

CONFERENCE OF CHIEF JUSTICES

Resolution 3

Endorsing the Conference of State Court Administrators Policy Paper on Evidence-Based Pretrial Release

WHEREAS, pretrial judicial decisions about release or detention of defendants before disposition of criminal charges have a significant, and sometimes determinative, impact on thousands of defendants every day; and

WHEREAS, pretrial release decisions add great financial stress to publicly funded jails holding defendants who are unable to meet financial conditions of release; and

WHEREAS, many of those incarcerated pretrial do not present a substantial risk of failure to appear or a threat to public safety, but do lack the financial means to be released; and

WHEREAS, evidence-based assessment of the risk that a defendant will fail to appear or will endanger others, if released, can increase successful pretrial release without imposing unnecessary financial conditions that many defendants are unable to meet; and

WHEREAS, defendants who are detained can suffer job loss, home loss, and disintegrated social relationships, and, according to the Bureau of Justice Assistance, “receive more severe sentences, are offered less attractive plea bargains and are more likely to become ‘reentry’ clients because of their pretrial detention regardless of charge or criminal history;” and

WHEREAS, imposing conditions on a defendant that are appropriate for that individual following a valid pretrial assessment substantially reduces pretrial detention without impairing the judicial process or threatening public safety; and

WHEREAS, in 2012 the Conference of State Court Administrators (COSCA) adopted a Policy Paper on Evidence-Based Pretrial Release, which concludes with the following recommendations to state court leaders:

- Analyze state law and work with law enforcement agencies and criminal justice partners to propose revisions that are necessary to support risk-based release decisions of those arrested and ensure that non-financial release alternatives are utilized and that financial release options are available without the requirement for a surety;

- Collaborate with experts and professionals in pretrial justice at the national and state levels;
- Take the message to additional groups and support dialogue on the issue;
- Promote the use of data including determining what state and local data exist that would demonstrate the growing problem of jail expense represented by the pretrial population, and that show the risk factors presented by that population may justify broader pretrial release; and
- Reduce reliance on bail schedules in favor of evidence-based assessment of pretrial risk of flight and threat to public safety.

NOW, THEREFORE, BE IT RESOLVED that the Conference of Chief Justices commends and endorses the Policy Paper on Evidence-Based Pretrial Release and joins with Conference of State Court Administrators to urge that court leaders promote, collaborate, and accomplish the adoption of evidence-based assessment of risk in setting pretrial release conditions and advocate for the presumptive use of non-financial release conditions to the greatest degree consistent with evidence-based assessment of flight risk and threat to public safety and to victims of crimes.

Adopted as proposed by the CCJ/ COSCA Criminal Justice Committee at the Conference of Chief Justices 2013 Midyear Meeting on January 30, 2013.