



SPONSOR: Sen. Townsend & Rep. Chukwuocha
Sens. Hansen, Sokola; Rep. Griffith

DELAWARE STATE SENATE
152nd GENERAL ASSEMBLY

SENATE BILL NO. 12

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE AND CHAPTER 72, VOLUME 83 OF THE LAWS OF DELAWARE RELATING TO PRETRIAL RELEASE AND DETENTION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Two-thirds of all members elected to each house thereof concurring therein):

1 Section 1. Amend § 2101, Title 11 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows:

3 § 2101. Purposes of this chapter.

4 It is the purpose of this chapter to reform the system governing the release of defendants pending a final
5 determination of guilt of such persons. The various courts of this State ~~are empowered and encouraged to~~ shall make
6 individualized decisions about terms and conditions of pretrial ~~release~~ release or the need for preventive detention. Each
7 court shall utilize a system of pretrial release aimed at imposing reasonable nonmonetary the least restrictive conditions of
8 release ~~when those conditions adequately provide a so as to account for each defendant's fundamental right to pretrial~~
9 liberty while also reasonable assurance of reasonably assuring the appearance of the defendant at court proceedings,
10 reasonably assuring the protection of the community, victims, ~~witnesses~~ witnesses, and any other person, and ~~to maintain~~
11 reasonably maintaining the integrity of the judicial ~~process~~ process, such that the defendant will not obstruct or attempt to
12 obstruct justice.

13 Section 2. Amend § 2102, Title 11 of the Delaware Code by making deletions as shown by strike through and
14 insertions as shown by underline as follows, and redesignating accordingly:

15 § 2102. Definitions.

16 For purposes of this chapter ~~the following definitions shall apply:~~

17 (3) ~~“Bailable offense” is any offense not punishable by death.~~

18 (9) “Court” means any of the following, as the context requires: the Superior Court, Court of Common Pleas,
19 Family Court, and Justice of the Peace Court. ~~Court, and alderman’s court.~~

20 (11) “Detention-eligible defendant” means any person charged with an offense under § 2116(b) of this title for
21 which an order of preventive detention may be entered.

22 Section 3. Amend § 2103, Title 11 of the Delaware Code by making deletions as shown by strike through and
23 insertions as shown by underline as follows:

24 § 2103. Persons charged with a capital crime.

25 (b) The Superior Court ~~may~~ shall admit to bail a person charged with a capital crime ~~if, unless,~~ after full inquiry,
26 the Superior Court ~~shall determine that there is good ground to doubt the truth of the accusation, and the burden of~~
27 ~~demonstrating such doubt shall be on the accused.~~ determines that the proof is positive or the presumption great.

28 Section 4. Amend § 2104, Title 11 of the Delaware Code by making deletions as shown by strike through and
29 insertions as shown by underline as follows:

30 § 2104. Release of defendants charged with ~~any other~~ a noncapital crime.

31 (c) The court may ~~also~~ impose 1 or more of the conditions of release ~~set forth in~~ under § 2108 of this title when
32 ~~such~~ the conditions are necessary to do any of the following:

33 (1) ~~provide a reasonable assurance of~~ Reasonably assure the appearance of the defendant at court ~~proceedings,~~
34 proceedings.

35 (2) Reasonably assure the protection of the community, victims, witnesses, or any other ~~person,~~ person.

36 (3) ~~and to~~ Reasonably maintain the integrity of the judicial ~~proceess.~~ process, such that the defendant will not
37 obstruct or attempt to obstruct justice.

38 (e)(1) ~~The~~ Subject to this chapter, the determination of whether the defendant ~~shall be~~ is to be released under
39 paragraph (a)(1), (a)(2), (a)(3), or (a)(4) of this section and the conditions ~~(other than the mandatory conditions in paragraph~~
40 ~~(b) of this section above)~~ of the ~~release shall be~~ defendant's release, other than the mandatory conditions under subsection
41 (b) of this section, are in the discretion of the court subject to this chapter. court.

42 a. When making a release determination, or imposing conditions set forth in § 2108 of this title, the court
43 shall ~~use~~ use, if available, an empirically developed risk assessment ~~instrument, if available,~~ instrument designed
44 to improve pretrial release decisions by assessing defendant's likelihood of pretrial success.

45 b. In circumstances involving suspected domestic or intimate partner violence, the ~~judicial officer~~ court
46 shall also consider the ~~results, if available,~~ results of an instrument designed to assess the likelihood or predicted
47 severity of future violence against the alleged ~~victim.~~ victim, if available.

48 c. ~~Any such~~ The risk assessment tools under paragraph (e)(1)a. and (e)(1)b. of this section are not binding
49 on the court. ~~They~~ The risk assessment tools are factors to be considered in the totality of the circumstances in
50 determining the conditions of release imposed upon the defendant.

51 d. The ~~judicial officer~~ court may consider any other facts and circumstances regarding a defendant's
52 likelihood of pretrial success and the protection of the victim, witnesses, and any other person.

53 (2) ~~The Statistical Analysis Center shall provide the court with a report of rates of re-arrest and failure to~~
54 ~~appear as required by defendants released by the court.~~ [Repealed.]

55 (f)(1) Any defendant released from custody ~~pursuant to~~ under this chapter ~~who later:~~ to whom any of the following
56 applies must immediately be remanded to the custody of the Department of Correction, and must be incarcerated until the
57 sentence for that felony is imposed:

58 (1)a. ~~Tenders~~ Has tendered to the Superior Court a plea of guilty or nolo contendere to any felony for
59 which a mandatory, minimum, minimum mandatory or mandatory minimum period of incarceration is ~~required, or~~
60 required.

61 (2)b. Is convicted upon a verdict of guilty of any felony for which a mandatory, minimum, minimum
62 mandatory or mandatory minimum period of incarceration is ~~required,~~ required.
63 ~~shall immediately be remanded to the custody of the Department of Correction, and shall be incarcerated until the~~
64 ~~sentence for that felony is imposed.~~

65 (2) ~~The provisions of this~~ This subsection shall does not apply to pleas or convictions for any felony set forth
66 in Title 21.

67 Section 5. Amend § 2105, Title 11 of the Delaware Code by making deletions as shown by strike through and
68 insertions as shown by underline as follows:

69 § 2105. Release ~~pursuant to~~ under a conditions of release bond or conditions of release bond not guaranteed by
70 financial terms.

71 (a) ~~The court shall release a defendant accused of a bailable crime on a conditions of release bond or a conditions~~
72 ~~of release bond not guaranteed by financial terms in an amount to be determined by the court when the court is satisfied~~
73 ~~from all the circumstances and the criteria set forth in subsection (b) of this section that it is reasonably likely that the~~
74 ~~defendant will appear as required before or after conviction of the crime charged and that there is no substantial risk to the~~
75 ~~safety of the community in permitting such unsecured release.~~

76 (b) ~~In determining whether the defendant is likely to appear as required and that there will be no substantial risk to~~
77 ~~the safety of the community the court shall, on the basis of available information, take into consideration the nature and~~
78 ~~circumstances of the crime charged, whether a firearm was used or possessed, the possibility of statutory mandatory~~
79 ~~imprisonment, whether the crime was committed against a victim with intent to hinder prosecution, the family ties of the~~
80 ~~defendant, the defendant's employment, financial resources, character and mental condition, the length of residence in the~~

81 community, record of convictions, habitual offender eligibility, custody status at time of offense, history of amenability to
82 lesser sanctions, history of breach of release, record of appearances at court proceedings or of flight to avoid prosecution or
83 failure to appear at court proceedings.

84 (c) ~~If the court has determined that the defendant shall not be released in accordance with this section, it shall~~
85 ~~make a record finding of the reason or reasons for such action and shall permit the release of the defendant upon the~~
86 ~~furnishing of surety satisfactory to the court in an amount to be determined by the court.~~

87 (a) Consistent with § 2101 of this title, the court shall impose the least restrictive conditions of release possible
88 that reasonably assure the defendant's appearance at court proceedings; reasonably assure the protection of the community,
89 victims, witnesses, or any other person; and reasonably maintain the integrity of the judicial process, such that the
90 defendant will not obstruct or attempt to obstruct justice. Subject to paragraphs (a)(1) through (a)(5) of this section and §
91 2116 of this title, there is a presumption in favor of release with non-monetary conditions. The court shall consider
92 conditions of release as follows:

93 (1) A court shall release a defendant on a conditions of release bond, or on the execution of a conditions of
94 release bond not guaranteed by financial terms, if the release will reasonably assure the defendant's appearance at court
95 proceedings; reasonably assure the protection of the community, victims, witnesses, or any other person; and
96 reasonably maintain the integrity of the judicial process, such that the defendant will not obstruct or attempt to obstruct
97 justice.

98 (2) If the court finds that greater non-monetary restrictions are required to reasonably assure the defendant's
99 appearance at court proceedings; reasonably assure the protection of the community, victims, witnesses, or any other
100 person; and reasonably maintain the integrity of the judicial process, such that the defendant will not obstruct or
101 attempt to obstruct justice, the court shall order the pretrial release of the defendant, but subject to appropriate
102 additional non-monetary conditions of release listed under § 2108 of this title.

103 (3) If the court finds that non-monetary restrictions are not sufficient to reasonably assure the defendant's
104 appearance at court proceedings, the court may order the pretrial release of the defendant but may include a conditions
105 of release bond guaranteed by financial terms or a conditions of release bond guaranteed by financial terms secured by
106 cash. When conditions of release secured by financial terms are imposed, the court shall set the lowest amount the
107 court deems reasonably necessary. In determining whether to impose financial conditions of release and the amount, if
108 any, the court shall consider the defendant's financial resources and ability to pay.

109 (4) The primary purpose of the use of monetary bail is to secure a defendant's appearance in court. In
110 determining whether the defendant is likely to appear as required, the court shall, on the basis of available information,
111 consider all of the following:

- 112 a. The nature and circumstances of the offense with which the defendant is charged.
- 113 b. The defendant's possibility of statutory mandatory imprisonment or habitual criminal offender
114 eligibility.
- 115 c. The defendant's family ties.
- 116 d. The defendant's employment or enrollment in educational studies.
- 117 e. The defendant's character, physical and mental condition, including engagement in medical, mental
118 health, or substance abuse treatment, and the effect detention would have on any current treatment.
- 119 f. The defendant's length of residence in the community.
- 120 g. The defendant's custody status at the time of the offense.
- 121 h. The defendant's history of amenability to community supervision.
- 122 i. The defendant's history of breach of release.
- 123 j. The defendant's record of appearances at court proceedings, flight to avoid prosecution, and failure to
124 appear at court proceedings.

125 (5) A court may impose monetary bail when necessary to reasonably assure the protection of the community,
126 victims, witnesses, or any other person and to reasonably maintain the integrity of the judicial process, such that the
127 defendant will not obstruct or attempt to obstruct justice, only in exceptional circumstances set forth on the record that
128 indicate that the defendant is not otherwise eligible for preventive detention but presents a substantial public safety risk
129 that requires addressing by other means. In determining whether the defendant's release presents a substantial risk to
130 the safety of the community, the court shall, to the extent the information is available, consider all of the following:

- 131 a. The nature and circumstances of the offense with which the defendant is charged.
- 132 b. Whether a weapon was used or possessed.
- 133 c. Whether the offense was committed against a victim with the intent to hinder prosecution.
- 134 d. The defendant's character, physical and mental condition, including engagement in medical, mental
135 health, or substance abuse treatment, and the effect detention would have on any current treatment.
- 136 e. The defendant's record of convictions.
- 137 f. The defendant's possibility of statutory mandatory imprisonment or habitual criminal offender
138 eligibility.

139 g. The defendant's custody status at the time of the offense.
140 (6) If a court imposes monetary bail for any reason, the court shall set forth on the record:
141 a. The monetary amounts set.
142 b. The reason for the use of monetary bail.
143 c. Any consideration the court gave to the defendant's means to meet the monetary condition.
144 d. The reasons that no condition or combination of non-monetary conditions of release would reasonably
145 assure the defendant's appearance at court proceedings, reasonably assure the protection of the community,
146 victims, witnesses, or any other person, and reasonably maintain the integrity of the judicial process, such that the
147 defendant will not obstruct or attempt to obstruct justice.

148 (7) A defendant who cannot post monetary bail is eligible for review of the defendant's conditions of release
149 under § 2110(a) of this title.

150 (b) In a pretrial release order, the court shall include a written statement that does all of the following:

151 (1) Sets forth all of the conditions to which the release is subject in a manner sufficiently clear and specific to
152 serve as a guide for the defendant's conduct.

153 (2) Advises the defendant of the potential consequences of violating a condition of release, including the
154 possible issuance of a warrant for the defendant's arrest and any applicable criminal penalties.

155 (3) Advises the defendant that the defendant would be eligible for temporary preventive detention pending a
156 pretrial hearing if the defendant is arrested while pending trial on the current offense.

157 (c) An order setting conditions of release is reviewable in accordance with the rules of the court then exercising
158 jurisdiction in the matter.

159 Section 6. Amend § 2107, Title 11 of the Delaware Code by making deletions as shown by strike through and
160 insertions as shown by underline as follows:

161 § 2107. Determining the amount of bail [Effective upon fulfillment of the contingency in 83 Del. Laws, c. 72, § 3].

162 (a) In determining the amount of bail to be required to be posted as surety under § 2105 of this title or to be
163 required for a conditions of release bond not guaranteed by financial terms, the court ~~shall~~ may not require oppressive bail
164 but shall require such bail as ~~reasonably will assure the reappearance of the defendant, compliance with the conditions set~~
165 ~~forth in the bond, and the safety of the community.~~ will reasonably assure the defendant's appearance at court proceedings;
166 reasonably assure the protection of the community, victims, witnesses, or any other person; and reasonably maintain the
167 integrity of the judicial process, such that the defendant will not obstruct or attempt to obstruct justice. In ~~fixing~~

168 ~~determining the amount, conditions of bail,~~ the court shall also take into consideration the criteria set forth in § 2105(b) §
169 2105(a) of this title.

170 (b) ~~In any event, Notwithstanding subsection (a) of this section,~~ if a defendant is charged with an offense
171 punishable by fine only, the amount of the bail ~~shall~~ may not exceed double the amount of the maximum fine for each
172 charge. ~~When a defendant has been convicted of an offense and only a fine has been imposed as the sentence of the court,~~
173 ~~the amount of bail shall not exceed double the amount of the fine.~~

174 (c) Notwithstanding any provision of this title to the contrary, ~~for~~ a defendant charged with committing a ~~violent~~
175 ~~felony involving a firearm or with committing a violent felony while on probation or pretrial release,~~ the presumption is
176 ~~that a conditions of release bond guaranteed by financial terms secured by cash only will be set.~~ any offense listed in §
177 2116(b) of this title may be subject to preventive detention without bail.

178 (d)-(g) [Repealed.]

179 (d) If a court enters an order of preventive detention or the defendant is otherwise detained on bail, a court of
180 competent jurisdiction may, consistent with this chapter and court rules, review the preventive detention order or bail to
181 consider whether conditions of release order or bail in a different amount or with a different security is appropriate to
182 reasonably assure the reappearance of the defendant, compliance with the conditions set forth in the bond, and the safety of
183 the community. The court may modify the defendant's preventive detention order or bail in accordance with its findings
184 and determinations at the hearing.

185 (e) The court shall document the reason for ordering preventive detention or setting bail at a particular amount and
186 level, whether cash, secured, or unsecured, or for modifying a preventive detention order or bail under subsection (d) of this
187 section.

188 (f) and (g) [Repealed.]

189 Section 7. Amend § 2108, Title 11 of the Delaware Code by making deletions as shown by strike through and
190 insertions as shown by underline as follows:

191 § 2108. Conditions for release.

192 (d)(1) In connection with any form of bail for a defendant charged with an offense listed in § 2116(b) of this title,
193 the court shall impose a condition that the defendant relinquish any firearm in the defendant's possession and that the
194 defendant not possess or control any firearm.

195 (2) Unless the condition imposed under paragraph (d)(1) of this section is further required by law or is made a
196 condition of the defendant's sentence by the sentencing judge, the court shall state that the condition imposed under
197 paragraph (d)(1) of this section only remains in effect until one of the following:

198 a. A nolle prosequi is filed, the case is dismissed, or an adjudication of not guilty is returned, whichever
199 first occurs.

200 b. If the defendant is adjudicated guilty by way of a plea of guilty or a conviction by court or jury, at the
201 time of sentencing.

202 Section 8. Amend § 2109, Title 11 of the Delaware Code by making deletions as shown by strike through and
203 insertions as shown by underline as follows:

204 § 2109. Failure to provide a conditions of release bond, whether guaranteed by financial terms or not, or consent to
205 conditions; contact with victim or victim's family.

206 (c) If the defendant is committed in lieu of bail, and knowingly breaches any conditions imposed in connection
207 with that bail, each ~~such failure or breach shall be~~ is a separate ~~crime, and upon conviction thereof shall be~~ crime and, on
208 conviction for the breach, is punished as follows:

209 (1) If the defendant was held in connection with 1 or more charges of a felony ~~prior to~~ before trial, or while
210 awaiting sentence or pending appeal or certiorari after conviction of 1 or more felonies or misdemeanors, the defendant
211 ~~shall be guilty of a felony and punished by imprisonment not to exceed 5 years, or a fine of \$5,000, or both;~~ is guilty of
212 a class E felony.

213 (2) If the defendant was held in connection with 1 or more charges of misdemeanor ~~prior to~~ before trial, the
214 defendant ~~shall be fined not more than \$500, or imprisoned not more than 1 year, or both;~~ is guilty of a class A
215 misdemeanor.

216 Section 9. Amend § 2110, Title 11 of the Delaware Code by making deletions as shown by strike through and
217 insertions as shown by underline as follows:

218 § 2110. Modification of bail, security or conditions of release and sanctions for violation.

219 (c)~~(1)~~ Following a hearing alleging pretrial noncompliance and ~~upon~~ on a finding that the defendant violated 1 or
220 more material conditions of pretrial release, the court with jurisdiction over the defendant, may continue the current
221 conditions, remove or impose different or additional conditions ~~upon~~ on the defendant's release, or revoke the defendant's
222 bail and reset pretrial conditions of release, including any financial conditions. ~~Upon~~ On a finding that defendant violated a
223 condition of appearance in court, any amount of surety posted to meet a financial term of release may be forfeited.

224 (2) A defendant who is eligible for preventive detention but was previously released pending adjudication and
225 who wilfully violates any material condition of release may be subject to modification of release conditions or
226 revocation of release and an order of preventive detention following a hearing under § 2116 of this title.

227 (d) The court may impose different or additional conditions of pretrial release or may remove conditions of pretrial
228 release only when the facts of the individual case or the defendant's circumstances demonstrate that ~~modification of the~~
229 ~~conditions is to be removed are unnecessary or that the conditions to be added are necessary to reasonably ensure~~ assure the
230 defendant's appearance at court proceedings, ~~to protect~~ reasonably assure the protection of the community, victims,
231 witnesses, or any other person, and ~~to~~ reasonably maintain the integrity of the judicial ~~process.~~ process, such that the
232 defendant will not obstruct or attempt to obstruct justice.

233 (f) If the court modifies conditions of release, the court may impose any conditions ~~as are set forth in~~ under § 2108
234 of this title, when ~~such~~ the conditions are necessary to ~~provide a reasonable assurance of~~ reasonably assure the appearance
235 of the defendant at court proceedings, reasonably assure the protection of the community, victims, witnesses, or any other
236 person, and ~~to maintain~~ reasonably maintain the integrity of the judicial ~~process.~~ process, such that the defendant will not
237 obstruct justice or attempt to obstruct justice. The court shall review the modified conditions with the defendant.

238 Section 10. Amend § 2112, Title 11 of the Delaware Code by making deletions as shown by strike through and
239 insertions as shown by underline as follows:

240 § 2112. Bail after transfer to another court or after conviction.

241 Once bail has been given and a charge is pending or is thereafter filed in or transferred to a court of competent
242 jurisdiction, the latter court may continue the original bail in that court. After conviction, the court may order that the
243 original bail stand as bail pending ~~appeal or deny, increase or reduce bail, or modify the conditions of release.~~ imposition of
244 sentence or appeal, modify conditions of release, or issue an order detaining any defendant convicted of any offense.

245 Section 11. Amend § 2113, Title 11 of the Delaware Code by making deletions as shown by strike through and
246 insertions as shown by underline as follows:

247 § 2113. Penalties for noncompliance with conditions of release bond.

248 (a) If the defendant ~~shall fail~~ fails to appear as required by the defendant's bail or ~~shall commit any~~ commits a
249 material breach of the conditions set forth in § 2104(b) or § 2108 of this title, the court shall issue a warrant and cause the
250 arrest of ~~such~~ the defendant and the cancellation of any bail and the return of the defendant to the court for a
251 redetermination of the disposition of the defendant.

252 (b) ~~Upon~~ On the return of the defendant before the court ~~pursuant to~~ under subsection (a) of this section or if the
253 defendant ~~shall~~ is not be found, the court shall act with respect to the forfeiture of any form of guaranteed or not guaranteed
254 conditions of release bond ~~pursuant to~~ under the Rules of the Superior Court and shall redetermine the type and amount of
255 ~~bail,~~ bail and conditions of the further release of the defendant. Notwithstanding any law to the contrary, ~~no~~ property, cash,

256 surety ~~surety~~, or other assets ~~shall~~ may not be forfeited except ~~upon~~ on failure of the ~~accused~~ defendant to appear as
257 required by any court.

258 (c) If the defendant knowingly fails to appear as required or knowingly breaches any condition of release, each
259 ~~such failure or breach shall be~~ is a separate ~~crime, crime and upon conviction thereof shall be~~ and, on conviction for the
260 failure or breach, is punished as follows:

261 (1) If the defendant was released in connection with 1 or more charges of a felony ~~prior to~~ before trial, or
262 while awaiting sentence or pending appeal or certiorari after conviction of 1 or more felonies or misdemeanors, the
263 defendant ~~shall be guilty of a felony and punished by imprisonment not to exceed 5 years, or a fine of \$5,000, or both;~~
264 is guilty of a class E felony.

265 (2) If the defendant was released in connection with 1 or more charges of misdemeanor ~~prior to~~ before trial,
266 the defendant ~~shall be fined not more than \$500, or imprisoned not more than 1 year, or both.~~ is guilty of a class A
267 misdemeanor.

268 (e) Any defendant released ~~pursuant to~~ under this chapter shall notify the court, before which the case is pending,
269 of any changes of address or residence within 5 days of ~~such~~ the change. ~~Failure~~ A failure by a defendant to make such the
270 notification will result in the defendant being deemed in constructive receipt of any subpoena issued to the defendant by or
271 on behalf of the court to the last address or residence given to the court by ~~that~~ the defendant.

272 Section 12. Amend § 2114, Title 11 of the Delaware Code by making deletions as shown by strike through and
273 insertions as shown by underline as follows:

274 § 2114. Administration of this chapter.

275 (a) The Department of Correction shall administer the provisions of this chapter that are not exclusively within the
276 jurisdiction of the ~~judiciary.~~ Courts.

277 (d) The Department of Correction shall have the power necessary to carry out the purposes of this chapter,
278 including all of the following:

279 (1) The Department of Correction may adopt standard conditions for the supervision of defendants ordered to
280 pretrial supervision and may modify conditions of supervision as necessary to address technical or minor violations of
281 conditions of pretrial release. The imposition of standard or modified conditions ~~shall~~ must be limited to those
282 conditions necessary to ~~provide a reasonable assurance of~~ reasonably assure the appearance of the defendant at court
283 proceedings, reasonably assure the protection of the community, victims, ~~witnesses~~ witnesses, or any other person, and
284 ~~to~~ reasonably maintain the integrity of the judicial ~~process.~~ process, such that the defendant will not obstruct or attempt

285 to obstruct justice. These conditions ~~shall~~ apply when not contrary to any other specific conditions imposed by the
286 court.

287 (i) ~~The Beginning on January 30, 2019, the~~ Criminal Justice Council shall submit a report to ~~the General Assembly~~
288 all of the following on an annual basis, ~~beginning January 30, 2019,~~ basis regarding the modernization of the pretrial
289 system, including a report of data related to pretrial success ~~rates:~~ rates:

290 (1) The President Pro Tempore and Secretary of the Senate, for distribution to all Senators.

291 (2) The Speaker and Chief Clerk of the House of Representatives, for distribution to all Representatives.

292 (3) The Director and Librarian of the Division of Research of Legislative Council.

293 (4) The Director of the Delaware Public Archives.

294 Section 13. Amend § 2115, Title 11 of the Delaware Code by making deletions as shown by strike through and
295 insertions as shown by underline as follows:

296 § 2115. Forfeiture and default of bail bonds.

297 (a) If the defendant ~~shall fail~~ fails to appear as required or ~~be~~ is found in breach of a material condition of release
298 imposed by any ~~court, except the House Sergeant of the Wilmington City Police,~~ court while under a bond, and the court
299 ~~pursuant to~~ under this chapter or court rule finds the defendant in default and forfeits the bond, the proceeds ~~shall~~ must be
300 forwarded to the State Treasurer and deposited in the General Fund.

301 Section 14. Amend § 2116, Title 11 of the Delaware Code by making deletions as shown by strike through and
302 insertions as shown by underline as follows:

303 § 2116. ~~Revocation of bail upon subsequent arrest.~~ Preventive detention.

304 (a) ~~For the purposes of this section:~~

305 (1) ~~“Original offense” means any violent felony which is alleged to have been committed by a defendant who~~
306 ~~is thereafter released from custody upon execution of any form of conditions of release bond.~~

307 (2) ~~“Subsequent offense” means any violent felony or any similar offense set forth under the laws of another~~
308 ~~state, the United States or any territory of the United States which is alleged to have been committed by a defendant~~
309 ~~during the period of that defendant’s bail in connection with an original offense.~~

310 (b) ~~In connection with any form of bail for a defendant charged with any violent felony, if after release the~~
311 ~~defendant is charged by arrest, warrant, indictment or information with the commission of a subsequent offense, that~~
312 ~~defendant shall be brought before the Superior Court. If after a hearing, the Superior Court finds proof positive or~~
313 ~~presumption great that the defendant has committed a subsequent offense during such period of release, notwithstanding~~

314 any provision of this chapter or any statute or court rule to the contrary, the Court shall revoke the bail to which the
315 defendant was admitted in connection with the original offense.

316 (e) Notwithstanding any provision of this chapter or any other statute or court rule to the contrary, whenever the
317 defendant is charged with a subsequent offense, any form of bail relating to the original offense shall be temporarily
318 revoked by any court, including the Justice of the Peace Court, Court of Common Pleas, or Superior Court, before whom
319 the defendant is then appearing, and the defendant shall be held in lieu of bail for the original offense until such time as the
320 Superior Court holds a hearing to determine whether there is proof positive or presumption great that the defendant
321 committed a subsequent offense during the period of release.

322 (d) Notwithstanding any provision of this chapter or any statute or court rule to the contrary, any defendant whose
323 bail is revoked by the Superior Court pursuant to this section shall be subject to bail on the original offense in an amount at
324 least twice the amount of bail originally set. If the bail on the original offense was not already secured by cash, the amount
325 of bail may be posted only in the form of a conditions of release bond guaranteed by financial terms secured by cash only.

326 (a) Purpose. – The purpose of this section is to provide the court with the authority to make transparent decisions
327 to detain certain detention-eligible defendants pending a final determination as to the guilt of the defendant.

328 (b)(1) Eligibility. – A detention-eligible defendant is a defendant charged with committing or attempting to
329 commit any of the following:

330 a. Any Title 11 class A felony.

331 b. Abuse of a pregnant female in the first degree, in violation of § 606 of this title.

332 c. Strangulation, in violation of § 607 of this title.

333 d. Assault in the second degree, in violation of § 612(a)(1) or (a)(2) of this title.

334 e. Assault in the first degree, in violation of § 613 of this title.

335 f. Manslaughter, in violation of § 632 of this title.

336 g. Murder of a child by abuse or neglect in the second degree, in violation of § 633 of this title.

337 h. Rape in the fourth degree, in violation of § 770(a)(1) or (a)(3) of this title.

338 i. Rape in the third degree, in violation of § 771 of this title.

339 j. Rape in the second degree, in violation of § 772 of this title.

340 k. Continuous sexual abuse of a child, in violation of § 776 of this title.

341 l. Sex offender unlawful sexual conduct against a child, in violation of § 777A of this title.

342 m. Sexual abuse of a child by a person in a position of trust, authority, or supervision in the first degree,
343 in violation of § 778 of this title.

344 n. Kidnapping in the first degree, in violation of § 783A of this title.

345 o. Trafficking an individual; forced labor; sexual servitude, in violation of § 787(b)(1) through (3) of this

346 title.

347 p. Arson in the first degree, in violation of § 803 of this title.

348 q. Burglary in the first degree, in violation of § 826 of this title.

349 r. Robbery in the first degree, in violation of § 832 of this title.

350 s. Child abuse in the second degree, in violation of § 1103B of this title.

351 t. Child torture, in violation of § 1103D of this title.

352 u. Sexual exploitation of a child, in violation of § 1108 of this title.

353 v. Unlawful dealing in child pornography, in violation of § 1109 of this title.

354 w. Sexual solicitation of a child, in violation of § 1112A(h) of this title.

355 x. Promoting sexual solicitation of a child, in violation of § 1112B(g) of this title.

356 y. Escape after conviction in violation of § 1253 of this title, when a class C or class B felony.

357 z. Stalking, in violation of § 1312 of this title.

358 aa. Possession of a deadly weapon during commission of a felony, in violation of § 1447 of this title.

359 bb. Possession of a firearm during commission of a felony, in violation of § 1447A of this title.

360 cc. Possession of a firearm by persons prohibited, in violation of § 1448(a)(1), (a)(4), (a)(6), (a)(7), or

361 (a)(11) of this title.

362 dd. Racketeering, in violation of § 1503 of this title.

363 ee. Aggravated act of intimidation, in violation of § 3533 of this title.

364 ff. Any violent felony as defined by § 4201(c) of this title, allegedly committed while defendant is

365 pending adjudication on a previously charged violent felony.

366 gg. Any violent felony, as defined by § 4201(c) of this title, allegedly committed against a petitioner with

367 an active protection from abuse order against the defendant.

368 hh. Any violent felony, as defined by § 4201(c) of this title, allegedly committed against a victim while

369 the defendant is pending adjudication on a previously charged domestic violence offense as defined by § 1041(2)

370 of Title 10, allegedly committed against the same victim.

371 ii. Any felony offense of domestic violence, as defined by § 1041 of Title 10, allegedly committed while

372 defendant is pending adjudication on a previously charged violent felony, as defined by § 4201(c) of this title.

373 jj. Felony noncompliance with bond, in violation of § 2109(c)(1) or § 2113(c)(1) of this title and
374 involving a violent felony offense as defined by § 4201(c) of this title.

375 kk. Any felony offense of domestic violence, as defined by § 1041 of Title 10, causing physical injury, as
376 defined by § 222 of this title, or serious physical injury, as defined by § 222 of this title.

377 ll. Drug dealing (Tier 3), in violation of § 4752(a)(1) of Title 16.

378 (2) An offense may only be added to the list in paragraph (b)(1) of this section by an act that complies with §
379 12 of Article I of the Delaware Constitution. An amendment to an offense on the list in paragraph (b)(1) of this section
380 is amended for the purposes of paragraph (b)(1) of this section only if it complies with § 12 of Article I of the
381 Delaware Constitution.

382 (c) Initial appearance right to counsel. – A defendant who is eligible for preventive detention under this section
383 must be afforded representation by the Office of Defense Services or retained counsel at the initial appearance described by
384 § 1909 of this title. A defendant who is unable to afford counsel must have counsel appointed without undue delay and, in
385 any event, within 24 hours of arrest.

386 (d) Temporary preventive detention hearing. –

387 (1) If a detention-eligible defendant appears before a Justice of the Peace magistrate or a judicial officer of the
388 Superior Court for initial appearance, the magistrate or judicial officer of the Superior Court may issue a temporary
389 order to detain the defendant for a period of time not to exceed 10 days if the court finds all of the following:

390 a. Probable cause that the defendant committed one of the offenses listed in subsection (b) of this section.

391 b. Clear and convincing evidence that no condition or combination of conditions of release will do all of
392 the following:

393 1. Reasonably assure the appearance of the defendant at court proceedings.

394 2. Reasonably assure the protection of the community, victims, witnesses, or any other person.

395 3. Reasonably maintain the integrity of the judicial process, such that the defendant will not obstruct
396 or attempt to obstruct justice.

397 (2) Enumerated factors to consider during a temporary preventive detention hearing. - During a temporary
398 preventive detention hearing to determine whether no condition or combination of conditions will reasonably assure
399 the defendant's appearance at court proceedings, reasonably assure the protection of the community, victims,
400 witnesses, or any other person, and reasonably maintain the integrity of the judicial process, such that the defendant
401 will not obstruct or attempt to obstruct justice, the court may consider all of the following:

402 a. The nature and circumstances of the offense charged.

403 b. The history and characteristics of the defendant, including any of the following:

404 1. Whether, at the time of the current arrest, the defendant was on probation, parole, or other release

405 pending trial, sentencing, appeal, or completion of sentence for an offense under federal law or the law of this

406 State or any other state.

407 2. The defendant's history of community supervision including amenability to pretrial conditions of

408 release, failure to appear, failure to register as sex offender violations, custodial sentences imposed, and prior

409 convictions for felonies, misdemeanors, and violent offenses.

410 3. The defendant's family ties, including responsibility as a primary caregiver to children or infirm

411 relatives.

412 4. The defendant's employment or enrollment in educational studies.

413 5. The defendant's character, physical and mental condition, including engagement in medical,

414 mental health, or substance abuse treatment, and the effect detention would have on any current treatment.

415 6. The defendant's length of residence in the community.

416 c. The nature and seriousness of the danger to any other person or the community that would be posed by

417 the defendant's release.

418 d. The nature and seriousness of the risk of obstructing or attempting to obstruct the criminal justice

419 process that would be posed by the defendant's release.

420 e. The recommendation of the Attorney General or any pretrial services agency.

421 f. The defendant's eligibility to be sentenced under § 4214 of this title.

422 (3)a. A temporary preventive detention order issued by the Justice of the Peace Court under this subsection

423 may be extended by the Court of Common Pleas or the Superior Court on motion of the State, the defendant, or on the

424 court's own motion when there is a showing of good cause for the extension and consent of the non-moving parties. In

425 the absence of consent of the non-moving parties, a temporary preventive detention order may be extended only on a

426 showing that exceptional circumstances exist and that delay is indispensable to the interests of justice.

427 b. A temporary preventive detention order issued by a judicial officer of the Superior Court under this

428 subsection may be extended by the Superior Court on motion of the State, the defendant, or on the court's own

429 motion when there is a showing of good cause for the extension and consent of the non-moving parties. In the

430 absence of consent of the non-moving parties, a temporary preventive detention order may be extended only on a

431 showing that exceptional circumstances exist and that delay is indispensable to the interests of justice.

432 (4) If a detention-eligible defendant was previously released pending adjudication and is alleged to have
433 wilfully violated any material condition of release or is subsequently charged by arrest, warrant, indictment, or
434 information with the commission of an offense listed in subsection (b) of this section or any violent felony, any form of
435 release relating to the original detention-eligible offense must be temporarily revoked by the court, including the
436 Justice of the Peace Court, Court of Common Pleas, or Superior Court, before which the defendant is then appearing, a
437 temporary preventive detention order must be entered, and the defendant must be held for the original detention-
438 eligible offense until such time as the Superior Court holds a preventive detention hearing under subsection (e) of this
439 section.

440 (5)a. If the court makes the findings required in paragraph (d)(1) of this section, there is a presumption in
441 favor of the court's entry of a temporary preventive detention order.

442 b. If the court does not make the findings required in paragraph (d)(1) of this section, the offense with
443 which the defendant is charged is deemed bailable and the court shall determine, in a manner consistent with all
444 applicable provisions of this chapter, the terms of a conditions of release bond to be imposed.

445 (e) Preventive detention hearing. -

446 (1)a. A temporary preventive detention order issued at an initial appearance under subsection (d) of this
447 section expires after 10 days if not extended by an order granted under paragraph (d)(3) of this section or by an order of
448 the Court of Common Pleas or Superior Court granting preventive detention following a preventive detention hearing
449 with adequate due process protections under subsection (f) of this section.

450 b. Whether a temporary preventive detention order was issued at an initial appearance or not, on written
451 motion of the State, the Court of Common Pleas or Superior Court may grant an order of preventive detention
452 following a preventive detention hearing with adequate due process protections under subsection (f) of this
453 section.

454 (2) At a hearing to determine whether the defendant should be subject to preventive detention, the Court of
455 Common Pleas or Superior Court may enter an order of preventive detention if the court finds all of the following:

456 a. Proof positive or presumption great that the defendant committed one of the offenses listed in
457 paragraph (b)(1) of this section.

458 b. Clear and convincing evidence that no condition or combination of conditions of release will do all of
459 the following:

460 1. Reasonably assure the appearance of the defendant at court proceedings.

461 2. Reasonably assure the protection of the community, victims, witnesses, or any other person.

462 3. Reasonably maintain the integrity of the judicial process, such that the defendant will not obstruct
463 or attempt to obstruct justice.

464 (f) Preventive detention hearing procedures. – At a hearing under subsection (e) of this section, all of the following
465 apply:

466 (1) The defendant has the right to be present and represented by counsel, and, if indigent, to have counsel
467 appointed.

468 (2) The defendant must be afforded the right to testify, present evidence and call witnesses on the defendant’s
469 behalf, and confront and cross-examine witnesses who appear at the hearing. The defendant’s testimony at a preventive
470 detention hearing, if any, is not admissible at a subsequent hearing or trial other than for impeachment or prosecution
471 for perjury.

472 (3) The Attorney General bears the burden of establishing commission of an offense with proof positive or
473 presumption great in instances where the defendant has not yet been indicted.

474 (4) If the Court finds by proof positive or presumption great that an offense was committed and the defendant
475 committed the offense, the Attorney General bears the burden of establishing by clear and convincing evidence that no
476 condition or combination of conditions of release will reasonably assure the defendant’s appearance at court
477 proceedings, reasonably assure the protection of the community, victims, witnesses, or any other person, and
478 reasonably maintain the integrity of the judicial process, such that the defendant will not obstruct or attempt to obstruct
479 justice.

480 (5) The rules of evidence do not apply in the presentation and consideration of information.

481 (6)a. Subject to paragraph (f)(6)b. of this section, the Attorney General must disclose to the defendant at or
482 before the preventive detention hearing all evidence within the Attorney General’s possession at the time of the
483 preventive detention hearing that is favorable to the defendant in the preventive detention determination in that it
484 negates the defendant’s eligibility for an order of preventive detention.

485 b. The Attorney General is deemed to not be in possession of any evidence in the possession or control of
486 other State agents that has not yet been provided to the Attorney General.

487 (7) The hearing must be held within 10 days of arrest if not extended by the Court of Common Pleas or the
488 Superior Court. An extension may be granted on motion of the State, the defendant, or on the court’s own motion when
489 there is a showing of good cause for the extension and consent of the non-moving parties. In the absence of consent of
490 the non-moving parties, the 10-day period may be extended only on a showing that exceptional circumstances exist and
491 that delay is indispensable to the interests of justice.

492 (8) The hearing must be recorded.

493 (9)a. If the Court of Common Pleas or Superior Court makes the findings required in paragraph (e)(2) of this
494 section, there is a presumption in favor of the Court's entry of an order of preventive detention.

495 b. If the Court of Common Pleas or Superior Court does not make the findings required in paragraph
496 (e)(2) of this section, the offense with which the defendant is charged is deemed bailable and the court shall
497 determine, in a manner consistent with all applicable provisions of this chapter, the terms of a conditions of release
498 bond to be imposed.

499 (g) Enumerated factors to consider during a preventive detention hearing -

500 (1) During a preventive detention hearing to determine whether no condition or combination of conditions
501 will reasonably assure the defendant's appearance at court proceedings, reasonably assure the protection of the
502 community, victims, witnesses, or any other person, and reasonably maintain the integrity of the judicial process, such
503 that the defendant will not obstruct or attempt to obstruct justice, the Court of Common Pleas or Superior Court may
504 consider all of the following:

505 a. The nature and circumstances of the offense charged.

506 b. The weight of the evidence against the defendant and likelihood of conviction. In assessing the
507 likelihood of conviction, the court may consider the admissibility of any evidence sought to be excluded.

508 c. The history and characteristics of the defendant, including all of the following:

509 1. Whether, at the time of the current arrest, the defendant was on probation, parole, or other release
510 pending trial, sentencing, appeal, or completion of sentence for an offense under federal law or the law of this
511 State or any other state.

512 2. The defendant's history of community supervision including amenability to pretrial conditions of
513 release, failure to appear, failure to register as sex offender violations, custodial sentences imposed, and prior
514 convictions for felonies, misdemeanors, and violent offenses.

515 3. The defendant's family ties, including responsibility as a primary caregiver to children or infirm
516 relatives.

517 4. The defendant's employment or enrollment in educational studies.

518 5. The defendant's character, physical and mental condition, including engagement in medical,
519 mental health, or substance abuse treatment, and the effect detention would have on any current treatment.

520 6. The defendant's length of residence in the community.

521 d. The nature and seriousness of the danger to any other person or the community that would be posed by
522 the defendant's release.

523 e. The nature and seriousness of the risk of obstructing or attempting to obstruct the criminal justice
524 process that would be posed by the defendant's release.

525 f. The recommendation of the pretrial services agency.

526 g. The defendant's eligibility to be sentenced under § 4214 of this title.

527 (2) Although the charged offense itself may be a predicate to preventive detention proceedings, the court must
528 exercise care not to give preclusive weight to the nature of the present charged offense when evaluating all relevant
529 factors for the preventive detention decision.

530 (h) Contents of preventive detention order. - In a preventive detention order issued following a hearing under
531 subsection (e) of this section, the Court shall make all of the following findings:

532 (1) Findings of fact that establish proof positive or presumption great that the defendant committed one of the
533 offenses under paragraph (b)(1) of this section.

534 (2) Findings of fact that establish clear and convincing evidence that no condition or combination of
535 conditions of release will do all of the following:

536 a. Reasonably assure the appearance of the defendant at court proceedings.

537 b. Reasonably assure the protection of the community, victims, witnesses, or any other person.

538 c. Reasonably maintain the integrity of the judicial process, such that the defendant will not obstruct or
539 attempt to obstruct justice.

540 (i) Detention order review. - On motion filed by the State or the defendant, an order entered by the Court of
541 Common Pleas or a commissioner of Superior Court granting or denying the detention of a detention-eligible defendant is
542 immediately reviewable by a judge of the Superior Court. The party seeking relief from the order must file a motion in
543 accordance with the rules of the Superior Court.

544 (j) Requirement for accelerated trial for detained defendants. - All of the following speedy trial protections apply
545 to defendants detained under subsections (d) or (e) of this section:

546 (1) A defendant may not remain detained under an order issued under subsections (d) or (e) of this section for
547 more than 60 days before the return of an indictment or docketing of a waiver of indictment. If the defendant is not
548 indicted or has not waived indictment within 60 days of entry of a temporary preventive detention order issued under
549 subsection (d) of this section or a preventive detention order issued under subsection (e) of this section, whichever is

550 later, the offense with which the defendant is charged is deemed bailable and the court shall determine, in a manner
551 consistent with all applicable provisions of this chapter, the terms of a conditions of release bond to be imposed.

552 (2)a. A defendant may not remain detained under an order issued under subsection (e) of this section for more
553 than the following periods on a charged offense after the return or unsealing of the indictment, whichever is later:

554 1. 365 days on a charge of murder in the first degree, in violation of § 636 of this title.

555 2. 270 days for a class A felony other than murder in the first degree.

556 3. 180 days for all other felony offenses under paragraph (b)(1) of this title other than murder in the
557 first degree or another class A felony.

558 b. If a defendant's trial does not commence within the applicable period under paragraph (j)(2)a. of this
559 section, the offense with which the defendant is charged is deemed bailable and the court shall determine, in a
560 manner consistent with all applicable provisions of this chapter, the terms of a conditions of release bond to be
561 imposed.

562 (3) Notwithstanding any other provision of this section, a defendant must be released on a conditions of
563 release bond if, 2 years after the court's issuance of the preventive detention order issued under subsection (e) of this
564 section, the Attorney General is not ready to proceed to voir dire, opening argument, or a hearing of any motions that
565 had been reserved for the time of trial. The terms of any conditions of release bond to be imposed must be determined
566 by the court in a manner consistent with all applicable provisions of this chapter.

567 (4) If the defendant is charged or indicted on more than one matter resulting in the defendant's preventive
568 detention under an order entered under subsection (e) of this section, the time calculations for each matter run
569 independently but not consecutively.

570 (5) Notwithstanding any other provision of this section, a preventive detention order issued under subsection
571 (e) of this section may be extended by the Superior Court on motion of the State, the defendant, or on the court's own
572 motion when there is a showing of good cause for the extension and consent of the non-moving parties. In the absence
573 of consent of the non-moving parties, a preventive detention order issued under subsection (e) of this section may be
574 extended by the Superior Court only on a showing that exceptional circumstances exist and that delay is indispensable
575 to the interests of justice.

576 (k) In addition to the information required in the annual report established in § 2114(i) of this title, the Criminal
577 Justice Council shall include the following information analyzed by the Statistical Analysis Center based on data recorded,
578 compiled, and provided electronically to the Statistical Analysis Center by the Courts:

579 (1) The number of detention-eligible defendants identified by the Courts.

- 580 (2) Rates of initial detention for detention-eligible defendants identified by the Courts.
- 581 (3) Demographic information for defendants identified by the Courts as detention-eligible.
- 582 (4) Rates of rearrest and failure to appear during the pretrial period among detention-eligible defendants
- 583 identified by the Courts and released with detention-eligible charges pending.

584 Section 15. Amend § 4334, Title 11 of the Delaware Code by making deletions as shown by strike through and

585 insertions as shown by underline as follows:

586 § 4334. Arrest for violation of conditions; subsequent disposition.

587 (b) The Commissioner, or any probation officer, when in the Commissioner's or probation officer's judgment

588 there has been a violation of any condition of probation or suspension of sentence, may arrest such probationer without a

589 warrant, or may deputize any other officer with power of arrest to do so by giving that officer a written statement setting

590 forth that the probationer has, in the judgment of the Commissioner or probation officer, violated the conditions of

591 probation or suspended sentence. The written statement delivered with the probationer by the arresting officer to the official

592 in charge of the place of detention shall be sufficient warrant for the detention of the probationer. When an arrest is made

593 by a probation officer, the Department shall present to the detaining authority a written statement of the circumstances of

594 violation. ~~Provisions regarding release on bail of persons charged with crime shall be applicable to the probationers arrested~~

595 ~~under these provisions.~~

596 Section 16. The Justice of the Peace Court, Court of Common Pleas, and Superior Court shall adopt the rules

597 required by this Act before the effective date of this Act.

598 Section 17. This Act takes effect 6 months after the enactment of a constitutional amendment permitting

599 preventive detention, as proposed by Senate Bill No. 11 of the 152nd General Assembly.

600 Section 18. Amend § 3, Chapter 72, Volume 83 of the Laws of Delaware by making deletions as shown by strike

601 through and insertions as shown by underline as follows:

602 ~~Section 3. This Act shall expire upon the enactment of the constitutional amendment regarding bail found in~~

603 ~~Senate Bill No. 11 of the 151st General Assembly.~~

604 Section 3. This Act expires 6 months after the enactment of a constitutional amendment permitting preventive

605 detention, as proposed by Senate Bill No. 11 of the 152nd General Assembly.

SYNOPSIS

This Act amends Delaware's laws regarding release of persons accused of crimes (Chapter 21 of Title 11 of the Delaware Code) as required in conjunction with the enactment of an amendment to § 12 of Article I of the Delaware Constitution permitting preventive detention, as proposed by Senate Bill No. 11 of the 152nd General Assembly.

This Act protects both defendants' due process rights and public safety by establishing the list of circumstances for which defendants may be detained pretrial without the opportunity for release and providing adequate due process protections for detention-eligible defendants.

This Act protects public safety by permitting courts to detain a defendant who is charged with an enumerated felony offense where no condition or combination of conditions of bail will reasonably assure a defendant's appearance in court or the safety of a witness, a victim, or the community.

This Act also protects defendants' rights by doing the following:

(1) Requiring the Attorney General to establish by proof positive or presumption great that the defendant committed the detention-eligible offense and by clear and convincing evidence that no condition or combination of conditions of release will reasonably assure the defendant's appearance at court proceedings, reasonably assure the protection of the community, victims, witnesses, or any other person, and reasonably maintain the integrity of the judicial process, such that the defendant will not obstruct or attempt to obstruct justice.

(2) Ensuring detention-eligible defendants are represented by counsel at the initial detention and subsequent hearings.

(3) Requiring courts to hold a full preventive detention hearing within 10 days of the defendant's arrest where defendants have the right to testify, to present evidence, and to cross-examine witnesses against them.

(4) Requiring expedited review of the detention order by Superior Court.

(5) Providing speedy trial protections for any defendant who is detained before adjudication due to preventive detention.

This Act also does the following:

(1) Improves procedural fairness by permitting courts to make transparent decisions about who to detain and who to release pretrial.

(2) Strengthens the strong presumption of pretrial release under least restrictive conditions for those defendants who can safely be released in the community.

This Act requires a greater than majority vote for passage because this Act is enabling legislation to an amendment to the Constitution which, when enacted, amends § 12 of Article I of the Delaware Constitution to require an affirmative vote of two-thirds of the members elected to each house of the General Assembly to create the list of detention-eligible offenses created by § 2116(b)(1) of Title 11 contained in this Act.

Finally, this Act makes technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual.

Author: Senator Townsend