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Supreme Court Approves Changes to Pretrial Release Recommendations for Gun Crimes, Repeat Offenders

The Supreme Court today approved changes to Criminal Justice Reform that will lead to recommendations of detention for defendants accused of certain gun crimes and defendants who reoffend while on pretrial release.

The changes, proposed by the Administrative Office of the Courts, would impact the release recommendations that result from a risk assessment process called the Public Safety Assessment (PSA.) The PSA relies on objective data to determine the likelihood that a defendant accused of a crime will reoffend or fail to appear in court. The results are then combined with other factors, such as the defendant's current charges, so that the court's pretrial services staff can make a recommendation to the judge as to whether a defendant should be detained pending trial or released under various levels of monitoring.

Charges that already resulted in a recommendation of detention include escape, murder, manslaughter, sexual assault, first-degree robbery and carjacking.

"New Jersey's PSA is based on a national model and every jurisdiction that uses the model has some slight differences in how they categorize crimes," said Judge Glenn A. Grant, acting Administrative Director of the Courts. "The PSA, however, is not a static instrument, and we have always envisioned that we would rely upon our actual experiences in New Jersey to make further refinements or adjustments to these tools."

Under the changes, defendants charged with any one of 13 weapons offenses would receive "no release" recommendations. The 13 offenses include eight that fall under the Graves Act – such as possession of a weapon by a convicted felon or possession of an assault firearm – and five charges that involve weapons other than guns, such as explosives. An additional seven Graves Act gun charges and one non-Graves Act weapons charge would result in recommendations for a more stringent level of monitoring.

The changes also impact repeat offenders who are arrested while on pretrial release. Defendants with pending charges from two prior releases will now receive an automatic "no release" recommendation

Regardless of the recommendation, prosecutors maintain the statutory right to file a detention motion for any legally eligible case.

Pretrial detention was approved by voters through a constitutional amendment that went into effect on Jan. 1, 2017. Prior to Jan. 1, all defendants had the constitutional right to bail.

The changes approved by the Supreme Court stem from a series of discussions between the Administrative Office of the Courts, the Attorney General's Office and the Public Defender's Office as well as an analysis conducted by the Arnold Foundation, which created the risk assessment tool.

“Based on a review of empirical data and the legitimate concerns raised by various segments of the criminal justice community, we concluded that it was necessary to change how the system treats defendants arrested for certain types of offenses,” Judge Grant said. “We are pleased that the Supreme Court has acted on our recommendation and we will continue to monitor Criminal Justice Reform data to determine if further revisions are needed.”

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