

SENATE, No. 2794

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED AUGUST 3, 2020

Sponsored by:

Senator NELLIE POU

District 35 (Bergen and Passaic)

Senator NICHOLAS P. SCUTARI

District 22 (Middlesex, Somerset and Union)

SYNOPSIS

Provides that municipal prosecutor may use mail or email to engage in discussions and negotiations with defendants concerning plea bargains for certain traffic offenses.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning plea bargaining in municipal court and
2 amending P.L.2000, c.75.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. Section 2 of P.L.2000, c.75 (C.2B:25-11) is amended to read
8 as follows:

9 2. a. In accordance with the Rules of Court adopted by the
10 Supreme Court of New Jersey, a municipal prosecutor may
11 recommend to the court to accept a plea to a lesser or other offense.

12 b. (1) Except as set forth in paragraph (2) of this subsection or
13 as otherwise provided by the Rules of Court, in a case where the
14 defendant is charged with a violation of a provision of Title 39 of
15 the Revised Statutes the municipal prosecutor may use mail or
16 email to engage in discussions and negotiations with the defendant
17 or the defendant's attorney concerning a plea by the defendant to a
18 lesser or other offense or offenses. The municipal prosecutor may
19 also use mail or email to relay to the defendant or his attorney the
20 prosecutor's final determination as to whether he will recommend
21 that the court accept any such plea.

22 (2) (a) The Administrative Office of the Courts shall promulgate
23 a standardized form to be used in cases pursuant to this subsection.
24 The municipal prosecutor shall send the form to the defendant or the
25 defendant's attorney by mail or email. The form shall be signed by the
26 defendant and notarized and returned to the court. The form shall state
27 that the defendant waives his right to appearance in court and waives
28 his right to trial, and pleads guilty to the specific offense or offenses
29 pursuant to the plea agreement. The form shall include all terms of the
30 plea agreement.

31 (b) If the judge accepts the plea agreement, the judge shall
32 dispose of the charges accordingly. The defendant shall not be
33 required to appear in person.

34 (3) The municipal prosecutor shall not use mail or email as
35 provided in this subsection in any case where the defendant is
36 charged with a violation of any of the following: section 5 of
37 P.L.1990, c.10 (C.39:3-10.13); section 16 of P.L.1990, c.10
38 (C.39:3-10.24); R.S.39:3-40; R.S.39:4-50; section 2 of P.L.1981,
39 c.512 (C.39:4-50.4a); section 1 of P.L.1999, c.410 (C.39:4-50.15);
40 section 4 of P.L.1999, c.417 (C.39:4-50.19); section 1 of P.L.2007,
41 c.78 (C.39:4-80.1); section 1 of P.L.1942, c.192 (C.39:4-128.1); or
42 section 3 of P.L.1952, c.157 (C.12:7-46).

43 c. Nothing in this section shall be construed to alter or limit the
44 authority or discretion of the Supreme Court to regulate the practice

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 of plea agreements in municipal court, or to alter or limit the
2 authority or discretion of a prosecutor.

3 (cf: P.L.2000, c.75, s.2)

4
5 2. This act shall take effect on the first day of the third month
6 next following the date of enactment.

7
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9 STATEMENT

10
11 This bill allows the municipal prosecutor to use mail or email to
12 engage in discussions and negotiations with defendants concerning
13 plea bargains for certain traffic offenses.

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

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

28 The bill would not apply to the following enumerated offenses:

- 29 - section 5 of P.L.1990, c.10 (C.39:3-10.13) (operating
30 commercial motor vehicle with alcohol concentration of 0.04% or
31 more, or while under the influence of a controlled substance);
32 - section 16 of P.L.1990, c.10 (C.39:3-10.24) (operator of
33 commercial motor vehicle refusing a breath test);
34 - R.S.39:3-40 (operating motor vehicle while driver's license is
35 suspended or revoked);
36 - R.S.39:4-50 (driving under the influence);
37 - section 2 of P.L.1981, c.512 (C.39:4-50.4a) (refusal to submit to
38 breath test);
39 - section 1 of P.L.1999, c.410 (C.39:4-50.15) (driving under the
40 influence with passenger who is a minor);
41 - section 4 of P.L.1999, c.417 (C.39:4-50.19) (failure to install
42 court-ordered ignition interlock device);
43 - section 1 of P.L.2007, c.78 (C.39:4-80.1) (failure to comply with
44 school crossing guard's signal to stop);
45 - section 1 of P.L.1942, c.192 (C.39:4-128.1) (unlawfully passing
46 a stopped school bus); or
47 - section 3 of P.L.1952, c.157 (C.12:7-46) (operating a vessel
48 while under the influence).

1 The bill provides that the Administrative Office of the Courts
2 would promulgate a standardized form to be used in cases where
3 plea bargains are negotiated and resolved by mail or email in
4 municipal court. The municipal prosecutor would send the form to
5 the defendant or the defendant's attorney by mail or email. The
6 form would be signed by the defendant and notarized and returned
7 to the municipal court. The form would state that the defendant
8 waives his right to appearance in court and waives his right to trial,
9 and pleads guilty to the specific offense or offenses pursuant to the
10 plea agreement. The form would include all terms of the plea
11 agreement. Under the bill, if the municipal court judge accepts
12 the plea agreement, the judge would dispose of the charges
13 accordingly. The defendant would not be required to appear in
14 person.

15 The bill specifies that it shall not be construed to alter or limit
16 the discretion of the Supreme Court to regulate the practice of plea
17 agreements in municipal court, or to alter or limit the authority or
18 discretion of a prosecutor.