



**FY2019 RECOMMENDATION/FY19-PR06 Establish an Expedited Pretrial Release Process [Statutory]**

**Status:** Cannot Implement

**Actions/Updates**

**2020 UPDATE**

This recommendation was withdrawn and replaced by a subsequent recommendation. See CCJJ Recommendation FY20-PR #03 (Implement Bail Bond Reform[Statutory]).

**2019 UPDATE**

This recommendation requires statutory change. This recommendation was included in House Bill 2019-1226 (Bond Reform; Sponsors: Reps. Herod / Sooper & Sen. Lee). The bill was introduced March 8, 2019 and, although it passed in the House and two Senate committees, the bill "died on the calendar" without further action by the Senate at the end of the FY 2019 Legislative Session.

**Description**

Modify §16-4-102 and §16-4-103, C.R.S., to establish, through a locally-determined research-based administrative order, an expedited screening process for persons arrested for an offense committed in that jurisdiction which shall be conducted as soon as practicable upon, but no later than 24 hours after, arrival of a person at the place of detention, allowing for the immediate release of certain low/medium risk persons. If a person does NOT meet the criteria for release as determined by administrative order, the person SHALL BE HELD until the initial court appearance. Also, in §16-4-109, C.R.S., expand the definition of "bonding commissioner."

**Agencies Responsible**

Office of the State Court Administrator (SCAO) and Judicial Districts

**Discussion**

[The Proposed Statutory Language and additional Recommendation details may be found in the related "Recommendation Text."]

A May 2015 "Issue Brief"[Footnote: 1] by the Pre-trial Justice Institute provides a concise overview of pretrial risk assessment and the value of identifying defendant risk for pretrial service decisions:

“An empirically-derived pretrial risk assessment tool is one that has been demonstrated through an empirical research study to accurately sort defendants into categories showing the

increased likelihood of a successful pretrial release - that is, defendants make all their court appearances and are not arrested on new charges.

A defendant's risk level should be used to guide two decisions: 1) the decision to release or detain pretrial; and 2) if released, the assignment of appropriate release conditions, such as pretrial supervision. Recent research has shed new light on the importance of accurately assessing risks in making these decisions.

In one study, researchers found that low-risk defendants who were held in jail for just 2 to 3 days were 39% more likely to be arrested than those who were released on the first day. Those who were held 4 to 7 days were 50% more likely to be arrested, and those held 8 to 14 days were 56% more likely. The same patterns hold for medium-risk defendants held for short periods.[Footnote: 2]

That study also found that low-risk defendants who were held in jail throughout the pretrial period were 27% more likely to recidivate within 12 months than low-risk defendants who were released pretrial.[Footnote: 3]

Another study found that low-risk defendants who were detained pretrial were five times more likely to receive a jail sentence and four times more likely to receive a prison sentence than their low-risk counterparts who were released pretrial. Medium-risk defendants who were detained pretrial were four times more likely to get a jail sentence and three times more likely to get a prison sentence.[Footnote: 4]

Research has also indicated that putting conditions of non-financial release on low-risk defendants actually increases their likelihood of failure on pretrial release. Rather, the most appropriate response is to release these low-risk defendants with no or minimal specific conditions.[Footnote: 5]

Other studies have found that higher-risk defendants who are released with supervision have higher rates of success on pretrial release. For example, one study found that, when controlling for other factors, higher-risk defendants who were released with supervision were 33% less likely to fail to appear in court than their unsupervised counterparts.[Footnote: 6]

These studies, taken together, demonstrate the longer-term implications of not accurately and quickly identifying, and then acting upon to mitigate, defendants' risk.

Another reason to utilize a defendant's risk score is to make the best use of scarce resources. It is a waste of resources to over-apply conditions to people for whom those conditions are unnecessary to ensure compliance. It is a good use of resources to provide supervision in the community to someone who needs it, when compared to the cost of housing, feeding and providing medical care in jail. Supervision can cost \$3 to \$6 per day. On the other hand, the housing, feeding, and medical care costs of jail are approximately \$50 or more per day."

## Footnotes

[1] Pretrial Justice Institute. (2015, May). Issue Brief-Pretrial Risk Assessment: Science Provides Guidance on Assessing Defendants. Rockville, MD: PJI. (See, [university.pretrial.org/viewdocument/issue-brief-pretrial-1](http://university.pretrial.org/viewdocument/issue-brief-pretrial-1))

[2] Lowenkamp, C., VanNostrand, M., & Holsinger, A. (2013). The Hidden Costs of Pretrial Detention. Houston, TX: Laura and John Arnold Foundation. (See, [nicic.gov/hidden-costs-pretrial-detention](http://nicic.gov/hidden-costs-pretrial-detention))

[3] See Footnote #2.

[4] Lowenkamp, C., VanNostrand, M., & Holsinger, A., (2013). Investigating the Impact of Pretrial Detention on Sentencing Outcomes. Houston, TX: Laura and John Arnold Foundation. (See, [nicic.gov/investigating-impact-pretrial-detention-sentencing-outcomes](http://nicic.gov/investigating-impact-pretrial-detention-sentencing-outcomes))

[5] VanNostrand, M., & Keebler, G. (2009). Pretrial risk assessment in the federal court. *Federal Probation Journal*, 73 (2). (See, [scourts.gov/federal-probation-journal/2009/09/pretrial-risk-assessment-federal-court](http://scourts.gov/federal-probation-journal/2009/09/pretrial-risk-assessment-federal-court))

[6] Lowenkamp, C., & VanNostrand, M. (2013). Exploring the Impact of Supervision on Pretrial Outcomes. Houston, TX: Laura and John Arnold Foundation. (See, [nicic.gov/exploring-impact-supervision-pretrial-outcomes](http://nicic.gov/exploring-impact-supervision-pretrial-outcomes))