

MODEL POLICY: PRETRIAL PUBLIC SAFETY REPORTING ACT

SUMMARY:

This legislation is modeled upon Texas Senate Bill 6, which passed the 2021 Second Special Session. It is also modeled upon § 16-4-106, Colorado Revised Statutes, which requires annual reporting by pretrial services programs.

Basic data is lacking by policy makers to understand the scope and degree of the problems existing within the current bail system. We see many examples of defendants released on bail who go on to commit new crimes, but seldom do we see any real data that captures in a snapshot or in trend what is going on. The State of Texas moved forward with a reporting system to require robust data and annual report to capture bail setting practices and outcomes in Texas.

Nearly a decade ago, Colorado began requiring annual reports of pretrial services programs to allow policy-makers to assess their effectiveness. While billions of dollars around the county are pumped into risk assessment algorithms and staff to run them, unproven and unsuccessful pre-conviction supervision, and the mass expansion of correctional technologies, it is time for public officials to have real data as to whether such programs are worth the investment. Persons supervised pre-conviction cannot be constitutionally ordered into addiction treatment or mental health counseling, and typically, they are going to transition to probation or parole. Recognizing that the surest deterrent of criminal behavior we have is the swiftness of the punishment spending scarce resources on things like speedy trial reform. Also, other reforms like meaningful post-conviction drug and alcohol treatment, gang intervention, and even crime prevention programs may be a better use of such scarce resources. If building at a state pre-conviction dragnet over the last generation has worked, it is far from time for such programs to prove their worth. This legislation requires the reporting of such results.

Better informed, perhaps bail reforms that better balance public safety while also protecting the rights of defendants may be achieved. But until we get a full picture of what is happening and a true evaluation of the present system, reforms will fail to solve the true problem that is ailing us.

BILL LANGUAGE:

PRETRIAL PUBLIC SAFETY REPORTING ACT.

BAIL AND PRETRIAL RELEASE INFORMATION.

(a) The clerk of each court setting bail in criminal cases shall report to the Office of the State Court Administrator:

- (1) the number of defendants for whom bail was set after arrest, including:
 - (A) the number for each category of offense;
 - (B) the number of personal bonds; and
 - (C) the number of surety or cash bonds;
- (2) the number of defendants released on bail who subsequently failed to appear;
- (3) the number of defendants released on bail who subsequently violated a condition of release; and
- (4) the number of defendants who committed an offense while released on bail or community supervision.

(b) The office shall post the information in a publicly accessible place on the agency's Internet website without disclosing any personal information of any defendant, judge, or magistrate.

(c) Not later than October 1 of each year, within the previous eight quarters of data to reported on October 1, 2022, the office shall submit a report containing the data collected under this section during the preceding state fiscal year to the governor, lieutenant governor, speaker of the house of representatives, and presiding officers of the standing committees of each house of the legislature with primary jurisdiction over the judiciary.

(d) Commencing October 1, 2022, within the previous eight quarters of data to reported on October 1, 2022, each pretrial services program shall provide an annual report to the Office of the State Court Administrator no later than October 1 of each year. The State Court Administrator shall present an annual combined report to the house and senate judiciary committees of the house of representatives and the senate, or any successor committees, of the legislature. The report to the State Court Administrator must include, but is not limited to, the following information:

- (i) The total number of pretrial assessments performed by the program and submitted to the court;
- (ii) The total number of closed cases by the program in which the person was released from custody and supervised by the program;
- (iii) The total number of closed cases in which the person was released from custody, was supervised by the program, and, while under supervision, appeared for all scheduled court appearances on the case;
- (iv) The total number of closed cases in which the person was released from custody, was supervised by the program, and was not charged with a new criminal offense that was alleged to have occurred while under supervision and that carried the possibility of a sentence to jail or imprisonment;
- (v) The total number of closed cases in which the person was released from custody and was supervised by the program, and the person's bond was not revoked by the court due to a violation of any other terms and conditions of supervision; and

(vi) Any additional information the judicial department may request.

(vii) For the reports required in this subsection, the pretrial services program shall include information detailing the number of persons released on a commercial surety bond in addition to pretrial supervision, the number of persons released on a cash, private surety, or property bond in addition to pretrial supervision, and the number of persons released on any form of a personal recognizance bond in addition to pretrial supervision.

(viii) for all new crimes committed by defendants supervised by the program, a complete listing of all of the new crime or crimes alleged to have been committed by defendants, without identifying information, while on supervision by the program.