THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1096 Session of 2024

INTRODUCED BY ROBINSON, LANGERHOLC, PENNYCUICK, FARRY, BREWSTER AND DUSH, MARCH 11, 2024

REFERRED TO JUDICIARY, MARCH 11, 2024

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2   Pennsylvania Consolidated Statutes, in bonds and
3   recognizances, providing for bail of persons posing threat to
4   public safety.

5   The General Assembly of the Commonwealth of Pennsylvania

6 hereby enacts as follows:

7   Section 1. Title 42 of the Pennsylvania Consolidated

8 Statutes is amended by adding a section to read:

9   § 5762. Bail of persons posing threat to public safety.

10   (a) Issuing authority release.--Notwithstanding any other

11 provision of rule or law, no issuing authority may permit the

12 release of a defendant on the defendant's own recognizance or

13 subject to an unsecured monetary condition of release if the

14 defendant is a person posing a threat to public safety.

15   (b) Arresting officer release.--An arresting officer may not

16 release a person from custody prior to taking the person without

17 unnecessary delay to appear before the issuing authority if the

18 arrest is of a person posing a threat to public safety.

19   (c) Denying bail.--Nothing in this section shall preclude

the issuing authority from denying bail and detaining a person

prior to trial if the issuing authority finds, substantially

more likely than not, that no condition or combination of

conditions of bail will reasonably ensure the safety of a person

or the community if the person is released on bail.

(d) Construction.--Nothing in this section shall be

construed to:

(1) Modify the presumption of innocence.

(2) Eliminate or limit the ability of an individual to

seek a bail modification hearing before the issuing authority

or a court of competent jurisdiction in accordance with any

other provision of law or rule of procedure.

(3) Limit an issuing authority from setting bail at a

secured amount or otherwise detaining a person subject to

arrest.

(e) Definitions.--As used in this section, the following

words and phrases shall have the meanings given to them in this

subsection unless the context clearly indicates otherwise:

"Person posing a threat to public safety." A person subject

to arrest that is determined by the issuing authority to pose a

threat to a victim, an individual or the public at large. The

term includes, but is not limited to, a person to whom any of

the following applies:

(1) The person is charged with committing a crime of

violence as defined in section 9714(g) (relating to

sentences for second and subsequent offenses), and, within

five years prior to the arrest, excluding time spent confined

to a State or county correctional institution or juvenile

detention center, the person was:

(i) convicted of a crime of violence as defined in

1   section 9714(g); or

2   (ii)   adjudicated delinquent by a court because of

3   conduct which, if committed by an adult, would constitute

4   a crime of violence as defined in section 9714(g).

5   (2)   The person is charged with committing a violation of

6   section 13(a)(30) of the act of April 14, 1972 (P.L.233,

7   No.64), known as The Controlled Substance, Drug, Device and

8   Cosmetic Act, or an attempt, conspiracy or solicitation to

9   commit an offense under section 13(a)(30) of The Controlled

10   Substance, Drug, Device and Cosmetic Act, and there is

11   probable cause to believe that the substance weighs 10 grams

12   or more and contains fentanyl, a fentanyl derivative or

13   carfentanil.

14   (3)   The person arrested is on the United States

15   Department of Homeland Security Watchlist Service or any

16   other successor service established in accordance with

17   achieving the goals of Homeland Security Presidential

18   Directive 6 (HSPD-6) issued on September 16, 2003.

19   Section 2.   This act shall take effect in 60 days.