

## CHAPTER 138

AN ACT concerning bail and domestic violence and amending P.L.1994, c. 144.

**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:

- |   |                                    |
|---|------------------------------------|
| (1) Murder  | 2C:11-3.                           |
| (2) Manslaughter                                      | 2C:11-4.                           |
| (3) Kidnapping  | 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<br>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.

"Crime with bail restrictions" also includes any crime or offense involving domestic violence, as defined in subsection a. of section 3 of P.L.1991, c. 261 (C.2C:25-19), where the defendant was subject to a temporary or permanent restraining order issued pursuant to the provisions of the "Prevention of Domestic Violence Act of 1991," P.L.1991, c.261 (C.2C:25-17 et al.) and is charged with a crime committed against a person protected under the order or where the defendant is charged with contempt pursuant to N.J.S.2C:29-9.

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; or
- (5) was subject to a temporary or permanent restraining order issued pursuant to the provisions of the "Prevention of Domestic Violence Act of 1991," P.L.1991, c.261 (C.2C:25-17 et al.), was charged with a crime committed against a person protected under that order, including a charge of contempt pursuant to N.J.S.2C:29-9, and either: (a) is charged with commission of a domestic violence crime that resulted in serious bodily injury to the victim; or (b) has at least one prior conviction for a crime or offense involving domestic violence against the same victim or has previously violated a final restraining order protecting the same victim,

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. This act shall take effect immediately.

Approved November 7, 2011.