

[First Reprint]

ASSEMBLY, No. 1491

STATE OF NEW JERSEY
214th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2010 SESSION

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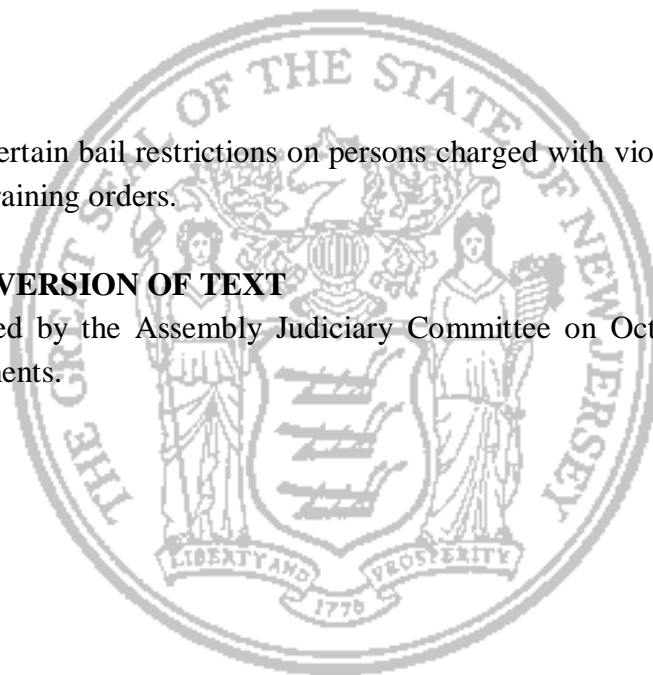
Assemblyman O'Donnell, Assemblywoman Spencer, Senators Weinberg, Greenstein, Allen, Beck, Beach, Cunningham and Ruiz

SYNOPSIS

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

CURRENT VERSION OF TEXT

As reported by the Assembly Judiciary Committee on October 14, 2010, with amendments.



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

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

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

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

- 15 (1) Full cash;
16 (2) A surety bond executed by a corporation authorized under
17 chapter 31 of Title 17 of the Revised Statutes; or
18 (3) A bail bond secured by real property situated in this State.

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

- 20 (1) When the conduct which constitutes the violation could also
21 constitute a crime, a minimum of \$5,000;
22 (2) When the conduct which constitutes the violation could also
23 constitute a disorderly persons offense, a minimum of \$2,500.]¹
24

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

27 1. a. As used in this section:

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

- 30 (1) Murder 2C:11-3.
31 (2) Manslaughter 2C:11-4.
32 (3) Kidnapping 2C:13-1.
33 (4) Sexual Assault 2C:14-2.
34 (5) Robbery 2C:15-1.
35 (6) Carjacking P.L.1993, c.221, s.1 (C.2C:15-2).
36 (7) Arson and Related Offenses 2C:17-1.
37 (8) Causing or Risking Widespread Injury or Damage 2C:17-2.
38 (9) Burglary 2C:18-2.
39 (10) Theft by Extortion 2C:20-5.
40 (11) Endangering the Welfare of Children 2C:24-4.
41 (12) Resisting Arrest; Eluding Officer 2C:29-2.
42 (13) Escape 2C:29-5.
43 (14) Corrupting or Influencing a Jury 2C:29-8.

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AJU committee amendments adopted October 14, 2010.

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

1 involving domestic violence against the same victim or has
2 previously violated a final restraining order protecting the same
3 victim,

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

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

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

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

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

15 (4) A statement that the affiant is the sole owner of the
16 unencumbered equity.

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

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

21

22 2. This act shall take effect immediately.