

NOTICE TO THE BAR

CRIMINAL - AMENDMENTS TO COURT RULE 3:4-2 **“FIRST APPEARANCE AFTER FILING COMPLAINT;** **PREHEARING RIGHTS ADVISEMENT”**)

This notice is to advise that the Supreme Court, by order dated May 26, 2020, has adopted amendments to Rule 3:4-2 (now captioned “First Appearance After Filing Complaint; Prehearing Rights Advisement”), on the recommendation of the Court’s Criminal Practice Committee. The amendments, which are appended to this notice, become effective June 8, 2020.

The Court had asked the Practice Committee to recommend amendments to Rule 3:4-2 to address concerns raised since the rule was amended in 2018 as to the length of time a defendant subject to a pretrial detention motion waits to appear before a judge for a first appearance. The Practice Committee’s report and recommendations in response to the Court’s request were published by a December 30, 2019 Notice to the Bar.

The amendments to Rule 3:4-2 announced here establish in paragraph (h) a new proceeding entitled the “Prehearing Rights Advisement.” Specifically, when a motion for pretrial detention is filed prior to the first appearance, the defendant is to be brought before the court for the prehearing rights advisement within 48 hours of confinement to the county jail in order to receive the appropriate advisories and be informed as to the scheduled date of the pretrial detention hearing. The first appearance thereafter will be held “in conjunction with the pretrial detention hearing” pursuant to paragraph (a)(1) of the rule.

A prehearing rights advisement can be conducted by a Superior Court judge or a Municipal Court judge designated by the Chief Justice to handle CJP (Central Judicial Processing) or centralized first appearance matters.



Glenn A. Grant, J.A.D.

Acting Administrative Director of the Courts

Dated: May 27, 2020

SUPREME COURT OF NEW JERSEY

It is ORDERED that the attached amendments to Rule 3:4-2 of the Rules Governing the Courts of the State of New Jersey are adopted to be effective June 8, 2020.

For the Court,



Chief Justice

Dated: May 26, 2020

Rule 3:4-2. First Appearance After Filing Complaint; Prehearing Rights Advisement

(a) **Time of First Appearance.** Following the filing of a complaint the defendant shall be brought before a judge for a first appearance as provided in this Rule.

(1) If the defendant remains in custody and the prosecutor has not filed a motion for pretrial detention, the first appearance shall occur within 48 hours of a defendant's commitment to the county jail, and shall be before a judge with authority to set conditions of release for the offenses charged. However, if a motion for pretrial detention is filed prior to the first appearance, the first appearance shall occur in conjunction with the pretrial detention hearing [within three working days of the date of the filing of the motion] and shall be before a Superior Court judge. If the motion for pretrial detention is withdrawn prior to the first appearance, then the first appearance shall occur no later than the next business day after the withdrawal of the motion and shall be before a Superior Court judge or a judge designated by the Chief Justice.

(2) ... no change.

(b) ... no change.

(c) ... no change.

(d) **Procedure in Indictable Offenses.** At the defendant's first appearance before a judge, if the defendant is charged with an indictable offense, the judge shall provide the following information but may omit the information in subparagraphs (1) through (5) when that information has been provided at a prehearing rights advisement conducted pursuant to paragraph (h) of this Rule:

(1) ... no change;

- (2) ... no change;
- (3) ... no change;
- (4) ... no change;
- (5) ... no change;
- (6) ... no change;
- (7) ... no change;
- (8) ... no change;
- (9) ... no change;
- (10) ... no change.

(e) Procedure in Non-Indictable Offenses. At the defendant's first appearance before a judge, if the defendant is charged with a non-indictable offense, the judge shall **provide the following information but may omit the information in subparagraphs (1) through (4) when that information has been provided at a prehearing rights advisement conducted pursuant to paragraph (h) of this Rule:**

- (1) ... no change;
 - (2) ... no change;
 - (3) ... no change;
 - (4) ... no change;
 - (5) ... no change.
- (f) ... no change.
- (g) ... no change.

(h) Prehearing Rights Advisement. If a motion for pretrial detention is filed prior to the first appearance, the defendant shall be brought before the court within 48 hours of the defendant's confinement to the county jail for a proceeding before a Superior Court judge or a judge designated by the Chief Justice at which the court shall provide to the defendant the information set forth in paragraph (d)(1) through (5) of this Rule or, in the case of a defendant charged with a non-indictable offense, paragraph (e)(1) through (4) of this Rule and advise the defendant of the date when the pretrial detention hearing is scheduled to be held, which shall be on a date within three working days of the date of the filing of the motion for pretrial detention.

Note: Source -- R.R. 3:2-3(b), 8:4-2 (second sentence). Amended July 7, 1971 effective September 13, 1971; amended April 1, 1974 effective immediately; text of former Rule 3:4-2 amended and redesignated paragraphs (a) and (b) and text of former Rule 3:27-1 and -2 amended and incorporated into Rule 3:4-2, July 13, 1994 to be effective January 1, 1995; paragraphs (a) and (b) amended June 28, 1996 to be effective September 1, 1996; paragraph (b) amended January 5, 1998 to be effective February 1, 1998; caption amended, paragraphs (a) and (b) deleted, new paragraphs (a), (b), (c), and (d) adopted July 5, 2000 to be effective September 5, 2000; new paragraph (e) adopted July 21, 2011 to be effective September 1, 2011; paragraph (a) amended, new paragraph (b) added, former paragraphs (b), (c), and (e) amended and redesignated as paragraphs (c), (d), and (f), and former paragraph (d) redesignated as paragraph (e) April 12, 2016 to be effective September 1, 2016; paragraphs (a) and (b) amended, subparagraph (c)(1) amended, new subparagraphs (c)(1)(A) and (c)(1)(B) adopted, subparagraphs (c)(9) and (c)(10) amended, new subparagraph (c)(11) adopted, subparagraphs (d)(3) and (d)(4) amended, and new subparagraph (d)(5) adopted August 30, 2016 to be effective January 1, 2017; paragraph (a) amended December 6, 2016 to be effective January 1, 2017; subparagraph (c)(1) amended May 10, 2017 to be effective immediately; paragraph (f) amended July 28, 2017 to be effective September 1, 2017, subparagraph (a)(1) amended, paragraph (b) amended, new paragraph (c) adopted, former paragraph (c) amended and redesignated as paragraph (d), former paragraph (d) amended and redesignated as paragraph (e), former paragraph (e) redesignated as paragraph (f), and former paragraph (f) redesignated as paragraph (g) July 27, 2018, to be effective September 1, 2018; caption amended, paragraphs (a)(1), (d), (e) amended, and new paragraph (h) adopted May 26, 2020 to be effective June 8, 2020.