

HB1226_L.007

HOUSE COMMITTEE OF REFERENCE AMENDMENT

Committee on Judiciary.HB19-1226 be amended as follows:

- 1 Amend printed bill, page 3, lines 2 and 3, strike "amend (5); and".
- 2 Page 4, strike lines 9 through 19.
- 3 Page 5, strike line 16 and substitute "2020, FOR IMPLEMENTATION BY JULY
4 1, 2020:".
- 5 Page 6, strike lines 4 through 7 and substitute "ADMINISTRATOR. EACH
6 JUDICIAL DISTRICT SHALL ALSO, IN THE DEVELOPMENT OF THE CRITERIA,
7 SOLICIT AND OBTAIN THE INPUT OF AT LEAST ONE INDIVIDUAL WHO HAS
8 BEEN INCARCERATED IN THE JUDICIAL DISTRICT BECAUSE OF AN INABILITY
9 TO PAY A MONETARY CONDITION OF BOND AND CONSIDER THE INPUT IN
10 THE DEVELOPMENT OF THE ADMINISTRATIVE ORDER.".
- 11 Page 7, line 10, after the first "AND" insert "MAY INCLUDE".
- 12 Page 7, line 11, strike "THAT WILL REASONABLY ASSURE".
- 13 Page 7, strike line 12.
- 14 Page 7, line 14, strike "THE ADMINISTRATIVE ORDER".
- 15 Page 7, strike lines 15 through 23 and substitute:
16 "(4) THIS SECTION DOES NOT PROHIBIT THE RELEASE OF A
17 DEFENDANT PURSUANT TO LOCAL PRETRIAL RELEASE POLICIES THAT
18 REQUIRE PAYMENT OF A MONETARY CONDITION OF RELEASE PRIOR TO AN
19 INDIVIDUALIZED DECISION BY A JUDGE OR JUDICIAL OFFICER.".
- 20 Page 8, line 5, strike "CONDITIONS AND" and substitute "CONDITIONS. THE
21 COURT SHALL FURTHER PRESUME RELEASE OF THE DEFENDANT".
- 22 Page 8, lines 10 and 11, strike "NOT APPEAR IN COURT AS REQUIRED; OR"
23 and substitute "ATTEMPT TO FLEE PROSECUTION; OR".
- 24 Page 8, line 13, after "OBSTRUCT" insert "OR OTHERWISE WILLFULLY
25 AVOID".
- 26 Page 8, line 17, strike "APPEAR IN COURT AS REQUIRED; OR" and substitute
27 "ATTEMPT TO FLEE PROSECUTION; OR".
- 28 Page 8, line 18, after "OBSTRUCT" insert "OR OTHERWISE WILLFULLY

- 1 AVOID".
- 2 Page 8, line 21, strike "CONSIDER THE RESULTS" and substitute
3 "CONSIDER:".
- 4 Page 8, strike lines 22 through 27.
- 5 Page 9, strike line 1.
- 6 Page 9, strike lines 24 through 27 and substitute:
7 "(m) PRIOR FAILURES TO APPEAR THAT INDICATE THE PERSON IN
8 CUSTODY'S INTENT TO FLEE OR AVOID PROSECUTION;".
- 9 Page 10, strike line 1.
- 10 Reletter succeeding paragraphs accordingly.
- 11 Page 10, line 3, strike "AND".
- 12 Page 10, line 6 strike "JURISDICTION." and substitute "JURISDICTION;
13 AND".
- 14 Page 10, after line 6 insert:
15 "(p) THE RESULTS OF AN EMPIRICALLY DEVELOPED AND
16 VALIDATED RISK ASSESSMENT INSTRUMENT DESIGNED TO IMPROVE
17 PRETRIAL RELEASE DECISIONS BY PROVIDING THE COURT INFORMATION
18 THAT CLASSIFIES A PERSON IN CUSTODY BASED UPON PREDICTED LEVEL OF
19 RISK OF PRETRIAL FAILURE. ANY RESULTS OF A RISK ASSESSMENT
20 PROVIDED TO THE COURT MUST INCLUDE THE RISK CATEGORY OF THE
21 DEFENDANT ALONG WITH THE PREDICTED SUCCESS RATES FOR EACH RISK
22 CATEGORY. HOWEVER, THE COURT SHALL NOT USE THE RESULTS OF THE
23 INSTRUMENT AS THE SOLE BASIS FOR SETTING THE TYPE OF BOND AND
24 CONDITIONS OF RELEASE."
- 25 Page 14, line 11, strike "AND A REPRESENTATIVE OF" and substitute "A
26 VICTIM REPRESENTATIVE, AND AN INDIVIDUAL WHO HAS BEEN
27 INCARCERATED IN THE JUDICIAL DISTRICT OR A FAMILY MEMBER OF AN
28 INDIVIDUAL WHO HAS BEEN INCARCERATED IN THE JUDICIAL DISTRICT."
- 29 Page 14, line 12, strike "THE CITIZENS AT LARGE."
- 30 Page 14, line 13, strike "REPRESENTATIVE OF" and substitute "COUNTY
31 COMMISSIONER FROM A COUNTY WITHIN THE JUDICIAL DISTRICT."
- 32 Page 14, strike lines 14 through 16 and substitute "THE CHIEF JUDGE".

- 1 Page 14, strike line 27 and substitute "ENTITY OR AN AGREEMENT WITH
2 ANOTHER LOCAL".
- 3 Page 15, line 1, after the period insert "A GOVERNMENTAL ENTITY SHALL
4 NOT ENTER INTO A CONTRACT WITH A FOR-PROFIT ENTITY TO PROVIDE
5 PRETRIAL SERVICES. THE CHIEF JUDGE OF EACH JURISDICTION SHALL
6 ENSURE THAT ANY ENTITY PROVIDING ASSESSMENT SERVICES OR PRETRIAL
7 SUPERVISION SERVICES OPERATES WITHOUT AN IDENTIFIABLE CONFLICT IN
8 PROVIDING ANY PRETRIAL SERVICES. ADDITIONALLY, EACH JUDGE
9 REQUIRING PRETRIAL SERVICES SUPERVISION SHALL ENSURE THAT ANY
10 SUPERVISION OR OTHER CONDITIONS OF RELEASE FOR A DEFENDANT
11 UNDER PRETRIAL SUPERVISION ARE THE LEAST RESTRICTIVE CONDITIONS
12 OF RELEASE AND ARE NOT REQUIRED FOR THE PURPOSES OF FINANCIAL
13 BENEFIT OR GAIN BY AN ENTITY."
- 14 Page 15, strike lines 2 through 10.
- 15 Renumber succeeding subsections accordingly.
- 16 Page 15, strike line 22 and substitute "RISK THAT THE PERSON WILL FLEE
17 PROSECUTION AND THE RISK OF DANGER TO ANY PERSON OR".
- 18 Page 16, line 3, after "TOOL" insert "THAT HAS BEEN APPROVED FOR USE
19 BY THE STATE COURT ADMINISTRATOR PURSUANT TO SECTION 13-3-101
20 (11)(b)".
- 21 Page 16, line 4, strike "AND" and substitute "ALONG WITH".
- 22 Page 16, line 18, strike "(6)" and substitute "(5)(a)".
- 23 Page 17, line 1, strike "(a)" and substitute "(I)".
- 24 Page 17, line 3, strike "(b)" and substitute "(II)".
- 25 Page 17, line 6, strike "(c)" and substitute "(III)".
- 26 Page 17, line 10, strike "(d)" and substitute "(IV)".
- 27 Page 17, line 16, strike "(e)" and substitute "(V)".
- 28 Page 17, line 21, strike "(f)" and substitute "(VI)".
- 29 Page 17, after line 22 insert:
30 "(b) THE ANNUAL REPORT REQUIRED BY SUBSECTION (5)(a) OF
31 THIS SECTION BEGINNING IN 2020 AND EACH YEAR THEREAFTER MUST
32 INCLUDE:

1 (I) THE TOTAL NUMBER OF CLOSED CASES IN WHICH THE PERSON
2 WAS RELEASED FROM CUSTODY, WAS SUPERVISED BY THE PRETRIAL
3 SERVICES PROGRAM, AND, WHILE UNDER SUPERVISION, DID NOT HAVE A
4 FAILURE TO APPEAR IN COURT THAT WAS NOT FOLLOWED UP BY A COURT
5 APPEARANCE IN THAT CASE:

6 (A) WITHIN 30 DAYS; AND

7 (B) WITHIN 90 DAYS.

8 (II) THE TOTAL NUMBER OF CLOSED CASES IN WHICH THE PERSON
9 WAS RELEASED FROM CUSTODY, WAS SUPERVISED BY THE PRETRIAL
10 SERVICES PROGRAM, AND WAS NOT CHARGED WITH A NEW CRIMINAL
11 OFFENSE THAT CONSTITUTES A CRIME AS DEFINED IN SECTION 24-4.1-302
12 (1) THAT WAS ALLEGED TO HAVE OCCURRED WHILE UNDER SUPERVISION."

13 Page 17, line 23, strike "(6)" and substitute "(5)".

14 Page 18, strike lines 19 through 27 and substitute:

15 "(2) MONEY IN THE FUND MUST BE USED TO FUND INDIVIDUAL
16 COUNTIES OR COUNTIES WORKING IN COOPERATION WITH EACH OTHER
17 THAT REQUEST FUNDS TO OPERATE OR ASSIST IN THE OPERATION OF A
18 PRETRIAL SERVICES PROGRAM AS REQUIRED BY SECTION 16-4-106 (1).
19 MONEY MAY BE USED FOR THE ADMINISTRATIVE AND PERSONNEL COSTS
20 RELATED TO THE OPERATION OF PRETRIAL SERVICES PROGRAMS AND ANY
21 ADJUNCT SERVICES INCLUDING, BUT NOT LIMITED TO, PROGRAM
22 DEVELOPMENT, ASSESSMENT SERVICES, CONTRACT SERVICES,
23 MONITORING, AND SUPERVISION SERVICES. COUNTIES AND COUNTIES
24 WORKING IN COOPERATION WITH EACH OTHER ARE ENCOURAGED TO SEEK
25 FUNDING WHEN NECESSARY TO IMPLEMENT LOCALLY BASED PROGRAMS
26 DESIGNED TO ACHIEVE THE GOALS OF EFFECTIVE PRETRIAL ASSESSMENT
27 AND SUPERVISION. IF A COUNTY IS UNABLE TO OPERATE A PRETRIAL
28 SERVICES PROGRAM AS REQUIRED BY SECTION 16-4-106 (1), THE COUNTY
29 SHALL REQUEST A WAIVER FROM COMPLIANCE FROM THE STATE COURT
30 ADMINISTRATOR OUTLINING THE REASONS THE COUNTY IS UNABLE TO
31 PROVIDE A PRETRIAL SERVICES PROGRAM DESPITE A POTENTIAL
32 ALLOCATION FROM THE PRETRIAL SERVICES CASH FUND. THE WAIVER
33 REQUEST SHALL DESCRIBE WHAT NECESSARY RESOURCES ARE
34 UNAVAILABLE THAT PREVENT THE ESTABLISHMENT OF A PRETRIAL
35 SERVICES PROGRAM IN THAT COUNTY, WHICH MAY INCLUDE, BUT ARE NOT
36 LIMITED TO, THE NECESSARY AMOUNT OF FUNDING, THE LACK OF
37 NECESSARY INFRASTRUCTURE, OR THE LACK OF PERSONNEL OR PROGRAM
38 SERVICES WITHIN THAT COMMUNITY."

39 Page 19, strike lines 1 through 3.

40 Page 23, line 5, after the period insert "THE STATE COURT
41 ADMINISTRATOR SHALL REVIEW ANY WAIVER REQUESTS SUBMITTED BY
42 ANY COUNTY PURSUANT TO THE PROVISIONS OF SECTION 16-4-106.5 TO

1 DETERMINE IF ANY TECHNICAL ASSISTANCE CAN BE PROVIDED TO THE
2 COUNTY TO ALLOW FOR THE DEVELOPMENT OF A PRETRIAL SERVICES
3 PROGRAM. THE WAIVER REQUESTS SUBMITTED TO THE STATE COURT
4 ADMINISTRATOR SHALL BE INCLUDED IN THE ANNUAL REPORT AS
5 DESCRIBED IN SECTION 16-4-106 (5) AND (6) ALONG WITH ANY
6 RECOMMENDATIONS TO THE GENERAL ASSEMBLY REGARDING METHODS OR
7 FUNDING NEEDED TO ACHIEVE PRETRIAL SERVICES IN EVERY COUNTY IN
8 THE STATE."

9 Page 23, strike lines 25 through 27 and substitute "SERVICES CASH FUND."

10 Page 24, strike line 1.

11 Page 24, line 10, strike "(6) AND (7)" and substitute "(5) AND (6)".

12 Page 24, strike lines 11 through 21.

13 Renumber succeeding sections accordingly.

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