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LC000268

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

RELATING TO CRIMINAL PROCEDURE -- PRELIMINARY PROCEEDINGS IN DISTRICT COURTS

Introduced By: Senators Cano, Euer, Quezada, Burke, Acosta, and Kallman

Date Introduced: February 01, 2023

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 12-10-6 of the General Laws in Chapter 12-10 entitled "Preliminary  
2 Proceedings in District Courts" is hereby amended to read as follows:

3 **12-10-6. Recognizance or commitment on charge of offense beyond trial jurisdiction**  
4 **of district court.**

5 Whenever any person shall be brought before the district court upon a complaint charging  
6 him or her with an offense which is not within the jurisdiction of the court to try and determine,  
7 and it shall appear to the court that the accused [to abide by conditions of pretrial release, as defined](#)  
8 [in § 12-13-1.3](#), is probably guilty, the court shall, if the offense is bailable by it, require the accused  
9 to enter into a recognizance in any sum that the court shall direct, with sufficient surety to be  
10 approved by the court, with condition that the accused will appear at the superior court for the  
11 county in which the division is situated at the time fixed for the attendance of the grand jury in that  
12 court which is next after seven (7) days from the day when the recognizance was ordered, and not  
13 to depart the superior court without leave, and in the meantime keep the peace and be of good  
14 behavior toward all the people of this state. The recognizance shall be immediately certified as soon  
15 as may be by the district court to the court before which the accused shall recognize to appear.  
16 Whenever the district court shall require any person to enter into a recognizance for his or her  
17 appearance before it or before any other court, and shall not give the recognizance, the person shall  
18 be immediately committed to the adult correctional institutions, there to remain until he or she is

1 discharged pursuant to law. If the required recognizance is for the appearance of the accused before  
2 the superior court, the fact of the commitment shall be immediately certified to the superior court  
3 before which the accused has been held to appear.

4 SECTION 2. Sections 12-13-1, 12-13-1.3 and 12-13-24.1 of the General Laws in Chapter  
5 12-13 entitled "Bail and Recognizance" are hereby amended to read as follows:

6 **12-13-1. Right to release pending trial on giving of recognizance.**

7 Every person who is held on any criminal process to answer to any indictment, information,  
8 or complaint against him or her shall be released upon conditions of pretrial release as defined in §  
9 12-13-1.3, or upon giving recognizance with sufficient surety or sureties before a justice of the  
10 supreme or superior court or before a justice of the district court, when the complaint is pending in  
11 that court or the person is held to answer to that court, in the sum named in the process, if any has  
12 been named in it, and if none is named, then in any sum that the justice shall deem reasonable, to  
13 appear before the court where the indictment, information, or complaint is pending against him or  
14 her, or to which he or she may be bound over to appear, to answer to the indictment, information,  
15 or complaint, and to answer to it whenever called upon so to do, and abide the final order of the  
16 court, and in the meantime keep the peace and be of good behavior. Any justice may take the  
17 recognizance in any place within the state, and the recognizance shall be returned to the court to  
18 which the accused has recognized to appear.

19 **12-13-1.3. Pretrial release.**

20 (a) Unless otherwise provided, a detainee shall be eligible for pretrial release ~~or reduced~~  
21 ~~bail if he or she fails to post bail.~~

22 (b) "Pretrial release" means release of a defendant without bail but upon an order to abide  
23 by the conditions as set by the court. Release on non-monetary conditions shall be applied to secure  
24 the presence of the accused and protect the safety of the community.

25 (c) The department of corrections or pretrial services shall collect information concerning  
26 the background and circumstances of the pretrial detainee. The ~~department's~~ investigation shall  
27 include the following information and any other factors as shall be appropriate to the case:

28 (1) Marital status.

29 (2) Name and address of dependents.

30 (3) Past and present employment, including place of employment, position held and length  
31 of employment.

32 (4) Whether the defendant is under the care of a licensed physician or uses medication  
33 prescribed by a licensed physician.

34 (5) Any physical or mental condition affecting the defendant's behavior.

1 (6) Education.

2 (7) Prior criminal record, including facts indicating that the defendant is likely to be a  
3 danger to the community if released without restrictions.

4 (8) Prior court appearances and record of appearance or non-appearance.

5 (9) Ties to this community and to other communities.

6 (10) Financial resources.

7 (d) If, as a result of this investigation, the department of corrections or pretrial services  
8 concludes that the pretrial detainee is an appropriate candidate to be considered by the court for  
9 pretrial release ~~or reduced bail~~, the department or pretrial services shall present its findings to the  
10 court.

11 (e) Upon a determination by the court that a defendant is suitable for release on  
12 recognizance subject to conditions set by the court, the court in its discretion may also impose the  
13 least onerous of the following conditions necessary to assure the defendant's appearance in court:

14 (1) Imposition of condition of release involving field supervision with or without special  
15 conditions. Field supervision shall require notification to defendants released prior to trial of their  
16 court dates.

17 (2) Imposition of condition of release involving placement of defendant on intensive  
18 supervision, with or without special conditions. Intensive supervision shall require contact with the  
19 officials designated by the courts and prompt notification to the court of all apparent violations of  
20 pre-trial release conditions or arrest of persons released to its custody.

21 (3) Imposition of a condition of release involving placement of the defendant on  
22 community confinement pursuant to § 42-56-20.2.

23 (4) There shall be a presumption that any conditions of release imposed shall be non-  
24 monetary in nature and the court shall impose the least restrictive conditions or combination of  
25 conditions necessary to reasonably ensure the appearance of the defendant for further court  
26 proceedings and protect the integrity of the judicial proceedings from a specific threat to a witness  
27 or participant. Conditions of release may include, but not be limited to, electronic home monitoring,  
28 curfews, drug counseling, no contact orders with any named victim or witness, and in-person  
29 reporting. The court shall consider the defendant's socio-economic circumstance when setting  
30 conditions of release or imposing monetary bail.

31 (f) This section shall not be construed to preclude review by the court of a defendant's bail  
32 status at any time.

33 **12-13-24.1. Pretrial services unit.**

34 (a) Creation of unit; definitions. There is created within the district court a pretrial services

1 unit to provide pre-arraignment and post-arraignment services to defendants.

2 (1) "Pre-arraignment report" may include:

3 (i) The results of ~~a risk screen~~ an assessment utilizing a risk assessment tool;

4 (ii) For a defendant who scores as high risk on the risk screen, additional validated screens  
5 for mental health and substance use needs, to determine whether more in-depth assessment is  
6 needed post-arraignment; and

7 (iii) For a defendant charged with a domestic violence offense under § 12-29-2, and who  
8 has prior domestic violence offenses or other indications of risk, a lethality or dangerousness  
9 assessment.

10 (2) "Post-arraignment service" includes completion of the pre-arraignment report, a post-  
11 arraignment report, if necessary, and monitoring of defendants released on conditions that are  
12 informed by the pre-arraignment report, including substance abuse treatment referrals and testing;  
13 referrals to the home confinement program; employment referrals; and any other referrals that may  
14 be necessary to carry out the intent of this section.

15 (3) ~~"Risk screen" means a validated, empirically based pretrial risk tool composed of a~~  
16 ~~brief set of questions that may be answered without interviewing the defendant and are designed to~~  
17 ~~predict failure to appear and risk to re-offend. For purposes of this section, "risk assessment tool"~~  
18 means an empirically validated, evidence-based screening instrument that demonstrates reduced  
19 instances of a defendant's failure to appear for further court proceedings or prevents future criminal  
20 activity. Such risk assessment tool shall not discriminate on the basis of race, gender, education  
21 level, socio-economic status, or neighborhood.

22 (b) Pre-arraignment report. Whenever any person shall be taken into custody by any peace  
23 officer for the purpose of bringing that person before a court for arraignment or any other  
24 proceeding which may result in that person being detained pending a final adjudication of the  
25 charge, ~~if the person is charged with a felony, or a misdemeanor domestic violence offense under~~  
26 ~~§ 12-29-2 and has prior domestic violence offenses or other indications of risk,~~ the pretrial services  
27 unit shall, time permitting, prepare a pre-arraignment report to assist the court in establishing bail  
28 for a defendant by assessing the defendant's likelihood of appearing at future court proceedings or  
29 determining if the defendant poses a real and present threat to the physical safety of any person or  
30 persons, and any post-arraignment screening of the accused deemed necessary by the court or the  
31 pretrial services unit, ~~and shall.~~ Pretrial services shall obtain relevant information, records, and  
32 documents that may be useful to the judicial officer in determining the form and type of  
33 recognizance and conditions placed on the defendant.

34 (c) Delivery of report. The pre-arraignment report and any post-arraignment screening shall

1 be immediately delivered to the judicial officer before whom the accused shall be brought for the  
2 purpose of determining the form and conditions of recognizance.

3 (d) [Deleted by P.L. 2017, ch. 342, § 4 and P.L. 2017, ch. 353, § 4].

4 (e) Confidentiality of communications. The accused shall be advised orally and in a written  
5 waiver form for the signature of the accused that he or she has the right to remain silent and may  
6 voluntarily decline to respond to any or all questions that may be put by representatives of the  
7 pretrial services unit. Communications between the accused and representatives of the pretrial  
8 services unit shall be considered confidential pursuant to § 12-13-24.

9 SECTION 3. This act shall take effect on January 1, 2024.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO CRIMINAL PROCEDURE -- PRELIMINARY PROCEEDINGS IN DISTRICT  
COURTS

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1           This act would establish a presumption for non-monetary bail for pretrial release of  
2 detainees. This act further provides that the pretrial services unit shall prepare a pre-arraignment  
3 report which may include an assessment utilizing a risk assessment tool to assist the court in  
4 establishing bail.

5           This act would take effect on January 1, 2024.

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