

ASSEMBLY, No. 1910

STATE OF NEW JERSEY

216th LEGISLATURE

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 “21st 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 “21st 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 “21st 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 “21st
10 Century Justice Improvement Fund.” The remainder of any monies
11 in the “21st 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.

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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 “21st 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 “21st 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 “21st 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.