

CHAPTER 46

AN ACT concerning sources of bail, and amending P.L.1994, c.144 and P.L.2003, c.213 .

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 1 of P.L.1994, c.144 (C.2A:162-12) is amended to read as follows:

C.2A:162-12 Crimes with bail restrictions; posting of bail.

1. a. As used in this section:

"Crime with bail restrictions" means a crime of the first or second degree charged under any of the following sections:

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| (1) Murder | 2C:11-3. |
| (2) Manslaughter | 2C:11-4. |
| (3) Kidnaping | 2C:13-1. |
| (4) Sexual Assault | 2C:14-2. |
| (5) Robbery | 2C:15-1. |
| (6) Carjacking | P.L.1993, c.221, s.1 (C.2C:15-2). |
| (7) Arson and Related Offenses | 2C:17-1. |
| (8) Causing or Risking Widespread Injury or Damage | 2C:17-2. |
| (9) Burglary | 2C:18-2. |
| (10) Theft by Extortion | 2C:20-5. |
| (11) Endangering the Welfare of Children | 2C:24-4. |
| (12) Resisting Arrest; Eluding Officer | 2C:29-2. |
| (13) Escape | 2C:29-5. |
| (14) Corrupting or Influencing a Jury | 2C:29-8. |
| (15) Possession of Weapons for Unlawful Purposes | 2C:39-4. |
| (16) Weapons Training for Illegal Activities | P.L.1983, c.229, s.1 (C.2C:39-14). |
| (17) Soliciting or Recruiting Gang Members | P.L.1999, c.160, s.1 (C.2C:33-28). |

"Crime with bail restrictions" also includes any first or second degree drug-related crimes under chapter 35 of Title 2C of the New Jersey Statutes and any first or second degree racketeering crimes under chapter 41 of Title 2C of the New Jersey Statutes.

b. Subject to the provisions of subsection c. of this section, a person charged with a crime with bail restrictions may post the required amount of bail only in the form of:

- (1) Full cash;
- (2) A surety bond executed by a corporation authorized under chapter 31 of Title 17 of the Revised Statutes; or
- (3) A bail bond secured by real property situated in this State with an unencumbered equity equal to the amount of bail undertaken plus \$20,000.

c. There shall be a presumption in favor of the court designating the posting of full United States currency cash bail to the exclusion of other forms of bail when a defendant is charged with an offense as set forth in subsection a. of this section and:

- (1) has two other indictable cases pending at the time of the arrest; or
- (2) has two prior convictions for a first or second degree crime or for a violation of section 1 of P.L.1987, c.101 (C.2C:35-7) or any combination thereof; or
- (3) has one prior conviction for murder, aggravated manslaughter, aggravated sexual assault, kidnapping or bail jumping; or
- (4) was on parole at the time of the arrest,

unless the court finds on the record that another form of bail authorized in subsection b. of this section will ensure the defendant's presence in court when required.

d. When bail is posted in the form of a bail bond secured by real property, the owner of the real property, whether the person is admitted to bail or a surety, shall also file an affidavit containing:

- (1) A legal description of the real property;
- (2) A description of each encumbrance on the real property;
- (3) The market value of the unencumbered equity owned by the affiant as determined in a full appraisal conducted by an appraiser licensed by the State of New Jersey; and
- (4) A statement that the affiant is the sole owner of the unencumbered equity.

e. Nothing herein is intended to preclude a court from releasing a person on the person's own recognizance when the court determines that such person is deserving.

2. Section 1 of P.L.2003, c.213 (C.2A:162-13) is amended to read as follows:

C.2A:162-13 Source of bail information required under penalty of law; bail sufficiency hearings.

1. a. When a person charged with a crime with bail restrictions, as defined in subsection a. of section 1 of P.L.1994, c.144 (C.2A:162-12), posts cash bail or secures a bail bond, the person, no later than the time of posting bail or proffering the surety or bail bond, shall provide to the prosecutor, on a form promulgated by the Attorney General, relevant information under penalty of perjury about the obligor, indemnifier or person posting cash bail, the security offered, and the source of any money or property used to post the cash bail or secure the surety or bail bond, as the case may be. This required information shall include, but not be limited to, the defendant's employment history, the names and addresses of any persons who contributed money or pledged security for the proffered bail or toward a surety bond, the amount, nature and timing of such contributions, and the relationship to the defendant of any such persons contributing resources. Bail may not be accepted from a person subject to the requirements of this subsection until the prosecutor is provided the completed form required by this subsection.

b. When a person charged with an offense posts cash bail or secures a bail bond in any amount, the court may, upon the request of the prosecutor, conduct an inquiry to determine the reliability of the obligor or person posting cash bail, the value and sufficiency of any security offered, the relationship of the obligor or person posting cash bail to the defendant and the defendant's interest in ensuring that the bail is not forfeited, and whether the funds used to post the cash bail or secure the bail bond were acquired as a result of criminal or unlawful conduct. When the offense charged against such person is a crime with bail restrictions as defined in subsection a. of section 1 of P.L.1994, c.144 (C.2A:162-12), the court shall, upon the request of the prosecutor, conduct an inquiry pursuant to the provisions of this subsection. The court may examine, under oath or otherwise, any person who may possess relevant information, and may inquire into any matter appropriate to its determination, including, but not limited to, the following:

- (1) The character, background and reputation of the person posting cash bail;
- (2) The relationship of the person posting cash bail or securing a bail bond to the defendant;
- (3) The source of any money posted as cash bail and whether any such money constitutes the fruits of criminal or unlawful conduct;
- (4) The character, background and reputation of any person who has indemnified or agreed to indemnify an obligor on the bond;

(5) The character, background and reputation of any obligor, or, in the case of a surety bond, the qualifications of the surety and its executing agent;

(6) The source of any money or property deposited by any obligor as security and whether such money or property constitutes the fruits of criminal or unlawful conduct; and

(7) The source of any money or property delivered or agreed to be delivered by any obligor as indemnification on the bond and whether such money or property constitutes the fruits of criminal or unlawful conduct.

At the conclusion of the inquiry, the court shall issue an order either approving or disapproving the bail. The court shall not issue an order approving the bail unless it is satisfied that the evidence adduced in the inquiry establishes the reliability of the source of the funds used to post bail or security offered, that the relationship of the obligor or person posting cash bail is sufficient to ensure the defendant's presence in court when required, and that the funds used to post cash bail or secure a bail bond were not acquired as a result of criminal or unlawful conduct.

3. This act shall take effect on the first day of the fourth month following enactment.

Approved February 21, 2007.