SENATE, No. 1252 STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED JANUARY 25, 2018

Sponsored by: Senator JAMES W. HOLZAPFEL District 10 (Ocean)

SYNOPSIS

Requires Family Part under certain circumstances to dispose of charge of contempt of a domestic violence order on an emergency basis, without setting bail.

CURRENT VERSION OF TEXT

As introduced.



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1 AN ACT concerning domestic violence restraining orders, amending 2 P.L.1991, c.261 and supplementing chapter 25 of Title 2C of the 3 New Jersey Statutes. 4 5 BE IT ENACTED by the Senate and General Assembly of the State 6 of New Jersey: 7 8 1. Section 15 of P.L.1991, c.261 (C.2C:25-31) is amended to 9 read as follows: 10 15. Where a law enforcement officer finds that there is probable 11 cause that a defendant has committed contempt of an order entered 12 pursuant to the provisions of P.L.1981, c.426 (C.2C:25-1 et seq.) or 13 P.L.1991, c.261 (C.2C:25-17 et seq.), the defendant shall be arrested and taken into custody by a law enforcement officer. The 14 15 law enforcement officer shall follow these procedures: 16 The law enforcement officer shall transport the defendant to the 17 police station or such other place as the law enforcement officer shall determine is proper. The law enforcement officer shall: 18 19 Conduct a search of the domestic violence central registry 20 and sign a complaint concerning the incident which gave rise to the 21 contempt charge; 22 [Telephone] (1) Except as provided in paragraph (2) of this b. 23 subsection, telephone or communicate in person or by facsimile 24 with the appropriate judge assigned pursuant to this act and request 25 bail be set on the contempt charge; 26 (2) In the case of a defendant who has previously been arrested 27 for contempt of an order entered pursuant to the provisions of 28 P.L.1981, c.426 (C.2C:25-1 et seq.) or P.L.1991, c.261 (C.2C:25-17 29 et seq.), the law enforcement officer shall not request that bail be 30 set but shall telephone or communicate with a judge of the Superior 31 Court and request an emergency hearing pursuant to section 2 of 32 P.L., c. (C.) (pending before the Legislature as this bill) to 33 dispose of the contempt charge. 34 If the defendant is unable to meet the bail set or if bail is not c. set, take the necessary steps to insure that the defendant shall be 35 36 incarcerated at police headquarters or at the county jail; and 37 (1) During regular court hours, the defendant shall have bail d. 38 set by a Superior Court judge that day unless the defendant has 39 previously been arrested for contempt of an order entered pursuant 40 to the provisions of P.L.1981, c.426 (C.2C:25-1 et seq.) or 41 P.L.1991, c.261 (C.2C:25-17 et seq.). On weekends, holidays and 42 other times when the court is closed, the officer shall arrange to 43 have the clerk of the Family Part notified on the next working day 44 of the new complaint, the amount of bail, if set, the defendant's 45 whereabouts and all other necessary details. [In addition, if]

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 <u>thus</u> is new matter.

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1 (2) If a municipal court judge set the bail, the arresting officer 2 shall notify the clerk of that municipal court of this information. \underline{A} 3 municipal court judge shall not set bail in any case where the 4 defendant has previously been arrested for contempt of an order 5 entered pursuant to the provisions of P.L.1981, c.426 (C.2C:25-1 et seq.) or P.L.1991, c.261 (C.2C:25-17 et seq.). 6 7 (cf: P.L.1999, c.421, s.5) 8 9 2. (New section) If a defendant arrested for contempt of an 10 order entered pursuant to the provisions of P.L.1981, c.426 (C.2C:25-1 et seq.) or P.L.1991, c.261 (C.2C:25-17 et seq.) has 11 12 previously been arrested for contempt of such an order, bail shall not be set and the defendant shall remain in custody. A Superior 13 Court judge shall hold an emergency hearing within 72 hours after 14 15 arrest, excluding holidays, to make a final disposition of the charge. 16 17 3. This act shall take effect immediately. 18 19 20 **STATEMENT** 21 22 This bill would prevent defendants who are arrested a second or 23 subsequent time for contempt of a domestic violence restraining 24 order from being released on bail while awaiting trial. Instead, in 25 these cases a Superior Court judge would hold an emergency 26 hearing and make a final disposition of the charge within 72 hours 27 of arrest. The bill also provides that the municipal court would not 28 have jurisdiction in these matters. 29 Under the provisions of section 14 of P.L.1991, c.261 (C.2C:25-30 30) and N.J.S.2C:29-9, violation of a domestic violence restraining order constitutes contempt of court. A defendant convicted of a 31 32 second or subsequent nonindictable domestic violence contempt 33 offense must serve a minimum term of imprisonment of not less 34 than 30 days. However, the term of imprisonment cannot begin until the defendant is convicted, and a defendant arrested for 35 36 contempt can immediately post bail and be released into the 37 community while awaiting the court hearing. This poses additional 38 risks to the victim. 39 Currently, bail is set by a Superior Court judge during regular 40 court hours. On weekends, holidays, and other times when the 41 court is closed, a municipal court judge may set bail if authorized to 42 do so by the Superior Court assignment judge. 43 Under the bill, neither the municipal court nor Superior Court 44 would set bail for these second offenders. Instead, the defendant 45 would remain in custody and a Superior Court judge would hold an 46 emergency hearing and make a final disposition on the charge. The 47 hearing would be required to take place within 72 hours of arrest.

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This time period would be consistent with the Rule of Court that
requires bail to be set within 72 hours. (See R.3:4-2.)

3 If the defendant is then convicted of the contempt charge, he

4 would immediately be sentenced to the mandatory 30 days of 5 incorrection

- 5 incarceration.
- 6 The intent of this bill is to provide a margin of safety for victims
- 7 in these circumstances.