
DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Adams

HB No. 367

Abstract: Amends provisions relative to release of certain defendants prior to trial, authorizes the creation of local pretrial services programs, provides for the services which may be provided by such programs, and provides for the confidentiality of information obtained through the program.

Present law provides for the following with regard to release on bail:

- (1) Any defendant who has been arrested for a felony offense, an element of which is the discharge, use, or possession of a firearm, shall not be released on his personal undertaking without security or with an unsecured personal surety.
- (2) Any defendant who has been arrested for domestic abuse battery, a crime of violence or for any of the following crimes shall not be released by the court on the defendant's own recognizance or on the signature of any other person: vehicular homicide; cyberstalking, if the person has two prior convictions for the same offense; aggravated kidnapping of a child; violation of protective orders, if the person has a prior conviction for the same offense; killing a child during delivery; human experimentation; cruelty to the infirmed, if the person has a prior conviction for the same offense; operating a vehicle while intoxicated, if the person has a prior conviction for the same offense; aggravated cruelty to animals; injuring or killing of a police animal; or the production, manufacturing, distribution, or dispensing or the possession with the intent to produce, manufacture, distribute, or dispense a controlled dangerous substance.

Proposed law amends present law to provide that these provisions of present law are rebuttable presumptions which may be overcome if it is determined by the judge, after a hearing in open court, that a review of the relevant factors warrants this form of release.

Present law authorizes the court to impose any condition of release that is reasonably related to assuring the appearance of the defendant before the court.

Proposed law retains present law and provides that the court may also impose conditions of release that are reasonably related to the risk posed by the defendant to another individual or to the community, including being placed under the supervision of a pretrial services program as provided by proposed law.

Proposed law authorizes the creation of pretrial services programs, established within any

locality, which shall have the authority to provide services to assist the court in making determinations of whether to detain or release a defendant prior to trial, help the court to set appropriate bonds, determine conditions of release, determine whether to order preventive detention, support and encourage the defendant's return to court for subsequent hearings, and ensure public safety during the pretrial period by providing supervision services. Proposed law provides a list of services which may be provided by the pretrial services program.

Proposed law requires the locality to specify and define the jurisdiction of the program and the pretrial services that will be provided.

Proposed law authorizes each pretrial services program established pursuant to the provisions of proposed law to have a pretrial services specialist who shall serve the areas which fall into the jurisdiction of the program and who may provide certain services, when the resources are available, which may include but are not limited to the following:

- (1) Subject to court approval, conduct drug and alcohol screenings, tests, or assessments, and conduct or facilitate the preparation of the screenings, assessments, or tests consistent with best practices in the community.
- (2) Facilitate placement of the defendant in a substance abuse education or treatment program or other education or treatment service when ordered as a condition of the defendant's pretrial release.
- (3) Supervise any defendant placed on electronic monitoring as a condition of his release on bail.
- (4) Prepare the financial statement eligibility determination form for the defendant for the purpose of obtaining indigent defense services.
- (5) Assess the defendant for appropriate referral to court-approved diversion programs or specialty courts.
- (6) Subject to approved procedures and if requested by the court, coordinate services for the defendant for court-appointed counsel and, if necessary, for interpreters for defendants who speak a foreign language or who have a hearing impairment.

Proposed law provides for definitions of "active member of the United States Armed Forces", "bail", "bond", and "criminal history".

Present law provides for a list of exceptions to the "Public Records Law".

Proposed law amends present law to add "pretrial services information" to the list of exceptions to the "Public Records Law". Proposed law defines "pretrial services information", provides for the confidentiality of this information, and provides for the limited circumstances under which this information may be disclosed.

(Amends C.Cr.P. Arts. 334.1, 334.2, 334.4, and 335; Adds C.Cr.P. Arts. 350 and 350.1 and R.S. 44:4(48))