

SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE, No. 2295

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 16, 2024

The Senate Judiciary Committee reports favorably and with committee amendments Senate Bill No. 2295.

This bill concerns pretrial and post-trial considerations for certain crimes involving the operation of vehicles, including reckless vehicular homicide, N.J.S.2C:11-5, and strict liability vehicular homicide, set forth in section 1 of P.L.2017, c.165 (C.2C:11-5.3).

Specifically, the bill would create a rebuttable presumption for pretrial detention, when moved for by the prosecutor, for an act that constitutes the first-degree crime of reckless vehicular homicide or the second-degree crime of reckless vehicular homicide when it carries a mandatory minimum term of imprisonment. The second-degree crime with a mandatory minimum term of imprisonment occurs if the defendant caused the homicide by driving a motor vehicle or boating vessel recklessly: while under the influence of alcohol or a controlled dangerous substance such as a narcotic (a DUI violation); or while the defendant's driver's license or reciprocity privilege was suspended or revoked for - a DUI violation; refusing to submit to a breathalyzer test; being a "habitual offender" whose license was suspended three times for violations occurring within a three-year period; or a Title 39 reckless driving violation. See N.J.S.2C:11-5, subsection b., paragraph (1). The first-degree crime occurs if the defendant caused the homicide by recklessly operating the vehicle and committing a DUI violation, while on or within 1,000 feet of any school property owned or leased by an elementary or secondary school or school board, while driving through a municipally designated school crossing, or while driving through an undesignated school crossing knowing that juveniles are present, or if the defendant refused to submit to a breathalyzer test in connection with such operation of the vehicle or vessel. See Id., subsection b., paragraph (3).

A rebuttable presumption for pretrial detention would also be established for the third-degree crime of strict liability vehicular homicide, which occurs when the homicide results, not too remotely from its occurrence, from a DUI driving violation or DUI violation while operating a boating vessel.

In any motion for which the rebuttable presumption was considered, which per the current law presumes that no amount of monetary bail, non-monetary conditions or combination of monetary bail and conditions will reasonably assure the defendant's appearance in court when required, the protection of the safety of any other person or the community, and that the defendant will not obstruct or attempt to obstruct the criminal justice process, if the court ultimately determines that pretrial release of the defendant on personal recognizance or execution of an unsecured appearance bond is instead appropriate, the court may order the release be subject to the suspension or revocation of the defendant's driver's license.

The bill's creation of the rebuttable presumption for pretrial detention for the above crimes involving the operation of a motor vehicle or boating vessel would expand the list of crimes currently subject to this rebuttable presumption, which includes murder pursuant to N.J.S.2C:11-3 and any crime for which a defendant would be subject to an ordinary or extended term of life imprisonment. When the statutory law does not specifically provide for a presumption of pretrial detention, it instead provides a general presumption for pretrial release. See subsection a. of P.L.2014, c.31, s.4 (C.2A:162-17); and subsection b. of P.L.2014, c.31, s.5 (C.2A:162-18). This bill would create a means to overcome the presumption of release regarding a defendant charged with the second-degree crime of leaving the scene of an accident resulting in the death of another person, P.L.1997, c.111 (C.2C:11-5.1) (motor vehicle) or P.L.2014, c.17 (C.2C:11-5.2) (boating vessel), by requiring that the pretrial services program, used by courts to assist in making determinations for pretrial release or detention, indicate a recommendation of "no release." That "no release" recommendation may constitute prima facie evidence to overcome the presumption of release when the court finds probable cause that the defendant committed such crime.

Concerning post-trial consequences, if a defendant is convicted of strict liability vehicular homicide, the defendant's license would be suspended for a period of between five years and life, commencing upon completion of any prison sentence imposed. This is the same license suspension period that already applies to a conviction for reckless vehicular homicide that involved a DUI violation or refusal to take a breathalyzer test.

Additionally, a conviction for strict liability vehicular homicide, as well as a conviction for reckless vehicular homicide that involved a DUI violation or refusal to take a breathalyzer test, could result in the forfeiture of the vehicle used in the commission of the offense. Under current law, only a first-degree crime of reckless vehicular homicide, as heretofore described, could result in a vehicle forfeiture. And as with the current law, the defendant would have an opportunity to establish at a hearing that such forfeiture would constitute a serious hardship that outweighs the need to deter

the conduct of the defendant and others, possibly resulting in a court decision permitting the defendant to retain the vehicle.

The committee amendments to the bill:

- revise the statutory cross-references to the reckless and strict liability vehicular homicide crimes that would be subject to the bill's proposed presumption of pretrial detention;
- require that the pretrial services program, used by courts to assist in making determinations for pretrial release or detention, indicate a recommendation of "no release" when a defendant is charged with the second-degree crime of leaving the scene of a motor vehicle or boating vessel accident resulting in the death of another person; this "no release" recommendation may constitute prima facie evidence to overcome the general presumption for pretrial release if the court finds probable cause that the defendant committed such crime; and
- update the bill's title and synopsis to account for the changes made by the amendments.