

SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE, No. 2438

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 16, 2024

The Senate Judiciary Committee reports favorably and with committee amendments Senate Bill No. 2438.

This bill requires the Pretrial Services Program to recommend pretrial detention of certain eligible defendants charged repeatedly for committing offenses.

Under current law criminal courts are authorized to order the pretrial release of a defendant pending further proceedings, or order, upon prosecutor motion, pretrial detention of a defendant who is found to be a flight risk, a danger to another or the community, or likely to obstruct further criminal proceedings. Pretrial detention determinations are based on a risk assessment conducted by the Pretrial Services Program pursuant to section 11 of P.L.2014, c.31 (C.2A:162-25), which assesses each eligible defendant detained on a complaint-warrant and makes recommendations to the court as to an appropriate pretrial release decision.

This bill requires the Pretrial Services Program to recommend no release of an eligible defendant if:

- the defendant has previously been arrested on two or more prior and separate occasions;
- the charges which are the subject of the prior arrests are pending at the time of issuance of the current complaint-warrant; and
- the current charge or at least one of the pending prior charges is: an initial charge for an indictable offense; or an initial charge for a disorderly persons offense involving domestic violence.

The bill further provides that when a prosecutor files a motion for pretrial detention, the no release recommendation may serve as prima facie evidence to overcome the rebuttable presumption of release applied to the defendant pursuant to subsection b. of section 4 of P.L.2014, c.31 (C.2A:162-18).

This bill addresses Recommendation 23 of the Report of the New Jersey Supreme Court Reconvened Joint Committee on Criminal Justice Reform, issued on June 7, 2023.

The committee amendments to the bill:

- clarify, with respect to the repeatedly charged offender covered by the bill, that the court may consider the recommendation of no release made by the Pretrial Services Program when determining whether to order pretrial release or detention of the defendant pending further proceedings; and
- make technical corrections not affecting the substance of the bill's provisions.