

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN RE: DELAWARE DOMESTIC §
VIOLENCE BAIL REVIEW §
TASK FORCE §

ORDER

This 13th day of May, 2021, it appears to the Court that:

WHEREAS, in 2018, the General Assembly enacted legislation to reform the system under which courts subject defendants to pretrial conditions of release (House Bill 204 which is now the “Bail Reform Act” or “Act”).

WHEREAS, the Bail Reform Act encourages the use of non-monetary conditions of release when those conditions reasonably assure the defendant’s appearance at court proceedings, public safety, and the integrity of the judicial process;

WHEREAS, the Act was intended to prevent defendants from being subject to excessive financial conditions of release, traditionally referred to as money bail;

WHEREAS, the Act sought to reduce the unnecessary pretrial incarceration of defendants who are not wealthy enough to pay money bail, as well as reduce the resulting loss in employment, the pressure to plead guilty, the economic toll on non-affluent defendants and their families, and other substantial harm that results from the excessive use of money bail;

WHEREAS, the Bail Reform Act reflects that the risk that the defendant will fail to appear is different from the threat that a defendant will commit harm if released pending trial;

WHEREAS, under the Bail Reform Act, the Judiciary was required to come up with a uniform rule by January 1, 2019 to implement the Act's requirements for bail reform;

WHEREAS, working under this tight deadline, the Judiciary developed an Interim Special Rule of Criminal Procedure for Pretrial Release ("Interim Rule") to implement the Act, and recognized that the rule should be interim to allow for future revision and improvement based on the Courts' experience using the Interim Rule;

WHEREAS, the Courts involved with implementing the Interim Rule— Superior Court, Family Court, Court of Common Pleas, and the Justice of the Peace Court—now have experience with the Interim Rule, and have made suggestions for improvement;

WHEREAS, the Chief Justice formed a Committee, Co-Chaired by Superior Court Judge Paul Wallace and Chief Magistrate Alan Davis, to draft a final rule based on the Courts' experience with the Interim Rule ("Final Rule");

WHEREAS, the Committee is composed of various stakeholders, including the Department of Justice and the Office of Defense Services, to bring their unique perspectives to a Final Rule;

WHEREAS, the Committee has drafted a proposed Final Rule, which has the agreement of all the stakeholders involved and is now being circulated for comment to the General Assembly and the public for comment, with a goal of adopting and implementing a Final Rule by July 1, 2021;

WHEREAS, under the Interim Rule and the Final Rule, judicial officers must address some of the most difficult bail decisions involving charges of domestic violence, and must make bail decisions with limited information and no recommendation from the Department of Justice and Office of Defense Services; and

WHEREAS, the Department of Justice has called particular attention to bail decisions in cases involving domestic violence and requested a review of the Courts' practices with bail decisions in cases involving domestic violence.

NOW THEREFORE, IT IS ORDERED THAT:

1. There shall be established a Domestic Violence Bail Review Task Force, chaired by former Delaware Supreme Court Justice Randy Holland, to address the unique challenges of bail decisions made in cases involving charges of domestic violence. The Task Force shall gather information to evaluate bail decisions in domestic violence cases and develop recommendations to improve the handling of bail decisions in these cases.

2. The Task Force shall be composed of a judicial officer representative from each of the courts involved in bail decisions involving domestic violence, and a representative from the Department of Justice, the Office of Defense Services, the Domestic Violence Coordinating Council, the Delaware Coalition Against Domestic Violence, and representatives from the General Assembly. The Task Force will be supported by the Administrative Office of the Courts.

3. Any recommendations by the Task Force shall be made in the name of the Task Force only, and not of the individual members or the institutions by which they are employed.

4. The Task Force shall submit its report and recommendations to the Chief Justice on or before September 1, 2021, or such later date as approved by the Chief Justice.

BY THE COURT:

/s/ Collins J. Seitz, Jr.
Chief Justice