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Acting Administrative Director of the Courts

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**TO: Assignment Judges
Trial Court Administrators**

**SUPPLEMENT TO
DIRECTIVE: #09-19**

**FROM: Glenn A. Grant
Acting Administrative Director**

Questions or comments may be directed to the Criminal Practice Division at 609-815-2900 x55300

RE: Criminal Justice Reform – Promulgation of Revised Pretrial Intervention (PTI) Order of Termination Form (CN 10302)

DATE: August 30, 2024

This Supplement to [Directive #09-19](#), “Criminal - Updated Pretrial Intervention (PTI) Forms” (issued June 4, 2019), promulgates the attached revised version of the Pretrial Intervention Order of Termination form (CN 10302), effective immediately. It replaces in its entirety the January 27, 2023 Supplement to Directive #09-19 and the version of the form order that Supplement had issued. All other PTI forms contained in and promulgated by Directive #09-19 remain in effect.

The reason for this updating of the Pretrial Intervention Order of Termination is to address the need for consistency in ordering defendants to resume monitoring by Pretrial Services after they are terminated from PTI.

This Supplement also re-issues procedural guidance clarifying that courts may terminate PTI for defendants who violated their PTI conditions and who were given proper notice to appear at a termination hearing but failed to appear.

While a defendant enrolled in PTI is entitled to a summary PTI termination hearing, the defendant's presence is not required in order to proceed with the termination. See N.J.S.A. 2C:43-13(e); State v. A.S.-M., 444 N.J. Super. 334 (App. Div. 2016). A review of statewide practices revealed a lack of consistency in approach to the PTI termination process when a defendant failed to appear for such a summary proceeding. In some cases, the court would issue a bench warrant but not proceed with the summary hearing, which resulted in the defendant tolling their PTI period while being a fugitive from the program.

A defendant who is terminated from the PTI program may petition for reinstatement. State v. A.S.-M., 444 N.J. Super. 334 (App. Div. 2016). Time not in the program after a termination and prior to reinstatement is not counted against the defendant's statutory 3-year maximum term. However, it is unclear whether the period a defendant is an active fugitive from the program may be used to toll the program length beyond three years. See State v. Fenton, 221 N.J. Super. 16 (Law Div. 1987).

To address these issues in a consistent manner, vicinages should use the following procedure when a defendant fails to appear at a PTI termination hearing:

1. Before termination from PTI and before a recommendation to terminate PTI is submitted to the court, the vicinage Probation Division Manager or the prosecutor shall provide the defendant and their attorney with a copy of the written recommendation, and the defendant shall be advised of the opportunity to be heard, as required by R. 3:28-7(b)(3).
2. If the defendant fails to appear at the summary hearing, the court shall conduct the hearing in the defendant's absence, on the record. If the court is satisfied that the defendant should be terminated from PTI, the court shall articulate reasons to substantiate the defendant's termination from the program. The court shall also record the reasons on the form of order authorized by the Administrative Director.
3. The court may in its discretion issue a bench warrant for the defendant's arrest. When the defendant is apprehended, the prosecution of the defendant shall proceed in the ordinary course. R. 3:28-7(b)(3).

The specific modification made here to Pretrial Intervention Order of Termination is to add a space to record the court's reasons for terminating the defendant at a summary PTI termination hearing.

This Supplement does not affect the defendant's ability to petition for reinstatement or to appeal a PTI termination.

Questions or comments regarding Directive #09-19 or this Supplement may be directed to the Criminal Practice Division by phone at (609) 815-2900, ext. 55300, or by email at AOC_CrimPrac.mbx@njcourts.gov.

Attachment (Revised CN 10302)

cc Chief Justice Stuart Rabner
Criminal Division Judges
Family Division Judges
Municipal Court Judges
Matthew J. Platkin, Attorney General
Jennifer N. Sellitti, Public Defender
J. Stephen Ferketic, Director, Division of Criminal Justice
Steven D. Bonville, Chief of Staff
AOC Directors and Assistant Directors
Clerks of Court
Special Assistants to the Administrative Director
Division Managers – Criminal, Family, Municipal, Probation
Justin M. Patterson Moles, Chief, Criminal Practice
Nicholas W. Salamon, Chief, Criminal Practice
Stephanie Ullman, Asst. Chief, Criminal Practice
Virginia Spitale, Asst, Chief, Criminal Practice
Jessica Rizkalla, Staff Attorney, Criminal Practice

State of New Jersey

Superior Court of New Jersey
Law Division – Criminal Part
- Select County - County

v.

Complaint / Indictment / Accusation Number(s)

PROMIS Number _____

CAPS ID Number _____

Probation Officer _____

Defendant

**Pretrial Intervention
Order of Termination**

Upon application of the Probation Division Manager for an Order terminating the defendant from participation in said program, and the defendant:

- having been notified to appear before this Court for a termination hearing and having not appeared,
- having appeared to contest such recommendation,
- And the court: having conducted a Select Hearing Type -, and for the following reasons placed on the record:

- having waived the opportunity to a termination hearing and the court having accepted the waiver.
- having consented to termination from the Pretrial Intervention Program.

It is on this ____ day of _____, 20 ____,

Ordered that the defendant is hereby terminated from participation in the Pretrial Intervention Program and the charges against the participant are reactivated and returned to the ordinary course of prosecution, and;

It is Further Ordered that if the defendant was on pretrial monitoring prior to being admitted into the Pretrial Intervention Program, defendant shall be returned to their prior level and conditions of monitoring, and;

It Is Further Ordered that all records relating to the defendant's application to and participation in said program, shall be considered confidential in accordance with R. 1:38-3(c)(5), and;

It Is Further Ordered that the defendant be placed on the active court calendar, and is scheduled before Judge _____, in Courtroom ____ on _____ at ____ a.m./ p.m.

Date

Judge of the Superior Court

Distribution:

Criminal Division
Probation Division

Prosecutor
Defense Attorney

Defendant