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Delaware Supreme Court Adopts Special Rule of Criminal Procedure for Pretrial Release

New rule replaces interim rule that was adopted in 2018 and was crafted with justice system partners to clarify and strengthen bail reform

The Delaware Supreme Court has adopted a new rule on criminal pretrial release, following several years of study and detailed recommendations from a court-appointed committee.

“After several years of experience working under the interim rule and attempting to effect meaningful bail reform, this is an effort to simplify Delaware’s bail rules, integrate certain unexpected changes in recent law, and make the whole of our emerging bail system fairer to those affected and more understandable to those who implement the rules each day,” said Superior Court Judge Paul Wallace, co-chair of the review committee.

The new rule – the Special Rule of Criminal Procedure for Pretrial Release – was adopted by order of the Delaware Supreme Court on Feb. 28, 2022 and will go into effect on April 4, 2022. It replaces the Interim Special Rule of Criminal Procedure for Pretrial Release, originally adopted on Dec. 13, 2018, to implement HB 204, the Bail Reform Act.

This new rule is designed to simplify and clarify the interim rule and address issues that have arisen since 2018. The new measure is shorter and simpler, giving all parties involved in the process additional guidance and discretion, while keeping with the goal of the Bail Reform Act to move away from cash bail and use non-monetary conditions of release without compromising public safety and to ensure the appearance of defendants at future court proceedings.

The new rule also incorporates legislative changes adopted since 2018 such as expanding the list of “signal” crimes requiring a cash-only bond and also addresses some of the unique circumstances involved in domestic violence matters and driving under the influence cases.

The new rule was based, in part, on recommendations from a special committee composed of representatives of the Superior Court, the Family Court, the Court of Common Pleas, the Justice of the Peace Court, the Administrative Office of the Courts, the Department of Justice, the Office of Defense Services, DELJIS, and other stakeholders. The committee conferred regularly since December 2018 about how the interim rule was working and whether any amendments were necessary. After extensive review and analysis of the issues surrounding implementation of the Interim Special Rule, the committee submitted a set of revisions to the Supreme Court. These revisions were subsequently approved by the Supreme Court and the presiding judges of the Superior Court, the Family Court, the Court of Common Pleas, and the Justice of the Peace Court.

The full text of the [Special Rules of Criminal Procedure for Pretrial Release](#) is available on the Court’s Rules webpage.