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**To: Assignment Judges
Trial Court Administrators**

DIRECTIVE #08-23

From: Glenn A. Grant, Administrative Director



Questions may be directed to
the Criminal Practice Division
at (609) 815-2900 ext. 55300.

**Subj: Criminal – Pretrial Release - (1) Clarifying Penalties for Certain
Violations of Pretrial Release; (2) Requirement for Prosecutor to
Provide Copy of Pretrial Release Order to the Victim**

Date: May 23, 2023

This Directive outlines the amendments to N.J.S.A. 2C:29-9 effectuated by L. 2023, c. 46 (S1810/A1463), as signed into law on May 8, 2023, that clarify penalties for certain violations of pretrial release. L. 2023, c. 46 also amended N.J.S.A. 2C:25-26 to require the prosecutor to provide a copy of the release order to the victim.

Amendments to N.J.S.A. 2C:29-9

Section 1 of L. 2023, c. 46 amends the criminal contempt statute, N.J.S.A. 2C:29-9, so as to permit law enforcement to charge a defendant who purposely or knowingly violates either (1) a condition of pretrial release to avoid all contact with an alleged victim of an offense or (2) a condition of home detention with or without the use of an electronic monitoring (EM) device with contempt in violation of N.J.S.A. 2C:29-9(a)(1) or (2). If the underlying conduct alleged could also constitute a crime or disorderly persons offense, then the defendant may be charged with a 4th degree crime pursuant to N.J.S.A. 2C:29-9(a)(1). In all other cases, the defendant shall be charged with a disorderly persons offense, pursuant to N.J.S.A. 2C:29-9(a)(2). The Master Statute Table has been updated so that law enforcement could begin charging N.J.S.A. 2C:29-9(a)(1) and N.J.S.A. 2C:29-9(a)(2) through eCDR as of May 8, 2023.

Specifically, the enactment amended paragraph (a) of N.J.S.2C:29-9 (“Contempt”), to read as follows:

(a) (1) Except as provided in paragraph (2) of this subsection, a [A] person is guilty of a crime of the fourth degree if the person purposely or knowingly disobeys a judicial order or protective order, pursuant to section 1 of P.L.1985, c.250 (C.2C:28-5.1), or hinders, obstructs, or impedes the effectuation of a judicial order or the exercise of jurisdiction over any person, thing, or controversy by a court, administrative body, or investigative entity, or purposely or knowingly violates a condition to avoid all contact with an alleged victim or a condition of home detention with or without the use of an approved electronic monitoring device, ordered pursuant to subparagraph (b) of paragraph (1) or subparagraph (k) of paragraph (2) of subsection b. of section 3 of P.L. 2014, c.31 (C.2A:162-17), when the conduct which constitutes the violation could also constitute a crime or a disorderly persons offense.

(2) In all other cases a person is guilty of a disorderly persons offense if that person purposely or knowingly violates a condition to avoid contact with an alleged victim or a condition of home detention with or without the use of an approved electronic monitoring device.

Judicial officers should be prepared to handle requests for complaint-warrants based on the amendments to N.J.S.A. 2C:29-9(a)(1) and on the new charge, N.J.S.A. 2C:29-9(a)(2).

Amendments to N.J.S.A. 2C:25-26

Section 2 of L. 2023, c. 46, amended N.J.S.A. 2C:25-26(b), which details the requirement that when a defendant is released pretrial by the court with a condition restricting the defendant’s ability to have contact with a victim, the victim must be provided with a copy of that order. The amendment specifically places the duty on the prosecutor to provide a copy of the release order to the victim.

Specifically, N.J.S.A 2C:25-26(b), is amended as follows:

(b) The written court order releasing the defendant shall contain the court's directives specifically restricting the defendant's ability to have contact with

the victim, the victim's friends, co-workers, or relatives, or any animal owned, possessed, leased, kept, or held by either party or a minor child residing in the household. The [~~clerk of the court or other person designated by the court~~] prosecutor shall provide a copy of this order to the victim forthwith.

Conclusion

Any questions or comments 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.

cc: Chief Justice Stuart Rabner
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