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"Cash bail law aims to stop repeat offenders," 9-13-2003 The Times, p.A4

P.L. 2003, CHAPTER 177, *approved September 12, 2003*  
Senate, No. 643 (*Second Reprint*)

1 AN ACT concerning bail in certain circumstances and amending  
2 P.L.1994, c.144.

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

6  
7 1. Section 1 of P.L.1994 c.144 (C.2A:162-12) is amended to read  
8 as follows:

9 1. a. As used in this section:

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

- 12 (1) Murder.....2C:11-3.
- 13 (2) Manslaughter.....2C:11-4.
- 14 (3) Kidnaping.....2C:13-1.
- 15 (4) Sexual Assault.....2C:14-2.
- 16 (5) Robbery.....2C:15-1.
- 17 (6) Carjacking.....P.L.1993,c.221,s.1 (C.2C:15-2)
- 18 (7) Arson and Related Offenses.....2C:17-1.
- 19 (8) Causing or Risking Widespread  
20 Injury or Damage.....2C:17-2.
- 21 (9) Burglary.....2C:18-2.
- 22 (10) Theft by Extortion.....2C:20-5.
- 23 (11) Endangering the Welfare of  
24 Children.....2C:24-4.
- 25 (12) Resisting Arrest; Eluding  
26 Officer.....2C:29-2.
- 27 (13) Escape.....2C:29-5.
- 28 (14) Corrupting or Influencing a  
29 Jury..... 2C:29-8.
- 30 (15) Possession of Weapons for  
31 Unlawful Purposes.....2C:39-4.
- 32 (16) Weapons Training for Illegal  
33 Activities.....P.L.1983,c.229,s.1 (C.2C:39-14).

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

38 b. Subject to the provisions of subsection c. of this <sup>1</sup>[subsection]  
39 section<sup>1</sup>, a person charged with a crime with bail restrictions may post

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and 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 floor amendments adopted June 20, 2002.

<sup>2</sup> Assembly floor amendments adopted May 15, 2003.

1 the required amount of bail only in the form of:

2 (1) Full cash;

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

5 (3) A bail bond secured by real property situated in this State with  
6 an unencumbered equity equal to the amount of bail undertaken plus  
7 \$20,000.

8 c. [A defendant may post bail in any combination of forms  
9 authorized in subsection b. of this section provided the court does not  
10 direct otherwise.] There shall be a presumption in favor of the court  
11 designating the posting of full United States currency cash bail to the  
12 exclusion of other forms of bail when a defendant is charged with an  
13 offense<sup>1</sup>[while released, with or without bail, pending the disposition  
14 of a prior offense, while on probation or parole, or while under the  
15 suspension of a sentence for a previous conviction,] as set forth in  
16 subsection a. of this section and:

17 (1) has two other indictable cases pending at the time of the arrest;

18 or

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

22 (3) has one prior conviction for murder, aggravated manslaughter,  
23 aggravated sexual assault, kidnapping or bail jumping; or

24 (4) was on parole at the time of the arrest.<sup>1</sup>

25 unless the court finds on the record that another form of bail  
26 authorized in subsection b. of this section will ensure the defendant's  
27 presence in court when required.<sup>1</sup> [The]<sup>2</sup> [ In all other cases where  
28 the presumption does not apply, the<sup>1</sup> court may designate the form of  
29 bail that may be posted<sup>1</sup> [in any other case]<sup>1</sup> in accordance with the  
30 Rules of Court.]<sup>2</sup>

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

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

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

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

39 (4) A statement that the affiant is the sole owner of the  
40 unencumbered equity.

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

44 (cf: P.L.1994, c.144, s.1)

45

46 2. This act shall take effect immediately.

1

\_\_\_\_\_

2

3 Clarifies that a court may require the posting of full cash bail in cases

4 involving serious crimes.

# SENATE, No. 643

## STATE OF NEW JERSEY 210th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2002 SESSION

**Sponsored by:**

**Senator PETER A. INVERSO**

**District 14 (Mercer and Middlesex)**

**Senator SHIRLEY K. TURNER**

**District 15 (Mercer)**

**SYNOPSIS**

Clarifies that a court may require the posting of full cash bail in cases involving serious crimes.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning bail in certain circumstances and amending  
2 P.L.1994, c.144.

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

6  
7 1. Section 1 of P.L.1994 c.144 (C.2A:162-12) is amended to read  
8 as follows:

9 1. a. As used in this section:

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

- 12 (1) Murder.....2C:11-3.
- 13 (2) Manslaughter.....2C:11-4.
- 14 (3) Kidnaping.....2C:13-1.
- 15 (4) Sexual Assault.....2C:14-2.
- 16 (5) Robbery.....2C:15-1.
- 17 (6) Carjacking.....P.L.1993,c.221,s.1 (C.2C:15-2)
- 18 (7) Arson and Related Offenses.....2C:17-1.
- 19 (8) Causing or Risking Widespread  
20 Injury or Damage.....2C:17-2.
- 21 (9) Burglary.....2C:18-2.
- 22 (10) Theft by Extortion.....2C:20-5.
- 23 (11) Endangering the Welfare of  
24 Children.....2C:24-4.
- 25 (12) Resisting Arrest; Eluding  
26 Officer.....2C:29-2.
- 27 (13) Escape.....2C:29-5.
- 28 (14) Corrupting or Influencing a  
29 Jury..... 2C:29-8.
- 30 (15) Possession of Weapons for  
31 Unlawful Purposes.....2C:39-4.
- 32 (16) Weapons Training for Illegal  
33 Activities.....P.L.1983,c.229,s.1 (C.2C:39-14).

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

38 b. Subject to the provisions of subsection c. of this subsection, a  
39 person charged with a crime with bail restrictions may post the  
40 required amount of bail only in the form of:

- 41 (1) Full cash;
- 42 (2) A surety bond executed by a corporation authorized under  
43 chapter 31 of Title 17 of the Revised Statutes; or

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.**

**Matter underlined thus is new matter.**

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

4 c. [A defendant may post bail in any combination of forms  
5 authorized in subsection b. of this section provided the court does not  
6 direct otherwise.] There shall be a presumption in favor of the court  
7 designating the posting of full United States currency cash bail to the  
8 exclusion of other forms of bail when a defendant is charged with an  
9 offense while released, with or without bail, pending the disposition of  
10 a prior offense, while on probation or parole, or while under the  
11 suspension of a sentence for a previous conviction, unless the court  
12 finds on the record that another form of bail authorized in subsection  
13 b. of this section will ensure the defendant's presence in court when  
14 required. The court may designate the form of bail that may be posted  
15 in any other case in accordance with the Rules of Court.

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

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

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

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

24 (4) A statement that the affiant is the sole owner of the  
25 unencumbered equity.

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

29 (cf: P.L.1994, c.144, s.1)

30  
31 2. This act shall take effect immediately.

32  
33  
34 STATEMENT

35  
36 N.J.S.A.2A:162-12 provides that persons charged with certain  
37 serious crimes such as murder, kidnaping, burglary, arson and robbery  
38 may post bail in one of three forms: full cash, surety bond or bail  
39 bond. N.J.S.A.2A:162-12 also provides that a defendant may post bail  
40 in any combination of these authorized forms provided that the court  
41 does not direct otherwise. Persons charged with a crime of the first  
42 or second degree under any statute listed in 2A:162-12 cannot use the  
43 10% cash option as a method of posting bail. This bill would create  
44 a presumption in favor of the court designating the posting of full cash  
45 bail when a defendant is charged with an offense while released  
46 pending the disposition of a prior offense; while on probation or parole



**S643 INVERSO, TURNER**

4

1 or while under the suspension of sentence for a previous conviction.  
2 This presumption of full cash bail would govern unless the court finds  
3 on the record that another form of bail would insure the defendant's  
4 presence in court.

# ASSEMBLY JUDICIARY COMMITTEE

## STATEMENT TO

[First Reprint]

**SENATE, No. 643**

# STATE OF NEW JERSEY

DATED: NOVEMBER 25, 2002

The Assembly Judiciary Committee reports favorably Senate Bill No. 643 (1R).

N.J.S.A. 2A:162-12 provides that persons charged with certain serious crimes such as, murder, kidnaping, burglary, arson and robbery, may post bail in one of three forms: full cash, surety bond or bail bond secured by certain real property. Thus, persons charged with a crime with bail restrictions cannot use the 10% cash option. Subsection c. currently provides that a defendant may post bail in any combination of these three forms provided the court does not direct otherwise.

In its original form, this bill eliminated that language in subsection c. and inserted new language to provide a presumption in favor of the court designating the posting of full cash bail when a defendant is charged with an offense: (1) while released, whether on bail or not, pending the disposition of a prior offense; (2) while on probation or parole; or (3) while under the suspension of sentence for a previous conviction. This presumption would be provided unless the court finds on the record that another form of bail would ensure the defendant's presence in court.

The bill, as amended by the Senate, omitted this provision in subsection c. and inserted new language to provide a presumption in favor of the court designating the posting of full cash bail when a defendant is charged with a serious offense and the defendant: (1) has two other indictable cases pending at the time of the arrest; or (2) has two prior convictions for a first or second degree crime or for a violation of N.J.S.A.2C:35-7 or any combination thereof; or (3) has one prior conviction for murder, aggravated manslaughter, aggravated sexual assault, kidnaping or bail jumping; or (4) was on parole at the time of the arrest, unless the court finds on the record that another form of bail will ensure the defendant's presence in court. In all cases where the presumption does not apply the court may designate the bail that may be posted in accordance with court rules.

This bill is identical to Assembly Bill No.2332 (1R).

# SENATE JUDICIARY COMMITTEE

## STATEMENT TO

### SENATE, No. 643

# STATE OF NEW JERSEY

DATED: MAY 30, 2002

The Senate Judiciary Committee reports favorably Senate Bill No. 643.

This bill provides that there is a presumption in favor of the court designating the posting of full cash bail in certain circumstances. N.J.S.A.2A:162-12 provides that persons charged with certain serious first or second degree crimes such as murder, kidnaping, burglary, arson and robbery (designated in that statute as "crimes with bail restrictions") may post bail in one of three forms: full cash, surety bond or bail bond secured by certain real property. Thus, persons charged with a crime with bail restrictions cannot use the 10% cash option. Subsection c. currently provides that a defendant may post bail in any combination of these three forms provided the court does not direct otherwise. The bill omits that provision and inserts new language to provide that there is a presumption in favor of the court designating the posting of full cash bail when a defendant is charged with an offense: (1) while released (whether on bail or not) pending the disposition of a prior offense; (2) while on probation or parole or (3) while under the suspension of sentence for a previous conviction; unless the court finds on the record that another form of bail would insure the defendant's presence in court.

This bill was prefiled for introduction in the 2002 session pending technical review. As reported, the bill includes the changes required by technical review which has been performed.

STATEMENT TO  
[First Reprint]  
**SENATE, No. 643**

with Assembly Floor Amendments  
(Proposed By Assemblyman GUSCIORA)

ADOPTED: MAY 19, 2003

These floor amendments would eliminate the provision which authorized the court, where a presumption in favor of full cash bail does not apply, to designate the type of bail which may be posted.

This bill provides for a presumption in favor of the court designating the posting of full cash bail when a defendant is charged with a serious offense and the defendant: (1) has two other indictable cases pending at the time of the arrest; (2) has two prior convictions for a first or second degree crime or for a violation of N.J.S.A.2C:35-7 or any combination thereof; (3) has one prior conviction for murder, aggravated manslaughter, aggravated sexual assault, kidnapping or bail jumping; or (4) was on parole at the time of the arrest, unless the court finds on the record that another form of bail will ensure the defendant's presence in court. In all other cases where the presumption does not apply, the bill provides that the court can designate the bail which would be posted in accordance with the court rules. The floor amendment eliminates this last provision.

**STATEMENT TO**  
**SENATE, No. 643**

with Senate Floor Amendments  
(Proposed By Senator INVERSO)

ADOPTED: JUNE 20, 2002

The current law under subsection c. of N.J.S.A. 2A:162-12 provides that a defendant may post bail in any combination of the following three forms, provided the court does not direct otherwise: full cash, surety bond or bail bond secured by certain real property.

The bill in its original form deleted this provision and inserted new language to provide a presumption in favor of the court designating the posting of full cash bail when a defendant is charged with an offense as set forth in subsection a. of the bill: (1) while released (whether on bail or not) pending the disposition of a prior offense; (2) while on probation or parole or (3) while under the suspension of sentence for a previous conviction, unless the court finds on the record that another form of bail would ensure the defendant's presence in court.

These floor amendments would amend this section of the bill to provide a presumption in favor of the court designating the posting of full cash bail when the defendant is charged with an offense as set forth in subsection a. of the bill and the defendant: (1) has two other indictable cases pending at the time of the arrest; or (2) has two prior convictions for a first or second degree crime or for a violation of N.J.S.A.C.2C:35-7 or any combination thereof; or (3) has one prior conviction for murder, aggravated manslaughter, aggravated sexual assault, kidnapping or bail jumping; or (4) was on parole at the time of the arrest, unless the court finds on the record that another form of bail will ensure the defendant's presence in court. In all cases where the presumption does not apply the court may designate the bail that may be posted in accordance with court rules.

# ASSEMBLY, No. 2332

## STATE OF NEW JERSEY 210th LEGISLATURE

INTRODUCED MAY 9, 2002

**Sponsored by:**

**Assemblyman REED GUSCIORA**

**District 15 (Mercer)**

**Assemblywoman LINDA R. GREENSTEIN**

**District 14 (Mercer and Middlesex)**

**Co-Sponsored by:**

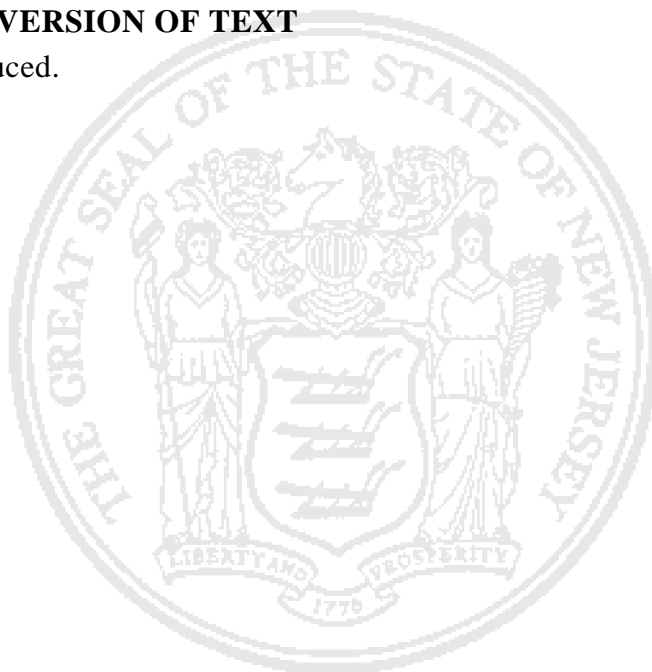
**Assemblyman Gear**

**SYNOPSIS**

Clarifies that a court may require the posting of full cash bail in cases involving serious crimes.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 11/8/2002)**

1 AN ACT concerning bail in certain circumstances and amending  
2 P.L.1994, c.144.

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

6  
7 1. Section 1 of P.L.1994 c.144 (C.2A:162-12) is amended to read  
8 as follows:

9 1. a. As used in this section:

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

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- 18 (7) Arson and Related Offenses.....2C:17-1.
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- 23 (11) Endangering the Welfare of  
24 Children.....2C:24-4.
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26 Officer.....2C:29-2.
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- 28 (14) Corrupting or Influencing a  
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31 Unlawful Purposes.....2C:39-4.
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33 Activities.....P.L.1983,c.229,s.1 (C.2C:39-14).

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

38 b. Subject to the provisions of subsection c. of this subsection, a  
39 person charged with a crime with bail restrictions may post the  
40 required amount of bail only in the form of:

- 41 (1) Full cash;
- 42 (2) A surety bond executed by a corporation authorized under  
43 chapter 31 of Title 17 of the Revised Statutes; or

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.**

**Matter underlined thus is new matter.**

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

4 c. [A defendant may post bail in any combination of forms  
5 authorized in subsection b. of this section provided the court does not  
6 direct otherwise.] There shall be a presumption in favor of the court  
7 designating the posting of full United States currency cash bail to the  
8 exclusion of other forms of bail when a defendant is charged with an  
9 offense while released, with or without bail, pending the disposition of  
10 a prior offense, while on probation or parole, or while under the  
11 suspension of a sentence for a previous conviction, unless the court  
12 finds on the record that another form of bail authorized in subsection  
13 b. of this section will ensure the defendant's presence in court when  
14 required. The court may designate the form of bail that may be posted  
15 in any other case in accordance with the Rules of Court.

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

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

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

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

24 (4) A statement that the affiant is the sole owner of the  
25 unencumbered equity.

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

29 (cf: P.L.1994, c.144, s.1)

30  
31 2. This act shall take effect immediately.

32  
33  
34 STATEMENT

35  
36 N.J.S.A.2A:162-12 provides that persons charged with certain  
37 serious crimes such as murder, kidnaping, burglary, arson and robbery  
38 may post bail in one of three forms: full cash, surety bond or bail  
39 bond. N.J.S.A.2A:162-12 also provides that a defendant may post bail  
40 in any combination of these authorized forms provided that the court  
41 does not direct otherwise. Persons charged with a crime of the first  
42 or second degree under any statute listed in 2A:162-12 cannot use the  
43 10% cash option as a method of posting bail. This bill would create  
44 a presumption in favor of the court designating the posting of full cash  
45 bail when a defendant is charged with an offense while released  
46 pending the disposition of a prior offense; while on probation or parole  
47 or while under the suspension of sentence for a previous conviction.



1 This presumption of full cash bail would govern unless the court finds  
2 on the record that another form of bail would insure the defendant's  
3 presence in court.

# ASSEMBLY JUDICIARY COMMITTEE

## STATEMENT TO

### ASSEMBLY, No. 2332

with committee amendments

# STATE OF NEW JERSEY

DATED: NOVEMBER 25, 2002

The Assembly Judiciary Committee reports favorably and with committee amendments Assembly Bill No. 2332.

N.J.S.A.2A:162-12 provides that persons charged with certain serious crimes such as, murder, kidnaping, burglary, arson and robbery, may post bail in one of three forms: full cash, surety bond or bail bond secured by certain real property. Thus, persons charged with a crime with bail restrictions cannot use the 10% cash option. Subsection c. currently provides that a defendant may post bail in any combination of these three forms provided the court does not direct otherwise.

The bill in its original form eliminated the language in subsection c. and inserted new language to provide a presumption in favor of the court designating the posting of full cash bail when a defendant is charged with an offense: (1) while released, whether on bail or not, pending the disposition of a prior offense; (2) while on probation or parole; or (3) while under the suspension of sentence for a previous conviction. This presumption would be provided unless the court finds on the record that another form of bail would ensure the defendant's presence in court.

The committee amended the bill to delete this language and provide a presumption in favor of the court designating the posting of full cash bail when the defendant is charged with an offense and the defendant: (1) has two other indictable cases pending at the time of the arrest; or (2) has two prior convictions for a first or second degree crime or for a violation of N.J.S.A.2C:35-7 or any combination thereof; or (3) has one prior conviction for murder, aggravated manslaughter, aggravated sexual assault, kidnaping or bail jumping; or (4) was on parole at the time of the arrest, unless the court finds on the record that another form of bail will ensure the defendant's presence in court. In all cases where the presumption does not apply the court may designate the bail that may be posted in accordance with court rules.

These amendments would make this bill identical to Senate Bill No.643 (1R).

COMMITTEE AMENDMENTS

The amendments delete subsection c. and insert new language which provides a presumption in favor of the court designating the posting of full cash bail when the defendant is charged with an offense and the defendant: (1) has two other indictable cases pending at the time of the arrest; or (2) has two prior convictions for a first or second degree crime or for a violation of N.J.S.A.2C:35-7 or any combination thereof; or (3) has one prior conviction for murder, aggravated manslaughter, aggravated sexual assault, kidnapping or bail jumping; or (4) was on parole at the time of the arrest, unless the court finds on the record that another form of bail will ensure the defendant's presence in court. In all cases where the presumption does not apply the court may designate the bail that may be posted in accordance with court rules.