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THE JUSTICE OF THE PEACE COURT


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POLICY DIRECTIVE 11-242 (3rd Supplement)

TO: ALL JUSTICES OF THE PEACE COURT EMPLOYEES

FROM: ALAN G. DAVIS
CHIEF MAGISTRATE 

DATE: DECEMBER 27, 2018

**RE: BAIL REFORM: IMPLEMENTATION OF HOUSE BILL 204, WITH
DELPAT AND DECISION-MAKING PROCESS**

Scope

The most current bail reform, House Bill 204, of the 149th General Assembly, was signed into law on January 25, 2018, becoming effective on January 1, 2019. This policy directive addresses implementation of recent legislative changes made to Title 11, Chapter 21, "Release of Persons Accused of Crimes," in four (4) areas directly affecting the Justice of the Peace Court and its processes. In response to the statutory requirement to use an empirically-developed risk assessment instrument,¹ this policy directive includes the introduction of the Delaware Pretrial Assessment Tool (DELPAT) and its corresponding use according to the Supreme Court Interim Rules."² This policy directive shall be considered to be an interim policy directive awaiting the finalization of Supreme Court Rules 5.2, 5.3, and 5.4.

¹ 11 Del. C. § 2104 (e)(1), effective January 1, 2019.

² This policy directive differs from the training provided in previous judicial conferences in order to comply with Supreme Court Interim Rules 5.2, 5.3, and 5.4 and the Administrative Directive from Chief Justice Strine.

Justice of the Peace Court Policy

It is the policy of the Justice of the Peace Court that judges shall apply the Supreme Court Interim Rules when making pretrial release decisions in response to the numerical scores assigned by the DELPAT for all initial cases that include any of the following charges: any Title 11 offense; any Title 16 offense, except for civil offenses; and any 21 *Del. C.* § 4177 offense. **This policy is for use with adult defendants only.**

Effective Date

This policy shall take effect on January 1, 2019.

Policy Directives Affected

The following Policy Directives are rescinded, but may be retained for historical purposes:

*PD 84-84 (Revised) "Bail Review (New Castle County Only)," dated July 15, 1985

*PD 84-84 (Supplement) "Expanded Bail Review (New Castle County Only)," dated May 27, 1986

*PD 92-139 "Bail Review (Kent and Sussex Counties Only)," dated June 8, 1992

*PD 92-139 (Recision) "Recision of Bail review in Kent and Sussex Counties," dated March 7, 1994.

Discussion

1) House Bill 204

House Bill 204 (HB 204), in general, emphasizes that judges need to make individualized bail decisions, using an empirically-developed assessment tool. It redefines "bail" to mean pretrial release and encourages the release of defendants with appropriate conditions. It gives Pretrial Services the authority to issue administrative warrants in exigent circumstances for a violation of conditions of release and increases possible sanctions for those violations. It also expands standing for individuals who have not previously been granted standing, to petition the court to modify a defendant's conditions of release. These general concepts will be developed further in the sections that follow.

2) The DELPAT and Decision-Making Process

Three (3) characteristics of an effective pretrial system are the use of a risk assessment tool, appropriate conditions of release, and preventative detention. HB 204 requires the first two (2). The legislation requires that judges, "shall utilize a system of pretrial release imposing reasonable non-monetary conditions of release when those conditions adequately provide a reasonable assurance of the appearance of the defendant at court proceedings, and the protection of the community, victims, witnesses, and any other person, and to maintain the integrity of the judicial process."³ Statute requires that judges use an empirically-developed risk assessment

³ 11 *Del. C.* § 2101, effective January 1, 2019.

instrument, designed to improve pretrial release decisions by helping the judge to assess a defendant's likelihood of pretrial success. Specifically, 11 *Del. C.* § 2104(e)(1) now reads (*in pertinent part*):

“When making a release determination, or imposing conditions set forth in § 2108 of this title, the court shall use an empirically developed risk assessment instrument, if available, designed to improve pretrial release decisions by assessing defendant's likelihood of pretrial success. In circumstances involving suspected domestic or intimate partner violence, the judicial officer shall consider the results, if available, of an instrument designed to assess the likelihood or predicted severity of future violence against the alleged victim. Any such risk assessment tools are not binding on the court. They are factors to be considered in the totality of the circumstances in determining the conditions of release imposed upon the defendant. The judicial officer may consider any other facts and circumstances regarding a defendant's likelihood of pretrial success and the protection of the victim, witnesses, and any other person.”

Statute defines the term “pretrial success” as “...a defendant's compliance with orders to appear in court as directed and not commit any new criminal offense between the initial arrest and adjudication of the pending charges.”⁴

Justice of the Peace Court (JP Court), in meetings with other stakeholders, developed the DELPAT as the risk assessment tool. Supreme Court Interim Rule 5.2 prescribes judicial responses to the raw data from, and the scoring assigned by, the tool. The prescribed responses correlate to specific tiers of supervision for defendants. The judge should establish the conditions of release appropriate for the tier of supervision assigned by the DELPAT. In doing so, judges shall order either a conditions of release bond, an unsecured conditions of release bond, a secured conditions of release bond, or a fully secured conditions of release bond.⁵ These terms replace the terms personal recognizance, unsecured personal appearance bond, and secured personal appearance bond, as “bail” is the “pretrial release of a defendant from custody upon the terms and conditions specified...” by the judge and is inclusive of non-monetary conditions.⁶ **An order for money bail, secured or unsecured, is an order for a monetary condition of release.**

The DELPAT and the Decision-Making Process are tools providing information to the judge. **The assigned tier of supervision for each defendant provided by these tools is presumptive and should guide the judge's decision, but the judge remains the decision-maker, and has the discretion to decide otherwise.** When the judge orders a tier of supervision for a defendant other than the tier prescribed by the tools, the judge shall articulate the reasons for this decision in writing.⁷ Conditions of pretrial release must have a primary nexus with the safety to the victim, to a witness or to the community, and should not be ordered otherwise, unless the judge articulates the reason for the condition in writing.

⁴ 11 *Del. C.* § 2102 (11), effective January 1, 2019.

⁵ Supreme Court Interim Rule 5.2(b).

⁶ 11 *Del. C.* § 2102 (2), effective January 1, 2019.

⁷ The judge shall provide a reason in writing for ordering **either** a less restrictive or more restrictive tier of conditions of release, than the tier initially prescribed by the tools.

The judge shall, “memorialize pretrial release decisions by written order specifying the conditions of release and informing the defendant of the possible consequences for violating the conditions of release.”⁸ The judge also “shall make a record finding of the reason or reasons...” for setting a secured conditions of release bond or a fully secured conditions of release bond.⁹

Throughout the course of the next year or more, the DELPAT will go through the validation process to ensure that it is properly measuring the risk of a defendant’s failure to appear at all scheduled court appearances and the risk that the defendant might commit a new criminal offense while pending adjudication of the current case. The court will examine all data, including override rates. The Court expects, based upon statistics from other high-functioning systems, that there will be a 10-15% override rate.¹⁰ An override percentage greater than this may indicate that the DELPAT, the Decision-Making Process, and/or the Supreme Court Interim Rules require adjustment or that the degree of judicial override has undermined the effectiveness of the instrument, due to false beliefs, over-weighting of small probabilities, risk aversion, etc.¹¹ The court will continue to seek feedback regarding the use and content of the instrument, in order to achieve the goal of making a bail and release decision with the most information and tools available.

The DELPAT

The DELPAT will automatically print for all initial cases that include any of the following charges: any Title 11 charge; any Title 16 charge, except for civil offenses; and 21 *Del. C.* § 4177 charges. The DELPAT may be printed upon a judge’s request for any case that consists of any charges other than those specifically listed.

The DELPAT is composed of four (4) sections.¹² **Section 1 is the “Failure to Appear (FTA) Scale,” with a total weighted score of 0 to 6.** When applicable, the actual number of instances will be included. This information is pre-populated by the DELJIS system and assesses the following factors:

- a. Any prior probation supervision in the past 10 years, assigning a score of 0 for no and a score of 1 for yes;
- b. Total number of prior FTAs in the past year, assigning a score of 0 for none, a score of 1 for 1, and a score of 2 for 2 or more;
- c. Total number of prior FTAs in the past 10 years, assigning a score of 0 for none, a score of 1 for 1, and a score of 2 for 2 or more;
- d. Current arrest include at least 1 charge of larceny¹³/stolen vehicle, assigning a score of 0 for no and a score of 1 for yes.

⁸ 11 *Del. C.* § 2104(d), effective January 1, 2019.

⁹ 11 *Del. C.* § 2105(c), effective January 1, 2019.

¹⁰ As seen in national data.

¹¹ Stevenson, Megan, *Assessing Risk Assessment in Action*, 53 (June 14, 2018). Minnesota Law Review, Vol. 103.

¹² A copy of the DELPAT is attached for reference.

¹³ United States Department of Justice, Federal Bureau of Investigation, Uniform Crime Reporting Offense Definition (<https://www.ucrdatatool.gov/offenses.cfm>)

Section 2 is the “New Criminal Arrest (NCA) Scale,” with a total weighted score of 0 to 9. When applicable, the actual number of instances will be included. It is pre-populated by the DELJIS system and assesses the following factors:

- a. Any pending case¹⁴, assigning a score of 0 for no and a score of 1 for yes;
- b. Any prior convictions¹⁵, assigning a score of 0 for none, a score of 1 for 1, and a score of 2 for 2 or more;
- c. Any prior misdemeanor arrests in the past 2 years, assigning a score of 0 for none, and a score of 2 for 1 or more;
- d. Any prior probation supervision, assigning a score of 0 for none, and a score of 1 for 1 or more;
- e. Age at first arrest (in adult court), assigning a score of 0 for 20 years or older and a score of 1 for 19 years or younger;
- f. Any prior failures to appear, assigning a score of 0 for none and a score of 1 for 1 or more;
- g. Any prior violent¹⁶ felony conviction w/in past 5 years, assigning a score of 0 for 0 and a score of 1 for 1 or more.

Section 3 is the Lethality Assessment. This is based upon an empirically-developed lethality assessment instrument known as the “Domestic Violence Lethality Screen for First Responders.” The instrument’s purpose is to assess the likelihood or predicted severity of future violence against the alleged victim. The correlating response will be auto-populated by the DELJIS system as follows:

- a) Victim screened in;
- b) Victim not screened in; or
- c) Not available.

A check for “Victim screened in” indicates that the referral protocol has been triggered. When the referral protocol is triggered, based upon the victim’s answers to the questions on the instrument, the police officer is to inform the alleged victim of the high danger assessment and to offer the alleged victim the opportunity to be screened by a hotline counselor for assistance.¹⁷ If the referral protocol has been triggered, the “initial recommended response is to release the defendant subject to a secured conditions of release bond or a fully secured conditions of release bond, mandatory conditions of release..., and any other conditions of release necessary to reasonably assure public safety.”¹⁸

Section 4 is the initial override section. This is the first of three (3) documents for which an indication of an override shall be documented. The judge shall indicate one of the following:

¹⁴ In this context, the term, “any pending case” means any case pending at the time of arrest for the current offense.

¹⁵ In this context, the term, “convictions” does not include a guilty or *nolo contendere* disposition on motor vehicle charges.

¹⁶ Crimes that make up this factor are based on the Laura and John Arnold Foundation’s Public Safety Assessment definition of violence, not the designations found in 11 *Del. C.* 4201(c).

¹⁷ Supreme Court Interim Rule 5.2 (a)(13).

¹⁸ Supreme Court Interim Rule 5.2 (b)(1)(C)(2).

- a) Conditions Assigned by DELPAT
- b) Less Intensive Conditions;
- c) More Intensive Conditions.

In this interim period, the judge does **not** need to fill in the section “Reason for override of conditions” on the DELPAT, as the judge will be entering this information on the “Judicial Responses to DELPAT Initial Recommended Response” form and on the “Order to Override Presumptive Bail Decision.”

The Decision-Making Process

The Matrix

The Decision-Making Process is composed of several components. The first component is the “DELPAT Scoring Response Matrix” (Matrix). The computer will auto-populate the Matrix by marking the block that corresponds to the nexus created with the scores assigned on the FTA Scale and the NCA Scale. This block is assigned to one of three (3) tiers of release conditions: 1) Green Tier: Release with no conditions other than those mandated by statute¹⁹, on a conditions of release bond, with the exception that a no-contact order with a specified victim and/or witness may be included; 2) Blue Tier: Release with additional self-monitored conditions, on a conditions of release bond not guaranteed by financial terms; and 3) Orange Tier: Release with appropriate conditions and a court order to report to pretrial supervision, monitored through the Department of Correction (DOC), on a conditions of release bond not guaranteed by financial terms. **Pretrial Services will now also be available for adults with cases transferred to Family Court.**

IMPORTANT NOTE: NO BLOCK ON THE MATRIX CORRESPONDS TO THE USE OF A MONETARY CONDITION OF RELEASE.

Cases for which the Use of a Monetary Condition of Release is Discretionary

The second component is a list of “Cases for which the Use of a Monetary Condition of Release is Discretionary.” The presence of the following case types or circumstances deems the defendant eligible for release with a monetary condition:

1. Any Class A felony;
2. One of the following Title 11 Class B felonies:
 - § 606 – Abuse of a Pregnant Female in the First Degree
 - § 613 – Assault in the First Degree
 - § 632 – Manslaughter
 - § 633 – Murder of a Child by Abuse or Neglect in the Second Degree
 - § 771(a)(2) – Rape in the Third Degree

¹⁹ 11 Del. C. § 2104(b), “The court shall impose the following conditions of release for any defendant released on bail: (1) Require the defendant to return to the court at any time upon notice and submit to the orders and processes of the court. (2) Prohibit the defendant from committing any criminal offense.”

- § 772 – Rape in the Second Degree
- § 777A(e)(2) or (e)(4) – Sex Offender Unlawful Sexual Conduct Against a Child
- § 778(2) – 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) – Trafficking an Individual (Victim is a Minor)
- § 787(b)(2) – Forced Labor (Victim is a Minor)
- § 787(b)(3) – Sexual Servitude (Victim is a Minor)
- § 826(a)(2) – Burglary in the First Degree if the victim who suffers physical injury is 62 years of age or older
- § 826A – Home Invasion
- § 832 – Robbery in the First Degree
- § 836(a)(4) through (a)(6) – Carjacking
- § 1103B – Child Abuse in the First Degree
- § 1108 – Sexual Exploitation of a Child
- § 1109 – Unlawful Dealing in Child Pornography, if the defendant is eligible for sentencing under § 1110
- § 1112A(h) – Sexual Solicitation of a Child
- § 1112B(g) – Promoting Sexual Solicitation of a Child
- § 1253 – Escape After Conviction (Infliction of Injury Upon Another Person)
- § 1254(b) – Assault in a Detention Facility (Causing Serious Injury)
- § 1304(b)(3) – Hate Crimes (if the underlying offense alleges Class C felony)
- § 1304(b)(4) – Hate Crimes (if the underlying offense alleges Class B felony)
- § 1447 – Possession of a Deadly Weapon During Commission of a Felony
- § 1447A – Possession of a Firearm During Commission of a Felony
- § 1503 – Racketeering
- § 3533 – Aggravated Act of Intimidation

3. Possession of a Firearm by Persons Prohibited under 11 *Del. C.* § 1448 and the following circumstances:

- § 1448(a)(1) where **either** the defendant has a prior conviction for a violent felony or the defendant has been previously convicted of causing serious bodily injury to another
- § 1448(a)(3) where the defendant has a prior conviction of Prohibited Controlled Substance possession/use/distribution
- § 1448(a)(4) where the defendant has a juvenile adjudication for a felony
- § 1448(a)(6) where the defendant is the respondent in a PFA order
- § 1448(a)(7) where the defendant has a prior conviction of a Domestic Violence (DV) Misdemeanor.

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

- 5) Any violent felony, as defined by 11 *Del. C.* § 4201(c), allegedly committed against the petitioner with an active Protection From Abuse (PFA) order against the defendant.
- 6) Any violent felony, as defined by 11 *Del. C.* § 4201(c), allegedly committed while the defendant is pending adjudication on a previously charged offense of DV, as defined by 11 *Del. C.* § 1448(a)(7), allegedly committed against the same victim.
- 7) Any offense of domestic violence as defined by 11 *Del. C.* § 1448(a)(7), allegedly committed while the defendant is pending adjudication on a previously charged violent felony, as defined by 11 *Del. C.* § 4201(c), allegedly committed against the same victim.
- 8) One of the following Title 11 Class C, D or E felonies:
 - § 607 – Strangulation (Class D or E)
 - § 612 – Assault in the second degree provided that the defendant allegedly caused serious physical injury to the victim or caused physical injury to a peace officer, as defined by 11 *Del. C.* § 1901 (Class C or D).
- 9) Any offense that alleges possession of a Tier 4 or Tier 5 quantity of a Schedule I or Schedule II narcotic.
- 10) The domestic violence assessment indicates that the referral protocol has been triggered.²⁰
- 11) Any felony level charge of 21 *Del. C.* § 4177.²¹

If such charges or circumstances exist in the present case, the defendant is deemed to be eligible for release on a monetary condition— no matter the defendant’s original DELPAT score – and the judge may impose a financial condition, on a secured conditions of release bond or a fully secured conditions of release bond, that sufficiently reduces the risk to the community that the release of the defendant would pose. **A judge, on its own initiative or in response to a specific showing from the State, has the discretion to impose either non-monetary conditions or a monetary condition for these charges or circumstances. A judge shall document the reasons for any monetary condition of release.**²²

Judicial Response to DELPAT Initial Recommended Response

The third component is the “Judicial Response to DELPAT Initial Recommended Response.”²³ This is composed of three categories of judicial responses: 1) Conditions followed

²⁰ “‘Referral Protocol’ means the initiation of the protocol, based on the alleged victim’s answers to the domestic violence assessment, to inform the alleged victim of the high danger assessment and offer the alleged victim the opportunity to be screened by a hotline counselor for assistance.” Interim Supreme Court Rule (a)(13). **On the DELPAT, the checkoff for “Lethality Assessment Indicates Victim Screened in” will be auto-populated.**

²¹ The Court shall consider the frequency and recency of past convictions.

²² 11 *Del. C.* § 2105(c).

²³ A copy of the Judicial Response to DELPAT Initial Recommended Response is attached for reference.

DELPAT Initial Recommended Response; 2) Less Intensive Conditions of Release than indicated by the Initial Recommended Response of Risk Assessment Matrix assigned; and 3) More Intensive Conditions of Release than indicated by the Initial Recommended Response of Risk Assessment Matrix assigned. A system of electronic check-off boxes, developed through DELJIS, will be used at all court levels.²⁴ The following are preliminary lists of reasons the judge may use for ordering less intensive conditions or more intensive conditions, if the judge has an identifiable and articulable reason to override the level of release conditions assigned by the DELPAT Risk Assessment Matrix and Supreme Court Interim Rules.

- 1) Less intensive conditions than DELPAT and Decision-Making Framework assigned due to:
 - The Court making specific findings that less intensive conditions would be adequate to reasonably assure the defendant's appearance at court proceedings, public safety, and that the defendant does not obstruct justice
 - Community support and resources available for defendant's welfare: employment, financial resources, treatment services available, family ties, etc.
 - Defendant to be released into custody of family, friend, non-profit agency or other responsible party
 - Defendant is currently engaged in mental health or substance abuse services
 - Defendant faces a presumptive non-custodial sentence if convicted
 - Lack of evidence for probable cause/low likelihood of conviction
 - Other²⁵
- 2) More intensive conditions than DELPAT and Decision-Making Framework assigned due to:
 - Domestic Violence Lethality Assessment protocol triggered
 - The defendant is charged with a Signal Offense
 - Risk to public safety due to defendant being a recidivist impaired driver
 - The court making specific findings that the defendant poses a demonstrated and specific risk of flight in the current case
 - The court making specific findings that releasing the defendant with less intensive conditions of release would pose a substantial danger to public safety
 - The court making specific findings that the defendant has in the current case threatened to, attempted to, or already obstructed justice
 - Other²⁶

The first three (3) reasons listed above under "more intensive conditions," are not intended as true reasons to override the matrix and the decision-making process, as these are

²⁴ If the programming is not completed by January 1, 2019, a hand-fill-in form will be used with check-off boxes.

²⁵ In this context, the term "other" means when the judge deems there is a reason to set less intensive conditions than the DELPAT Risk Assessment Matrix assigns, based upon a totality of the circumstances analysis, which could include a recommendation from the arresting officer.

²⁶ In this context, the term "other" means when the judge deems there is a reason to set more intensive conditions than the DELPAT Risk Assessment Matrix assigns, based upon a totality of the circumstances analysis, which could include a recommendation from the arresting officer.

inherently included in the decision-making framework. They are listed only for purposes of statistical analysis.

Judges shall indicate on the “Judicial Responses to DELPAT Initial Recommended Response” form, whether the order for conditions of release follows the DELPAT Initial Recommended Response assigned or if the court deems that an override is necessary.²⁷ The judge shall fully identify and articulate the specific finding for any override on an “Order to Override Presumptive Bail Decision.” This requirement is triggered only if the judge is ordering *more* restrictive conditions than recommended. If the judge is overriding and ordering *less* restrictive conditions, an Order to override does not need to be completed. A copy of this order shall remain in the file and shall be forwarded with the case to the court with jurisdiction. The court clerk shall also forward a copy of the Order to the Office of the Chief Magistrate as required by the reporting instructions indicated in Interim Rule 5.2(m).²⁸

An interim standardized version of the order will be available for the judge to use.²⁹ Judges are to fill in the header information, check off if the override is for less intensive conditions of release or more intensive conditions of release, and state **with specificity** the factor(s) the judge considered. The judge does *not* need to additionally write this information on the Bail & Disposition form. In order to assist the court clerks, judges should place the “Order to Override Presumptive Bail Decision” as the top sheet on the case when returning the case to the clerk for processing.

Judges may override to *less* intensive conditions of release than the initial recommended response if “the court finds that less intensive conditions would be adequate to reasonably assure the defendant’s appearance at court proceedings, public safety, and that the defendant does not obstruct justice.”³⁰ Neither a special showing by the State nor a special finding by the judge is necessary for a downward override.

Judges shall *not* override and require *more* intensive conditions of release than the initial recommended response indicates based on the risk that the defendant will fail to appear at court proceedings, would pose a substantial danger to public safety, or would obstruct justice unless:

- 1) The State makes a **special showing** supporting its conclusion that the defendant poses the risks above; and
- 2) The court makes **special findings** supporting its conclusion that the defendant poses the risks above.³¹

A) A **special showing** is a submission to the court by the State that:

- 1) explicitly requests more intensive conditions of release than the initial recommended response;

²⁷ A copy of the “Judicial Responses to DELPAT Initial Recommended Response” form is attached.

²⁸ Interim Rule 5.2(m).

²⁹ A copy of the “Order to Override Presumptive Bail Decision” is attached.

³⁰ Interim Rule 5.2(j).

³¹ Interim Rule 5.2 sections (g)(2), (h)(3), and (i)(2).

- 2) explains why the more intensive conditions of release requested by the State are the least restrictive conditions of release necessary to address the specific risk of pretrial failure at issue;
- 3) includes an affidavit documenting the factual basis for the State's request for more intensive conditions of release; and
- 4) satisfies any subject-specific requirements of this rule."³²

B) ***Special findings*** are "specific findings of fact and conclusions of law made by the court that:

- 1) state that the court is making these findings in response to a special showing by the State that explicitly requests more intensive conditions of release than the initial recommended response, and is not making the findings *sua sponte*;
- 2) explain why the more intensive conditions of release requested by the State are the least restrictive conditions of release necessary to address the specific risk of pretrial failure at issue;
- 3) reference the affidavit filed by the State documenting the factual basis for the State's request for more intensive conditions of release; and
- 4) satisfy any subject-specific requirement of this rule."³³

C) If the judge determines that more intensive conditions of release are necessary based on the risk that the defendant will obstruct justice by "intimidating witnesses or taking other steps that obstruct justice and the ability of the judicial system to hold a fair trial,"³⁴ the judge shall presumptively order a conditions of release bond guaranteed by financial terms or a conditions of release bond guaranteed by financial terms secured by cash only in "an amount that is substantial enough to sufficiently:

- 1) deter the defendant from obstructing justice; or
- 2) ensure that the surety will supervise the defendant intensely enough to reasonably assure that the defendant does not obstruct justice."³⁵

Judges shall ***not*** order an override for more intensive conditions of release based upon "any factor fully or substantially included in the pretrial assessment, the domestic violence assessment, or this rule (Interim Rule 5.2) absent a ***special finding*** that there is a compelling reason indicating that the pretrial assessment, the domestic violence assessment, and this rule do not adequately account for the factor. Factors in this category needing a special finding include:

- 1) the nature and circumstances of the crime charged;
- 2) whether a firearm was used or possessed;
- 3) the possibility of statutory mandatory imprisonment;
- 4) the defendant's record of convictions;
- 5) the defendant's history of amenability to lesser sanctions;
- 6) the defendant's history of breach of release; and
- 7) the defendant's record of appearances at court proceedings or of flight to avoid prosecution or failure to appear at court proceedings."³⁶

³² Interim Rule 5.2(a)(16).

³³ Interim Rule 5.2(a)(15).

³⁴ Interim Rule 5.2(i)(1).

³⁵ Interim Rule 5.2(i)(3).

Judges shall **not** order an override for more intensive conditions of release by giving weight to statutory factors that were “tested, and found to lack a sufficiently strong correlation with the defendant’s risk of pretrial failure. The rule therefore prohibits the court from giving weight to these factors. Factors in this category include:

- 1) the defendant’s employment;
- 2) the defendant’s custody status at the time of the offense; and
- 3) the defendant’s length of residence in the community.”³⁷

Judges shall **not** order an override for more intensive conditions of release by giving weight to statutory factors that have not been tested, but are suspect of presenting a risk of racial, gender, or wealth bias, “except by making ***special findings***, that considering the factor does not create disparities based in race, gender or wealth. Factors in this category include:

- 1) the defendant’s family ties;
- 2) the defendant’s financial resources; and
- 3) the defendant’s character and mental condition.”³⁸

The judge may, however, consider the defendant’s financial ability to furnish the monetary terms necessary to guarantee the bond and set the amount accordingly.³⁹

However, according to Interim Rule 5.2(n), judges are permitted to override to more intensive conditions of release than the initial recommended response *sua sponte* (without a special showing by the State), if the judge:

- 1) makes special findings, including any applicable factor-specific special findings (all factors listed in the last 3 paragraphs above);
- 2) documents the findings of fact in an “Order to Override” supporting the judge’s conclusion that requiring more intensive conditions of release without a special showing by the State is necessary to address the specific risk of pretrial failure;
- 3) holds a hearing upon request by the defendant, at which time the defendant and the State can address the judge’s basis for requiring more intensive conditions of release and the judge’s use of any covered or suspect factor.

Initial Presentment Information Form

The “Initial Presentment Information Form” will be filled out and signed by the arresting officer or agency using a DELJIS application.⁴⁰ It will automatically print with every case and will provide relevant information to the judge on the following:

- 1) Information Related to Pretrial Conditions (information related to the defendant);
- 2) Current Allegation (information related to the alleged crime);
- 3) Threat Assessment (information related to alleged domestic violence crime); and
- 4) Recommendation (the State’s recommendation and reasoning for conditions of bond and type of conditions of release bond.

³⁶ Commentary on Interim Rule 5.2 (p 40-41).

³⁷ Id.

³⁸ Commentary on Interim Rule 5.2 (p 41-42).

³⁹ Interim Rule 5.2(l).

⁴⁰ A copy of the “Initial Presentment Information Form” is attached.

If the presenting officer requests an override from the DELPAT Initial Recommended Response, the court shall inform the officer whether an override will be approved or not. If the judge makes a special finding(s) to override, based upon the information in the document, the judge shall swear the presenting officer to the information on the document and sign on the designated line for the judge's signature. This document will then act as the affidavit from the State required by Supreme Court Interim Rules, in order for the judge to override the DELPAT Initial Recommended Response.⁴¹ This document remains with the file.

Pretrial Supervision

Pretrial Services has developed a list of standard conditions for all defendants referred to their office.⁴² These currently are:

- 1) You must not commit a new criminal offense while released on bail or recognizance;
- 2) You must report to your Supervising Officer at such times and places as directed, and permit the Officer to visit your home and/or place of employment;
- 3) You must report any new arrest, conviction, or police contact within 72 hours to your Supervising Officer;
- 4) You must report any change of residence and/or employment within 72 hours to your Supervising Officer;
- 5) You must have authorization from your Supervising Officer to leave the State of Delaware or your approved state of residence; and
- 6) You must follow any special conditions imposed by the Court.

The judge shall not order electronic monitoring, whether through the use of Global Positioning System or home confinement; substance abuse evaluations, testing or programs; or monitored curfews,⁴³ as these are considered to be incursions on the defendant's liberty prior to conviction, unless: 1) the judge receives a recommendation or request from the DOC;⁴⁴ or 2) "the court finds, by clear and convincing evidence, that the conditions of release are necessary to reasonably assure public safety and are tailored to the specific risk posed by the defendant's release, and the court reports its findings" as a special finding docketed in an order forwarded to the Chief Magistrate.⁴⁵ The "Pretrial Services Referral" form has been modified to reflect these changes.⁴⁶

The judge should enter an order to report to Pretrial Services for every defendant whose initial placement on the matrix is in an orange block. A judge also has the discretion to order, as an alternative to a monetary condition, less intensive self-monitored conditions of release or monitoring by Pretrial Services for a defendant whose case is included in the list of charges and circumstances which give the judge discretion to order a monetary condition. However, the judge must perform an individualized, totality of the circumstances analysis, to weigh the possible risk the defendant presents to the safety to the victim, witness, or the community, against the possible

⁴¹ Supreme Court Interim Rules 5.2 (g)(2) 5.2(h)(3), and 5.2(i)(2).

⁴² A copy of a sample "Pretrial Conditions of Supervision" is attached.

⁴³ Interim Supreme Court Rule 5.2 (k)(3).

⁴⁴ Interim Supreme Court Rule 5.2 (k)(3)(A).

⁴⁵ Interim Supreme Court Rule 5.2(k)(3)(B).

⁴⁶ A copy of the updated "Pretrial Services Referral" form is attached for reference.

harm to the defendant caused by the incursions on the defendant's liberty prior to conviction, of incarceration or supervision by Pretrial Services. This analysis should include an understanding that Pretrial Services is currently severely understaffed.

The process through which the court orders a defendant to report to pretrial supervision remains, for the most part, unchanged. Pretrial Services will have access to the DELPAT and the override decisions from CJIS. However, they will not have access to the specific finding(s) upon which the override was based. Therefore, the court will need to forward a copy of the "Order to Override Presumptive Bail Decision" to the Pretrial Services office with the referral form.⁴⁷

3) **Modification of Bail, Security, or Conditions of Release**

HB 204 revised 11 *Del. C.* § 2110 in two (2) ways:

a) Right of Review. HB 204 created a defendant's "right of review" by the court of any condition of release that continues to keep the defendant incarcerated. Unless reviewed earlier, if a defendant remains detained after 72 hours from the initial presentment, the court with jurisdiction shall review the conditions of pretrial release.⁴⁸ This will only be required in JP Court if a defendant is held on a secured conditions of release bond or fully secured conditions of release bond (cash or other financial surety,) when the charges are within the exclusive jurisdiction of JP Court or when jurisdiction over a defendant's charges jointly lies in JP Court and the Court of Common Pleas, and the defendant has chosen to keep his/her case in Justice of the Peace Court.

The manager of the court location, or her/his designee, shall track the cases with cognizance of the "72-hour mark." If the defendant remains incarcerated after 72 hours from the initial arraignment, the court shall transfer the case to JP Court 20 (regardless of where the offense was committed) for scheduling a videophone "Bail Review" within two (2) operational days. The court manager of JP Court 20 shall notify the Attorney General's office (AG) and the Office of Defense Services (ODS) of the pending bail review. Once the judge has received the recommendations from the AG and the ODS, the judge will see the defendant via videophone. The judge, instead of a videophone hearing, may perform a review on the record with the recommendations received from the AG and the ODS. After the bail review, JP Court 20 will transfer the case back to the originating court location for trial or other event, or to the Court of Common Pleas in the appropriate county, if the defendant requests a change in jurisdiction.

In order to hold a meaningful bail review, it is the position of the Justice of the Peace Court to seek input from the AG and the ODS on the defendant and the reasonableness of a modification of the terms which continue to detain the defendant, to conditions that would provide the release of the defendant from detention. The attorneys are to provide proffers and are not required to call witnesses for the bail review hearing. In order to continue to hold the defendant on a secured conditions of release bond or fully secured conditions of release bond, the Court must find clear and convincing evidence that the defendant should not be released. The

⁴⁷ The discussion on the "Order to Override Presumptive Bail Decision" is included in the "*Judicial Response to DELPAT Initial Recommended Response*" section earlier in this policy directive.

⁴⁸ 11 *Del. C.* § 2110(a), effective January 1, 2019.

judge is encouraged to modify the conditions which continue to incarcerate the defendant, to conditions which would “adequately provide a reasonable assurance of the appearance of the defendant at court proceedings, protection of the community, victims, witnesses and any other person, and to maintain the integrity of the judicial process,”⁴⁹ in order to release the defendant.

In order to facilitate the input from the AG and the ODS, bail reviews for all defendants, regardless of the county in which the offense occurred or where the defendant is held, shall be held in JP Court 20. The AG’s office and the ODS will not be required to appear in person or to appear via videophone, but will only be asked to file a written position with the court for the bail review. The ODS attorney will only be representing the defendant for the limited purpose of this bail review. The ODS will not be entering an attorney’s appearance nor will it be required to provide representation for any other court proceeding in JP Court. JP Court 20 will designate the scheduling time that best suits the needs of that court location, with consideration of the availability of the AG’s office and the ODS.

b) Motions to Modify Conditions of Pretrial Release. HB 204 increased the list of parties who may file a motion with the court for any modification of the conditions of the defendant’s bail. Prior to HB 204, the only parties who could file a motion with the court were the defendant and the AG.⁵⁰ As of January 1, 2019, 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 apply to the court for modification of any condition of pretrial release.”⁵¹ This type of motion is not often heard in Justice of the Peace Court, but may become more prevalent in the future in response to outcomes pursuant to the DELPAT and the Decision Making Framework, and as the court becomes more adept at using non-monetary conditions of release.

Motions should be in writing. Only the defendant, the defendant’s attorney, the AG or the AG’s designee may make an oral application and then only if the parties are present.⁵² Once a motion for a modification in conditions is ruled upon, the movant may request a subsequent review of conditions only upon a material change in circumstances.⁵³

At the hearing, the judge, after consideration of the movant’s request and the defendant’s response to the motion, may continue the current conditions, remove or impose different or additional conditions, or “revoke the defendant’s bail and reset pretrial conditions of release, including any financial conditions.”⁵⁴ The judge “shall set forth on the record the reasons for amendment of or continuation of the conditions imposed.”⁵⁵ And the judge “shall review the modified conditions with the defendant.”⁵⁶

⁴⁹ 11 Del. C. § 2101, effective January 1, 2019.

⁵⁰ 11 Del. C. § 2110(a), effective until January 1, 2019.

⁵¹ 11 Del. C. § 2110(b), effective January 1, 2019.

⁵² *Id.*

⁵³ *Id.*

⁵⁴ 11 Del. C. § 2110(c), effective January 1, 2019.

⁵⁵ 11 Del. C. § 2110(e), effective January 1, 2019.

⁵⁶ 11 Del. C. § 2110(f), effective January 1, 2019.

4) Forthwith Presentment of Defendants by Pretrial Supervision Officer

HB 204 created new powers for the DOC, through Pretrial Supervision Officers, to address a defendant's non-compliance with the conditions monitored by pretrial supervision. The DOC "may adopt standard conditions for the supervision of defendants ordered to pretrial supervision and may modify conditions of supervision as necessary....," including pretrial supervision through home confinement and electronic monitoring systems.⁵⁷ The Commissioner of the Department of Correction (Commissioner) or any probation officer may arrest a supervised defendant without a warrant when, in their judgment, the defendant has violated any *material* condition of pretrial release (emphasis added).⁵⁸ They may also "deputize any officer with power of arrest to do so by giving that officer a written statement setting forth in what manner the supervised defendant has.....violated a material condition of pretrial release."⁵⁹ In addition, the DOC may ask the court for a summons or a warrant for the arrest of the defendant for violating *any* condition of pretrial release (emphasis added).⁶⁰

A judge shall review and respond to the summons or warrant within 24 hours. The judge reviewing the DOC's request does *not* need to be the same judge who ordered the defendant to pretrial Supervision.

If the Commissioner or any probation officer arrests a supervised defendant without a warrant, they must "take the defendant directly before the court of jurisdiction if that court is in session or take the defendant before a magistrate."⁶¹ They must also submit a written report to the court before which the defendant is brought, on how the defendant has violated the conditions of pretrial release upon the defendant's arrest and detention.⁶²

Therefore, as statute indicates, the Commissioner, a probation officer, or other deputized officer, may present a defendant forthwith before a justice of the peace after the regular business hours of the court with jurisdiction (i.e. evenings, weekends, and holidays) and at any time when the defendant's case is proceeding in Justice of the Peace Court and pretrial supervision has been ordered by the judge.

If the defendant's case is proceeding in Justice of the Peace Court, the judge should review the alleged violation with the defendant. After consideration of the defendant's response to the alleged violation and the Pretrial officer's recommendations, the Court may continue the current conditions, remove or impose different or additional conditions, or revoke the defendant's bail and reset pretrial conditions of release, including any financial conditions. If a financial condition of release is ordered, the defendant's "Right of Review" discussed above becomes applicable.

⁵⁷ 11 Del. C. § 2114(d), effective January 1, 2019.

⁵⁸ 11 Del. C. § 2114(f), effective January 1, 2019.

⁵⁹ Id.

⁶⁰ 11 Del. C. § 2114(e), effective January 1, 2019.

⁶¹ 11 Del. C. § 2114(h), effective January 1, 2019.

⁶² 11 Del. C. § 2114(g), effective January 1, 2019.

5) Definitions: 11 Del. C. § 2102

One of the ways that HB 204 revised Chapter 21, “Release of Persons Accused of Crimes,” was by the inclusion of a definition for the term “bail.” Following a national movement of criminal justice reform and the corresponding reduction of reliance on the use of “money bail,” the common perception of the term “bail” equating to securing the defendant with a payment of money, changes to a perception that “bail” equates to a set of conditions imposed by the Court.⁶³ Therefore, the bail imposed by the Court is a set of conditions which, in addition to all statutorily-mandated conditions, may include other self-monitored conditions, pre-trial supervision through the office of Probation and Parole, or a monetary condition. The definition of the word “bail”, found in 11 *Del. C.* § 2102(2), reads:

“Bail means the pretrial release of a defendant from custody upon the terms and conditions specified by an order of the court with jurisdiction. Bail may be any of the following:

- a. A conditions of release bond.
- b. A conditions of release bond not guaranteed by financial terms.
- c. A conditions of release bond guaranteed by financial terms.
- d. A conditions of release bond guaranteed by financial terms secured by cash only.”

These terms shall replace the terms “personal recognizance,” “unsecured personal appearance bond,” and “secured personal appearance bond.” However, the terms used in the Supreme Court Interim Rules put into place in response to the HB 204 legislative changes will be “Conditions of Release Bond,” “Secured Conditions of Release Bond,” and “Fully Secured Conditions of Release Bond.” The designations in the computer for the different types of bond will not be changed.

Conclusion:

Judges shall apply the Decision-Making Process when making Pretrial release decisions in response to the numerical scores assigned by the DELPAT for all initial cases that include any of the following charges: any Title 11 charge; any Title 16 charge, except for civil offenses; and any 21 *Del. C.* § 4177 charges.

Defendants have a right to a meaningful bail review in JP Court if they are detained for more than 72 hours on a case remaining in the jurisdiction of JP Court. Details on the process for a meaningful bail review with the AG’s office and the ODS are still in the planning stage.

A modification of the conditions of release may come before the Court by one of two (2) processes: 1) a motion submitted by 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; or 2) a request from the Pretrial officer who is supervising the defendant. After a hearing, the Court may continue the current conditions, remove or impose

⁶³ 11 *Del. C.* § 2102(2), effective January 1, 2019.

different or additional conditions, or revoke the defendant's bail and reset pretrial conditions of release, including any financial conditions. If a financial condition of release is ordered, the defendant's "Right of Review" becomes applicable.

Cc: Honorable Leo E. Strine, Jr
Honorable Andre Bouchard
Honorable Jan Jurden
Honorable Alex J. Smalls
Honorable Michael K. Newell
Amy Quinlan, State Court Administrator
All Justice of the Peace Court Employees
Marianne Kennedy
Jody Huber, Esquire
Mark Hitch
Jill Malloy
Law Libraries: New Castle County, Kent County, Sussex County,
Widener University School of Law

Attachments: Order to Override DEPLAT
Judicial Responses to DELPAT Worksheet
Pretrial Services Worksheet

Judicial Responses to DELPAT Initial Recommended Response

___ Conditions of Release assigned as indicated by the DELPAT Initial Recommended Response.

___ Less Intensive Conditions of Release than indicated by the Initial Recommended Response of Risk Assessment Matrix assigned due to:

- ___ The court making specific findings that less intensive conditions would be adequate to reasonably assure the defendant's appearance at court proceedings, public safety, and that the defendant does not obstruct justice.
- ___ Community Support and resources available for defendant's welfare; employment, financial resources, treatment services available, family ties, etc.
- ___ Defendant to be released into custody of family, friend, non-profit agency or other responsible party.
- ___ Defendant is currently engaged in mental health or substance abuse services.
- ___ Defendant faces a presumptive non-custodial sentence if convicted.
- ___ Lack of evidence for probable cause/low likelihood of conviction.
- ___ Other: _____

___ More Intensive Conditions of Release than indicated by the Initial Recommended Response of Risk Assessment Matrix assigned due to:

- ___ Domestic Violence Lethality Assessment protocol triggered.
- ___ The defendant is charged with a Signal offense.
- ___ Risk to public safety due to defendant being a recidivist impaired driver.
- ___ The court making specific findings that the defendant poses a demonstrated and specific risk of flight in the current case.
- ___ The court making specific findings that releasing the defendant with less intensive conditions of release would pose a substantial danger to public safety.
- ___ The court making specific findings that the defendant has in the current case threatened to, attempted to, or already obstructed justice.
- ___ Other: _____

JUSTICE OF THE PEACE COURT OF THE STATE OF DELAWARE
IN AND FOR _____ COUNTY
COURT NO. _____

CASE NO. _____ **DATE** _____
DEFENDANT _____ **DOB** _____

**ORDER TO OVERRIDE
PRESUMPTIVE BAIL DECISION**

The Court has ordered that:

_____ Less intensive conditions of release are sufficient

_____ More intensive conditions of release are necessary

than the initial recommended response provided by the DELPAT and Supreme Court Interim Rules 5.2, 5.3, and 5.4. After a review of a special showing by the State, or on its own initiative, the Court has made a special finding(s), to wit: [state finding(s) with specificity]:

IT IS SO ORDERED.

Justice of the Peace

Cc: Chief Magistrate's Office
File

JUSTICE OF THE PEACE COURT OF THE STATE OF DELAWARE
IN AND FOR _____ COUNTY
COURT NO. _____

PRETRIAL SERVICES REFERRAL

DEFENDANT NAME: _____

CASE NUMBER: _____

Pretrial Supervision Level will be determined by the Department of Corrections (DOC). While released on bond, the defendant shall be placed on Pretrial Supervision subject to the following special conditions:

☐ Do Not Drive a Motor Vehicle until case is fully disposed [11 Del. C. § 2108(c)]

☐ Domestic Violence Evaluation

☐ Mental Health Evaluation

☐ Relinquish Firearms

☐ No Contact with Anyone Under the Age of 18 until the case is fully disposed [11 Del. C. § 2108 (b)]

☐ No Contact with _____

☐ No Unlawful Contact with _____

Other Special Conditions as follows only if:

☐ (1) The DOC has recommended the conditions, or

☐ (2) "The court finds by clear and convincing evidence that the conditions of release are necessary to reasonably assure public safety and are tailored to the specific risk posed by the defendants release and the court reports its finding" to the Chief Magistrate.¹

☐ Substance Abuse Evaluation and Testing

☐ Monitored curfew _____

☐ Electronic monitoring

☐ **Order to Override Attached**

Date

Justice of the Peace

Defendant is to report in person to the Pretrial Services Office indicated below by 9:00 a.m. the first business day after release.

☐ New Castle County
314 Cherry Lane
Wilmington De 19801
Phone: (302) 577-3443
Fax: (302) 577-7471

☐ Kent County
511 Maple Parkway
Dover De 19904
Phone: (302) 739-5387
Fax: (302) 739-6198

☐ Sussex County
Admin Services
22883 DuPont Blvd
Georgetown De 19947
Phone: (302) 856-5795
Fax: (302) 856-5133

¹ Supreme Court Rule 52 (l) (3) (b)

SAMPLE

STATE OF DELAWARE
DEPARTMENT OF CORRECTION

Date: 12/05/2018

Pretrial Services

JTVCC James T. Vaughn Correctional Center
Smyrna Landing Road SMYRNA, DE 19977
Phone No. 302-653-9261 Fax No.

PRETRIAL CONDITIONS OF SUPERVISION

TO: [REDACTED] SBI#: [REDACTED] R/S: B / M

Case#: [REDACTED] Court: New Castle County Superior Court Judge: Unknown Unknown Name Total Bail Amount: \$3,000.00

Charges	Charge Description	Start Date	End Date	Bail Amount	Bail Type
[REDACTED]	STRANGULATION	07/05/2018		\$1,000.00	SECURED BOND
[REDACTED]	ASSAULT 2ND PRE	07/05/2018		\$2,000.00	SECURED BOND

You have been placed under Pretrial Supervision by New Castle County Superior Court pending disposition of the charges in your case, which means until the charges are either dropped or you are sentenced. During this time you will be supervised by the Office of Pretrial Services and you must abide by the following Conditions of Supervision:

(STANDARD FOR ALL REFERRALS)

1. You must not commit a new criminal offense while released on bail or recognizance [11 De. C. 2104 (b)(2)].
2. You must report to your Supervising Officer at such times and places as directed, and permit the Officer to visit your home and/or place of employment.
3. You must report any new arrest, conviction, or police contact within 72 hours to your Supervising Officer.
4. You must report any change of residence and/or employment within 72 hours your Supervising Officer.
5. You must have authorization from your Supervising Officer to leave the State of Delaware or your approved state of residence.
6. You must follow any special conditions imposed by the Court.

Additional Conditions of Release:

Case#: [REDACTED]

- 1.
2. Must report to Pretrial Services the first business day after release
3. No Contact - Direct(Specify Who): - No Contact With [REDACTED]
4. No weapons
5. Other Conditions: - Relinquish Passport

Bail Conditions :

You are hereby advised that the Court may at any time revoke and/or modify the conditions of your supervision. Violation of conditions may result in a new felony or misdemeanor charge, filing of a Breach of Release under this case, and/or arrest by a Probation/Parole Officer. Effective 01/01/19, you are subject to arrest without a warrant at any time by a Probation/Parole Officer.

I have read or have had read to me the above Conditions of Supervision. I consent to and fully understand the content and meaning.

Witnessing Officer: [REDACTED] Offender Signature: [REDACTED]

Zwickert, Heather M

Date: [REDACTED]

JUSTICE OF THE PEACE COURT OF THE STATE OF DELAWARE
IN AND FOR KENT COUNTY, COURT NO. XX

DELAWARE PRETRIAL ASSESSEMENT TOOL

Defendant: (SYSTEM GENERATED)
Alias.: (SYSTEM GENERATED)
SBI No.: (SYSTEM GENERATED)

Uniform Case No.: (SYSTEM GENERATED)
Date of Birth . . . : (SYSTEM GENERATED)

1. The Failure to Appear Scale scores range from 0 to 6. The Risk factors and Weights are as follows:

Weights		Risk Factors
a.	N	Any prior probation supervision in the past 10 years: (0=no, 1=yes)
b.	0	Total number of prior FTAs in the past year (0=none; 1=1; 2=2 or more)
c.	0	Total number of prior FTAs in the past 10 years (0=none; 1=1; 2=2 or more)
d.	N	Current arrest include at least 1 charge of larceny / Stolen vehicle; (0 = no; 1 = yes)

SUB TOTAL

2. The New Criminal Activity Scale sores range from 0 to 9. The Risk Factors and Weights are as follows:

Weights		Risk Factors
a.	N	Any pending case: (0 = no; 1= yes)
b.	0	Any prior convictions: (0 = none; 1=1; 2= 2 or more)
c.	0	Any prior misdemeanor arrests in the past 2 years: (0=none; 2= 1 or more)
d.	0	Any prior probation supervisions: (0 = none; 1=1 or more)
e.	0	Age at first arrest: (0 = 20 or older; 1 = 19 or younger)
f.	0	Any prior failures to appear: (0=none; 1=1 or more)
g.	0	Any prior violent* conviction w/in past 5 years: (0=0 prior violent convictions, 1=1+ prior violent convictions)

SUB TOTAL

3. Lethality Assessment Indicates:

☐ Victim Screened In ☐ Victim Not Screened In ☐ Not Available

DELPAT	NCA 0	NCA 1	NCA 2	NCA 3	NCA 4	NCA 5	NCA 6	NCA 7	NCA 8	NCA 9
FTA 0										
FTA 1										
FTA 2										
FTA 3										
FTA 4										
FTA 5										
FTA 6										

Score: ☐ Conditions Assigned by DELPAT ☐ Less Intensive Conditions ☐ More Intensive Conditions
Reason for override of conditions:

Judge: _____

Date: _____