

Brief Summary of the Proposed Changes to Senate Bill 2020-161

From: Maureen Cain, Office of the State Public Defender
To: CCJJ Members

These amendments were an attempt to: eliminate the potential costs of the proposed bill and to eliminate controversial parts of the bill that were added by stakeholders that were not necessarily essential to moving pretrial reform forward. A description of the amendments, by section of the introduced bill, is provided below:

Section 1 of the bill: This section remains the same as the introduced version and is substantially similar to current law, just re-worded some. This section states that the bail hearing shall be conducted as soon as practicable. The ACLU bill, SB20-172, requires 48 hours which the CCJJ group could not agree on.

Section 2 of the bill: This section continues to introduce the concept of a “best practices” group in each judicial district to develop pretrial release practices (similar to a matrix which is used in some jurisdictions currently) which shall then be crafted into an administrative order to allow for early release of some offenders. (This is a practice that is implemented to a certain degree in some jurisdictions currently.) The changes to this section:

- Time lines are changed
- The language is changed to require the development of a “best practices” administrative order but the order is not required to be implemented through a pretrial assessment process unless the funds are available.

Section 3 of the bill: This section still requires DCJ to assist the judicial districts in the development of best practices for pretrial release based on research and law and requires that judicial districts be aware of what others are doing to provide some state-wide consistency in pretrial release practices through administrative orders. The amendments eliminate the requirement that DCJ designate what risk assessments can be used by judicial districts. Most importantly, the amendment removes the requirements that DCJ data collect and report on the outcomes related to risk assessment instruments and assess the data for ethnic, racial and gender bias.

Section 4 of the bill: This section still requires court to consider certain factors when setting bond and the language that the risk assessment instrument shall not be the sole factor in bond setting is retained. However, the requirement that the court presume the release without monetary conditions is deleted since the bill will not be funding pretrial to assess/supervise releases.

Section 5 of the bill: This section remains the same except that the language that refers to the presumption of release without monetary conditions is deleted.

Section 6 of the bill: This section addresses the conditions of release. The limitations on electronic monitoring are changed. The court needs to make an individualized finding but the elimination of the use of electronic monitoring for certain crimes is deleted.

Section 7 of the bill: This section addresses pretrial programs. The language is amended to encourage pretrial programs in counties, not mandate program. The entire data reporting for pretrial services programs is deleted, even the reporting required under current law, because it was not very useful information per the Task Force discussions and the burden on the counties was not necessary unless it was changed as it was drafted in the introduced bill.

Colorado Commission on Criminal and Juvenile Justice: Special Meeting (May 27, 2020)

Prepared on May 26, 2020 by Maureen Cain (Pretrial Release Task Force Member)

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Section 8 of the bill: The pretrial services fund is deleted. There is no mandated pretrial so it is left, as it is now, to the discretion of the counties.

Section 9 of the bill: The amendment deletes the requirement that charges be filed within three days. It replaces that language with the requirement that the charges be filed as soon as practicable as court by the order which is what is done now.

Section 10 of the bill: The language of this section is changed so that the intermediate sanction of up to 72 hours is deleted and it is also deleted as the sanction for violation of monitored sobriety. The replacement language says that the court may impose an intermediate sanction as agreed to by the parties. The language clarifying the reconsideration of bond remains the same.

Section 11 of the bill: This section of the bill remains the same as it was amended in Senate Judiciary to eliminate the fiscal note from the court of appeals on speedy review of bail appeals.

Section 12 of the bill: This section remains the same on use of summons.

Section 13 of the bill: This section remains the same on contents of summons.

Section 14 of the bill: The changes to the crime of violation of bail bond conditions are deleted and the law is kept as it is under current law.

Section 15 of the bill: The section of the bill would remain ~~same~~ the same regarding protection orders.

Section 16 of the bill: This section would remain the same regarding protection orders.

Section 17 of the bill: Effective date would need to be changed. Safety clause or petition?