



NEW JERSEY STATE BAR ASSOCIATION

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Glenn A. Grant, J.A.D.
Acting Administrative Director of the Courts
Comments on Pre/Post-Indictment Rule Amendments
Hughes Justice Complex; P.O. Box 037
Trenton, New Jersey 08625-0037

RE: Comments on Criminal Practice Committee Report on
Implementing the Recommendations of the Joint
Committee on Criminal Justice

Dear Judge Grant:

On behalf of the New Jersey State Bar Association (NJSBA), thank you for the opportunity to review the Criminal Practice Committee Report on Implementing the Recommendations of the Joint Committee on Criminal Justice.

The NJSBA supports the continued efforts to implement bail reform and speedy trial revisions, and commends the Committee for its work in promulgating the details. However, consistent with its previously submitted comments on the recommendations of the Joint Committee on Criminal Justice and the Bail Reform Law, the NJSBA notes the importance of adequate funding being made available for the measures and urges that general state treasury sources be used to fund any shortfall, rather than additional court fees.

With regard to the recommendations in the report itself, the NJSBA supports the general nature of the recommendations, but has a few concerns with the proposals, as noted below.

First, the NJSBA notes the prosecutor and defense counsel are required to meet and confer at various points in the process. The NJSBA recommends inclusion of language permitting such conferences to occur by telephone or email exchange, if appropriate, and acknowledgment that an in-person meeting may not always be necessary.

Second, there is a question about whether the prosecutor is required to make a plea offer at the Pre-Indictment Conference, which is required to be held within 45 days of the first appearance. The NJSBA notes that, in many instances, current practice in those counties with a Pre-Indictment Court is to require defense counsel to appear, only to learn that the prosecutor is not making a pre-indictment plea offer and the case is being sent to a grand jury. In that instance, the

Pre-Indictment Conference is inefficient and a waste of time. The NJSBA, therefore, recommends that the prosecutor be *required* to make a pre-indictment plea offer at the Pre-Indictment Conference.

Finally, the NJSBA is concerned about the motion deadlines contained in the proposed rules. A particular concern is whether they unfairly prejudice defendants, especially when there is no penalty for non-adherence. The NJSBA recommends language be added to clarify that the deadlines may be used as a guideline by the trial court, but they cannot be enforced when they may violate a defendant's constitutional rights.

Again, the NJSBA appreciates the opportunity to review the recommendations, and the Court's willingness to consider these comments.

Please do not hesitate to contact me with any additional questions or comments on the above.

Very truly yours,

A handwritten signature in black ink, appearing to read "Miles S. Winder, III", followed by three horizontal lines.

Miles S. Winder, III
President

/sab

cc: Thomas Hoff Prol, Esq., NJSBA President-Elect
Angela C. Scheck, NJSBA Executive Director