

ASSEMBLY LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4367

with committee amendments

STATE OF NEW JERSEY

DATED: JULY 20, 2020

The Assembly Law and Public Safety Committee reports favorably and with committee amendments Assembly Bill No. 4367.

As amended and reported by the committee, Assembly Bill No. 4367 allows the municipal prosecutor to use mail or email to engage in discussions and negotiations with defendants concerning plea bargains for certain traffic offenses.

Under current law, in accordance with the Rules of Court adopted by the Supreme Court of New Jersey, a municipal prosecutor may recommend to the municipal court to accept a plea to a lesser or other offense, and may move before the municipal court to amend the original charge.

The bill provides that in a case where the defendant is charged with a traffic offense pursuant to Title 39 of the Revised Statutes, except for certain enumerated offenses, or as otherwise provided by Court Rule, the municipal prosecutor may use mail or email to engage in discussions and negotiations with the defendant or the defendant's attorney concerning a plea by the defendant to a lesser or other offense. The municipal prosecutor could also use mail or email to relay the prosecutor's final determination as to whether he will recommend that the court accept any such plea.

The bill would not apply to the following enumerated offenses:

- section 5 of P.L.1990, c.10 (C.39:3-10.13) (operating commercial motor vehicle with alcohol concentration of 0.04% or more, or while under the influence of a controlled substance) ;
- section 16 of P.L.1990, c.10 (C.39:3-10.24) (operator of commercial motor vehicle refusing a breath test);
- R.S.39:3-40 (operating motor vehicle while driver's license is suspended or revoked);
- R.S.39:4-50 (driving under the influence);
- section 2 of P.L.1981, c.512 (C.39:4-50.4a) (refusal to submit to breath test);
- section 1 of P.L.1999, c.410 (C.39:4-50.15) (driving under the influence with passenger who is a minor);
- section 4 of P.L.1999, c.417 (C.39:4-50.19) (failure to install court-ordered ignition interlock device);

- section 1 of P.L.2007, c.78 (C.39:4-80.1) (failure to comply with school crossing guard's signal to stop);
- section 1 of P.L.1942, c.192 (C.39:4-128.1) (unlawfully passing a stopped school bus); or
- section 3 of P.L.1952, c.157 (C.12:7-46) (operating a vessel while under the influence).

The bill specifies that it shall not be construed to alter or limit: 1) the defendant's obligation to be physically present at sentencing or other final determination by the court; or 2) the discretion of the Supreme Court to regulate the practice of plea agreements in municipal court, or to alter or limit the authority or discretion of a prosecutor's authority.

COMMITTEE AMENDMENTS

The committee amendments:

- 1) clarify that the bill's provisions do not alter the defendant's obligation to be physically present at sentencing or other final determination by the court; and
- 2) make a technical correction.