

NOTICE TO THE BAR

PROPOSED AMENDMENTS TO RULE 3:26-2 (“AUTHORITY TO SET CONDITIONS OF PRETRIAL RELEASE”) – REQUEST FOR PUBLIC COMMENT

The Supreme Court requests public comment on the attached proposed amendments to Rule 3:26-2 (“Authority to Set Conditions of Pretrial Release”) that would (1) establish a process for review of defendants’ compliance with pretrial release conditions, and (2) clarify the timeframe and process for handling Violations of Monitoring.

In particular, the attached proposed amendments to Rule 3:26 would specifically authorize review of the conditions of pretrial monitoring for a defendant who has been compliant with all conditions for at least six months.

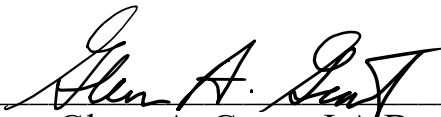
In addition, the proposed amendments to Rule 3:26-2(d) also would provide specific timeframes for resolution of violations of monitoring filed by the prosecutor and/or by the Pretrial Services Program.

Please send any comments to the proposed amendments to Rule 3:26-2 by **July 8, 2024** to:

Hon. Glenn A. Grant, J.A.D.
Acting Administrative Director of the Courts
Comments on Proposed Amendments to Rule 3:26-2
Hughes Justice Complex, P.O. Box. 037
Trenton, NJ 08625-0037

Comments may also be submitted via email at the following address:
Comments.Mailbox@njcourts.gov.

The Supreme Court will not consider comments submitted anonymously. Thus, those submitting comments by mail should include their name and address, and those submitting comments by email should include their name and email address. Comments are subject to disclosure upon receipt.



Hon. Glenn A. Grant, J.A.D.
Acting Administrative Director of the Courts

Dated: June 5, 2024

R. 3:26-2. Authority to Set Conditions of Pretrial Release

(a) Authority to Set Conditions of Pretrial Release. ... no change

(b) Conditions of Release. ... no change

(c) Modification of Release Conditions.

(1) Monetary Bail Restrictions. ... no change

(2) Review of Conditions of Release. ... no change

(3) Pretrial Services Compliance Review. For defendants who have been compliant with their conditions of release for a six-month period, the Pretrial Services Program shall conduct a pretrial compliance review pursuant to a process prescribed by the Administrative Director of the Courts and, upon notice to the parties, shall submit the results of that review to the court for its consideration in determining whether to modify defendant's conditions of release.

(d) Violations of Conditions of Release.

(1) Violation of Condition of Release When Defendant Released from Jail. Upon the motion of the prosecutor, when a defendant for whom a complaint-warrant or warrant on indictment was issued is released from custody, the court, upon a finding, by a preponderance of the evidence, that the defendant while on release violated a restraining order or condition of release, or upon a finding of

probable cause to believe that the defendant has committed a new crime while on release, may revoke the defendant's release and order that the defendant be detained pending trial where the court, after considering all relevant circumstances including but not limited to the nature and seriousness of the violation or criminal act committed, finds clear and convincing evidence that no monetary bail, non-monetary conditions of release or combination of monetary bail and conditions would reasonably assure the defendant's appearance in court when required, the protection of the safety of any other person or the community, or that the defendant will not obstruct or attempt to obstruct the criminal justice process. The disposition of a motion filed pursuant to this subparagraph, or filed pursuant to Rule 3:4A, shall resolve any pending violation of monitoring that has been filed by the Pretrial Services Program.

(2) Hearing on Violations of Conditions of Release. ... no change

(3) Discovery. ... no change

(4) Timing of a Violation of Monitoring Filed by Pretrial Services.

The court shall consider a violation of monitoring filed by the Pretrial Services Program contemporaneously with any motion filed by the prosecutor to revoke release, to detain, or to change conditions of release. If no motion has been filed by the prosecutor, the court shall consider the violation of monitoring:

(A) following the filing of new charges on a new complaint-warrant (CDR-2) or complaint-summons (CDR-1) at the defendant's first appearance by a judge with authority to set conditions of release for the offenses charged; or

(B) following the detention of defendant on a bench warrant issued by the court, within 3 business days before the trial judge if the defendant has been indicted or before a judge with authority to set conditions of release for the offenses charged; or

(C) for defendants not in custody, at the defendant's next scheduled court event or within twenty business days, whichever comes first.

(e) Person Released on a Complaint-Summons or Summons on Indictment

Who is Thereafter Arrested on a Warrant for a Failure to Appear. ... no change

Note: Source-R.R. 3:9-3(a) (b) (c); amended July 24, 1978 to be effective September 11, 1978; amended May 21, 1979 to be effective June 1, 1979; amended August 28, 1979 to be effective September 1, 1979; amended July 26, 1984 to be effective September 10, 1984; caption amended, former text amended and redesignated paragraph (a) and new paragraphs (b), (c) and (d) adopted July 13, 1994 to be effective January 1, 1995; paragraph (b) amended January 5, 1998 to be effective February 1, 1998; paragraph (d) amended July 9, 2013 to be effective September 1, 2013; paragraph (a) amended July 27, 2015 to be effective September 1, 2015; caption amended, paragraphs (a) and (b) caption and text amended, former paragraphs (c) and (d) deleted, and new paragraphs (c), (d), and (e) adopted August 30, 2016 to be effective January 1, 2017; paragraphs (b) and (d)(1) amended November 14, 2016 to be effective January 1, 2017; paragraph (a) amended December 6, 2016 to be effective January 1, 2017; paragraphs (b) and

(d)(1) amended, and caption and text of paragraph (e) amended July 28, 2017 to be effective September 1, 2017; paragraphs (a) and (b) amended, subparagraph (d)(2) amended, and new subparagraph (d)(3) adopted July 27, 2018 to be effective September 1, 2018; new subparagraph (c)(3) adopted, subparagraph (d)(1) amended, and new subparagraph (d)(4) adopted [date] to be effective [date].