

§1095. Proceedings for revocation of preconviction bail

1. In general. The attorney for the State, or the court on its own motion, may move for the revocation of a defendant's preconviction bail based upon probable cause to believe that the defendant has failed to appear as required, has violated a condition of preconviction bail or has been charged with a crime allegedly committed while released on preconviction bail. The motion must set forth the essential facts underlying the alleged violation. If the defendant has not already been arrested pursuant to subsection 2, the clerk of the court shall issue, upon the request of the attorney for the State or by direction of the court, a warrant for the defendant's arrest or, in lieu of a warrant if so directed, a summons ordering the defendant to appear for a court hearing on the alleged violation. The summons must include the signature of the attorney for the State or the court, the time and place of the alleged violation and the time, place and date the person is to appear in court. If the defendant can not be located with due diligence, a hearing on the motion for revocation must be heard in the defendant's absence.

[PL 1995, c. 356, §19 (NEW).]

2. Arrest. Prior to the filing of a motion to revoke a defendant's preconviction bail under subsection 1, a law enforcement officer when requested by the attorney for the State may arrest with a warrant, or without a warrant pursuant to Title 17-A, section 15, any defendant who the law enforcement officer has probable cause to believe has failed to appear as required, has violated a condition of preconviction bail or has been charged with a crime allegedly committed while released on preconviction bail. A defendant under arrest pursuant to this section must be brought before any judge or justice of the appropriate court. The judge or justice shall determine without hearing whether the existing preconviction bail order should be modified or whether the defendant should be committed without bail pending the bail revocation hearing. If either the underlying crime or the new criminal conduct alleged is an offense specified in section 1023, subsection 4, paragraph B-1, the judge or justice shall order that the defendant be committed without bail pending the bail revocation hearing, unless the judge or justice makes findings on the record that there are conditions of release that will reasonably ensure that the defendant will not commit new crimes while out on bail, that will reasonably ensure the defendant's appearance at the time and place required and that will ensure the integrity of the judicial process and the safety of others in the community pending the bail revocation hearing. A copy of the motion for revocation must be furnished to the defendant prior to the hearing on the alleged violation, unless the hearing must be conducted in the absence of the defendant.

[PL 2011, c. 640, Pt. A, §3 (AMD).]

SECTION HISTORY

PL 1995, c. 356, §19 (NEW). PL 1997, c. 543, §22 (AMD). PL 2011, c. 341, §4 (AMD). PL 2011, c. 640, Pt. A, §3 (AMD).

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