing its rulemaking process, which includes a reasonable opportunity for public comment, to determine if the fees should remain unchanged as originally adopted pursuant to the bill or be reduced to reflect the funding needs associated with the purposes set forth in the bill for which the "21st Century Justice Improvement Fund" provides monies.

Finally, concerning court fees, as well as judicially imposed financial obligations, and related charges owed to a court when such are processed using credit cards, debit cards, or any other accepted electronic method, the bill updates existing law to authorize, pursuant

to Rules of Court, the Administrative Office of the Courts to assess, collect, and pay service charges and other costs resulting from the collection and processing of such fees, obligations, and charges. Any service charges and other costs assessed and collected by the Administrative Office of the Courts, with the exception of those charges or costs assessed and collected on behalf of municipal courts, would be deposited in the “Court Computer Information System Fund” established by subsection c. of section 1 of P.L.1994, c.54 (C.2B:1-4).

This bill was pre-filed for introduction in the 2014-2015 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

COMMITTEE AMENDMENTS:

The committee amendments to the bill:

- establish the statutory pre- and post-indictment speedy trial deadlines described above;
- re-title the court’s Pretrial Services Unit as the Pretrial Services Program, to be operated on a Statewide basis without the requirement of operating in each county;
- replace references to “sureties” with the term “monetary bail”;
- clarify that all persons committed to jail after being arrested on warrant for an initial charge involving an indictable offense or disorderly persons offense would be subject to a risk assessment by the Pretrial Services Program, and thereafter given consideration for pretrial release or detention under the bill’s provisions;
- require courts to make pretrial release decisions without unnecessary delay, but in no case later than 48 hours after a person’s commitment to jail;
- require consideration of the person’s circumstances and the Pretrial Services Program risk assessment before a court makes a pretrial release decision;
- indicate that the risk assessment instrument used for making assessment reports would not be required to include factors concerning the risk that the defendant would obstruct or attempt to obstruct the criminal justice process because this risk is not properly measurable by such instrument;
- clarify the courts’ options for pretrial release based on monetary bail, non-monetary conditions, or a combination thereof;
- indicate that monetary bail may only be imposed to reasonably assure a person’s future court appearance, and not to reasonably assure the safety of any other person or the community or non-interference with the criminal justice process, or for the purpose of preventing pretrial release;
- clarify the role of prosecutors in filing motions seeking a person’s pretrial detention;
- specify that pretrial detention hearings, if occurring after a person’s first court appearance for release or if there is no first

appearance due to a motion for detention, would be scheduled within three working days of the prosecutor's motion filing, unless the prosecutor or the person seeks a continuance;

- indicate that upon the filing of a pretrial detention motion, and during any continuance thereof, the person would be detained in jail, but if the person was previously released the court would instead issue a notice to compel the person's appearance at the pretrial detention hearing;

- require that for a pretrial detention hearing for which there is no indictment, the prosecutor would be required to establish probable cause that the person committed the predicate offense;

- provide for a rebuttable presumption that a person be detained pending trial for the crime of murder or any crime for which the person would be subject to an ordinary or extended term of life imprisonment, if the court found probable cause that the person committed such crime;

- concerning expenditures from the "21st Century Justice Improvement Fund," eliminate the specified order in which monies credited annually are to be appropriated;

- increase the appropriation for the Statewide Pretrial Services Program, from \$15 million to \$22 million, and decrease the appropriation for the Statewide digital e-court information system, from \$17 million to \$10 million;

- eliminate the appropriation of funds going to the General Fund (not to exceed \$10 million), following the specified appropriations for the Pretrial Services Program, Statewide digital e-court information system, and Legal Services of New Jersey;

- eliminate the process under which Legal Services of New Jersey would cease getting monies from the fund if the organization received annual grants of \$25 million or more from the State Bar's Board of Trustees of Income on Non-Interest Bearing Lawyers' Trust Accounts, thereby allowing the organization to continue receiving monies from the fund;

- provide that monies leftover in the "21st Century Justice Improvement Fund," after using monies as set forth in the bill for the Statewide Pretrial Services Program, Statewide digital e-court information system, and Legal Services of New Jersey, shall be retained by the Judiciary for the Pretrial Services Program or court information technology;

- create an additional reporting requirement for the Administrative Director of the Courts, concerning the implementation of the bill's speedy trial deadlines, bail and other pretrial release reforms, and pretrial detention proceedings, to address the impact of the bill's provisions on the Judiciary's administration of criminal justice in the fifth and tenth years following their implementation;

- restore the authority of the various State and municipal courts to establish systems to accept payments of court fees, judicially imposed

obligations, and related charges by various electronic methods, and clarify the authority of the Administrative Office of the Courts to assess, collect, and pay service charges and other costs resulting from the collection of such fees, obligations, and related charges;

- require that service charges and other costs collected by the Administrative Office of the Courts would be deposited in the “Court Computer Information System Fund,” except for those charges and costs assessed and collected on behalf of municipal courts;

- update internal references and cross-references to the various sections of the bill to reflect the renumbering of sections and other changes made by the amendments;

- update the effective date to specify that the sections concerning the Judiciary’s authority to revise and supplement fees for the pretrial assessment and monitoring program related to the bill and for other court-related programs and services would take effect immediately, while the remainder of the bill would take effect after voter approval of a constitutional amendment concerning the denial of pretrial release as described above; and

- update the bill synopsis to reflect the various changes made by the amendments.

# ASSEMBLY APPROPRIATIONS COMMITTEE

## STATEMENT TO

[First Reprint]

## ASSEMBLY, No. 1910

with committee amendments

# STATE OF NEW JERSEY

DATED: JUNE 19, 2014

The Assembly Appropriations Committee reports favorably Assembly Bill No. 1910 (1R), with committee amendments.

This bill, as amended, concerns several aspects of court administration. It would: (1) establish statutory speedy trial deadlines for persons being detained in jail, both pre- and post-indictment; (2) reform the manner in which determinations for bail and other forms of criminal pretrial release are made; (3) provide courts with the authority to deny pretrial release and instead order pretrial detention; and (4) authorize the Judiciary to revise and supplement fees to help fund a pretrial risk assessment and pretrial release monitoring program, and other court-related programs and services.

The provisions concerning categories (1) through (3), set forth as sections 1 through 11 of the bill, could only be implemented after enactment of an amendment to the New Jersey Constitution modifying the current constitutional right to bail for all persons (see N.J. Const. (1947), Article I, paragraph 11). These provisions would take effect on the same day that a constitutional amendment, after approval by the voters, became part of the Constitution.

The provisions concerning category (4), sections 12 through 19 of the bill, authorizing the Judiciary to revise and supplement fees for the pretrial assessment and monitoring program related to the bill and for other court-related programs and services would take effect immediately.

*Eligible defendants:*

The bill defines an eligible defendant, who would be subject to the bill's provisions concerning speedy trial deadlines, bail as well as other pretrial release reforms, and pretrial detention proceedings, as "a person who is arrested on a complaint-warrant for an initial charge involving an indictable offense or disorderly persons offense," unless otherwise provided in the bill. The bill's provisions would apply to any eligible defendant who committed a crime or offense on or after the aforementioned provisions became effective (which are tied to the approval of the constitutional amendment).

There are provisions in the bill concerning defendants who are arrested on complaint-summons and subsequently released from custody, but these defendants, not being “eligible defendants” held on a complaint-warrant, do not generally fall under the scope of the bill. For any such defendant released from custody after being charged on a complaint-summons, the bill would require, if that defendant was subsequently arrested on warrant for failure to appear in court, to be eligible for release on personal recognizance or on bail by sufficient sureties. If bail was not initially set when the warrant was issued, it would be set without unnecessary delay, but no later than 12 hours after arrest; any bail would also be reviewed promptly if the defendant was unable to post bail. Additionally, a defendant failing to post bail could not be detained on the charges contained in the complaint-summons beyond the maximum term of incarceration or term of probation supervision for such charges.

*Speedy trial deadlines:*

Based in part on suggested pre- and post-indictment deadlines contained in recommendations 10 through 14 of the March 10, 2014 report of the New Jersey Supreme Court’s Joint Committee on Criminal Justice, the bill would establish the following deadlines:

- An eligible defendant who has been charged with a crime of the first degree and for whom pretrial detention is ordered pursuant to the bill could not remain detained in jail for more than 90 days on that charge prior to the return of an indictment. If the eligible defendant is not indicted within the specified 90 days, the person would be released from jail upon motion of the person or on the court’s own motion. Notwithstanding the court’s previous findings for ordering the eligible defendant’s pretrial detention (discussed in more detail below), the court would release the person on personal recognizance, non-monetary conditions, monetary bail, or a combination of monetary bail and non-monetary conditions.

- An eligible defendant who has been indicted for a crime of the first degree and for whom pretrial detention is ordered could not remain detained in jail for more than 180 days on that charge following the return or unsealing of the indictment, whichever is later, before commencement of the trial. The 180-day time period would commence to run from the date the indictment is returned, or the eligible defendant, if a juvenile, has been waived to adult court. In the event an eligible defendant’s trial does not begin within the specified 180 days, the person would be released from jail upon motion of the person or the court’s own motion, unless the court finds that a substantial and unjustifiable risk to the safety of any other person or the community or the obstruction of the criminal justice process would result from the defendant’s release from custody, so that no appropriate conditions for the defendant’s release could reasonably address that risk. If the court so finds, the court may allocate an



additional period of time in which the eligible defendant's trial shall commence before the defendant is released.

- In the event of a trial ordered after a mistrial or upon a motion for a new trial, such trial would commence within 120 days of the entry of the order of the court. A trial ordered upon the reversal of a judgment by any appellate court would commence within 120 days of the service of that court's trial mandate.

For any of the above deadlines, the bill sets forth periods which would be excluded in computing the time within which a case would need to be indicted or tried, including:

(1) the time resulting from an examination and hearing on competency and the period during which the eligible defendant is incompetent to stand trial or incapacitated;

(2) the time from the filing to the disposition of an eligible defendant's application for supervisory treatment pursuant to N.J.S.2C:36A-1 or N.J.S.2C:43-12 et seq., special probation pursuant to N.J.S.2C:35-14, drug or alcohol treatment as a condition of parole pursuant to N.J.S.2C:45-1, or other pretrial treatment or supervisory program;

(3) the time from the filing to the final disposition of a motion made before trial by the prosecutor or the eligible defendant;

(4) the time resulting from exceptional circumstances including, but not limited to, a natural disaster, the unavoidable unavailability of the eligible defendant, material witness or other evidence, when there is a reasonable expectation that the eligible defendant, witness or evidence will become available in the near future; and

(5) on motion of the prosecutor, the delay resulting when the court finds that the case is complex due to the number of defendants or the nature of the prosecution.

*Reforms for bail and other pretrial release determinations:*

To help support the bill's bail and other pretrial release reforms, the Administrative Director of the Courts would establish and maintain a Statewide Pretrial Services Program.

Under the program, the Administrative Director of the Courts would approve a risk assessment instrument to be used in making recommendations to the court concerning appropriate pretrial release determinations on eligible defendants. The possible release options would include release: on the person's own personal recognizance or on execution of an unsecured appearance bond; on a non-monetary condition or conditions enumerated in the bill, including such conditions as abiding by specified restrictions on personal associations, or reporting on a regular basis to a designated law enforcement agency; upon execution of a bail bond, other than an unsecured appearance bond; or, on a combination of monetary bail and non-monetary conditions.

The approved risk assessment would be objective, standardized, and developed based on an analysis of empirical data and relevant risk

factors. The instrument could not include as a factor an eligible defendant's race, ethnicity, gender, financial resources, or socio-economic status. It would be evaluated at least once every three years by an independent entity and thereafter adjusted, as appropriate.

A risk assessment would be conducted within 48 hours of an eligible defendant's arrest, if that person was not immediately bailable because the arrest involved a crime of the first degree, permitting the prosecutor to make a motion for pretrial detention (detailed further below), or if that person was otherwise immediately bailable but was unable to post bail. For such a person, the court would consider the recommendations from the assessment, the person's circumstances, and any information provided by a prosecutor before making any pretrial release decision. When making that decision, if the court entered an order that is contrary to a recommendation of release made in the risk assessment, it would provide an explanation for such in the document authorizing the eligible defendant's release.

The court would order pretrial release of the eligible defendant on the person's own recognizance or on execution of an unsecured appearance bond whenever the court determined that such 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 would not obstruct or attempt to obstruct the criminal justice process (such as by intimidating the alleged victim or potential witnesses).

However, if the court had concerns, after consideration, with the eligible defendant's future court appearances, posing a danger to other persons or the community, or interference with the criminal justice process, it could alternatively order pretrial release subject to the following: not committing any offense during release; avoiding contact with an alleged victim or witness; and any one or more non-monetary conditions, such as reporting on a regular basis to a designated law enforcement agency or remaining in the custody of a designated person. Such non-monetary condition or conditions would be the least restrictive means determined by the court to be necessary to reasonably assure the eligible defendant's court appearance, the safety of other persons and the community, and non-interference with the criminal justice process.

If release on non-monetary conditions alone, after consideration, would not reasonably assure the eligible defendant's future court appearances, the court could instead order that person's pretrial release on monetary bail, or modified monetary bail if bail had been previously set but not posted, by means other than an unsecured appearance bond. The court could only impose or modify such a financial condition to reasonably assure the eligible defendant's future appearance. It could not impose or modify such a condition to reasonably assure the safety of any other person or the community or

non-interference with the criminal justice process, or do so for the purpose of preventing the person's release.

If the court was not satisfied that monetary bail alone could reasonably assure future court appearances, or if the safety of other persons or the community or obstruction of the criminal justice process was still a factor, the court could instead order pretrial release subject to a combination of monetary bail and non-monetary conditions.

Whenever an eligible defendant was released, the court would notify the person of the conditions, if any, to which the release is subject, as well as the consequences for violating any such conditions, including the immediate issuance of a warrant for the person's arrest, and the criminal penalties for any such violation. If the eligible defendant was released on personal recognizance or subject only to non-monetary conditions, that person could not be assessed any fee or other monetary assessment related to processing the release.

The Statewide Pretrial Services Program, in addition to its role in making recommendations on pretrial release, would be involved in monitoring appropriate eligible defendants released on court-ordered conditions.

An eligible defendant out of jail on pretrial release could have the release revoked by a court, upon motion by a prosecutor, for violating a restraining order or condition of release, or a finding of probable cause that the person committed a new crime while on release. The court could not take action to revoke the eligible defendant's pretrial release unless the court found by clear and convincing evidence that no monetary bail, non-monetary conditions of release, or combination thereof imposed on the eligible defendant would reasonably assure the eligible defendant's appearance in court, the protection of the safety of any other person or the community, or that the eligible defendant would not obstruct or attempt to obstruct the criminal justice system.

*Denial of pretrial release / pretrial detention:*

Concerning the new authority for a court to deny an eligible defendant an immediate opportunity for bail, and ultimately any form of pretrial release based upon a prosecutor filing a motion, such detention would only be available for a person accused of a first degree crime. A prosecutor, in seeking a pretrial detention proceeding for which there is no indictment, would be required to establish probable cause that the eligible defendant committed the predicate offense.

Upon the filing of the motion for pretrial detention, and during any continuance of such motion, the eligible defendant would be detained in jail, unless the person was previously released from custody, in which case the court would instead issue a notice to compel the person's appearance at the pretrial detention hearing.

The court would hold a hearing to determine whether any amount of monetary bail, non-monetary conditions, or combination thereof could reasonably assure the eligible defendant's future court

appearance, the protection of the safety of any other person or the community, or that the eligible defendant would not obstruct or attempt to obstruct the criminal justice process. Generally, there would be a rebuttable presumption for some form of pretrial release, except with respect to an eligible defendant charged with murder or a crime for which the eligible defendant would be subject to an ordinary or extended term of life imprisonment. With respect to those two categories of crimes, there would be a rebuttable presumption that the eligible defendant must be detained pending trial. This presumption could be rebutted by the eligible defendant upon a showing of the preponderance of the evidence in support of that person. If the eligible defendant cannot rebut the presumption, the court could order pretrial detention, but if rebutted, the prosecutor would have the opportunity to still establish grounds for pretrial detention.

The court, in making its determination for or against pretrial detention, could rely upon such factors as the nature and circumstances of the offense charged, the weight of evidence against the eligible defendant, the eligible defendant's history and characteristics, and the recommendations concerning appropriate pretrial release determinations by the Pretrial Services Program risk assessment. If released, the eligible defendant would be released on personal recognizance, non-monetary conditions, monetary bail, or a combination of monetary bail and non-monetary conditions.

*Court fees to support pretrial assessments, other court-related services and programs:*

To help pay for the bill's new pretrial assessments and monitoring, as well as additional court-related programs and services, the bill provides that the Supreme Court may adopt Rules of Court to revise or supplement filing fees and other statutory fees payable to the court for the purpose of funding: (1) the development, maintenance, and administration of the above described Statewide Pretrial Services Program; (2) the development, maintenance, and administration of a Statewide digital e-court information system, that incorporates electronic filing, service of process, document and case management, financial management, and public access to digital court records; and (3) the provision of legal assistance to the poor in civil matters by Legal Services of New Jersey. As a limit on the court's authority, all existing filing and statutory fees could not be increased or supplemented more than \$50 in the aggregate for each such fee.

The bill would establish in the General Fund a dedicated, non-lapsing fund to be known as the "21st Century Justice Improvement Fund." This fund would be annually credited with a sum equal to the yearly revenue to be derived from the incremental amounts of any fees payable to the court that are revised or supplemented pursuant to the bill and the related fee revisions as provided by operation of N.J.S.22A:2-5 (*fees payable in the Appellate Division, designated to be the same as those payable in the Supreme Court*) and section 2 of

P.L.1993, c.74 (C.22A:5-1) (*fees payable in the Tax Court, designated to be the same as those payable in the Superior Court*). The fund would be administered by the State Treasurer.

Monies annually credited in the “21st Century Justice Improvement Fund” would be allocated as follows:

(1) \$22 million would be appropriated annually to the Judiciary to be used for the Pretrial Services Program;

(2) \$10 million would be appropriated annually to the Judiciary for the Statewide digital e-court information system;

(3) \$10.1 million would be appropriated annually to the Department of the Treasury for distribution to Legal Services of New Jersey and its affiliates to facilitate the provision to the poor of legal assistance in civil matters; and

(4) Any remaining amounts still in the fund would be retained by the Judiciary for the purpose of developing, maintaining, and administering the Pretrial Services Program or for court information technology.

No later than the sixth month after the end of each State fiscal year the Administrative Director of the Courts would submit a report to the Governor, the President of the Senate, and the Speaker of the General Assembly describing the Judiciary’s use of funding provided through the bill, including its progress toward the development, maintenance and administration of the Statewide Pretrial Services Program and Statewide digital e-court information system. In addition, for the reports submitted next following the fifth and tenth anniversaries of the implementation of (1) the speedy trial deadlines, (2) bail and other pretrial release reforms, and (3) pretrial detention proceedings (all described above), the director would provide information about the impact of the bill’s provisions on the Judiciary’s administration of criminal justice.

Legal Services of New Jersey also would submit a detailed financial statement to the Governor and legislative leadership, as well as the State Auditor, describing how funds provided pursuant to the bill were used for the provision of legal assistance to the poor in civil matters. Additionally, the bill requires that the use of public funds appropriated to Legal Services of New Jersey would be subject to oversight by the State Auditor.

The authority of the Supreme Court to revise or supplement any filing fees and other statutory fees would expire approximately seven months after the enactment of those sections of the bill establishing that authority, except that any fees that have been revised or supplemented would continue in effect, subject to the following:

Within 30 days of the fifth anniversary of the effective date of the Rules of Court first adopted concerning any fees, and additionally within 30 days of the tenth anniversary of that effective date, the Supreme Court could review all such fees revised or supplemented utilizing its rulemaking process, which includes a reasonable

opportunity for public comment, to determine if the fees should remain unchanged as originally adopted pursuant to the bill or be reduced to reflect the funding needs associated with the purposes set forth in the bill for which the “21st Century Justice Improvement Fund” provides monies.

Finally, concerning court fees, as well as judicially imposed financial obligations, and related charges owed to a court when such are processed using credit cards, debit cards, or any other accepted electronic method, the bill updates existing law to authorize, pursuant to Rules of Court, the Administrative Office of the Courts to assess, collect, and pay service charges and other costs resulting from the collection and processing of such fees, obligations, and charges. Any service charges and other costs assessed and collected by the Administrative Office of the Courts, with the exception of those charges or costs assessed and collected on behalf of municipal courts, would be deposited in the “Court Computer Information System Fund” established by subsection c. of section 1 of P.L.1994, c.54 (C.2B:1-4).

#### COMMITTEE AMENDMENTS

The committee amendments to the bill:

- change references throughout the bill from “defendant” to “eligible defendant,” as defined above, focusing on those persons arrested on complaint-warrants and subsequently detained;

- provide provisions for defendants arrested on complaint-summons, addressing releases from custody and bail procedures for such defendants, who are thus not detained “eligible defendants” and do not otherwise fall within the scope of the bill;

- provide, under the speedy trial provisions, that when the 180-day period for commencing an eligible defendant’s trial has run and that defendant has moved for release, if the court does not find a substantial and unjustifiable risk against release, the eligible defendant would be released on personal recognizance, non-monetary conditions, monetary bail, or a combination of monetary bail and non-monetary conditions;

- establish that all eligible defendants are bailable by monetary bail immediately following arrest and issuance of a complaint-warrant, except for eligible defendant’s accused of a crime of the first degree;

- make only those eligible defendants who are not immediately bailable due to being accused of committing a crime of the first degree, and those who are immediately bailable but unable to post bail, subject to a Statewide Pretrial Services Program risk assessment and subsequent court proceeding for pretrial release or pretrial detention;

- specify that a court may consider information provided by a prosecutor in making a pretrial release decision or pretrial detention decision for an eligible defendant;

- add provisions for pretrial detention hearings to clarify, in finding that no amount of monetary bail, non-monetary conditions or

combination thereof would reasonably assure a future court appearance, safety of any other person or the community, or that the eligible defendant will not obstruct justice, the court may only consider issues on the amount of monetary bail with respect to whether it will, by itself or with non-monetary conditions, reasonably assure the eligible defendant's appearance in court when required (and not consider the other factors of safety and obstruction);

- provide that an eligible defendant who is released following a pretrial detention hearing would be released on personal recognizance, non-monetary conditions, monetary bail, or a combination of monetary bail and non-monetary conditions;

- require the Statewide Pretrial Services Program risk assessment instrument to be approved by the Administrative Director of the Courts, and that the approved instrument would be objective, standardized, and based on empirical data and risk factors as described above;

- require an evaluation of the risk assessment instrument every three years, and require the Administrative Director of the Courts to report the results of the evaluation to the Governor and legislative leadership;

- indicate the bill's prospective application, as to eligible defendants who commit any crime or offense on or after the effective date, concerning the relevant sections on speedy trial deadlines, bail and other pretrial release reforms, and pretrial detention proceedings (sections 1 through 11, tied to the constitutional amendment as discussed above); and

- indicate the Supreme Court's authority to adopt rules and take appropriate administrative action necessary to implement the provisions of the bill.

STATEMENT TO  
[Second Reprint]  
**ASSEMBLY, No. 1910**

with Assembly Floor Amendments  
(Proposed by Assemblyman BURZICHELLI)

ADOPTED: AUGUST 4, 2014

These floor amendments make changes to the bill, which concerns several aspects of court administration, including the establishment of statutory speedy trial deadlines, reforms for bail and other forms of pretrial release, pretrial detention, and the Judiciary's authorization to revise fees for these matters and other court-related programs.

As to the overall application of the bill, the amendments modify which eligible defendants would be subject to the bill's provisions addressing speedy trial deadlines, the reforms for bail as well as other forms of pretrial release, and pretrial detention proceedings. Pursuant to new language contained in the effective date section (section 21), the provisions would apply to any eligible defendant who is arrested, and for whom a complain-warrant is issued, on or after the effective date of those provisions (which are tied to the approval of a constitutional amendment modifying the right to bail for all persons in order to permit court-ordered pretrial detention – see N.J. Const. (1947), Article I, paragraph 11). It would not matter whether the crime or offense was allegedly committed by the eligible defendant before, on, or after the effective date of those sections, as the bill intends to maintain a uniform system of criminal justice reform for all eligible defendants arrested in the wake of the bill's enactment. As an example, an eligible defendant arrested post-enactment for an act of murder from 20 years ago, still subject to prosecution because it is a crime with no statute of limitations, would be detained subject to a pretrial release risk assessment, and subsequently, pretrial release or detention as determined in accordance with the bill's provisions.

Additionally, the definition of "eligible defendant" is altered to read "a person for whom a complaint-warrant is issued for an initial charge involving an indictable offense or a disorderly persons offense," unless otherwise provided in the bill, to more accurately reflect the process by which such eligible defendants become detained. The definition previously made reference to "a person who is arrested on a complaint-warrant," but the issuance of the complaint-warrant is a separate event that occurs after arrest and processing by law enforcement, hence the removal of the inaccurate phrase.

As to eligible defendants imprisoned pursuant to the bill on pretrial detention, the bill's 90-day period for indictment or release from jail, and post-indictment, 180-day period for commencement of trial or release from jail remain, but are moved from section 2 to section 8 to follow the relevant pretrial detention sections of the bill, and are



further clarified to indicate that these periods are subject to excludable time for reasonable delays (which are based on the same reasons set forth in previous versions of the bill and remain unchanged by the floor amendments). Also, concerning the first release period, based on a prosecutor's failure to indict, the amendments would now authorize the court, upon motion by a prosecutor, to delay the eligible defendant's release, not to exceed an additional 45 days, based on a finding that (1) immediate release represented a substantial and unjustifiable risk of safety or obstruction of the criminal justice process, and (2) the failure to indict within the designated time was not due to unreasonable delay by the prosecutor; this is the same standard in the bill for delaying release, upon motion by the prosecutor, under the second period for an indicted eligible defendant awaiting commencement of trial, although the finding on no unreasonable delay attributable to the prosecutor would be based upon the failure to commence trial.

The amendments additionally add a final cap, of two years, excluding any delays attributable to the eligible defendant, following the court's issuance of a pretrial detention order, in which a trial must begin as measured by the prosecutor's readiness to proceed to voir dire or to opening argument, or to the hearing of any motions that had been reserved for the time of trial; if trial is not commenced at this point due to lack of prosecutor readiness, the eligible defendant would be released from jail after a release hearing pending further action on the trial.

As to post-detention release from jail, either for failure to indict or to commence trial, such release would be ordered by the court following the bill's hierarchy of pretrial release considerations, first considering release on personal recognizance (or execution of an unsecured appearance bond), then non-monetary conditions, then monetary bail, and, lastly, a combination of non-monetary conditions and monetary bail.

This same release hierarchy is also restored with respect to all eligible defendants, and is not just applicable to a release following a period of pretrial incarceration. The underlying version of the bill had placed monetary bail as the initial option for release, making all eligible defendants immediately bailable, but with an exception for those eligible defendants charged with a crime of the first degree; only such defendants, as well as eligible defendants who were otherwise immediately bailable but unable to post bail, would have remained detained for an initial period to undergo a pretrial release risk assessment and court decision on release. Now, as amended, the bill would require all eligible defendants to be temporarily detained following issuance of a complaint-warrant for the purpose of undergoing the pretrial risk assessment. The risk assessment would be completed and presented to the court so that the court could, without unnecessary delay, but in no case later than 48 hours after the eligible defendant's commitment to jail, make its pretrial release decision on the eligible defendant. This 48-hour release decision deadline would not apply if pretrial detention was instead under consideration due to the nature of the charge in the complaint-warrant.

As added by the amendments, whenever the court's release decision imposed release on monetary bail or a combination of non-monetary conditions and monetary bail, new pretrial protections would apply for those eligible defendants who are unable to post the bail. Because this failure to post bail would result in such eligible defendants remaining detained to jail, the amendments would require that the provisions in the bill concerning the speedy trial deadlines for release upon the expiration of the periods of time within which the prosecutor must act to indict and commence trial (90 days and 180 days, respectively), the consideration of reasonable delays thereto, and the court's authority, on motion of the prosecutor, to allocate additional periods of time for indicting and commencing trial before release, discussed above for eligible defendants ordered into pretrial detention, would apply to these eligible defendants as well.

As to consideration for pretrial detention, the amendments restore the broader list of crimes and offenses presented in an earlier version of the bill that would trigger such detention eligibility. This list of crimes and offenses includes: (1) a crime of the first or second degree enumerated under subsection d. of section 2 of P.L.1997, c.117 (C.2C:43-7.2), part of the State's "No Early Release Act"; (2) a crime for which the eligible defendant would be subject to an ordinary or extended term of life imprisonment; (3) any crime, if previously convicted of two or more crimes described in categories (1) or (2); (4) any criminal sexual offense enumerated under paragraph (2) of subsection b. of section 2 of P.L.1994, c.133 (C.2C:7-2) or crime involving human trafficking pursuant to section 1 of P.L.2005, c.77 (C.2C:13-8) or P.L.2013, c.51 (C.52:17B-237 et al.) when the victim is a minor, or the crime of endangering the welfare of a child under N.J.S.2C:24-4; (5) any crime that imposes a mandatory minimum term of imprisonment and parole ineligibility, due to the use or possession of a firearm while in the course of committing or attempting to commit the crime, as set forth in subsection c. of N.J.S.2C:43-6, part of the Graves Act (P.L.1981, c.31); (6) 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 (7) any other crime for which the prosecutor believes there is a serious risk that the eligible defendant would not appear in court, would pose a danger to another person or the community, or would obstruct or attempt to obstruct justice or threaten, injure, or intimidate a prospective witness or juror.

The amendments clarify provisions concerning the factors to be utilized in the risk assessment instrument used to conduct assessments on eligible defendants to help guide courts in determining appropriate options, if any, for pretrial release. The provisions now emphasize two points concerning the instrument: (1) it must be objective, standardized, and developed based only on analysis of empirical data; and (2) it would not be individually tailored to each eligible defendant – the risk measurements, as established, would be applied equally to all eligible defendants.

The risk assessment instrument would gather demographic information about each eligible defendant including, but not limited to, race, ethnicity, gender, financial resources, and socio-economic status.

However, the amendments provide that recommendations for pretrial release could not be discriminatory based on race, ethnicity, gender, or socio-economic status.

The amendments provide that not later than the sixth month after the end of each fiscal year, the Administrative Director of the Courts would submit two reports. The first report, describing the Judiciary's use of funding and progress toward the development, maintenance and administration of a Statewide digital e-court information system, would be submitted to the Governor, the Senate President, and the Speaker of the General Assembly. The second report, concerning the development and administration of the Statewide Pretrial Services Program, would be submitted to the same parties, as well as to the newly created Pretrial Services Program Review Commission established by the amendments.

The commission would consist of the following 17 members: the Attorney General, or his designee; two members of the Senate, who would each be of different political parties, appointed by the Senate President; two members of the General Assembly, who would each be of different political parties, appointed by the Speaker of the General Assembly; the Administrative Director of the Courts, or his designee; two county prosecutors, appointed by the Governor based upon the recommendation of the County Prosecutors Association of the State of New Jersey; the Public Defender, or his designee; the following ex-officio public members: the President of the New Jersey State Conference of the National Association for the Advancement of Colored People, the President of the Latino Action Network, the Executive Director of the American Civil Liberties Union of New Jersey, the New Jersey State Director of the Drug Policy Alliance, and the President and Chief Executive Officer of the New Jersey Institute for Social Justice; and the following appointed public members: a county or municipal law enforcement officer appointed by the Governor, and two additional members having experience with, possessing a background in, or demonstrating a specialized knowledge of, the legal, policy, or social aspects of criminal justice pretrial release and detention programs, one appointed by the Governor upon the recommendation of the President of the Senate, and one appointed by the Governor upon the recommendation of the Speaker of the General Assembly.

The commission would meet from time to time and review the annual report on the Pretrial Services Program submitted by the Administrative Director of the Courts, examine the provisions of the bill once enacted into law concerning pretrial release and detention, and research release and detention programs from other states and jurisdictions. It would file an annual report with the Governor, Legislature, and Supreme Court on its activities, along with any findings and recommendations for legislation resulting from its work.

Lastly, regarding the bill's effective date, in addition to the new language concerning the application of the bill to all eligible defendants arrested on or after the effective date, discussed above, the amendments indicate that, with respect to any delay to the effective date of the sections tied to the approval of the constitutional

amendment modifying the right to bail (sections 1 through 11), nothing would be construed to affect the court's existing authority to revoke pretrial release prior to the effective date of those sections.

# LEGISLATIVE FISCAL ESTIMATE

[Third Reprint]

## ASSEMBLY, No. 1910

### STATE OF NEW JERSEY 216th LEGISLATURE

DATED: AUGUST 15, 2014

#### SUMMARY

- Synopsis:** Implements constitutional amendment providing for pretrial detention of certain criminal defendants; establishes non-monetary bail alternatives for release; authorizes Judiciary to revise fees for certain legal programs and services.
- Type of Impact:** County government inmate housing savings, county government speedy trial expenditures, General Fund revenue and expenditures.
- Agencies Affected:** County corrections agencies, county prosecutors, Judiciary, State Office of the Public Defender, Department of Law and Public Safety.

#### Office of Legislative Services Estimate-Immediate Impact

<b>Fiscal Impact</b>	<b><u>FY 2015</u></b>	<b><u>FY 2016</u></b>	<b><u>FY 2017</u></b>
<b>State Revenue</b>	\$42.1 million	\$42.1 million	\$42.1 million
<b>State Expenditures- Legal Services of NJ</b>	\$10.1 million	\$10.1 million	\$10.1 million
<b>State Expenditures- Statewide digital e- court information system</b>	\$10 million	\$10 million	\$10 million

#### Office of Legislative Services Estimate-Additional Impact If Constitution Amended

<b>Fiscal Impact</b>	<b><u>Year 1</u></b>	<b><u>Year 2</u></b>	<b><u>Year 3</u></b>
<b>State Expenditures- Judiciary</b>	\$19.9 million	\$35 million	\$35 million
<b>State Expenditures- Other</b>	Indeterminate Increase– See comments below		
<b>County Expenditures</b>	Indeterminate Impact– See comments below		

- The Office of Legislative Services (OLS) concludes that the aggregate fiscal impact of Assembly No. 1910 (3R), as well as the timing of portions of that impact, is indeterminate. The OLS estimates that State revenue will increase by \$42.1 million annually, as has been indicated by the Judiciary. The OLS also estimates that State expenditures will increase by up to \$10.1 million annually due to the dedication of increased judicial revenues to increased State funding for Legal Services of New Jersey and its affiliates. Expenditures by the Judiciary on a Statewide digital e-court information system will also increase by up to \$10 million annually, due to the dedication of increased judicial revenues. The bill will also result in additional State expenditures of an indeterminate amount, and will also have an indeterminate impact on county expenditures, if an amendment to the State Constitution modifying the right to bail for all persons in order to permit court-ordered pretrial detention is approved.
- According to the Administrative Office of the Courts (AOC), the bill's provisions regarding non-monetary bail alternatives and speedy trial deadlines (which are contingent upon approval of the requisite constitutional amendment) that require the creation of a Statewide Pretrial Services Program would necessitate the hiring of staff to administer risk assessments and monitor defendants pending trial (including electronic monitoring, drug testing, and treatment services) at a cost of \$35 million annually plus an additional \$2.4 million in one-time costs to establish a fully integrated information technology system dedicated to the work of the Pretrial Services Unit. Utilizing this information, the OLS estimate illustrates the impact of the bill on the Judiciary as if the requisite constitutional amendment were approved and the applicable provisions of the bill were implemented the following January, and assumes that in the implementation fiscal year half the annual costs plus the initial information technology cost will be incurred. Given these cost estimates, at full implementation the bill will result in aggregate State expenditures that will exceed additional State revenue by at least \$13 million annually.
- The OLS concludes that the implementation of bail reforms and speedy trial deadlines would most likely decrease the number of individuals incarcerated in the county jails awaiting trials thus generating an indeterminate savings for the counties. Each county's savings would be determined by the number of individuals released as a result of this bill. The OLS further notes that these savings could be offset in small, perhaps insignificant degree by the bill's requirement that all persons committed to jail after being arrested on warrant remain incarcerated until the AOC conducts risk assessments and the courts conduct hearings for pretrial release or pretrial detention.
- The OLS also notes that implementation of the speedy trial provisions enumerated in the bill would impose additional responsibilities upon State and county prosecutors and the State Office of the Public Defender, as well as the courts, increasing county and State costs by an indeterminate amount.
- The AOC estimates that the increase in fees to be enacted by court rule as authorized by section 12 of the bill will result in \$42.1 million annually for deposit in the "21<sup>st</sup> Century Justice Improvement Fund" to fund a Statewide Pretrial Services Program, a statewide digital e-court information system, and Legal Services of New Jersey. The OLS has utilized that estimate to illustrate the bill's potential impact, but notes that the AOC has not provided any detailed data upon which the estimate is based. The OLS further notes that the projected

annual revenue increase may not be achieved in the first fiscal year if the effective date of fee increases is significantly delayed by the rule adoption process.

- The OLS further notes that the Department of Law and Public Safety may incur additional expenses in an indeterminate amount to support the activities of the Pretrial Services Program Review Commission which would be established by the bill.

## **BILL DESCRIPTION**

Assembly Bill No. 1910 (3R) of 2014 concerns several aspects of court administration. It would: (1) establish statutory speedy trial deadlines for persons being detained in jail, both pre- and post-indictment; (2) reform the manner in which determinations for bail and other forms of criminal pretrial release are made; (3) provide courts with the authority to deny pretrial release and instead order pretrial detention; and (4) authorize the Judiciary to revise and supplement fees to help fund a pretrial risk assessment and monitoring program, and other court-related programs and services.

The provisions concerning categories (1) through (3) listed above would only be implemented after enactment of an amendment to the New Jersey Constitution modifying the current constitutional right to bail for all persons. These provisions would take effect on the same day that a constitutional amendment, after approval by the voters, becomes part of the Constitution.

The provisions concerning category (4), authorizing the Judiciary to revise and supplement fees for the pretrial assessment and monitoring program related to the bill and for other court-related programs and services would take effect immediately.

### *Speedy trial deadlines*

The bill would establish the following deadlines:

- A person who has been charged with a crime and for whom pretrial detention is ordered by the court pursuant to the bill could not remain detained in jail for more than 90 days on that charge prior to the return of an indictment. If the person is not indicted within the specified 90 days, the person would be released from jail upon motion of the person or on the court's own motion unless, on motion of the prosecutor, the court finds that a substantial and unjustifiable risk to the safety of any other person or the community or the obstruction of the criminal justice process would result from the defendant's release, and also finds that the failure to indict in accordance with the time requirements was not due to unreasonable delay by the prosecutor. If the court makes these findings it may allocate an additional period of up to 45 days in which the return of an indictment shall occur. Notwithstanding the court's previous findings for ordering the person's pretrial detention (discussed in more detail below), the court would release the person on the person's own recognizance or set appropriate non-monetary conditions for the person's release.

- A person who has been indicted and for whom pretrial detention is ordered by the court could not remain detained in jail for more than 180 days on that charge following the return or unsealing of the indictment, whichever is later, not counting excludable time for reasonable delays as set forth in the bill, before commencement of the trial. In the event a person's trial does not begin within the specified 180 days, the person would be released from jail unless on motion of the prosecutor the court finds that a substantial and unjustifiable risk to the safety of any other person or the community or the obstruction of the criminal justice process would result from the defendant's release from custody, so that no appropriate conditions for the defendant's

release could reasonably address that risk, and also finds that the failure to commence trial in accordance with the time requirement was not due to unreasonable delay by the prosecutor. If the court so finds, the court may allocate an additional period of time in which the defendant's trial shall commence before the defendant is released. Notwithstanding the court's previous findings for ordering the person's pretrial detention, the court would release the person on the person's own recognizance or set appropriate non-monetary conditions for the person's release to reasonably assure the person's appearance in court.

- In the event of a trial ordered after a mistrial or upon a motion for a new trial, such trial would commence within 120 days of the entry of the order of the court. A trial ordered upon the reversal of a judgment by any appellate court would commence within 120 days of the service of that court's trial mandate.

For any of the above deadlines, the bill sets forth certain periods which would be excluded in computing the time within which a case would need to be indicted or tried.

The speedy trial deadlines established by the bill would apply to any person who committed a crime on or after the effective date of the applicable provisions (which are tied to the approval of the constitutional amendment).

#### Reforms for bail and other pretrial release determinations

To help support the bill's bail and other pretrial release reforms, the Administrative Director of the Courts would establish and maintain a Statewide Pretrial Services Program.

Under the program, a risk assessment would be conducted on any person for whom a complaint-warrant is issued for an initial charge involving an indictable offense or disorderly persons offense within 48 hours of the person's commitment to jail for the purpose of making recommendations to the court concerning an appropriate pretrial release determination. The Statewide Pretrial Services Program would also monitor appropriate persons released on court-ordered conditions.

The bill would require that the court make a pretrial release decision "without unnecessary delay," but in no case later than 48 hours after the commitment to jail. The court would consider the person's circumstances and the risk assessment performed by the Statewide Pretrial Services Program before making any pretrial release decision.

A person out of jail on pretrial release could have the release revoked by a court, upon motion by a prosecutor, for violating a restraining order or condition of release, or a finding of probable cause that the person committed a new crime while on release. The court could only take action to revoke the person's pretrial release on a finding by clear and convincing evidence that no monetary bail, non-monetary conditions of release, or combination thereof imposed on the person would reasonably assure the person's appearance in court, the protection of the safety of any other person or the community, or that the person would not obstruct or attempt to obstruct the criminal justice system.

#### Denial of pretrial release / pretrial detention

Concerning the new authority for denying a person pretrial release (if approved by constitutional amendment), a prosecutor could file a motion seeking the pretrial detention of a person who was charged with certain crimes. The prosecutor, in seeking a pretrial detention proceeding for which there is no indictment, would be required to establish probable cause that the person committed the predicate offense.

Upon the filing of the motion for pretrial detention, and during any continuance of such motion, the person would be detained in jail, unless the person was previously released from custody, in which case the court would instead issue a notice to compel the person's appearance at the pretrial detention hearing.



The court would hold a hearing to determine whether any amount of monetary bail, non-monetary conditions, or combination thereof could reasonably assure the person's future court appearance, the protection of the safety of any other person or the community, or that the person would not obstruct or attempt to obstruct the criminal justice process.

The court, in making its determination for or against pretrial detention, could rely upon such factors as the nature and circumstances of the offense charged, the weight of evidence against the person, the person's history and characteristics, and the recommendations concerning appropriate pretrial release determinations by the Statewide Pretrial Services Program risk assessment.

*Court fees to support pretrial assessments, other court-related services and programs*

The bill provides that the Supreme Court may adopt Rules of Court to revise or supplement filing fees and other statutory fees payable to the court for the purpose of funding: (1) the development, maintenance, and administration of the above described Statewide Pretrial Services Program; (2) the development, maintenance, and administration of a Statewide digital e-court information system; and (3) the provision of legal assistance to the poor in civil matters by Legal Services of New Jersey. All existing filing and statutory fees could not be increased or supplemented more than \$50 in the aggregate for each such fee.

The bill would establish in the General Fund a dedicated, non-lapsing fund to be known as the "21st Century Justice Improvement Fund." This fund would be annually credited with a sum equal to the yearly revenue to be derived from the incremental amounts of any fees payable to the court that are revised or supplemented pursuant to the bill and the related fee revisions as provided by operation of N.J.S.22A:2-5 (fees payable in the Appellate Division, designated to be the same as those payable in the Supreme Court) and section 2 of P.L.1993, c.74 (C.22A:5-1) (fees payable in the Tax Court, designated to be the same as those payable in the Superior Court). The fund would be administered by the State Treasurer.

Monies annually credited in the "21st Century Justice Improvement Fund" would be allocated as follows:

(1) \$22 million would be appropriated annually to the Judiciary to be used for the Statewide Pretrial Services Program;

(2) \$10 million would be appropriated annually to the Judiciary for the Statewide digital e-court information system;

(3) \$10.1 million would be appropriated annually to the Department of the Treasury for distribution to Legal Services of New Jersey and its affiliates to facilitate the provision to the poor of legal assistance in civil matters; and

(4) Any remaining amounts still in the fund would be retained by the Judiciary for the purpose of developing, maintaining, and administering the Statewide Pretrial Services Program or for court information technology.

No later than the sixth month after the end of each State fiscal year the Administrative Director of the Courts would submit a report to the Governor, the President of the Senate, and the Speaker of the General Assembly describing the Judiciary's use of funding provided through the bill and its progress toward the development, maintenance and administration of the Statewide Pretrial Services Program and Statewide digital e-court information system. In addition, for the reports submitted next following the fifth and tenth anniversaries of the implementation of (1) the speedy trial deadlines, (2) bail and other pretrial release reforms, and (3) pretrial detention proceedings, the director would provide information about the impact of the bill's provisions on the Judiciary's administration of criminal justice.

Legal Services of New Jersey also would submit a detailed financial statement to the Governor and legislative leadership, as well as the State Auditor, describing how funds provided pursuant to the bill were used for the provision of legal assistance to the poor in civil matters.

Additionally, the bill requires that the use of public funds appropriated to Legal Services of New Jersey would be subject to oversight by the State Auditor.

The authority of the Supreme Court to revise or supplement any filing fees and other statutory fees would expire approximately seven months after the enactment of those sections of the bill establishing that authority, except that any fees that have been revised or supplemented would continue in effect, subject to the following:

Within 30 days of the fifth anniversary of the effective date of the Rules of Court first adopted concerning any fees, and additionally within 30 days of the tenth anniversary of that effective date, the Supreme Court could review all such fees revised or supplemented utilizing its rulemaking process, which includes a reasonable opportunity for public comment, to determine if the fees should remain unchanged as originally adopted pursuant to the bill or be reduced to reflect the funding needs associated with the purposes set forth in the bill for which the “21st Century Justice Improvement Fund” provides monies.

Finally, concerning court fees, as well as judicially imposed financial obligations, and related charges owed to a court when such are processed using credit cards, debit cards, or any other accepted electronic method, the bill updates existing law to authorize, pursuant to Rules of Court, the Administrative Office of the Courts to assess, collect, and pay service charges and other costs resulting from the collection and processing of such fees, obligations, and charges. Any service charges and other costs assessed and collected by the Administrative Office of the Courts, with the exception of those charges or costs assessed and collected on behalf of municipal courts, would be deposited in the “Court Computer Information System Fund” established by subsection c. of section 1 of P.L.1994, c.54 (C.2B:1-4).

#### Reporting and commission review

The bill provides that not later than the sixth month after the end of each fiscal year, the Administrative Director of the Courts would submit two reports. The first report, describing the Judiciary’s use of the funding and progress toward the development, maintenance and administration of a Statewide digital e-court information system, would be submitted to the Governor, the Senate President, and the Speaker of the General Assembly. The second report, concerning the development and administration of the Statewide Pretrial Services Program, would be submitted to the same parties, as well as to the Pretrial Services Program Review Commission that would newly created by the bill.

The commission would consist of the following 17 members: the Attorney General, or his designee; two members of the Senate, who would each be of different political parties, appointed by the Senate President; two members of the General Assembly, who would each be of different political parties, appointed by the Speaker of the General Assembly; the Administrative Director of the Courts, or his designee; two county prosecutors, appointed by the Governor based upon the recommendation of the County Prosecutors Association of the State of New Jersey; the Public Defender, or his designee; the following ex-officio public members: the President of the New Jersey State Conference of the National Association for the Advancement of Colored People, the President of the Latino Action Network, the Executive Director of the American Civil Liberties Union of New Jersey, the New Jersey State Director of the Drug Policy Alliance, and the President and Chief Executive Officer of the New Jersey Institute for Social Justice; and the following appointed public members: a county or municipal law enforcement officer appointed by the Governor, and two additional members having experience with, possessing a background in, or demonstrating a specialized knowledge of, the legal, policy, or social aspects of criminal justice pretrial release and detention programs, one appointed by the Governor upon the recommendation of the President of the Senate, and one appointed by the Governor upon the recommendation of the Speaker of the General Assembly.

The commission would meet from time to time and review the annual report on the Pretrial Services Program submitted by the Administrative Director of the Courts, examine the provisions of the bill once enacted into law concerning pretrial release and detention, and research release and detention programs from other states and jurisdictions. It would file an annual report with the Governor, Legislature, and Supreme Court on its activities, along with any findings and recommendations for legislation resulting from its work.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

No information was provided.

### ***JUDICIAL BRANCH***

The AOC informed the OLS that it anticipates increasing revenue by \$42.1 million, which would be annually dedicated for a Statewide Pretrial Services Program (\$22 million), a Statewide digital e-court information system (\$10 million), and Legal Services of New Jersey (\$10.1 million).

The AOC further stated that the bill would require the Judiciary to establish a new Pretrial Services Program to administer risk assessments to the approximately 85,000 eligible defendants. The Judiciary estimated that the results of the risk assessment would require pretrial monitoring of 25,000 defendants by the Pretrial Services Program. The AOC notes that the Judiciary would need approximately 400 new employees to administer risk assessments and monitor defendants pending trial. In addition, funds would be necessary for electronic monitoring, drug testing, and treatment services at a cost of \$35 million plus an additional \$2.4 million in initial costs to establish a fully integrated information technology system dedicated to the work of the Pretrial Services Unit.

The AOC added that this estimate did not encompass the fiscal impact of the speedy trial provision contained in the bill. To accomplish this, the Judiciary would need an unknown number of additional staff.

### ***OFFICE OF LEGISLATIVE SERVICES***

Based in part on the estimates of revenue and expenditures provided by the AOC, OLS concludes that the aggregate fiscal impact of Assembly No. 1910 (3R), as well as the timing of portions of that impact, is indeterminate. The OLS estimates that State revenue will increase by \$42.1 million annually, as has been indicated by the Judiciary. The OLS also estimates that State costs will increase by up to \$10.1 million annually due to the dedication of increased judicial revenues to increased State funding for Legal Services of New Jersey and its affiliates. Expenditures by the Judiciary on a Statewide digital e-court information system will also increase by up to \$10 million annually, due to the dedication of increased judicial revenues. The bill will also result in additional State costs of an indeterminate amount, and will also have an indeterminate impact on county costs, if an amendment to the State Constitution authorizing the courts to deny pretrial release of certain defendants is approved.

Revenues: the AOC estimates that the increase in fees to be enacted by court rule as authorized by section 12 of the bill will result in \$42.1 million annually for deposit in the “21<sup>st</sup> Century

Justice Improvement Fund” to fund the Statewide Pretrial Services Program, a statewide digital e-court information system, and Legal Services of New Jersey. The OLS has utilized that estimate to illustrate the bill’s potential impact, but notes that the AOC has not provided any detailed data upon which the estimate is based. Absent information on which filing and other fees would be increased or supplemented and the actual amount of those increases or supplements, the OLS notes the possibility that actual revenues could vary from the AOC’s estimate. The OLS further notes that the projected annual revenue increase may not be achieved in the first fiscal year if the effective date of fee increases is significantly delayed by the rule adoption process.

State expenditures: The bill increases State expenditures by \$10.1 million annually, due to the dedication of increased judicial revenues to increased State funding for Legal Services of New Jersey and its affiliates. Expenditures by the Judiciary on a Statewide digital e-court information system will also increase by up to \$10 million annually, due to the dedication of increased judicial revenues and the bill’s stipulation that the appropriation of dedicated revenues shall not replace appropriation from mother sources for Judiciary information technology.

A Statewide Pretrial Services Program, the outcome of the speedy trial and bail reform provisions of the bill, could be implemented only after adoption of an amendment to the New Jersey Constitution modifying the current constitutional right to bail for all persons (see N.J. Const. (1947), Article I, paragraph 11). It is thus uncertain if and when additional costs to the State would result from those provisions of the bill. The AOC’s estimate of the need for additional staff to administer risk assessments and monitor defendants pending trial (including electronic monitoring, drug testing, and treatment services) and its estimate of the associated costs of establishing and operating the Statewide Pretrial Services Program assumes approval of the requisite constitutional amendment in the near future. The OLS notes that these estimates may understate the cost if the requisite constitutional amendment is not enacted until several years after the bill is approved.

Neither the Department of Law and Public Safety nor the Office of the Public Defender provided the OLS with any estimate of the bill’s impact on the prosecutorial costs of the Division of Criminal Justice and provision of services to the Pretrial Services Program Review Commission, and the provision of legal representation to defendants in criminal cases, respectively. The implementation of the speedy trial provisions enumerated in the bill would impose additional responsibilities upon those State agencies, increasing State costs by unknown amounts.

The OLS concludes that, assuming full implementation of all of the bill’s provisions and given the estimates of revenue and costs that would result, the additional costs to the State will exceed the amount of additional State revenue by at least \$13 million annually. However, in each fiscal year following approval of the bill until the requisite constitutional amendment is approved, the additional State revenue resulting from the bill will exceed additional State costs by about \$22 million annually. The OLS notes that this revenue is dedicated to the future costs of implementing establishing and operating the Statewide Pretrial Services Program should the constitution be amended as required for that unit’s responsibilities to commence, so if a constitutional amendment does not occur in the near future, the point at which this net State impact has the same impact on State budgeting will be postponed.

County expenditures: The OLS concludes that the implementation of speedy trial deadlines and bail reforms would most likely decrease the number of individuals incarcerated in the county jails awaiting trials thus generating an indeterminate savings for the counties. Each county’s savings would be determined by the number of individuals released as a result of this bill.

Information obtained from the New Jersey Association of Counties indicates that there are about 13,000 inmates housed in county jails on any given day. About 12 percent, or 1,560 of these inmates are non-violent offenders who cannot make bail of \$2,500 or less. The average length of stay for an inmate who cannot make bail and is pending trial is about 314 days. The New Jersey Association of Counties notes that it costs the counties about \$100 per day to house an inmate in a county correctional facility. The OLS notes that, assuming that individuals who are released under the provisions of this bill would have served 314 days in jail, at a cost of \$100 per day, for every individual who is released from county jails, county governments could save about \$31,400. While these data would suggest a savings to counties of about \$49 million, the actual impact could be considerably less, depending on the distribution of inmates and the difference between average and marginal cost of incarceration. This also assumes approval of the requisite constitutional amendment in the near future; if a substantial amount of time elapses before that occurs, this actual impact could vary significantly from this estimate.

The OLS further notes that these savings could be offset in small, perhaps insignificant degree by the bill's requirement that all persons committed to jail after being arrested on warrant remain incarcerated up to 48 hours until the AOC conducts risk assessments and the courts conduct hearings for pretrial release or pretrial detention. Under current law and practice there are some instances where individuals can obtain release more quickly than would occur under the bill's provisions.

*Section:           Judiciary*

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This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

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# Governor Christie Signs Long Overdue Bipartisan Reforms To New Jersey's Bail System Into Law

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Trenton, NJ - Governor Christie today announced action taken on pending legislation, including bipartisan reforms to New Jersey's bail system that have been in the making for two and a half years. These reforms, along with an amendment to the State constitution appearing on the November ballot before voters, will keep dangerous individuals off the streets by allowing people charged with the most serious violent crimes to be held without bail. In addition, the reforms make the bail system fairer by allowing those who commit minor, nonviolent offenses to have nonmonetary options instead of being confined to jail because they simply cannot afford even low bail amounts.

The Governor also acted on his commitment to give people who are reclaiming their lives a true second chance by signing the "Ban the Box" legislation to help enhance employment opportunities for persons with criminal records.

**S-946/A-1910 (Norcross, Scutari, Barnes/Burzichelli, Watson Coleman, McKeon, Mukherji, Quijano, Rodriguez-Gregg)** - Implements constitutional amendment authorizing denial of pretrial release; establishes speedy trial time frames; reforms bail proceedings; adds nonmonetary bail alternatives; and authorizes Judiciary to revise fees for these and other court-related programs

**ACS for A-1999/S-2124 (Watson Coleman, Green, Spencer, Wimberly, Sumter/Cunningham, Lesniak, Ruiz)** - "The Opportunity to Compete Act;" establishes certain employment rights for persons with criminal record

Governor Christie also took the following action on other pending legislation:

**BILL SIGNINGS:**

**S-667/A-2207 (Pou/Vainieri Huttie, Lagana, Giblin, Garcia)** - Expands definition and licensure requirements for health care service firms

**S-1571/A-3374 (Sarlo/Wisniewski, Stender, Rumana, Clifton)** - Designates State Highway Route No. 71 bridge between Borough of Belmar and Borough of Avon-by-the-Sea as "Robert A. Briant, Sr. Memorial Bridge"

**BILLS VETOED:**

**S-2264/A-3459 (Beach/Singleton) - CONDITIONAL** - Extends application period for certain urban hope projects; permits reconstructed facilities as part of projects; and provides additional retirement benefits for certain PERS and TPAF members in certain urban hope districts

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