

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)

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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 “21st 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 “21st 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 "21st 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 “21st
3 Century Justice Improvement Fund.” The remainder of any monies
4 in the “21st 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.

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STATEMENT

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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 “21st 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 “21st 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 “21st 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.