



SPONSOR: Rep. Keeley & Sen. Henry
Reps. Bolden, Mitchell, B. Short, Pardee; Sen. Marshall

HOUSE OF REPRESENTATIVES
147th GENERAL ASSEMBLY

HOUSE BILL NO. 39

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO BAIL.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend Chapter 21, Title 11 of the Delaware Code by making insertions as shown by underlining and
2 deletions as shown by strike through as follows:

3 § 2101. Purposes of this chapter

4 It is the purpose of this chapter to reform the system of bail in the various courts of this State and to empower and
5 equip the courts to utilize a system of personal recognizance or an unsecured personal appearance bond to be used wherever
6 feasible consistent with a reasonable assurance of the appearance of the accused and the safety of the community in
7 connection with the release of persons accused of crime pending a final determination of the court as to the guilt of such
8 persons.

9 § 2102. Definitions

10 For purposes of this chapter the following definitions shall apply:

11 (1) "Attorney General" includes any Deputy Attorney General or any other prosecutor of the State, county or
12 municipality.

13 (2) "Bailable offense" is any offense not punishable by death.

14 (3) "Capital crime" includes any crime for which the punishment shall be death.

15 (4) "Cash personal appearance bond" is a bond of the accused promising appearance in court, secured by cash only.

16 (5) "Court" includes Superior Court, Court of Common Pleas, Family Court of the State, and justice of the peace.

17 (6) "Crime" includes any offense which is punishable by a fine or imprisonment.

18 (7) "Personal recognizance" is the written recognizance of the accused that the accused will obey the further direction
19 of the court.

20 (8) "Record finding" is a memorandum, notation, opinion, order or other writing in the file of the case of the accused
21 reflecting the decision made by the court.

22 (98) "Secured personal appearance bond" is a bond of the accused promising appearance in court, guaranteed by a
23 surety, property, cash or other assets.

24 (109) "Unsecured personal appearance bond" is an undertaking by the accused promising appearance in court where,
25 upon failure to appear, the accused will be liable for the amount of the bond, but the bond is not guaranteed by any surety or
26 specific pledge of property or other assets.

27 (1140) "Violent Felonies" or "violent felony" shall consist of all felonies designated as violent felonies in § 4201(c) of
28 Title 11.

29 § 2103. Persons charged with a capital crime

30 (a) A capital crime shall not be bailable, and a person so charged shall be held in custody without bail until the charge
31 be withdrawn, reduced or dismissed or until the court shall otherwise order after a trial which results in less than a
32 conviction of a capital crime or except as provided in subsection (b) of this section.

33 (b) The Superior Court may admit to bail a person charged with a capital crime if, after full inquiry, the Superior Court
34 shall determine that there is good ground to doubt the truth of the accusation, and the burden of demonstrating such doubt
35 shall be on the accused.

36 § 2103A. Detention of youth charged with Superior Court offenses

37 When a child has reached that child's 16th birthday and is found to be nonamenable to the rehabilitative processes of the
38 Family Court or is charged with an offense in Superior Court and thereafter makes application for transfer of said charges
39 to Family Court pursuant to § 1011 of Title 10 and is denied or fails to make application pursuant to § 1011 of Title 10
40 within the required time and is therefore held over for trial in Superior Court, the youth shall be remanded to the
41 Department of Correction if held in default of bail. When a child (youth) has been lawfully administratively remanded or
42 transferred to the Department of Correction ("DOC"), DOC shall be exclusively responsible for all aspects of the child's
43 (youth's) care, custody and control, including services associated with those responsibilities upon such remand and transfer.
44 The Department of Services for Children, Youth and Their Families ("DSCYF") shall have no authority or jurisdiction of
45 such child (youth).

46 § 2104. Release on bail or recognizance of persons charged with any other crime

47 (a) Any person who is arrested and charged with any crime other than a capital crime shall be released either:

48 (1) On the person's own recognizance or

49 (2) Upon the execution of an unsecured personal appearance bond of the accused in an amount specified by the
50 court or

51 (3) Upon the execution of a secured personal appearance bond, the amount of the bond and the nature of the surety

52 to be determined by the court.

53 (4) Upon execution of a cash personal appearance bond, the amount of the bond to be determined by the court.

54 (b) The court shall impose the following conditions of release for any person released on bail or recognizance:

55 (1) Require the person to return to the court at any time upon notice and submit to the orders and processes of the
56 court; and

57 (2) Prohibit the person from committing any criminal offense.

58 (c) The court may also impose 1 or more of the conditions of release set forth in § 2108 of this title.

59 (d) The determination of whether the accused shall be released under paragraph (a)(1), (a)(2), (a)(3) or (a)(4) of this
60 section above and the conditions (other than the mandatory conditions in paragraph (b) of this section above) of the release
61 shall be in the discretion of the court subject to this chapter. In making a release determination, or imposing conditions set
62 forth in § 2108 of this title, the court shall employ an objective risk assessment instrument to gauge the person's risk of
63 flight and re-arrest and the safety of the victim and the community. The risk assessment instrument shall be responsive to
64 the needs of victims of domestic violence and sexual assault. The Statistical Analysis Center shall provide the court with a
65 report of rates of re-arrest and failure to appear as required by persons released by the court. Use of the objective risk
66 assessment instrument shall commence by December 31, 2013.

67 (eb) If the accused has furnished surety, the court shall, at that time, review conditions and may impose any conditions
68 as are set forth in § 2108 of this title before the accused is released, including specific consideration for the safety of the
69 victim and the community.

70 (fe) Any person who is arrested and thereafter released from custody pursuant to this chapter, and who subsequently:

71 (1) Tenders to the Superior Court a plea of guilty or nolo contendere to any felony for which a mandatory,
72 minimum, minimum mandatory or mandatory minimum period of incarceration is required; or

73 (2) Is convicted upon a verdict of guilty of any felony for which a mandatory, minimum, minimum mandatory or
74 mandatory minimum period of incarceration is required, shall immediately be remanded to the custody of the Department
75 of Correction, and shall be incarcerated in lieu of bail until the sentence for said felony is imposed. The provisions of this
76 subsection shall not apply to pleas or convictions for any felony set forth in Title 21.

77 § 2105. Release on personal recognizance or on unsecured personal appearance bond

78 (a) The court shall release a person accused of a bailable crime on the person's own recognizance or upon the execution
79 of an unsecured personal appearance bond of the accused in an amount to be determined by the court when the court is
80 satisfied from all the circumstances and the criteria set forth in subsection (b) of this section that it is reasonably likely that
81 the accused will appear as required before or after conviction of the crime charged and that there is no substantial risk to the

82 safety of the community in permitting such unsecured release.

83 (b) In determining whether the accused is likely to appear as required and that there will be no substantial risk to the
84 safety of the community the court shall, on the basis of available information, take into consideration the nature and
85 circumstances of the crime charged, whether a firearm was used or possessed, the possibility of statutory mandatory
86 imprisonment, whether the crime was committed against a victim with intent to hinder prosecution, the family ties of the
87 accused, the accused's employment, financial resources, character and mental condition, the length of residence in the
88 community, record of convictions, habitual offender eligibility, custody status at time of offense, history of amenability to
89 lesser sanctions, history of breach of release, record of appearances at court proceedings or of flight to avoid prosecution or
90 failure to appear at court proceedings.

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

94 § 2106. Posting of operator's license as security for court appearance

95 (a) In addition to § 2104 of this title, whenever any person lawfully possessed of an operator's license theretofore
96 issued to that person by the Division of Motor Vehicles of the Department of Transportation of the State, or under the laws
97 of any other state or territory or the District of Columbia, shall be arrested and charged with any violation of the traffic or
98 criminal laws of this State, or of any political subdivision thereof, a court may take and hold, as security for the appearance
99 of the defendant for trial or for sentencing, the operator's license so issued to the defendant.

100 (b) Any person whose operator's license has been deposited with a court, pursuant to subsection (a) above, shall be
101 issued a receipt by the court taking said license upon a form substantially as set forth below, and thereafter said person shall
102 be permitted to operate a motor vehicle upon the highways of this State until and including the date scheduled for trial or
103 sentencing, unless the person's license or privilege to operate a motor vehicle is otherwise revoked, suspended or cancelled.

104 FORM OF RECEIPT

105 The operator's license of, license number ... is held by the Court, State of Delaware, as security for the
106 appearance of said person for trial or for sentencing in connection with Case No..... Please accept this receipt as a substitute
107 for that license as provided by Title 11, § 2106(a), Delaware Code, as amended. Appearance is scheduled for This
108 receipt is not valid after said date. Failure to appear will result in license suspension. An attempt to secure, or the securing
109 of, a duplicate operator's license during the period in which this court holds an operator's license shall be considered as a
110 contempt of court under 11 Del. C., § 1271(3).

111 (c) The clerk of the court in which a person's operator's license was taken as security for reappearance, pursuant to
112 subsection (a) of this section, shall immediately forward to the Division of Motor Vehicles of the State the license if the
113 person fails to reappear by the date indicated in the receipt as prescribed by subsection (b) of this section. The Director of
114 the Division of Motor Vehicles shall, upon receipt of a license so forwarded by the clerk, suspend the operator's license
115 and/or driving privileges of the defendant until notified by the court that said defendant has appeared at court for trial or
116 sentencing. If the person be from another state or territory or from the District of Columbia, the Director of the Division of
117 Motor Vehicles shall further advise the motor vehicle administrator of the state, territory or the District of Columbia of this
118 State's suspension and request that said person's license to drive be suspended until the defendant has appeared at court for
119 trial or sentencing.

120 (d) The clerk of the court in which a person's license was taken as security, pursuant to subsection (a) of this section,
121 shall immediately return to said person the operator's license upon reappearance on the date as ordered by the court, and as
122 reflected in the form as prescribed by subsection (b) above.

123 (e) In determining whether or not a defendant shall post an operator's license as security for appearance for trial or for
124 sentencing, the court shall consider the criteria set forth in § 2105(b) of this title.

125 § 2107. Determining the amount of bail

126 (a) In determining the amount of bail to be required to be posted as surety under § 2105 of this title or to be required
127 for an unsecured personal appearance bond of the accused, the court shall not require oppressive bail but shall require such
128 bail as reasonably will assure the reappearance of the accused, compliance with the conditions set forth in the bond and the
129 safety of the community. In fixing the amount, the court shall also take into consideration the criteria set forth in § 2105(b)
130 of this title.

131 (b) In any event, if a person is charged with an offense punishable by fine only, the amount of the bail shall not exceed
132 double the amount of the maximum fine for each charge. When a person has been convicted of an offense and only a fine
133 has been imposed as the sentence of the court, the amount of bail shall not exceed double the amount of the fine.

134 (c) Notwithstanding any provision of this title to the contrary, for a person charged with committing a violent felony
135 involving a firearm or with committing a violent felony while on probation or pretrial release, the presumption is that a cash
136 personal appearance bond will be set.

137 § 2108. Conditions for release

138 (a) In addition to the mandatory conditions set forth in § 2104(b) of this title, in connection with either a secured
139 release or an unsecured release of any person the court may also impose 1 or more of the following conditions:

140 —(1) Require the person to return to the court at any time upon notice and submit to the orders and processes of
141 the court;

142 (12) Place the person in the custody of a designated person or organization agreeing to supervise the person;

143 (23) Place the person under the supervision of a presentence or probation officer;

144 (34) Place restrictions on the travel, associations, activities, consumption of alcoholic beverages, drugs or
145 barbiturates, or place of abode of the person during the period of release;

146 (45) Require the person to have no contact or restricted contact with the victim, the victim's family, victim's
147 residence, place of employment, school or location of offense;

148 (56) Require periodic reports from the person to an appropriate agent or officer of the court including the attorney
149 for the accused;

150 (67) Require psychiatric or medical treatment of the person;

151 (78) Require the person to provide suitable support for the person's family under supervision of an officer of the
152 court or the Family Court, with the consent of the Family Court;

153 (89) Require a person who has been convicted to duly prosecute any post-conviction remedies or appeals; and if
154 the case is affirmed or reversed and remanded, such person shall forthwith surrender to the court;

155 (940) Impose any other condition deemed reasonably necessary to assure appearance as required and to carry out
156 the purpose of this chapter.

157 (b) In connection with either a secured release or an unsecured release of any person charged with any crime involving
158 child sexual abuse or exploitation, the court shall also impose a condition that the person have no contact with children,
159 except upon good cause shown, and as otherwise provided by the court, and that such condition remain in full force and
160 effect until a nolle prosequi is filed, the case is dismissed or an adjudication of not guilty is returned, whichever shall first
161 occur, or if the person is adjudicated guilty by way of a plea of guilty or a conviction by court or jury, at the time of
162 sentencing, unless further made a condition of probation by the sentencing judge.

163 (c) In connection with either a secured release or unsecured release of any person charged with a violation of § 4177 of
164 Title 21 which is alleged to be punishable as a felony pursuant to that section, the court shall impose a condition that the
165 person not drive a vehicle, as defined by that section, until a nolle prosequi is filed, the case is dismissed or an adjudication
166 of not guilty is returned, whichever shall first occur, or if the person is adjudicated guilty by way of plea of guilty or a
167 conviction by court or jury, at the time of sentencing, unless further made a condition of probation by the sentencing judge.

168 § 2109. Failure to provide recognizance, bond, or consent to conditions; contact with victim or victim's family

169 (a) If the accused does not provide the personal recognizance, secured or unsecured bond or if the person does not

170 agree to meet the conditions for release, the person shall be held in the custody of the State Board of Correction until the
171 person cures such failure or until the court otherwise orders.

172 (b) If the accused is committed in lieu of bail, the court may require such person, while in custody, to have no contact
173 with the victim or the victim's family.

174 (c) If the accused is committed in lieu of bail, and knowingly breaches any conditions imposed in connection with that
175 bail, each such failure or breach shall be a separate crime, and upon conviction thereof shall be punished as follows:

176 (1) If the person was held in connection with 1 or more charges of a felony prior to trial, or while awaiting
177 sentence or pending appeal or certiorari after conviction of 1 or more felonies or misdemeanors, the person shall be guilty
178 of a felony and punished by imprisonment of not to exceed 5 years or a fine of \$5,000, or both;

179 (2) If the person was held in connection with 1 or more charges of misdemeanor prior to trial, the person shall be
180 fined not more than \$500 or imprisoned not more than 1 year, or both.

181 § 2110. Modification of bail, security or conditions

182 (a) Either the accused or the Attorney General may apply to the court for any modification of any determination by the
183 court as to the decision of the type of release, the amount and nature of the bond or surety or the conditions of release. Such
184 application shall be at such times, upon such conditions and in such manner as the Rules of Superior Court may provide.

185 (b) Where the court modifies any bail amount, the court shall review conditions and may impose any conditions as are
186 set forth in § 2108 of this title, including specific considerations for the safety of the victim and the community.

187 § 2110A. Bail Sufficiency; Source Hearing

188 (a) When a person charged with a violent felony posts a cash personal appearance bond or a secured personal
189 appearance, no later than the time of posting bail or proffering the surety or bail bond, shall provide to the prosecutor, on a
190 form promulgated by the Attorney General, relevant information under penalty of perjury about the obligor, indemnifier or
191 person posting cash bail, the security offered, and the source of any money or property used to post the cash bail or secure
192 the surety or bail bond, as the case may be. The required information shall include, but not be limited to, the defendant's
193 employment history, the names and addresses of any persons who contributed money or pledged security for the proffered
194 bail or toward a surety bond, the amount, nature and timing of such contributions, the relationship to the defendant of any
195 such persons contributing resources, and a certification, under penalty of perjury, from each person posting or contributing
196 resources that the resources posted or contributed by him or her were not acquired as a result of criminal or unlawful
197 conduct. Bail may not be accepted from a person subject to the requirements of this subsection until the prosecutor is
198 provided the completed form required by this subsection.

199 (b) When a person charged with a violent felony posts a cash personal appearance bond or a secured personal

200 appearance, the court shall, upon the request of the State, conduct an inquiry to determine the reliability of the obligor or
201 person posting cash bail, the value and sufficiency of any security offered, the relationship of the obligor or person posting
202 cash bail to the defendant and the defendant's interest in ensuring that the bail is not forfeited, and whether the funds used
203 to post the cash bail or secure the bail bond were acquired as a result of criminal or unlawful conduct. The court may
204 examine, under oath or otherwise, any person who may possess relevant information and may inquire into any matter
205 appropriate to its determination, including, but not limited to the following:

206 (1) The character, background and reputation of the person posting cash bail;

207 (2) The relationship of the person posting cash bail or securing a bail bond to the defendant;

208 (3) The source of any money posted as cash bail and whether any such money constitutes the fruits of unlawful
209 conduct;

210 (4) The character, background and reputation of any person who has indemnified or agreed to indemnify an
211 obligor on the bond;

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

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

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

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

224 (c) If the defendant has not been released when the State requests a hearing pursuant to subsection (b), the defendant
225 shall remain in custody until further order of the court, and the court shall conduct a hearing and issue an order pursuant to
226 subsection (b) within three business days after bail is posted or proffered. If the court disapproves the bail, the defendant
227 shall not be released unless he or she complies with the conditions of the court's order.

228 (d) If the defendant has already been released after posting bail, the defendant's bail status shall be maintained until the
229 court conducts a hearing and issues an order pursuant to subsection (b). The court shall conduct a hearing, upon notice to

230 the defendant, and issue an order within a reasonable period of time after the State's request for a hearing. If the court
231 disapproves the bail of a defendant who has already been released, the defendant shall be returned to custody, immediately,
232 and not be released until he or she complies with the conditions of the court's order. If the defendant fails to appear for the
233 hearing, the bail shall be forfeited and a warrant shall issue for the arrest of the defendant.

234 (e) Nothing herein shall prevent the court from otherwise setting bail, or altering bail on motion therefor, in accordance
235 with other provisions of law.

236 § 2111. Procedure for taking bail or implementing this chapter

237 Except as provided herein, tThe procedure for taking bail or implementing this chapter shall be as provided by the
238 Rules of the Superior Court.

239 § 2112. Bail after transfer to another court or after conviction

240 Once bail has been given and a charge is pending or is thereafter filed in or transferred to a court of competent
241 jurisdiction, the latter court may continue the original bail in that court. After conviction, the court may order that the
242 original bail stand as bail pending appeal or deny, increase or reduce bail.

243 § 2113. Penalties for noncompliance with conditions of recognizance; bond or conditions

244 (a) If the accused shall fail to appear as required by the recognizance or bond or shall commit any material breach of
245 the conditions set forth in § 2105(b) or § 2108 of this title, the court shall issue a warrant and cause the arrest of such person
246 and the cancellation of any recognizance and the return to the court for a redetermination of the disposition of the accused.

247 (b) Upon the return of the accused before the court pursuant to subsection (a) of this section or if the accused shall not
248 be found, the court shall act with respect to the forfeiture of any secured or unsecured bond pursuant to the Rules of the
249 Superior Court and shall redetermine the type of release, the amount of bail, if any, and conditions of the further release of
250 the accused. ~~Notwithstanding any law to the contrary, no property, cash, surety or other assets shall be forfeited except~~
251 ~~upon failure of the accused to appear as required by any Court.~~

252 (c) If the accused knowingly fails to appear as required or knowingly breaches any condition of release, each such
253 failure or breach shall be a separate crime, and upon conviction thereof shall be punished as follows:

254 (1) If the person was released in connection with 1 or more charges of a felony prior to trial, or while awaiting
255 sentence or pending appeal or certiorari after conviction of 1 or more felonies or misdemeanors, the person shall be guilty
256 of a felony and punished by imprisonment of not to exceed 5 years or a fine of \$5,000, or both;

257 (2) If the person was released in connection with 1 or more charges of misdemeanor prior to trial, the person shall
258 be fined not more than \$500 or imprisoned not more than 1 year, or both.

259 (d) The Justice of the Peace Court shall have jurisdiction over violations of this section if punishable as misdemeanors

260 and if the jurisdiction over the underlying offense remains with the Justice of the Peace Court.

261 (e) Any person released pursuant to this chapter shall notify the court, before which the case is pending, of any changes
262 of address or residence within 5 days of such change. Failure to make such notification will result in constructive receipt of
263 any subpoena issued to the person by or on behalf of the court to the last address or residence given to the court by that
264 person.

265 (f) Nothing in this chapter shall interfere with or prevent the exercise by any court of its power to punish for contempt.

266 § 2114. Administration of this chapter

267 (a) The State Board of Correction shall administer such provisions of this chapter as are not exclusively the province of
268 the judges of the respective courts of this State.

269 (b) The State Board of Correction may make investigations relative to the release of persons charged with criminal
270 offenses and advise and assist the courts to carry out the purposes of this chapter.

271 (c) The State Board of Correction shall have the power necessary to carry out the purposes of this chapter, including
272 subpoena power, and as shall be provided by the Rules of the Superior Court.

273 (d) The Commissioner of the Department of Corrections may employ 1 supervisor, and such assisting and clerical staff
274 as may be necessary to carry out this chapter.

275 § 2115. Forfeiture and default of ~~cash~~-bail bonds

276 (a) If the accused shall fail to appear as required by any court, except the House Sergeant of the Wilmington City
277 Police, while under a ~~cash~~-bond, and the court pursuant to this chapter or court rule finds the accused in default and forfeits
278 the ~~cash~~-bond, the proceeds shall be forwarded to the State Treasurer and deposited in a separate account designated the
279 "Fugitive Task Force Fund," which is hereby created. This fund is to be administered by the Department of Justice for the
280 purpose of searching for, locating and returning to the court persons who were released on bail and failed to appear as
281 requested by the court, in the General Fund.

282 (b) All funds held by the State in any depository derived from forfeiture or default of bonds from any court, except the
283 House Sergeant of the Wilmington City Police, shall immediately be forwarded to the State Treasurer and deposited in the
284 Fugitive Task Force Fund. General Fund.

285 (c) The Department of Justice shall submit a detailed spending plan for the use of the Fugitive Task Force Funds to the
286 Director of the Office of Management and Budget and Controller General no later than September 30 of each fiscal year.
287 No funds shall be expended until the plan is approved by the Director of the Office of Management and Budget and the
288 Controller General.

289 (d) If at any time the amount of funds designated in the Fugitive Task Force Fund exceeds \$500,000, the excess shall

290 be deposited in the General Fund.

291 (ee) The proceeds of any bond forfeited for the accused's failure to appear in any child support proceeding shall be paid
292 over to the payee of the child support order and applied to the child support account.

293 § 2116. Revocation of bail and forfeiture of surety upon subsequent arrest

294 (a) For the purposes of this section:

295 (1) "Original offense" means any violent felony ~~as defined in §4201(e) of this title~~ which is alleged to have been
296 committed by a person who is thereafter released from custody upon that person's own recognizance or upon the execution
297 of a secured or unsecured personal appearance bond or a cash personal appearance bond;

298 (2) "Subsequent offense" means any violent felony ~~as defined in §4201(e) of this title~~ or any similar offense set
299 forth under the laws of another state, the United States or any territory of the United States which is alleged to have been
300 committed by a person during the period of that person's secured or unsecured release in connection with an original
301 offense.

302 (b) In connection with either a secured release or unsecured release of any person charged with any violent felony ~~as~~
303 ~~defined in §4201(e) of this title~~, if after such release the accused is charged by arrest, warrant, indictment or information
304 with the commission of a subsequent offense, that person shall be brought before the Superior Court. If after a hearing, the
305 Superior Court finds proof positive or presumption great ~~probable cause to believe~~ that the accused has committed a
306 subsequent offense during such period of release, notwithstanding any provision of this chapter or any statute or court rule
307 to the contrary, the Court:

308 (1) Shall revoke the bail to which the person was admitted in connection with the original offense and shall forfeit
309 any cash bond or other form of cash surety relating thereto to the State; and

310 (2) May, upon motion of the State, forfeit any real property or other surety not otherwise described in paragraph
311 (1) of this subsection to the State.

312 ~~(c) For the purposes of this section, probable cause to believe that the accused has committed a subsequent offense~~
313 ~~shall be established if:~~

314 ~~(1) The accused is charged with a crime which, as alleged, constitutes any violent felony as defined in § 4201(e) of~~
315 ~~this title or any similar offense set forth under the laws of another state, the United States or any territory of the United~~
316 ~~States;~~

317 ~~(2) The subsequent offense, as alleged, occurred during a period of secured or unsecured release following an~~
318 ~~arrest alleging any violent felony as defined in § 4201(e) of this title; and~~

319 (3) The subsequent offense is alleged in an indictment or information, or the accused is bound over for trial on the
320 subsequent offense by the appropriate court following a preliminary hearing or the waiver of such hearing by the accused,
321 or an arrest warrant is issued which charges the accused with the commission of the crime.

322 (cd) Notwithstanding any provision of this chapter or any other statute or court rule to the contrary, whenever the
323 accused is charged with a subsequent offense, any recognizance or bond relating to the original offense shall be temporarily
324 revoked, and the person shall be held in lieu of bail for the original offense until such time as the Superior Court holds a
325 hearing to determine whether there is proof positive or presumption great ~~probable cause to believe~~ that the accused
326 committed a subsequent offense during the period of release.

327 (e) Notwithstanding any provision of this chapter or any statute or court rule to the contrary, any person whose bail is
328 revoked by the Superior Court pursuant to this section shall be subject to bail on the original offense in an amount at least
329 twice the amount of bail originally set. If the bail on the original offense was not already cash, the amount of bail may be
330 posted only in the form of a cash personal appearance bond. ~~pursuant to this section shall thereafter be held in custody~~
331 ~~without bail on the original offense until either such charges or the subsequent offense are withdrawn or dismissed, or until~~
332 ~~the defendant is found to be not guilty of the original offense or subsequent offense, or in the event of a conviction for the~~
333 ~~original offense, until the accused is sentenced.~~

SYNOPSIS

This Act will make changes to Delaware's bail statutes that will reduce the crimes committed by dangerous and violent offenders who have been released on bail only to commit additional crimes. The Act will require any court setting bail to require the Defendant to refrain from committing any additional criminal offenses and to consider the safety of the victim and the community and certain objective factors about the crime and the Defendant's criminal history when determining the type and amount of bail. The Act creates a presumption in favor of cash bail whenever a person on probation or pre-trial release is alleged to have committed a violent felony. The growing problem of criminals using the proceeds of criminal activity to post bail is addressed by requiring any person who posts bail to identify the source of the funds used to secure a defendant's release. The Act will also authorize Courts to revoke and forfeit the bail of any person charged with a violent felony who is found to have committed a subsequent violent felony after being released on bail.