BAIL PRACTICES AND PRETRIAL SERVICES

ADDENDUM TO THE JUNE 2017 AD HOC COMMITTEE ON BAIL AND PRETRIAL SERVICES FINAL REPORT & RECOMMENDATIONS

PREPARED BY, STAFF OF THE OHIO CRIMINAL SENTENCING COMMISSION | MARCH 2018

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EXECUTIVE SUMMARY

In April of 2016, the Ohio Criminal Sentencing Commission (Commission), in an effort to affirm that Ohio is holding people for the right reasons prior to trial, sought technical assistance from the National Institute of Corrections and created an Ad Hoc Committee on Bail and Pretrial Services. The Ad Hoc Committee's goal was to ensure Ohio's bail system maximizes appropriate placement for defendants, protects the presumption of innocence, maximizes appearance at court hearings and maximizes public safety. The 34-member Ad Hoc Committee was comprised of a member of the Ohio Senate, Judges, Court Administrators, Prosecutors, Defense Attorneys, a Sheriff, a Jail Administrator, Pretrial Services personnel, Clerks of Courts, Victim Advocates and Bail Bondsmen.

The Ad Hoc Committee met for eleven months and created multiple smaller workgroups. The first task undertaken was to design and disseminate surveys to determine the current state of pretrial services in Ohio. Surveys were sent to clerks, jail administrators, prosecutors, and judges. After analyzing the current state of pretrial services in Ohio, including presentations from Ohio counties currently undergoing reform efforts, and a review of national trends, work groups met and developed recommendations to present to the full Ad Hoc Committee which then considered each recommendation and voted on whether or not they should be included in the Committee's recommendations to the Ohio Criminal Sentencing Commission.

In June 2017, the Commission unanimously favorably voted to accept the Final Report and Recommendations of the Ad Hoc Committee. The recommendations of the Ad Hoc Committee are designed to be holistic and focus on achieving consistency, fairness and efficiency in the pretrial system while decreasing the reliance on monetary bail. The recommendations also promote consistent and uniform practices that realize fundamental fairness and promote public safety among counties and courts within counties.

The Commission's study and work on bail practices and pretrial services inspired recently introduced legislation in the 132nd Ohio General Assembly, Sub.HB439 (Dever, Ginter) and SB274 (McColley). The proposed legislation embodies the spirit of bail practices and pretrial services reform and while not intended to be data-centric, the bills do reflect that data collection is an important part of reform. Understandably, the data related portions of the bills raise questions that include the cost of implementation, partially prompting this addendum to the Ad Hoc Committee's report.

The provisions in the legislation provide the underpinning for the development of a collaborative, reliable and unified criminal justice data system. Additionally, the data variables outlined in the bill present the opportunity to understand pretrial functions and, ideally, if and when, combined with other data collection efforts by the Commission, will link those early processes in the criminal justice system to processes that happen later in the system – in other words, the ability to follow a case all the way through the system using just one

data source. That kind of criminal justice data connectivity is of immeasurable value to Ohio citizens and policy-makers.

In the interest of continuing our work to promote efficiencies and consistency in Ohio's pretrial system while decreasing the reliance on monetary bail as the primary release mechanism, we have done our best to gather information from state partners to estimate cost for provisions in Sub.HB439 and SB274. We have also worked to compile available and relevant cost implementation estimates from other jurisdictions.

We trust that implementing recommendations made by the Commission's Ad Hoc Committee on Bail and Pretrial Services coupled with changes to Ohio law will, over time, result in cost savings to the justice system and result in a pretrial justice system that maintains due process and equal protection while ensuring public safety and court appearances. As cited in the final report and recommendations of the Ad Hoc Committee, *the price of reform is offset by the potential savings in the cost of detention. The Pretrial Justice Institute recently estimated that American taxpayers spend about $38 million per day incarcerating pretrial defendants, which works out to about $14 billion annually.*[1]

[1] "Pretrial Justice: How much does it cost", Pretrial Justice Institute, January 24, 2017

I. State by State Comparison – Appendix A

In 2016 when the Commission's Ad Hoc Committee on Bail and Pretrial Services (Ad Hoc Committee) began its work, no less than 20 states had started implementing reforms such as risk assessments for release determinations, citation in lieu of detention, and elimination of bond schedules. Today, that number continues to grow, as illustrated in Appendix A.

That momentum is well documented in publications and state tracking tools through organizations like the National Institute of Corrections[2], the Pretrial Justice Institute[3], the Center for Legal and Evidence Based Practices[4], and the National Conference of State Legislatures.[5] The majority of states enacting reforms adhere to the major theme of implementing individualized bail determinations based upon objective analysis of risk to public safety and risk of failure to appear, particularly for low-level, non-violent offenders.

II. Analysis and Recommendations for Legislative Provisions – Appendix B

132nd General Assembly – Sub.HB439, SB274

In order to assist in the successful implementation of the recommendations from the Ad Hoc Committee and, in consideration of the legislative proposals included in Sub.HB439 and SB274 Commission staff prepared Appendix B. The first chart describes the general provisions and the second is specific to the data variables included in the legislation. The charts are designed to offer analysis and what we trust is helpful background information and suggested recommendations. In general, the analysis supports the emphasis on the reform efforts that will, over time, result in cost savings to the justice system and a pretrial justice system that maintains due process and equal protection while ensuring public safety and court appearances.

III. Estimated Fiscal Impact Assessment

A. Buckeye Institute Information – Appendix C

The Buckeye Institute is an independent research and educational institution—a think tank—whose mission is to advance free-market public policy in the states[6]. Daniel Dew is a legal fellow whose focus is criminal justice reform. He recently authored the report, "Money Bail" Making Ohio a More Dangerous Place to Live and continues to be an outspoken advocate for bail practices and pretrial services reform. Since he, and the Buckeye Institute, were examining the jail bed space cost savings of such reform, we agreed to coordinate our efforts, thus their findings are included in our report, Appendix C.

[2] https://nicic.gov/pretrial
[3] http://www.pretrial.org/
[4] http://www.clebp.org/
[5] http://www.ncsl.org/research/civil-and-criminal-justice/pretrial-policy-state-laws-reports-and-resources.aspx
[6] https://www.buckeyeinstitute.org/

B. Data Collection & Development

States across the country are striving for better, more comprehensive criminal justice data to inform policy makers, budget decisions and increase connectivity and transparency among those in the field. As discussed in a recent editorial in the NY Times[7] by Amy Bach, executive director and president of Measures for Justice, …."*Missing data is at the core of a national crisis. The United States leads the industrialized world in incarceration. With nearly 5 percent of the planet's population and almost a quarter of its prison population, the country has invested a tremendous amount of money in the corrections system without the statistics necessary to tell us whether that money is actually reducing crime, improving fairness or lessening recidivism. State and federal spending on corrections has grown more than 300 percent over the past 20 years — becoming one of the fastest-growing line items in state budgets."*

Criminal justice data in Ohio is disparate, mismatched and complex. Local and state agency data systems lack connectivity and sharing agreements are underutilized. Currently, in Ohio, each court operates independently resulting in varying levels of data collection and submission. Through its work the Ad Hoc Committee learned that, with a few notable exceptions, most courts do not collect data on bail and pretrial services, and if they do, the data is not of the quality necessary to conduct an impactful analysis of pretrial justice at the local level. Thus, the recommendations in the Ad Hoc Committee report are designed to promote consistent and uniform practices that realize fundamental fairness and promote public safety among counties and courts within counties.

Continuing to advance criminal justice policy and legislation on limited circumstances and data does not further the administration of justice. The Ad Hoc Committee recommended a dedicated and concerted effort to increase data collection and analysis for all facets of the bail practices and pretrial system in Ohio. As mentioned in its report, in order to adequately determine the current state of bail practices and pretrial services in Ohio and measure outcomes of any implemented reforms, the General Assembly and the Supreme Court of Ohio must require the collection of robust and useful data. The provisions included in Sub.HB439 and SB274 reflect some of the data used to inform and evaluate past and current pretrial reform efforts[8] and provide the underpinning for the development of a collaborative, reliable and unified criminal justice data system.

Despite an increase in initial costs to begin data collection, whether through new systems or updates to case management systems, collecting data is the only true measure of the effectiveness of bail practices and pretrial services. The General Assembly must work with the Supreme Court of Ohio to determine cost for updates to all local case management systems or for development of a statewide collection capability.

[7] https://www.nytimes.com/2018/03/21/opinion/missing-criminal-justice-data.html
[8] http://www.ncsc.org/~/media/Microsites/Files/PJCC/Pretrial%20Justice%20Brief%208-Final.ashx

The Ad Hoc Committee was fully aware that implementation of its recommendations, particularly the implementation of risk assessment systems, dedicated pretrial service staff, increased diversion opportunities, and increased data collection, have fiscal implications that may be significant for both the state and local governments. Specific fiscal impact is difficult to assess as evidenced by Legislative Service Commission Fiscal Note & Local Impact Statement[9] dated March 20, 2018, that surmised costs of implementation are overall indeterminate and uncertain.

However, using local, state and national resources – publications, research and direct conversation with those engaged in court services, technology and information systems, risk assessment and pretrial justice reform, the information compiled in this report is our best attempt to identify cost impact of implementation, using the provisions as outlined in Sub.HB439 and SB274. Please note, the information gathering effort is ongoing and future updates may be provided.

1. Statewide Centralized Database

Sub.HB439 and SB274 require the collection and reporting of specified data from every court, other than a juvenile court; reporting of the gathered information to the General Assembly once every other year (beginning 2018); and the maintenance of a centralized database of information reported by the courts. There will be one-time and annual costs to develop and maintain a statewide platform/database and ongoing maintenance costs of the data platform. Of course, there are a myriad of options for the development of such a platform and information in this report is a sampling of possibilities – which are unable to be fully estimated until there is certainty in specific data points/variables identified for collection.

To estimate such costs, we benchmarked with other states, in-state partners and known vendors. Cost estimates were based upon the following deliverables:

- → Application Programming Interface (API);
- → Data Security (data is not public);
- → Ability to pull small amounts of data and/or large amounts of data;
- → Ability to aggregate data; ability to select to download along a variety of pieces of information (as well as download all information);
- → Ability to accept data from a variety of court management systems;
- → Ability to standardize minor incompatibility issues in variables;
- → Ability to download into Excel, SPSS and STATA

[9] https://www.legislature.ohio.gov/download?key=9107&format=pdf

Information from Other States

In an effort to investigate hard numbers that provide estimates of the cost of implementing a centralized database in Ohio, Commission staff contacted other state Sentencing Commissions and/or states regarding cost for implementation and associated ongoing cost of data collection. The following is not intended to be a comprehensive review and it is difficult to make a direct comparison to Ohio so, caution should be used when reviewing the information.

The **Arkansas Sentencing Commission** uses a centralized database but it isn't comparable to the deliverables noted above. The vendor, JFA Institute, cannot meet Ohio's specific needs.

The **Florida** legislature recently passed a bill (SB1392)[10] which awaits Governor Scott's signature. SB1392 requires criminal justice data collection and while this effort includes information broader than bail practices and pretrial services, those areas are included for data collection in the legislation. The Department of Law Enforcement is designated as the host agency for the centralized database and other state criminal justice agencies are required to submit data to the centralized database. In an effort to increase transparency, the bill also specifies that the data be made publicly available. The bill includes an appropriation of $1,750,000 for implementation for all parts of the data collection, reporting and housing of the data and making the data publicly available.

The **Pennsylvania Commission on Sentencing**[11] holds a criminal justice centralized database for some data in Pennsylvania. The Pennsylvania Commission on Sentencing currently (and historically) has collected data on imposed sentences. This data is housed in the Justice Network (JNET) system, which is an online system that houses data from their Commission and a variety of different criminal justice agencies within Pennsylvania. Their Commission shared with us that in 2001, the initial cost for the centralized database was $1,000,000 with an additional $125,000 each year for support. Each change to the system averages no less than $10,000.00.

New Jersey recently implemented bail practices and pretrial services reform. In 2014, the Regional Economic Studies Institute at Towson University conducted an estimate cost on this implementation.[12] Cost estimates to collect data on bail practices and pretrial services was included part of the report.[13] In New Jersey, a standalone pretrial software program was selected for use. The program has a cost per case entered into the system ($1.25 per case). As a result, the cost estimate to implement data collection for pretrial services was $377,180 annually.

[10] https://www.flsenate.gov/Session/Bill/2018/01392/?Tab=Analyses
[11] http://www.hominid.psu.edu/specialty_programs/pacs
[12] This study was funded by the American Bail Coalition.
[13] http://www.americanbailcoalition.org/wp-content/uploads/2016/06/new-jersey-pretrial-final-report.pdf

We have also reached out to several other states including Alaska, Alabama and Connecticut. The information from Alaska[14] was difficult to compare to Ohio and we are awaiting information from the other states. In summary, there is wide range of estimates and the information provided creates a framework to help guide and ground the discussion in Ohio as we move forward with respect to data collection on bail practices and pretrial services.

Potential Centralized Database Vendors

Commission staff also made contact with several vendors that specialize in data repositories. These conversations proved useful, as vendors that engage daily in these practices as part of their business know the in-and-outs of what is needed to make such a system functional for Ohio. The vendors included are those that returned our calls or emails and/or those known to work with criminal justice agencies. The information and estimates provided are constructed with the deliverables previously noted on page 8.

The **Ohio Department of Administrative Services**[15] has a Data & Analytics platform that allows data to be received and housed in a secure environment. It would meet Ohio's needs for a centralized database and allows for analyses and reporting of data. The construction, ongoing maintenance or upgrade of the centralized database is state funded (although it is not an unlimited source of funding). There would be costs to the local courts, however. It will cost courts whose vendors must add the data and create an API to this data platform, discussed in the Local Case Management Systems section below.

The **University of Cincinnati**, School of Criminal Justice[16], has an ongoing relationship with several criminal justice agencies in Ohio. They could meet Ohio's needs for a centralized database of this kind and the centralized database would allow for analyses and reporting of data as the bill requires and do so in a secure environment. To create this centralized database, estimated cost is $350,000 startup and at minimum $50,000 in annual maintenance – this cost does not include the cost for local court vendors to add the data and create an API to this data platform, discussed in the Local Case Management System section below.

Appriss[17] is a data and analytics company that allows data to be received and housed in a secure environment. It would easily meet the needs for a centralized database of this kind. Different from the other centralized database estimates, one of the core functions of Appriss is creating the connections between different agencies and a centralized database. As a result, unlike the other situations where the cost to build APIs to connect with the centralized database falls on the local court through their respective vendor, with Appriss, the cost is included on the centralized database side. Startup cost estimate is $250,000-$500,000 and annual maintenance and updates are estimated at $180,000-$300,000. It should be noted that Appriss is used

[14] http://www.akleg.gov/basis/Bill/Detail/29?Root=SB%20%2091
[15] http://www.das.ohio.gov/Divisions/Information-Technology
[16] http://cech.uc.edu/criminaljustice.html
[17] https://apprisssafety.com/

for criminal justice information systems nationwide, including the Interstate Compact for Adult Offender Supervision (ICAOS), VINE – a victim notification network and the Ohio Automated Rx Reporting System.

2. Local Case Management Systems

The data collection effort required in Sub.HB439 and SB274 and the associated costs with it will vary for local courts, dependent upon whether a court's case management system has the ability to track the data or if the system has to be modified to add database fields or codes. There is no one court management system (CMS) vendor for the more than 200[18] courts in Ohio, but several vendors work with the majority of them. CourtView Justice Solutions[19] is one of the larger vendors, working with approximately 50 Common Pleas and approximately 50 Municipal Courts in Ohio. Additionally, CourtView reports their system has the functionality for pretrial/bail variables (although it hasn't been formatted for all Ohio courts) and those variables are being used and data collected in other states for which they provide services. Henschen and Associates, Inc.[20] is likely the next most prevalent vendor for Ohio courts. Once a Court selects a CMS vendor, that CMS vendor and the court work together to build a CMS individualized system – often, a basic package and then the court can request "add ons".

Commission staff contacted Henschen, CivicaCMI and CourtView for general cost assessments for local courts. At the time of this writing, CourtView is the sole respondent. Please note, the information presented here is not to be used for contractually binding quotes and information may only be relevant to courts using this vendor.

CourtView reports the bail/pretrial services functionality does exist for Ohio courts using their court management system. The estimate provided is based upon implementation for a medium-sized court with medium volume, noting that a small court may be able to cut the time and cost in half. For the estimate, the standard hourly rate was used, which is often discounted for current customers. The time and cost to implement the Pretrial Services module includes project management, host environment validation, code configuration, training, and go-live support services. Travel cost is not included in the estimate because this can vary based upon location of the customer. The estimate of $18,700.00 includes the aforementioned services and is approximately 10 days of work, not necessarily 10 sequential days, to complete the work.

In addition, there is a base development cost which includes analysis, development and quality assurance tasks. Base development cost for implementing this bill includes capturing the data elements and creating a transition process (if needed) and is estimated to be $67,500. CourtView does note that some of the elements outlined in the bill are vague, so estimates are "worst case." Transmission requirements have not been

[18] This number derived from 88 courts of common pleas; 126 municipal courts; 21 county courts. It does not count county court areas separately and does not include divisions of municipal courts, i.e. housing, environmental.
[19] http://www.courtview.com
[20] http://www.henschen.com

clarified at this point (and will likely not be clarified until a database has been identified). As a result, estimates for this portion are based on the past experience of CourtView for the transmission requirement. They noted it is possible the estimate may decrease once the requirements are better defined, but also noted that additional time and costs may be necessary once the transmission requirements have been defined.

There aren't policies or standards for how much data and/or what data variables local courts enter into their respective CMS. The Supreme Court of Ohio operates a statewide information exchange system, the Ohio Courts Network (OCN)[21] and the CMS allows courts to collect variables specified by the OCN. However, the OCN was (is) not designed to aggregate data as it is a person-centered system. Additionally and importantly, collecting data is different from ensuring the data is entered accurately and in a standardized format. Currently, data that is collected is, most often, disparate, mismatched and not standardized – lessening its ability to contribute to an evidence informed public policy decision-making process or create a safer, fairer, and more cost-efficient criminal justice system.

Options for advancing the data collection effort as specified in Sub.HB439 and SB274 should include consideration of a phased in approach to allow jurisdictions that need more time to build the requirements into their CMS to do so. Although, not ideal and not recommended, it is also possible to rely on a simple spreadsheet in Excel to collect the data and send it until the CMS systems are updated. Those excel files can be encrypted and downloaded into a statistical analysis package for analysis and reporting. It's a clunky work around and a temporary solution that is cost-effective from a software perspective, but is labor intensive and increases the costs to an individual court to find some way to do the data entry and transmission.

Additional considerations beyond the CMS reporting and data collection also includes staff resources, time and training in the updated and, in some places, new CMS processes. It is difficult to quantify this cost aspect and it may be offset, in some respects, with the opportunity to streamline processes and increase efficiencies. Furthermore, later in this report we mention a potential grant opportunity that can and will assist, through a small case study, in identifying the issues and developing strategies to move forward on bail practices and pretrial services data collection efforts and importantly, recognizing the voice of and impact to local courts.

C. Pretrial Services

The Ad Hoc Committee recommendations regarding reform of pretrial practices in Ohio were guided by A Framework for Pretrial Justice: Essential Elements of an Effective Pretrial Justice System and Agency from the National Institute of Corrections (NIC). The essential elements provide a roadmap to create a system of pretrial

[21] https://www.ohiocourts.gov/OCN/documents/New%20OCN%20Website%20PowerPoint.pdf

justice that maximizes appearance and public safety while also maximizing release and appropriate placement.[22] Of critical importance is acceptance of the guiding principle that pretrial release and detain decisions are based upon risk – a risk-based model proceeds from the presumption that pretrial defendants should be released. NIC also recommends a dedicated pretrial services agency or function within an existing agency is established to assesses pretrial risk, make recommendations to the court, and allow for differential supervision of pretrial defendants.

Around the country, there are entities that provide pretrial services with fewer than five pretrial staff and those with more than 30. Budgets range from less than $200,000 to as much as $10 million.[23] Like Ohio, some jurisdictions across the country have stand-alone pretrial services programs, while others absorb the functions of pretrial services into existing organizations. Kentucky and New Jersey have statewide pretrial services within the Administrative Office of the Courts; other locations include local or county government, probation, sheriff, non-profit or private agencies, and shared locations between multiple agencies. No placement is preferable or superior, as long as it can support the functions and professional standards of pretrial services and is independent of political or adversarial stakeholder offices.[24]

Accordingly, the Ad Hoc Committee did not recommend that every jurisdiction establish a new agency or department for pretrial services. Every jurisdiction is different in terms of the volume and type of cases, the timing and process for the initial bail hearing, the laws that govern pretrial release decision making, geography and demographics, technological capacity, the administrative locus of pretrial services functions, and many other factors.[25] Thus, the Ad Hoc Committee determined that jurisdictions should be left to determine what the pretrial function/agency looks like to meet their needs based upon objective data.

The Ad Hoc Committee recognized that a robust pretrial agency or department will have a significant fiscal impact on budgets and the Commission views this investment in pretrial services as a shift of current funding from the costs of incarceration to the costs of pretrial services. It is imperative that dedicated funding and support exist around the pretrial function to allow these entities or individuals to give objective recommendations to the court on release and detain decisions. National guidance offers that the first step in shaping a pretrial services budget is to contemplate the framework of a legal- and evidence-based pretrial justice system and the associated functions of pretrial services within that framework. The functions may include administering pretrial assessments, sharing assessment reports and recommendations, tracking cases pending adjudication, and reporting on pretrial outcomes, process, and volume. Each of these functions will have a

[22] "Pretrial Justice: How to Maximize Public Safety, Court Appearance and Release: Participant Guide", National Institute of Corrections, Internet Broadcast, September 8, 2016, p. 26.
[23] https://university.pretrial.org/viewdocument/pretrial-justice-and-the-state-cour-1
[24] *Id.* p. 6
[25] *Id.* p. 3

balance of costs associated with staff time, supporting technology, and infrastructure.[26] A high functioning pretrial services entity has the technology to support the accurate scoring of pretrial assessment, enhance supervision and case management, and track process and outcome data.

As noted in the Ad Hoc Committee report, Kentucky, in 2012, operated a statewide pretrial system with 294 employees covering 120 counties with a budget of $11,820,000. According to their Annual Report, the cost of pretrial release per defendant was $11.74 while the cost for pretrial incarceration was $613.80 per defendant.[27] In Salt Lake (Utah) County, where pretrial services are administered and funded at the local level, the budget for case management in 2016 was $1,477,722. Jail screening is funded separately and costs $932,578.59.[28]

Summit County's pretrial service program was also featured in the Ad Hoc Committee report, noting that they began utilizing a validated risk assessment tool in felony cases in 2006. Pretrial investigations are conducted in the county jail on all new felony bookings, including an interview with the defendant, and the risk assessment tool's report is generated within two days of incarceration. Pretrial staff are present in all arraignments to assist the court in bail decisions. An independent, non-profit community corrections agency (Oriana House) provides pretrial supervision services to the court. In 2016 the program supervised 1,562 clients with a 77 percent success rate. Costs for pretrial supervision were dependent upon the level of supervision. A minimum supervision level cost $1.32 per day per defendant, medium supervision cost $2.64 per day and maximum supervision cost $5.02 per day. The total cost of the pretrial supervision program in 2016 was $783,000. Summit County Jail's daily rate for 2016 was $133.25 per person, per day.[29]

Pretrial services are a central component of transitioning from a money-based system of release to a system that uses a myriad of non-financial conditions.[30] It is important to explore justice system cost avoidances and/or reinvestment strategies when considering costs associated with developing or enhancing pretrial services. Cost-benefit analyses in numerous jurisdictions have demonstrated that implementing legal and evidence-based pretrial policies can result in significant savings based on improvements in public safety, jail utilization, and court appearance rates. For example, daily pretrial supervision costs are a fraction—typically less than 10%—of the daily cost of pretrial detention.[31]

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[26] *Id.* p. 3
[27] Kentucky Pretrial Services; https://www.pretrial.org/download/infostop/Kentucky%20Pretrial%20Services%20History%20Facts%20and%20Stats.pdf
[28] Kele Griffone, Division Director, Salt Lake County Criminal Justice Services, December 1, 2016.
[29] All information was provided to the Ad Hoc Committee by Kerri Defibaugh, Summit County Pretrial Services Supervisor and Melissa Bartlett, OHIO pretrial Services Coordinator, September 2016.
[30] https://university.pretrial.org/viewdocument/pretrial-justice-and-the-state-cour-1 p. 8
[31] Pretrial Justice Institute, Pretrial Justice: How much does it cost? (2017) and Crime and Justice Institute, The Cost of Pretrial Justice, Public Welfare Foundation (2015).

C. Risk Assessment

According to the National Institute of Corrections, the use of a validated pretrial risk assessment criteria is imperative to gauge an individual defendant's suitability for release or detention pending trial. A good risk assessment tool is empirically based—preferably using local data — to ensure that its factors are proven as the most predictive of future court appearance and re-arrest pending trial.[32] Risk assessment tools utilized pretrial should inform the court's consideration of the release and detain decision, therefore, the assessment should be completed prior to the decision of whether to release or detain the defendant is made, and the assessment *should never supplant the individual decision making of the judge.*

The Ad Hoc Committee recommended every jurisdiction in Ohio should be mandated to utilize a validated risk-assessment tool to assist in release and detain decisions pretrial. However, it did not recommend one specific validated risk assessment tool. There is not a standard definition, in any jurisdiction, of "validated risk assessment tool". However, according to the Pretrial Justice Institute, risk assessment tools are "developed by collecting and analyzing local data to determine which factors are predictive of pretrial success and to determine their appropriate weight." Validation is a multi-step process that looks at local indicators and predictive weights. The validation process is usually performed by a university or professional vendor with expertise and for tools to remain valid and achieve intended outcomes (in this case, maximizing pretrial release), the process should occur at regular intervals.[33]

Currently, some jurisdictions are utilizing the Pretrial Assessment Tool (PAT) in the Ohio Risk Assessment System (ORAS)[34] and some jurisdictions are utilizing other validated risk assessment tools including the Laura and John Arnold Foundation's Public Safety Assessment (PSA) tool – both tools are available for no cost. There are other validated tools in use across the country and the Commission has prepared a compendium of known validated risk tools. One may note that in 2011, Revised Code Section 5120.114 was enacted as a part of a larger criminal justice legislative reform package (HB86)[35] focused on adult felony offenders and sentencing. It specifies the use of a single validated risk assessment tool selected by the Department of Rehabilitation and Correction (DRC). There is reason to deviate from this mandate and pursue statutory revision for several reasons including: the evolution and availability of validated, no cost, pretrial evidence informed risk assessment tools; the administration of pretrial services is outside the scope of the various divisions and institutions of the DRC, thus, selection of a validated risk assessment tool specific to pretrial services should be determined at the local

[32] "Pretrial Justice: How to Maximize Public Safety, Court Appearance and Release: Participant Guide", National Institute of Corrections, Internet Broadcast, September 8, 2016, p. 39.

[33] https://university.pretrial.org/HigherLogic/System/DownloadDocumentFile.ashx?DocumentFileKey=c8bd044e-0215-9ab6-c22e-b1a4de912044&forceDialog=0

[34] The number and/or a list of agencies and/or courts using the ORAS-PAT is unable to be produced per email communication with the Ohio Department of Rehabilitation and Correction.

[35] http://archives.legislature.state.oh.us/BillText129/129_HB_86_EN_N.html

level; and according to Dr. Edward Latessa[36] (the Principle Investigator for the creation and validation of ORAS[37]), if we know what tool a jurisdiction is using and have the data, common risk categories can be developed.

The Ad Hoc Committee report cited that Lucas County began utilizing the Arnold Foundation's PSA tool in January 2015 to inform release and detain decisions at first appearances. The county was under a federal court order that capped the number of jail inmates which resulted in defendants being released to adhere to the order. The "Arnold" tool provides separate indicators for risk of failure to appear and new criminal activity and utilizes common non-interview dependent factors that predict risk, which optimizes the existing human and financial resources needed to administer risk assessments. The assessment system was implemented in January 2015 and data presented in 2016 showed a drop in the number of pretrial bookings. Prior to implementation of the risk assessment, 38.4 percent of all bookings were released due to the federal court order. After implementation of the risk assessment, only 4.3 percent of all bookings were released due to the federal court order. Cases disposed of at the first appearance have doubled since the implementation of the assessment tool. The data shows that after the first year of implementation, court appearance rates have improved, public safety rates have improved, and pretrial success rates have improved.[38]

IV. Additional Cost and Implementation Assessment: Grant application – Gap Analysis

As previously noted, it is difficult to estimate cost, identify the issues and develop strategies to move forward on bail practices and pretrial services data collection required in Sub.HB439 and SB274 because criminal justice data in Ohio is housed in siloes, is incongruent and not standardized. Local and state agency data systems lack connectivity and sharing agreements are underutilized.

The Office of Criminal Justice Services (OCJS) in partnership with the Commission, has applied for federal funding[39] for a small case study to assess the impact on local courts for bail practices and pretrial services data collection. The project, if funded, will determine if the data on bail practices and pretrial services is readily available, estimate vendor costs and evaluate length of time for implementation for courts in the early stages of pretrial service programs participating in the study. A part of the grant application includes technology funds to work with the courts and their court management system vendor to cover costs (or a portion of) of adding identified data points to their current court management systems, if needed.

We know this small case study is not representative of all courts in Ohio, but it will help identify the issues and develop strategies to advance bail practices and pretrial services data collection efforts and

[36] http://cech.uc.edu/criminaljustice/employees.html?eid=latessej
[37] http://www.ocjs.ohio.gov/ORAS_FinalReport.pdf
[38] VanNostrand, Marie, "Assessing the Impact of the Public Safety Assessment", presented by Michelle Butts, Lucas County Court of Common Pleas, September 2016.
[39] https://ojp.gov/funding/Explore/pdf/2018sjssacsol.pdf?ed2f26df2d9c416fbdddd2330a778c6=zvsbtvntvp-zvptbwbvp&mc_cid=2e4289a375&mc_eid=4653e3922a

importantly, recognize the voice of and impact to courts. The goal of the grant project will, hopefully, answer the following questions:

→ where do courts currently stand with regard to data collection on bail and pretrial services?
→ what are the challenges for courts for data collection on bail and pretrial services?
→ what infrastructure is needed for data collection on bail and pretrial services?
→ what are the challenges for implementation that can be identified to help inform others about the process?

As part of this case study, a smaller subset of courts that currently have pretrial service programs in place will be evaluated particularly for strategies that worked well during implementation, challenges they faced that could inform others, and any practices they have found effective. This will complement the gap analysis by providing information that may be helpful to other courts as they begin their own pretrial service programs.

The grant application was submitted on March 23, 2018. If awarded, the grant period begins October 2018 for one year. Funding may be available for an additional one or two year period and should we be awarded the initial funding, we intend to apply for the subsequent period to continue data collection gap analysis, implementation and training.

V. Conclusion and Summary

We are pleased that the Commission's study and work on bail practices and pretrial services inspired legislation in the 132nd Ohio General Assembly, Sub.HB439 (Dever, Ginter) and SB274 (McColley). Implementation of the Ad Hoc Committee recommendations will, over time, result in cost savings to the justice system and result in a pretrial justice system that maintains due process and equal protection while ensuring public safety and court appearances.

The recommendations of the Ad Hoc Committee endorsed by the Commission are designed to be holistic and focus on achieving consistency, fairness and efficiency in the pretrial system while decreasing the reliance on monetary bail. The recommendations also promote consistent and uniform practices that realize fundamental fairness and promote public safety among counties and courts within counties.

Criminal justice policy and legislation crafted without accurate data to illustrate the practical realities and functions of the system all too often results in public policy concocted on situational circumstances with far-reaching effects and unintended consequences. A foundation for robust data collection going forward for bail practices and pretrial services is essential to achieving meaningful reform efforts. Criminal justice data collection in a uniform, standardized way promotes public safety and public confidence by transforming disconnected, irregular systems into transparent, consumable information.

We again suggest, as recommended by the Ad Hoc Committee, that the General Assembly amend the Ohio Revised Code to require the Ohio Criminal Sentencing Commission to form an ongoing committee tasked with facilitating implementation of the recommendations and legislation and to monitor progress and trends

regarding bail practices and pretrial services. The Ohio Criminal Sentencing Commission should also be tasked with data collection, analysis and periodic reporting on bail practices and pretrial services in Ohio. Information obtained from a meaningful data collection effort advances effective technologies and practices, identifies operational and program needs as well as efficiencies, promotes performance measurement and role definition and wisely spends tax resources. Public data are foundational to criminal justice reform—both as a guide to understand where the justice system can be improved and as a metric to assess reforms as they're being implemented.

Based upon scarce and difficult to obtain information, we have done our best to gather information regarding fiscal impact for implementation of the provisions in Sub.HB439 and SB274. As previously stated, this report reflects only a sampling of possibilities for estimated impact – which cannot be fully vetted until there is certainty in bail practices and pretrial services reform, including the identification of specific data points/variables for collection. Also please note, our effort to gather information is ongoing. Thus, when and if relevant, applicable information is received, future reports may be produced.

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APPENDIX A

STATE	BAIL REFORM EFFORTS
Alabama	Legislation Pending (SB 31). Presumption of release in municipal court. Bill has stalled. Per the Southern Poverty Law Center 78 cities had reformed their bail practices as of 12/17.[i]
Alaska	Reform legislation (SB 91) passed in 2016. Went into effect 1/1/18. Defendants graded on risk of FTA and to commit new offenses. Division of Corrections scores defendants and monitors release conditions.[ii]
Arizona	Rule changes by Supreme Court. Standardized assessment (PSA) used statewide.[iii]
California	Pending legislation (SB10) passed out of Senate and pending in Assembly.[iv]
Colorado	Reform took place in 2014. Recommended use of a risk assessment tool statewide. In March of 2018 their Supreme Court created a new commission to examine further reforms.[v]
Connecticut	Statewide pretrial services agency administers a risk assessment tool. Further reform legislation passed in 2017 including a presumption of non-financial release in most misdemeanor cases.[vi]
Delaware	Reform bill signed by governor in January 2018. Encourages use of risk assessment tool and presumption of release over cash bail.[vii]
District of Columbia	Robust pretrial services agency that uses risk assessments and graduated supervision levels. 92% of defendants released pretrial in 2015. 90% made all court appearances.[viii]
Florida	Large criminal justice reform package being considered by legislature. Bail reform efforts died in committee in 2018.[ix]
Georgia	Reform Legislation (SB407) has passed both houses and is in conference.[x]
Hawaii	Bail reform bills deferred to await a Pretrial Task Force report later this year.[xi]
Idaho	Bail reform bill introduced in legislature 2018. Legislature adjourned before passage. MacArthur Foundation grant rolling out pilot in Ada County (Boise).[xii]
Illinois	Commercial bail system has been outlawed. Bail reform act passed in 2017.[xiii]
Indiana	In 2016 the Indiana Supreme Court adopted changes to criminal rules encouraging use of pretrial risk assessments. Now working on implementation in pilot counties.[xiv]
Iowa	Department of Corrections operating a pilot program in 4 counties using risk assessment tools for bail.[xv]
Kentucky	Kentucky outlawed commercial bail in 1976. Law mandating usage of a risk assessment tool passed in 2011. Recently adopted court rules mandate immediate non-financial release for some low level crimes.[xvi]

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STATE	BAIL REFORM EFFORTS
Louisiana	New Orleans operating a pilot program utilizing pretrial risk assessment tools.[xvii]
Maine	Expanded pretrial supervision funding in 2016 following a task force report.[xviii]
Maryland	Bail system overhauled through Judicial action, deprioritizing use of cash bail.[xix]
Massachusetts	Pending legislation (S.2371) in a conference committee.[xx]
Michigan	Senate Judiciary has formed task force on pretrial detention to start work on bail reform legislation.[xxi]
Minnesota	Reformed bail bond industry practices in 2016. Hennepin County (Minneapolis) has task force working toward bail reform.[xxii]
Mississippi	Legislation (HB720) died in Committee in 2018.[xxiii]
Missouri	Pending legislation in House (HB1335).[xxiv]
Montana	Reform passed in 2017. Required use of risk assessment tool in setting bail.[xxv]
Nebraska	Reforms passed in 2017.[xxvi]
Nevada	AB136 vetoed by Governor in 2017.[xxvii]
New Hampshire	Legislation pending (SB 556).[xxviii]
New Jersey	Massive reform of bail system in 2017 - N.J. Stat. §2A:162-17.[xxix]
New Mexico	Constitution amended in 2016. Lawmakers currently working on implementation.[xxx]
New York	Pending criminal justice reform legislation within budget bill contains substantial bail reform provisions.[xxxi]
North Carolina	Pilot program through McArthur Foundation in operating Mecklenburg County.[xxxii]
Ohio	Pending legislation.
Pennsylvania	The city of Philadelphia ended cash bail in 2018.[xxxiii]
Rhode Island	Justice Reinvestment passed in 2017, including using risk assessment within existing pre-trial services units.[xxxiv]

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STATE	BAIL REFORM EFFORTS
South Dakota	Risk assessment used statewide for juveniles. Pennington County (Rapid City) part of Safety and Justice Challenge through MacArthur foundation.[xxxv]
Tennessee	City of Nashville currently negotiating reforms for misdemeanors including use of risk assessment tool.[xxxvi]
Texas	Reform legislation in response to federal lawsuits from inmates failed to pass in 2017.[xxxvii]
Utah	The court system adopted a statewide risk assessment in 2017. They are working with legislature on implementation.[xxxviii]
Vermont	Legislation pending – H.728. Has passed House and awaits Senate approval.[xxxix]
Virginia	Risk assessment in use statewide.[xl]
Washington	Pretrial Reform Task Force formed in 2017.[xli]
West Virginia	HB 4511 passed House 02/18 and are pending in Senate.[xlii]

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[i] https://www.splcenter.org/news/2016/12/06/splc-prompts-alabama-cities-reform-discriminatory-bail-practices
[ii] http://www.correct.state.ak.us/pretrial
[iii] https://www.dcourier.com/news/2017/nov/06/arizona-national-leader-pre-trial-justice-reform/
http://www.azcourts.gov/Portals/20/2016%20December%20Rules%20Agenda/R_16_0041.pdf
[iv] https://www.aclunc.org/article/california-money-bail-reform-act-2017
[v] http://www.ncsl.org/Documents/CJ/ColoradoPretrialRelease.pdf
http://lawweekcolorado.com/2018/03/rounding-reform-efforts/
[vi] http://www.ct.gov/ctsc/lib/ctsc/Pretrial_Release_and_Detention_in_CT_2.14.2017.pdf
[vii] https://www.delawareonline.com/story/news/politics/2018/01/16/delaware-senate-sends-bail-reform-bill-gov-carney/1037251001/
[viii] https://www.psa.gov/?q=data/performance_measures
[ix] https://www.pnj.com/story/news/2018/02/01/3-criminal-justice-reform-bills-advance-florida-legislature/1082801001/
[x] https://gov.georgia.gov/press-releases/2018-02-14/deal-introduces-criminal-justice-reform-legislation
[xi] http://www.staradvertiser.com/2018/01/31/hawaii-news/bail-reform-bill-shelved-1-day-before-aclu-report/
[xii] https://www.usnews.com/news/best-states/idaho/articles/2017-10-05/idaho-county-awarded-1m-grant-for-criminal-justice-reform
[xiii] http://www.chicagotribune.com/news/local/politics/ct-bruce-rauner-bail-bill-met-0610-20170609-story.html
[xiv] https://www.in.gov/ipdc/public/2745.htm
[xv] https://www.usnews.com/news/best-states/iowa/articles/2018-01-24/iowa-county-pilots-pretrial-tool-for-jail-release
[xvi] http://www.bgdailynews.com/news/kentucky-addressing-pretrial-detention-rates/article_cb358acb-154a-5676-a85a-22e8e56f86a6.html
[xvii] https://www.theatlantic.com/politics/archive/2017/10/new-orleans-great-bail-reform-experiment/544964/
[xviii] https://www.aclu.org/news/bill-start-fixing-maines-fine-and-bail-policies-becomes-law
[xix] http://www.baltimoresun.com/news/maryland/politics/bs-md-bail-reform-statistics-20180116-story.html
[xx] http://www.wbur.org/news/2018/03/23/massachusetts-compromise-criminal-justice-reform-bill
[xxi] http://council.legislature.mi.gov/Content/Files/cjpc/Minutes.Final_CJPC_August%202%202017.pdf
[xxii] https://www.hennepin.us/-/media/hennepinus/your-government/leadership/documents/ADI-Handout-October-2016.pdf?la=en
[xxiii] https://legiscan.com/MS/bill/HB720/2018
[xxiv] https://house.mo.gov/LegislationSP.aspx?q=HB1335&report=billsearch
[xxv] https://governor.mt.gov/Newsroom/governor-bullock-signs-bills-to-reform-montanas-criminal-justice-system
[xxvi] https://nebraskalegislature.gov/bills/view_bill.php?DocumentID=31423
[xxvii] https://www.leg.state.nv.us/Session/79th2017/Reports/history.cfm?ID=289
[xxviii] https://legiscan.com/NH/text/SB556/id/1676765
[xxix] https://www.judiciary.state.nj.us/courts/criminal/reform.html
[xxx] https://nmcourts.gov/pretrial-release-and-detention-reform.aspx
[xxxi] https://www.ny.gov/programs/2017-criminal-justice-reform-act
[xxxii] http://www.safetyandjusticechallenge.org/challenge-site/mecklenburg-county/
[xxxiii] https://www.phillymag.com/news/2018/02/02/cash-bail-city-council-resolution/
[xxxiv] http://webserver.rilin.state.ri.us/BillText17/HouseText17/H5128A.htm
[xxxv] http://www.safetyandjusticechallenge.org/challenge-site/pennington-county/
[xxxvi] https://www.tennessean.com/story/news/2018/02/07/nashville-bail-reform-money-judges/317283002/
[xxxvii] https://legiscan.com/TX/bill/SB1338/2017
[xxxviii] https://www.sltrib.com/news/politics/2018/01/23/utah-chief-justice-praises-collaboration-between-courts-and-legislators-which-has-led-to-significant-judicial-system-reforms/
[xxxix] https://legislature.vermont.gov/bill/status/2018/H.728
[xl] https://www.dcjs.virginia.gov/sites/dcjs.virginia.gov/files/publications/corrections/new-norm-pretrial-justice-commonwealth-virginia.pdf
[xli] https://www.courts.wa.gov/newsinfo/?fa=newsinfo.pressdetail&newsid=12727
[xlii] http://www.wvlegislature.gov/Bill_Status/bills_history.cfm?INPUT=4511&year=2018&sessiontype=RS

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APPENDIX B – GENERAL PROVISIONS

Purposes included in Sub.HB 439-9 SB 274	*Considerations*	*OCSC Recommendations*
Reduction in use of monetary bail	The spirit of the bill is an emphasis on a presumption for nonmonetary release while considering risk to public safety and risk of failure to appear (FTA).	Reinsertion of original language in 2937.23 (A)(4) "shall not require monetary security as bail if the amount of the monetary security is designed to keep the accused detained." Add a presumption of nonfinancial release and/or provisions for statutory preemptive release or detention based on category of offense, as recommended in the Ad Hoc Committee Report. Insert language similar to Colorado §16-4-103 (4)(c): "The judge shall … consider all methods of bond and conditions of release to avoid unnecessary pretrial incarceration"
Elimination of use of bail schedules	Bond should be determined based on risk of FTA and/or risk to public safety. In the limited circumstance where bail schedules are permitted they should be standardized across jurisdictions.	Sub.HB439 requires a hearing when a judge or magistrate is "readily available." It is recommended that this language be replaced with either a statutory time for a hearing to occur following bond being set by a schedule, e.g. "within 72 hours" or the Ad Hoc Committee report recommendation for the hearing to occur within a "reasonable" time.
Collected list of validated risk assessment tools by designated entity	List could be more of a "compendium" – a reference for courts to use in selecting a tool. Risk assessment tools will need to be re-validated at regular intervals with local data.[1]	The Commission recommends the language be changed to the creation of a "Compendium" of validated risk assessment tools. "Within one year of the effective date of this section, create a compendium of validated risks assessment tools for the purpose of setting bail under sections 2937.222 and 2937.23 of the Revised Code"
Monitoring/reporting on bail and Pretrial services process	Helps to achieve uniform, consistent bail processes. Helps to ensure those who pose the greatest risk to public safety and failure to appear are detained while awaiting trial while maximizing release of pretrial detainees to effectively utilize jail resources.	See data variable chart of current and proposed changes to data collection.

[1] https://university.pretrial.org/HigherLogic/System/DownloadDocumentFile.ashx?DocumentFileKey=c8bd044e-0215-9ab6-c22e-b1a4de912044&forceDialog=0

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APPENDIX B – GENERAL PROVISIONS

Purposes included in Sub.HB 439-9 SB 274	*Considerations*	*OCSC Recommendations*
Changes to Criminal Rules, Rules of Superintendence, and developments of model entries	In 2017, the Commission formally requested its recommendations specific to Court Rule be assigned to the relevant Supreme Court of Ohio Commission(s) for consideration and subsequent action. Accordingly, the recommendations, specific to Criminal Rule 46, were forwarded to the Commission on the Rules of Practice and Procedure for consideration, noting implementation cannot be until July 2019, at the earliest.	Changes to the Rules necessitate periods of public comment, and as such there may need to be an extension to the enactment period for the statute.

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APPENDIX B – DATA VARIABLES

Data collection is the only way to assess the effectiveness of bail practices and pretrial services in Ohio. Data collection and analysis contributes to informed practices that are consistent and uniform, helps realize fundamental fairness and promotes public safety among counties and courts within counties. In order to assist in the successful implementation of the recommendations from the Commission's Ad Hoc Committee on Bail and Pretrial Services[1] and in consideration of the legislative proposals included in Sub.HB439 and SB274, the Commission offers the following analysis and recommendations.[2]

Variable[3]	*Considerations*	*OCSC recommendations*
Whether the defendant caused physical harm to persons or property while released on bail or under pretrial supervision	As written, this information doesn't fully capture the concept of safety and we may be better served by replacing this measure. For example, the Measuring What Matters (NIC)[4] report suggests that safety can be understood through collection of data on the percentage of supervised defendants who are not charged with a new offense during the pretrial stage.	We recommend replacing this measure with the following: 1) **If a defendant is charged with a new offense while on pretrial supervision**.[5] Adding this measure captures new charges while on pretrial supervision, thus allowing an accurate determination of safety.
Whether the defendant failed to appear before the court as required after being released on bail or under pretrial supervision	As noted in the Commission's Ad Hoc Committee Report on Bail and Pretrial Services, "One of the primary purposes of pursuing reform of bail practices and pretrial services is to ensure that those who pose the greatest risk to public safety and failure to appear are detained while awaiting trial while maximizing	N/A

[1] https://www.supremecourt.ohio.gov/Boards/Sentencing/resources/commReports/bailPretrialSvcs.pdf
[2] Specific to the data collection provisions, please note that a data dictionary defining all data variables will determine if a court captures the information within their current court management system. A data dictionary is critical to the implementation of data collection specific provisions.
[3] For all variables, standardization of information and data entry is necessary to ensure the required information is accurately collected and reported.
[4] https://www.pretrial.org/download/performance-measures/Measuring%20What%20Matters.pdf
[5] While the NIC report indicates reporting the percentage, to reduce burden on courts here it is simply asked if a new offense was committed during pretrial supervision; from this, percentage rates can be calculated during the analysis and reporting stage.

APPENDIX B – DATA VARIABLES

Variable[3]	*Considerations*	*OCSC recommendations*
	release of pretrial detainees to effectively utilize jail resources" (p. 13).[6] As a result, independent of risk assessment score, collecting failure to appear information on defendants is recommended. Additionally, as noted in the Ad Hoc Committee's report, under Ohio's current law, failure to appear after release is punishable as a fourth degree felony or a first degree misdemeanor.[7] Thus, that means capturing this information allows a better understanding of incidence, and potentially prevalence after a longer period.	
Whether the court accepted the recommendation of a pretrial service agency in setting bail	This variable is designed to measure if the pretrial assessment and recommendation to the court is performing as intended. However, this variable has limitations without information about how pretrial recommendations are formulated and/or information about the pretrial services agency and its operation.	We recommend replacing this measure and instead including the following measures on pretrial supervision: 1) **Does the pretrial recommendation align with the risk assessment guidance for release or detention.** 2) **Type of pretrial supervision.** 3) **The type of pretrial supervision termination**. In order to give context and increase the value of this information, data collection that focuses on pretrial services is recommended. This provides a better

[6] https://www.supremecourt.ohio.gov/Boards/Sentencing/resources/commReports/bailPretrialSvcs.pdf
[7] R.C. 2937.99

APPENDIX B – DATA VARIABLES

Variable[3]	*Considerations*	*OCSC recommendations*
		understanding of happens during this phase and contributes to reporting a Success Rate.[8]
The date of the defendant's arrest	This information is valuable because it can be used to calculate savings in jail space as well as understand patterns of use of or entry into jail. It also gives us the ability to better understand time until disposition as this marks the beginning of the process at entry into the jail.	N/A
The date of the defendant's final release if the defendant was found not guilty in the case, or the complaint, indictment, or information in the case was dismissed, or the sentence was suspended at the time of sentencing	This is valuable information to identify patterns for cases and provides the ability to follow a case through to disposition. It also clarifies the processes and factors that impact the time that it takes a case to move through the system. However, for a complete picture, information on release as a result of bail should also be reported.	We recommend clearly separating this concept into two different measures: 1) **Date of the defendant's release from jail as a result of setting and posting bail** (or indication of no release). 2) **Date of the defendant's release from jail as a result of not guilty, dismissed, suspended** (or indication of no release because of other pending cases). Adding a measure that captures when someone is released as a result of bail has several benefits. Tracking how many people are released as a result of bail may allow us to calculate savings on jail costs and space

[8] https://www.pretrial.org/download/performance-measures/Measuring%20What%20Matters.pdf

APPENDIX B – DATA VARIABLES

Variable[3]	*Considerations*	*OCSC recommendations*
		as well as help counties, courts and jails maintain this information.
The case number	To ensure that pretrial information is linked to the same case, case number is necessary. As one example, an individual who has more than one case in a court at the same time could potentially have all of that information merged together accidentally if case numbers are not included. Correct information can be connected to the right case if case number is provided.	N/A
The name of the court	This information is needed to help with reporting so that data can be sorted to the appropriate county or court type.	N/A
The name of the judge	This information is not necessary.	We recommend removing this measure.
The name of the offender	Acts as a secondary identifier to ensure the correct information about bail and pretrial is combined with the correct case.	N/A
All of the following for any offense that the offender is charged with committing:		
The name of the offense	This will allow us to better understand the types of offenses that come before judges and provides crime/offense trend and pattern identification.	N/A
The section of the Revised Code that specifies the offense	This will allow us to better understand and record the offenses as categorized in the Ohio Revised Code that come before judges to better tell the story for courts, counties and Ohio. It also provides crime/offense trend and pattern identification.	N/A

APPENDIX B – DATA VARIABLES

Variable[3]	*Considerations*	*OCSC recommendations*
The degree of the offense	This information is needed to help with better sorting of offenses and so that data can be aggregated to meaningful levels for reporting.	N/A
The validated risk assessment tool used to set bail	The current bill/s do not require use of just one single risk assessment tool for pretrial evaluation. As a result, to understand the risk score assigned to an offender, knowledge of what tool what used for the assessment is vital.	N/A
The risk score assigned to the offender	Knowing risk score provides data about decisions regarding pretrial release and may provide additional information when compared to pretrial service recommendations or release decisions. Because risk scores may be linked to Appearance Rate calculations, this information should be collected to also flesh out and better understand patterns in Ohio tied to failure to appear numbers.	N/A
Release recommendations	Having information on the release recommendation from pretrial services allows a better understanding of the pretrial service processes, including Concurrence rates (using additional information from data recommendations in the bill).	In addition to release recommendations we recommend collecting: 1) **Release decision of the judge including conditions of pretrial supervision.** 2) **Opposition of prosecutor to release recommendation.** By adding a measure on the pretrial release decision we have information on overall patterns in courts, counties and in Ohio. This information (in combination with release recommendations) will also allow

APPENDIX B – DATA VARIABLES

Variable[3]	*Considerations*	*OCSC recommendations*
		for the calculation of a Concurrence Rate, which is recommended in the Measuring What Matters (NIC)[9] report. The information on prosecutor objection(s) provides an additional way to understand at least a portion of the decision-making process. For example, it may help to explain why a release decision is different from a release recommendation.
Monetary bail amount set	This information will allow uniformity in the money bail system and as a result is valuable to collect and understand as part of bail reform in Ohio.	We also recommend an additional measure on: **1) Bail/Bond status.** If the person was not able to obtain the required monetary amount for release, then we would want to be aware of this so that they are not counted in another category (for example, not having this information may impact jail length or release information and should be known). In addition, this status would work to better understand if uniformity in monetary bail is accomplishing its goal.
Whether a bail schedule was used	Such information allows Ohio to identify flow patterns in defendants. This can be used to determine "high	N/A

[9] https://www.pretrial.org/download/performance-measures/Measuring%20What%20Matters.pdf

APPENDIX B – DATA VARIABLES

Variable[3]	*Considerations*	*OCSC recommendations*
	traffic" times and patterns (for example, weekends and holidays) in combination with the provided arrest dates.	
Any other information the supreme court requests for the purposes described in section 2937.47 of the Revised Code	N/A	N/A

Appendix C- Buckeye Institute Analysis

THE BUCKEYE INSTITUTE

The Facts:
A Cost Savings Analysis of Bail Reform

Ohio's current cash bail system is in dire need of reform, it is an inefficient, expensive, unfair means of protecting communities that has proven no guarantee to stopping repeat offenders. As the debate over bail reform continues, The Buckeye Institute analyzed the estimated statewide cost savings that will result from a reduced jail population due to the use of verified risk-assessment tools.

Looking at Summit County, which uses verified risk-assessment tools to inform pretrial detention decisions, Buckeye found that Ohio will realize an annual cost savings of **$67,136,121** if it reforms its cash bail system and gives judges greater flexibility to use proven evidence-based, risk-assessment tools to assess the risk an individual poses to the community rather than relying on cash bail.

As seen in Table 1 in the methodology, The Buckeye Institute used data from official government sources to arrive at the statewide cost savings.

- Total inmates statewide, excluding Summit County: 18,858[1]
- Total inmates in Summit County (after they adopted risk-assessment tools): 667[2]
- Inmates awaiting sentencing statewide, excluding Summit County: 10,666[3]
- Inmates awaiting sentencing in Summit County (after they adopted risk-assessment tools): 457[4]
- Statewide average of the daily cost per inmate: $64.45[5]
- Total reduction of days in jail in Summit County, yearly total estimate: 60, 918[6]

Methodology: How the Savings Were Calculated

Cost savings calculations were arrived at using the following formula:

$$Savings_{OH}^{Year} = Inmates_{OH}^{Daily} \times Cost_{OH}^{Daily} \times 365 \times \%Reduc_{Summit} \times \left(\frac{\%Pretrial_{OH}}{\%Pretrial_{Summit}}\right)$$

[1] 2016 Jail Sentenced Status Data, Bureau of Adult Detention, Department of Rehabilitation and Correction, June 30, 2017, on file with author.
[2] *Ibid.*
[3] *Ibid.*
[4] *Ibid.*
[5] **House Bill 439 of the 132nd General Assembly Fiscal Note & Local Impact Statement**, Ohio Legislative Service Commission, March 20, 2018.
[6] Jonathan Witmer-Rich, Jay Milano, Carmen Naso, and Mary Jane Trapp, Cuyahoga County ***Bail Task Force: Report and Recommendations***, March 16, 2018.

Buckeye looked at Ohio's total daily inmate population ($Inmates_{OH}^{Daily}$), multiplied by the average daily cost of each inmate ($Cost_{OH}^{Daily}$), multiplied by 365 days, multiplied by the proportional reduction experienced by Summit County ($\%Reduc_{Summit}$), multiplied by the ratio of Ohio's pretrial percentage to Summit County's $\left(\frac{\%Pretrial_{OH}}{\%Pretrial_{Summit}}\right)$.

Because the reform only affects bail eligible inmates who are awaiting sentencing, Buckeye estimated the reduction in inmate population statewide by comparing the proportion of pretrial inmates in Ohio statewide with that of Summit County.

Due to the absence of data indicating the numbers of pretrial inmates in Summit County who were eligible to be released on bail, Buckeye assumed that a similar proportion of pretrial inmates will be affected. Thus, the number indicates the savings if Ohio's pretrial inmate numbers are reduced in a similar proportion to Summit County's.

Based on this data and the assumptions outlined the savings are calculated:

Statewide Cost Savings

$$Savings_{OH}^{Year} = 18{,}858 \times \$64.45 \times 365 \times .20 \times \frac{.566}{.748} = \mathbf{\$67,136,121.25}$$

In order to properly estimate the proportion of pretrial inmates in Summit County *if they had not been released due to the reform*, the daily average for the reduction in jail days experienced by Summit County was calculated by dividing their reported yearly total for reduced jail days by 365.

$$Reduc_{Summit}^{Daily} = \frac{Reduc_{Summit}^{Year}}{365} = \frac{60{,}918}{365} = 166.9$$

The proportion of remaining pretrial inmates reported on a single day plus the daily average of the reduction they reported as being due to the reform were divided by the total inmates in Summit County on a single day after the reform, plus the daily average of the reported reduction. Adding the average daily reduction in jail days to the observed inmates on a single day allows us to estimate what the proportion of pretrial inmates would be if the reform had not occurred.

$$\%Pretrial_{Summit} = \frac{Pretrial_{Summit}^{Daily} + Reduc_{Summit}^{Daily}}{Inmates_{Summit}^{Daily} + Reduc_{Summit}^{Daily}} = \frac{457 + 166.9}{667 + 166.9} = .748 = 74.8\%$$

The proportional reduction in total inmates is found in a similar fashion: dividing the reported daily average reduction by the remaining inmates on a single day plus the daily average reduction.

$$\%Reduc_{Summit} = \frac{Reduc_{Summit}^{Daily}}{Inmates_{Summit}^{Daily} + Reduc_{Summit}^{Daily}} = \frac{166.9}{667 + 166.9} = .20 = 20\%$$

The proportion of pretrial inmates statewide was found by taking the proportion of inmates awaiting sentencing to total inmates. All statewide numbers exclude Summit County, as Summit County has already experienced the effects of bail reform.

$$\%Pretial_{OH} = \frac{Pretrial_{OH}^{Daily}}{Inmates_{OH}^{Daily}} = \frac{10{,}666}{18{,}858} = .566 = 56.6\%$$

To estimate the proportional reduction in inmates statewide, researchers assumed that a similar proportion of pretrial inmates would be released if a similar policy was implemented. This can be written thus:

$$\frac{\%Reduc_{OH}}{\%Pretrial_{OH}} = \frac{\%Reduc_{Summit}}{\%Pretrial_{Summit}}$$

Rearranged, this implies: $\%Reduc_{OH} = \%Reduc_{Summit} \times \frac{\%Pretrial_{OH}}{\%Pretrial_{Summit}}$, as it appears in Buckeye's formula.

This shows how many fewer inmates Ohio will have if the effect is equal to what Summit County experienced, adjusted by the ratio of Ohio's fraction of pretrial inmates to Summit County's. Because Ohio has a smaller fraction of pretrial inmates, the estimated reduction effect is proportionally smaller.

Table 1: Data Used to Calculate Cost Savings

Description of Data	Indicated in Equation As	Value
Total inmates statewide, excluding Summit County	$Inmates_{OH}^{Daily}$	18,858
Total inmates in Summit County (after they adopted risk-assessment tools)	$Inmates_{Summit}^{Daily}$	667
Inmates awaiting sentencing statewide, excluding Summit County	$Pretrial_{OH}^{Daily}$	10,666
Inmates awaiting sentencing in Summit County (after they adopted risk-assessment tools)	$Pretrial_{Summit}^{Daily}$	457
Statewide average of the daily cost per inmate	$Cost_{OH}^{Daily}$	$64.45
Total reduction of days in jail in Summit County, yearly total estimate	$Reduc_{Summit}^{Year}$	60,918

Sources: Department of Rehabilitation and Correction, Ohio
Legislative Service Commission, Cuyahoga County Bail Task Force

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