

New Jersey Supreme Court Opens Door for Release of Pre-Trial Detainees

Client Alert

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The New Jersey Supreme Court has announced that criminal defendants awaiting trial who have been detained indefinitely due to the COVID-19 pandemic may seek expedited release from jail. In response to the prolonged duration of the pandemic, coupled with the continued suspension of jury trials and no clear end in sight for either, the Court recently outlined a process that allows certain pre-trial detainees to reopen their detention hearings and seek release.

The density of prison environments, lack of access to adequate healthcare, and other considerations place prisoners at particularly high risk for contracting and spreading the COVID-19 virus. In its opinion the Court recognized that the pandemic had "created an ongoing health crisis" for those in prison.

Chief Justice Stuart Rabner, writing for a unanimous Court, held that the pandemic is a *per se* "change in circumstances" and individuals who have been detained prior to trial for at least six months may be entitled to a new detention hearing based on a host of factors, including:

1. the length of detention to date as well as the projected length of ongoing detention;
2. whether a defendant has been or will be in detention longer than the likely amount of time the person would actually spend in jail if convicted;
3. the existence and nature of a plea offer;
4. a defendant's particularized health risks, if any, and whether they present a heightened risk the individual will contract COVID-19; and
5. any other factors relevant to pretrial detention.

As a result of this decision, a judge who conducted an initial detention hearing may hold a new hearing on an expedited basis. However, individuals charged with first degree crimes that carry a sentence of up to life in prison are unlikely to qualify for a new hearing.

If you have a friend or family member who needs assistance with petitioning the Court for a new detention hearing, please contact our [Criminal Defense & Regulatory Compliance](#) practice.