

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN RE IMPLEMENTATION OF §  
THE BAIL REFORM ACT §

**ORDER**

This 28<sup>th</sup> day of February 2022, it appears to the Court that:

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

WHEREAS, the Bail Reform Act took effect on January 1, 2019, requiring the Judiciary to put in place an implementing rule by January 1, 2019 for an important systemic reform;

WHEREAS, the implementing rule was deemed an interim one that would be subject to revision and improvement based on experience using it, the data developed in conformity with it, and feedback from constituents and judges who worked with it;

WHEREAS, by order dated December 13, 2018, the Supreme Court, with the agreement of the presiding judges of the Superior Court, the Family Court, the Court of Common Pleas, and the Justice of the Peace Court, adopted the Interim Special Rule of Criminal Procedure for Pretrial Release;

WHEREAS, the Superior Court, the Family Court, the Court of Common Pleas, and the Justice of the Peace Court began following the Interim Special Rule of Criminal Procedure for Pretrial Release on January 1, 2019;

WHEREAS, a 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 have conferred regularly about how the Interim Special Rule of Criminal Procedure for Pretrial Release is working in practice and whether any amendments are necessary;

WHEREAS, after extensive review and analysis of the issues surrounding implementation of the Interim Special Rule, the Committee submitted to the Supreme Court, a set of revisions to the Interim Special Rule to incorporate more recent legislative changes, afford greater consideration to the unique circumstances involved in domestic violence cases, and significantly streamline the Interim Special Rule;

WHEREAS, this Court and the presiding judges of the Superior Court, the Family Court, the Court of Common Pleas, and the Justice of the Peace Court agree that the Interim Special Rule of Criminal Procedure for Pretrial Release should be replaced with the Special Rule of Criminal Procedure for Pretrial Release set forth in Exhibit A.

NOW THEREFORE, IT IS ORDERED THAT:

1. Beginning April 4, 2022, the Interim Special Rule of Criminal Procedure for Pretrial Release is replaced with the Special Rule of Criminal Procedure for Pretrial Release set forth in Exhibit A.
2. Beginning April 4, 2022, the Superior Court, as set forth in Exhibit B, the Family Court, as set forth in Exhibit C, the Court of Common Pleas, as set forth in Exhibit D, and the Justice of the Peace Court, as set forth in Exhibit E, shall follow the Special Rule of Criminal Procedure for Pretrial Release. These courts shall amend their rules as necessary.
3. The Clerk of the Court is directed to transmit forthwith a certified copy of this Order to the clerk of each trial court in each county.

BY THE COURT:

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

## Exhibit A

### Special Rule of Criminal Procedure for Pretrial Release

#### **RULE 5.2. PRETRIAL RELEASE**

**(a) Release Shall be Governed by Execution of Conditions of Release Bond.**

Each defendant shall execute a conditions of release bond promising appearance in court and compliance with all conditions ordered by the court and mandated by statute.

**(b) Right to Pretrial Release Upon Execution of Conditions of Release Bond.**

Any defendant eligible for pretrial release under 11 *Del. C.* § 2104 shall be released pending trial upon execution of one of the following:

- (1) A conditions of release bond with no financial terms;
- (2) A conditions of release bond not guaranteed by secured financial terms;
- (3) A conditions of release bond guaranteed by secured financial terms; or
- (4) A conditions of release bond guaranteed by financial terms secured by cash only.

Release should be on the least restrictive conditions necessary: to assure the defendant's appearance in court when required; to assure the protection of the community, victims, witnesses, or any other persons; to avoid any identified specific risk of pretrial failure; and, to maintain the integrity of the judicial process.

**(c) Initial Recommended Response Indicated by Pretrial Assessment.** In setting the defendant's conditions of release, the court shall use a pretrial assessment tool. The initial recommended response is the determination designated by the pretrial assessment tool, subject to sections (i) and (j) of this rule. In cases involving one or more signal offenses, the pretrial assessment tool shall be used in an advisory manner and the court's discretion guided by section (h) of this rule; sections (i) and (j) of this rule shall not apply to such cases.

**(d) Mandatory Conditions of Release.** For every defendant whom the court grants pretrial release, the court shall order all mandatory conditions of release as required by any applicable statute.

**(e) Discretionary Conditions of Release.** Except as required by statute, no condition of release is mandatory, but will be ordered as an exercise of judicial discretion consistent with the law and this rule. In setting any discretionary conditions of release, the court shall consider the initial recommended response generated by the pretrial assessment tool, as well as public and specific victim safety concerns.

**(f) Conditions of Release for Domestic Violence Charges**

(1) Because no risk assessment tool successfully captures risk in cases of domestic violence, the pretrial assessment is intended to be advisory in these matters, and, as such, sections (i) and (j) of this rule shall not apply to such cases.

(2) Whenever the defendant is charged with a domestic violence offense that qualifies as a signal offense, the court should determine the appropriate conditions of release in the same manner described in section (h) of this Rule.

**(g) Conditions of Release for Felony Impaired Driving Charges**

(1) Because no risk assessment tool successfully captures risk in cases of impaired driving, the pretrial assessment is intended to be advisory in these matters, and, as such, sections (i) and (j) of this rule shall not apply to such cases.

(2) Whenever the defendant is charged with violating 21 *Del. C.* §§ 4177(d)(3)-(7), the court should determine the appropriate conditions of release in the same manner described in section (h) of this Rule.

**(h) Offenses Identified by Statute and Signal Offenses Defined by Court Rule**

(1) If, at any time prior to initial determination of the terms of a conditions of release bond, it shall appear to the State that the defendant should be subjected to § 2107(c) of Title 11, the State shall expressly move for application of § 2107(c) of Title 11 to the setting of the terms of the defendant's conditions of release bond. The State's motion must be supported by specific averments: of the grounds for application of § 2107(c) of Title 11; that the State has conducted a diligent review of the probable cause alleged for the present charge(s) and the defendant's criminal history; and, that there is a good faith basis to believe that probable cause exists for the charge(s) or circumstances alleged that would trigger application of § 2107(c) of Title 11 in the present case. If it shall appear to the satisfaction of the court at a hearing to determine

the terms of a conditions of release bond that the State's motion should be granted and that the defendant falls within § 2107(c) of Title 11, the court shall apply § 2107(c) of Title 11 and shall set the terms of the defendant's conditions of release bond accordingly. The court with jurisdiction at the time of the bail determination may designate the form of the motion.

(2) If the State has not moved for application of § 2107(c) of Title 11, and the defendant is charged with one of the signal offenses set forth in Schedule 5.2B, the initial recommended response shall be in the court's discretion, based upon the entire record, including the defendant's pretrial assessment score and any other factor the court deems to be relevant. But whenever the defendant is charged with one of the signal offenses, the court shall consider whether a conditions of release bond guaranteed by financial terms (including a bond guaranteed by financial terms secured by cash only) is appropriate. And whenever the defendant is charged with one of the signal offenses, the court may, based upon the entire record, including the defendant's pretrial assessment score and any other factor the court deems to be relevant, impose conditions of release other than financial terms that it finds are necessary to address a substantial danger to public or specific-victim safety, a risk of failure to appear at court proceedings, or any other specific risk of pretrial failure specified by the court to exist.

**(i) Requirements for Imposing More Intensive Conditions of Release than Initial Recommended Response.**

The court should not require more intensive conditions of release than the initial recommended response based on the defendant's risk of failure to appear at court proceedings or risk to public or specific-victim safety unless:

- (1) Prior to the setting of the terms of the defendant's conditions of release bond, the State moves under subsection (h)(1) of this Rule for application of § 2107(c) of Title 11; and
- (2) The court finds that the defendant falls within § 2107(c) of Title 11. These findings shall be recorded in written documentation of the reason for departing from the initial recommended response.

Or unless

- (3) The State makes a recommendation on the record that provides a specific factual basis for a finding that releasing the defendant pursuant to the initial recommended response would pose a substantial danger to public or specific-

victim safety, a risk of failure to appear at court proceedings, or some other specific risk of pretrial failure; and

(4) The court makes findings of fact supporting its conclusion that releasing the defendant pursuant to the initial recommended response would pose a substantial danger to public or specific-victim safety, a risk of failure to appear at court proceedings, or some other specific risk of pretrial failure. These findings shall be recorded in written documentation of the reason for departing from the initial recommended response.

Or unless

(5) The court, *sua sponte*, makes findings of fact on the record supporting its conclusion that requiring more intensive conditions of release is necessary to address a substantial danger to public or specific-victim safety, a risk of failure to appear at court proceedings, or some other specific risk of pretrial failure. These findings shall be documented in a written order overriding the initial recommended response.

**(j) Downward Departures From the Initial Recommended Response.**

Notwithstanding the initial recommended response, the court may require less-intensive conditions of release if the court finds that less-intensive conditions would be adequate to reasonably assure the defendant's appearance at court proceedings and ensure public and specific-victim safety. These findings shall be recorded in written documentation of the reason for departing from the initial recommended response, unless such action is over the objection of one or more parties, in which case these findings shall be documented in a written order overriding the initial recommended response.

**(k) Court Must State Reasons for Conditions Imposed.** Upon setting conditions of release the Court shall set forth on the record its findings that: (1) a conditions of release bond guaranteed by financial terms is or is not necessary for any offense subject to sections (f), (g), or (h) of this rule; (2) the imposed non-financial conditions are appropriate to address a substantial danger to public or specific-victim safety, a risk of failure to appear at court proceedings or any other risk of pretrial failure; and (3) a departure from the initial recommended response under either section (i) or section (j) is appropriate. In addition, the court may set forth on the record any other consideration it deems appropriate when setting conditions of release.

**(l) Supervision by Pretrial Services.**

(1) *Order for Standard Conditions of Release Required.* Notwithstanding any other provision in this rule, the court shall not require the defendant to report to Pretrial Services for supervision unless it subjects the defendant to the standard conditions of release used by the Department of Correction.

(2) *Order for Additional Conditions of Release.* The court may order Pretrial Services' monitoring of specific additional pretrial conditions of release that are appropriately tailored to the defendant. These conditions shall be documented on the record of the proceeding at which they are imposed.

**(m) Consideration of Defendant's Financial Circumstances**

When setting the financial terms of any bond, the court shall consider the defendant's financial circumstances, including the defendant's ability to furnish the security or money necessary to guarantee the bond.

**(n) Reporting Requirements.**

(1) *Certain Findings Required to be Docketed as an Order and Sent to Presiding Judge.* Whenever certain findings are required by section (i)(5) or (j) of this rule to be in the form of an order of the court, the court shall docket its decision in writing as an order of the court and send a copy of that order to the court's presiding judge.

(2) *Statistical Reporting Requirements.* Upon setting the defendant's conditions of release under this rule, the court shall record its decision by selecting at least one judicial response code in the Delaware Criminal Justice Information System.



## **SCHEDULE 5.2B. SIGNAL OFFENSES**

**(a)** A signal offense shall include any of the following offenses or circumstances, or an attempt to commit any of the following offenses or circumstances (items with an asterisk are in addition to those referenced in §2107(c)):

(1) Any Title 11 Class A felony,

(2) Any of the following other Title 11 felonies:

§ **606**: Abuse of a Pregnant Female in the First Degree;

§ **607**: Strangulation;

§ **612**: Assault in the Second Degree;

§ **613**: Assault in the First Degree;

\*§ **616**: Gang Participation;

§ **632**: Manslaughter;

§ **633**: Murder of a Child by Abuse or Neglect in the Second Degree;

§ **770(a)(1) or (a)(3)**: Rape in the Fourth Degree;

§ **771**: Rape in the Third Degree;

§ **772**: Rape in the Second Degree;

§ **776**: Continuous Sexual Abuse of a Child;

§ **777A**: Sex Offender Unlawful Sexual Conduct Against a Child

§ **778**: Sexual Abuse of a Child by a Person in a Position of Trust, Authority, or Supervision in the First Degree;

§ **783A**: Kidnapping in the First Degree;

§ **787(b)(1) – (b)(3)**: Trafficking an Individual, Forced Labor, and Sexual Servitude;

§ **803**: Arson in the First Degree;

§ **826**: Burglary in the First Degree;

§ **832**: Robbery in the First Degree;

§ **1103B**: Child Abuse in the First Degree;

§ **1108**: Sexual Exploitation of a Child;

§ **1109**: Unlawful Dealing in Child Pornography;

\*§ **1112A**: Sexual Solicitation of a Child (subsection (h) listed in §2107(c));

\*§ **1112B**: Promoting Sexual Solicitation of a Child (subsection (g) listed in §2107(c));

§ **1253**: Escape After Conviction;

§ 1312: Stalking;  
§ 1447: Possession of a Deadly Weapon During Commission of a Felony;  
§ 1447A: Possession of a Firearm During Commission of a Felony;  
§ 1448(a)(1), (a)(4), (a)(6), and (a)(7): Possession, Purchase or Control of a Deadly Weapon (Firearm) by a Person Prohibited;  
§ 1503: Racketeering;  
§ 2109(c)(1): Felony Noncompliance with Bond when Defendant has been Committed in lieu of Bail Involving a (Violent) Felony Offense;  
§ 2113(c)(1): Felony Noncompliance with Bond when Defendant has been Released on Bail Involving a (Violent) Felony Offense;  
§3533: Aggravated Act of Intimidation;

(3) Any violent felony, as defined by 11 *Del. C.* § 4201(c), allegedly committed while the defendant is pending adjudication on a previously charged violent felony;

(4) Any offense under one of the following Domestic Violence circumstances:

(a) Any violent felony, as defined by 11 *Del. C.* § 4201(c), allegedly committed against the petitioner with an active Protection from Abuse order against the defendant;

(b) Any violent felony, as defined by 11 *Del. C.* § 4201(c), allegedly committed against a victim while the defendant is pending adjudication on a previously charged domestic violence offense, as defined by 10 *Del. C.* § 1041(2), allegedly committed against the same victim;

(c) Any domestic violence offense, as defined by 10 *Del. C.* § 1041(2), allegedly committed while the defendant is pending adjudication on a previously charged violent felony allegedly committed against the same victim;

(d) Any felony domestic violence offense, as defined by 10 *Del. C.* § 1041(2), in which physical injury, as defined by 11 *Del. C.* § 222(23), or serious physical injury, as defined by 11 *Del. C.* § 222(26), was alleged to been caused;

(5) Any felony drug offense as follows:

(a) **16 Del. C. § 4752: Drug Dealing (Tier 3).**

### **RULE 5.3. MODIFICATION OF CONDITIONS OF RELEASE**

**(a) Obligation to Review Financial Conditions of Release if the Defendant is Detained for Inability to Meet Required Financial Conditions of Release.** Unless reviewed earlier, if the defendant remains detained for more than 72 hours from the defendant's initial presentment as a result of the inability to meet the required financial conditions of release, the court with jurisdiction over the defendant shall, on its own initiative, review de novo the defendant's financial conditions of release to determine whether to modify those conditions. This review shall occur within 10 days from the date of detention.

**(b) Motions by Parties for Modification of Conditions.**

(1) *In General.* Notwithstanding the disposition of any review of the defendant's conditions of release under section (a) of this Rule, a defendant, regardless of custody status, or the Attorney General, the Attorney General's designee, a third-party private or commercial surety, the Department of Correction, or any person or nongovernmental organization to whom a defendant has been released for supervision may file a motion in the court with jurisdiction over the defendant to modify the defendant's conditions of release or may make an oral application at any proceeding at which the parties are both present.

(2) *Hearing on Motion.*

(A) Expedited hearing required. Upon a request for modification of conditions under this subsection, the court shall hold a hearing in an expedited manner, but in no event later than 10 days after the filing of the motion or oral application.

(B) Defendant's right to counsel. The defendant shall have the right to assistance of retained or appointed counsel at any hearing under this subsection. Nothing in this subparagraph shall be construed to create or expand any substantive right to appointed counsel.

**(c) Same Standards Apply to Requests for Modification of Conditions.** In determining whether to modify the defendant's conditions of release under this rule, the court shall continue to adhere to Rule 5.2 in all respects.

**(d) Court Must State Reasons for Decision and Issue Implementing Order.** Upon the disposition of any request to modify the defendant's conditions of release under section (b) of this rule, the court shall set forth on the record the reasons for amendment or continuation of the conditions required and issue an implementing written order.

**(e) Later Motion for Review; Later Review Limited.** Once an initial request for modification of the defendant's conditions of release under section (b) of this rule has been ruled upon, any subsequent motion or request for review of the order setting conditions of release may be filed only upon a material change in circumstance. The court may rule on any subsequent motion or request for review of conditions of release without presentation, hearing or argument.

#### **RULE 5.4. PROCEEDINGS FOR VIOLATION OF PRETRIAL SUPERVISION**

**(a) Power of the Court to Issue Summons, Warrant or Emergency Detention.**

(1) *Summons or Warrant.* The court with jurisdiction over the defendant, when notified by the State or the Department of Correction of a violation of the defendant's pretrial supervision conditions, may issue a summons or a warrant for the arrest of a defendant.

(2) *Exigent Circumstances.* Under exigent circumstances, the Department of Correction, when aware of conduct that constitutes a breach of any material condition of release of a defendant under supervision and conducts an arrest, shall take the defendant directly before the court with jurisdiction over the defendant if that court is in session or take the defendant before a magistrate who may revoke or modify the bail, provided that a hearing before the court that has jurisdiction shall be held within 72 hours. The hearing may be summary in nature.

**(b) Notice to Court and Detaining Authority.** Upon arrest and detention under the authority of a summons or warrant issued under this rule or emergency arrest due to exigent circumstances, the State, the Commissioner, or a probation officer shall immediately notify the court with jurisdiction over the defendant and shall submit to the court a written report showing in what manner the defendant has violated the pretrial supervision conditions.

**(c) Hearing.** If the defendant is arrested under the authority of a summons or warrant issued for violation of pretrial supervision conditions that are material in nature, a probation officer shall take the defendant directly before the court with jurisdiction over the defendant if that court is in session or take the defendant before a magistrate who may revoke or modify the bail, provided that a hearing before the court that has jurisdiction shall be held within 72 hours. The hearing may be summary in nature.

**(d) Entry of Order.** Upon the completion of a hearing under sections (a)(2) or (c) of this rule, the court shall enter an order continuing the existing conditions of pretrial supervision, setting different conditions of pretrial supervision, or revoking the defendant's release. If the court finds that the defendant has breached the conditions of pretrial supervision, the court may, in its discretion, require more intensive conditions of pretrial supervision and need not order a new pretrial assessment. The court shall revoke the defendant's release only when the State:

- (1) shows that the defendant knowingly violated a condition of pretrial supervision; and
- (2) proves, by clear and convincing evidence, that no other condition or combination of conditions of release can reasonably assure the defendant's appearance at court proceedings, and public and specific-victim safety,

**(e) Review.** An order continuing or modifying the conditions of pretrial supervision under this rule is reviewable by the court only upon a material change in circumstance. The court may rule on any subsequent motion or request for review of conditions of release without presentation, hearing or argument.

**Exhibit B**

**IN THE SUPERIOR COURT OF THE STATE OF DELAWARE**  
**ORDER REGARDING THE SPECIAL RULE OF CRIMINAL**  
**PROCEDURE FOR PRETRIAL RELEASE**

This 28<sup>th</sup> day of February 2022, it appears to the Court that:

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

WHEREAS, the Bail Reform Act took effect on January 1, 2019, requiring the Judiciary to put in place an implementing rule by January 1, 2019 for an important systemic reform;

WHEREAS, the implementing rule was deemed an interim one that would be subject to revision and improvement based on experience using it, the data developed in conformity with it, and feedback from constituents and judges who worked with it;

WHEREAS, by order dated December 13, 2018, the Supreme Court, with the agreement of the presiding judges of the Superior Court, the Family Court, the Court of Common Pleas, and the Justice of the Peace Court, adopted the Interim Special Rule of Criminal Procedure for Pretrial Release;

WHEREAS, this Court began following the Interim Special Rule of Criminal Procedure for Pretrial Release on January 1, 2019;

WHEREAS, a 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 have conferred regularly about how the Interim Special Rule of Criminal Procedure for Pretrial Release is working in practice and whether any amendments are necessary;

WHEREAS, after extensive review and analysis of the issues surrounding implementation of the Interim Special Rule, the Committee submitted to the Supreme Court, a set of revisions to the Interim Special Rule to incorporate more recent legislative changes, afford greater consideration to the unique circumstances involved in domestic violence cases, and significantly streamline the Interim Special Rule;

WHEREAS, 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 agree that the Interim Special Rule of Criminal Procedure for Pretrial Release should be replaced with the Special Rule of Criminal Procedure for Pretrial Release.

NOW, THEREFORE, IT IS ORDERED that, beginning on April 4, 2022 this Court shall follow the Special Rule of Criminal Procedure for Pretrial Release. This Court shall amend its rules as necessary.

/s/ Jan R. Jurden  
President Judge

## **Exhibit C**

### **IN THE FAMILY COURT OF THE STATE OF DELAWARE ORDER REGARDING THE SPECIAL RULE OF CRIMINAL PROCEDURE FOR PRETRIAL RELEASE**

This 28<sup>th</sup> day of February 2022, it appears to the Court that:

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

WHEREAS, the Bail Reform Act took effect on January 1, 2019, requiring the Judiciary to put in place an implementing rule by January 1, 2019 for an important systemic reform;

WHEREAS, the implementing rule was deemed an interim one that would be subject to revision and improvement based on experience using it, the data developed in conformity with it, and feedback from constituents and judges who worked with it;

WHEREAS, by order dated December 13, 2018, the Supreme Court, with the agreement of the presiding judges of the Superior Court, the Family Court, the Court of Common Pleas, and the Justice of the Peace Court, adopted the Interim Special Rule of Criminal Procedure for Pretrial Release;

WHEREAS, this Court began following the Interim Special Rule of Criminal Procedure for Pretrial Release on January 1, 2019;



WHEREAS, a 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 have conferred regularly about how the Interim Special Rule of Criminal Procedure for Pretrial Release is working in practice and whether any amendments are necessary;

WHEREAS, after extensive review and analysis of the issues surrounding implementation of the Interim Special Rule, the Committee submitted to the Supreme Court, a set of revisions to the Interim Special Rule to incorporate more recent legislative changes, afford greater consideration to the unique circumstances involved in domestic violence cases, and significantly streamline the Interim Special Rule;

WHEREAS, 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 agree that the Interim Special Rule of Criminal Procedure for Pretrial Release should be replaced with the Special Rule of Criminal Procedure for Pretrial Release.

NOW, THEREFORE, IT IS ORDERED that, beginning on April 4, 2022 this Court shall follow the Special Rule of Criminal Procedure for Pretrial Release. This Court shall amend its rules as necessary.

/s/ Michael K. Newell  
Chief Judge

## **Exhibit D**

### **IN THE COURT OF COMMON PLEAS OF THE STATE OF DELAWARE ORDER REGARDING THE SPECIAL RULE OF CRIMINAL PROCEDURE FOR PRETRIAL RELEASE**

This 28<sup>th</sup> day of February 2022, it appears to the Court that:

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

WHEREAS, the Bail Reform Act took effect on January 1, 2019, requiring the Judiciary to put in place an implementing rule by January 1, 2019 for an important systemic reform;

WHEREAS, the implementing rule was deemed an interim one that would be subject to revision and improvement based on experience using it, the data developed in conformity with it, and feedback from constituents and judges who worked with it;

WHEREAS, by order dated December 13, 2018, the Supreme Court, with the agreement of the presiding judges of the Superior Court, the Family Court, the Court of Common Pleas, and the Justice of the Peace Court, adopted the Interim Special Rule of Criminal Procedure for Pretrial Release;

WHEREAS, this Court began following the Interim Special Rule of Criminal Procedure for Pretrial Release on January 1, 2019;

WHEREAS, a 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 have conferred regularly about how the Interim Special Rule of Criminal Procedure for Pretrial Release is working in practice and whether any amendments are necessary;

WHEREAS, after extensive review and analysis of the issues surrounding implementation of the Interim Special Rule, the Committee submitted to the Supreme Court, a set of revisions to the Interim Special Rule to incorporate more recent legislative changes, afford greater consideration to the unique circumstances involved in domestic violence cases, and significantly streamline the Interim Special Rule;

WHEREAS, 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 agree that the Interim Special Rule of Criminal Procedure for Pretrial Release should be replaced with the Special Rule of Criminal Procedure for Pretrial Release.

NOW, THEREFORE, IT IS ORDERED that, beginning on April 4, 2022 this Court shall follow the Special Rule of Criminal Procedure for Pretrial Release. This Court shall amend its rules as necessary.

/s/ Carl C. Danberg  
Chief Judge

**Exhibit E**

**IN THE JUSTICE OF THE PEACE COURT OF THE STATE OF DELAWARE**  
**ORDER REGARDING THE SPECIAL RULE OF CRIMINAL**  
**PROCEDURE FOR PRETRIAL RELEASE**

This 28<sup>th</sup> day of February 2022, it appears to the Court that:

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

WHEREAS, the Bail Reform Act took effect on January 1, 2019, requiring the Judiciary to put in place an implementing rule by January 1, 2019 for an important systemic reform;

WHEREAS, the implementing rule was deemed an interim one that would be subject to revision and improvement based on experience using it, the data developed in conformity with it, and feedback from constituents and judges who worked with it;

WHEREAS, by order dated December 13, 2018, the Supreme Court, with the agreement of the presiding judges of the Superior Court, the Family Court, the Court of Common Pleas, and the Justice of the Peace Court, adopted the Interim Special Rule of Criminal Procedure for Pretrial Release;

WHEREAS, this Court began following the Interim Special Rule of Criminal Procedure for Pretrial Release on January 1, 2019;

WHEREAS, a 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 have conferred regularly about how the Interim Special Rule of Criminal Procedure for Pretrial Release is working in practice and whether any amendments are necessary;

WHEREAS, after extensive review and analysis of the issues surrounding implementation of the Interim Special Rule, the Committee submitted to the Supreme Court, a set of revisions to the Interim Special Rule to incorporate more recent legislative changes, afford greater consideration to the unique circumstances involved in domestic violence cases, and significantly streamline the Interim Special Rule;

WHEREAS, 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 agree that the Interim Special Rule of Criminal Procedure for Pretrial Release should be replaced with the Special Rule of Criminal Procedure for Pretrial Release.

NOW, THEREFORE, IT IS ORDERED that, beginning on April 4, 2022 this Court shall follow the Special Rule of Criminal Procedure for Pretrial Release. This Court shall amend its rules as necessary.

/s/ Alan G. Davis  
Chief Magistrate