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**TO: Assignment Judges** **DIRECTIVE # 24-23**  
**Trial Court Administrators**

**FROM: Glenn A. Grant, Administrative Director**

**RE: Motor Vehicle Theft Offenses – (1) Elimination of Presumption of Pretrial Release; (2) Establishment of Theft of a Motor Vehicle and Receiving Stolen Motor Vehicle as Separate Statutory Offenses**

**DATE: December 22, 2023**

This Directive provides information on two recent statutory amendments affecting the prosecution of certain motor vehicle theft related offenses. On July 7, 2023, L. 2023, c. 103 was enacted amending N.J.S.A. 2A:162-17(a) by removing the presumption of pretrial release for eligible defendants charged with certain motor vehicle theft offenses if the defendant has a prior arrest or conviction for the same motor vehicle theft offenses within the prior 90-day period. On that same date, L. 2023, c. 101 was signed into law creating new standalone offenses for theft of a motor vehicle and for receipt of a stolen motor vehicle. Both enactments were effective immediately. They are described in greater detail below.

**Amendments to N.J.S.A. 2A:162-17 (L. 2023, c. 103)**

L. 2023, c. 103 amended N.J.S.A. 2A:162-17 to remove the presumption of pretrial release for eligible defendants charged with theft or unlawful taking of a motor vehicle, or receiving stolen property where the property involved is a motor vehicle, if on one or more prior and separate occasions within the 90-day period preceding the charge, the defendant was arrested for or convicted of any of the following:

- Theft of or unlawful taking of a motor vehicle;
- Receiving stolen property where the property involved is a motor vehicle; or

- A crime under any statute of the United States, this State, or any other state that is substantially equivalent to any of the crimes enumerated in this subsection.

The specific language of the amendments to N.J.S.A. 2A:162-17 is as follows:

a. [The] Except as otherwise provided in this subsection, the court shall order the pretrial release of the eligible defendant on personal recognizance or on the execution of an unsecured appearance bond when, after considering all the circumstances, the Pretrial Services Program's risk assessment and recommendations on conditions of release prepared pursuant to section 11 of P.L.2014, c.31 (C.2A:162-25), and any information that may be provided by a prosecutor or the eligible defendant, the court finds that the release would reasonably assure the eligible defendant's appearance in court when required, the protection of the safety of any other person or the community, and that the eligible defendant will not obstruct or attempt to obstruct the criminal justice process. The presumption of pretrial release pursuant to this subsection shall not apply to an eligible defendant charged with theft of or unlawful taking of a motor vehicle or receiving stolen property where the property involved is a motor vehicle if on one or more prior and separate occasions within the 90-day-period preceding the charge, the defendant was arrested for or convicted of theft of or unlawful taking of a motor vehicle; receiving stolen property where the property involved is a motor vehicle; or a crime under any statute of the United States, this State, or any other state that is substantially equivalent to any of the crimes enumerated in this subsection.

### **New Motor Vehicle Theft Related Offenses (L. 2023, c. 101)**

L. 2023, c. 101 created two standalone offenses related to the theft of motor vehicles. Section 1 created N.J.S.A. 2C:20-10.1, theft of a motor vehicle. Section 2 created N.J.S.A. 2C:20-10.2, receipt of a stolen motor vehicle. Prior to the enactment of this law, the penalties for theft of a motor vehicle and receipt of a stolen motor vehicle were set forth in the State's general theft statute, which made it difficult to track these particular criminal offenses. The new law established separate statutory provisions for the crimes of theft of a motor vehicle and receiving a stolen motor vehicle and provides for extended sentences for certain persistent offenders.

It will be incumbent upon law enforcement to properly charge defendants under the new statute going forward.

### **Impact on the Criminal Justice Reform (CJR) Process**

In light of the changes to N.J.S.A. 2A:162-17:

(1) It shall be the duty of the State to inform the court whenever a defendant is subject to removal of the presumption of pretrial release.

(2) When making the decision to release or detain a defendant pretrial, the court should include in the reasons supporting release or detention whether the defendant is subject to removal of the presumption of release. Inclusion of this information is essential should there be appellate review.

(3) Criminal Division staff will be required to complete a uniform tracking sheet created by the Criminal Practice Division each time they have a case in which the defendant is subject removal of the presumption of pretrial release.

### **Conclusion**

Questions or comments regarding the legislative enactments or this directive may be directed to the Criminal Practice Division by phone at (609)815-2900, ext. 55300, or by email at [AOC\\_CrimPrac.mbx@njcourts.gov](mailto:AOC_CrimPrac.mbx@njcourts.gov).

cc: Chief Justice Stuart Rabner  
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