

PRETRIAL JUSTICE TASK FORCE MEETING MINUTES DECEMBER 13, 2019

The Pretrial Justice Task Force met from 9:00 a.m. – 2:00 p.m. We discussed written comments received from the Kansas Bail Agents Association, District Magistrate Judge Dan Vokins, the Executive Director of the American Bail Coalition, Jeff Clayton, and a recent court order issued in the 30th Judicial District by Chief Judge Mott. We heard from each of four committees regarding the information received and recommendations. Those committees were Text Notification, Pretrial Delays and Appointment of Counsel, Statutory and Constitutional Changes, and Pretrial Supervision.

What follows are the preliminary recommendations that the Task Force approved at the December 13 meeting. A detailed explanation of each will be included in the Final Report. **They are in no particular order.** And, **until the Task Force approves a Final Report these preliminary recommendations are subject to modification or removal.** We continued to table several recommendations for further discussion. The following recommendations are in addition to those already preliminarily approved in September.

PRELIMINARY RECOMMENDATIONS APPROVED

- 1. Courts are encouraged to provide an opportunity for offenders to voluntarily report after a missed court date and before service of a bench warrant to allow recall of and to avoid arrest on a failure to appear bench warrant.**

This is a modification of recommendation #12 from our September meeting. It was approved unanimously as a more accurate representation of the intent of the recommendation.

- 2. The Supreme Court should determine appropriate processes to implement text message reminders.**
- 3. Amend statutes to encourage and facilitate the use of notice to appear rather than arrest. Amend K.S.A. 22-3201(a) to state "[p]rosecutions in the district court shall be upon complaint, indictment, information, or notice to appear," and that K.S.A. Chapters 21 and 41 be further considered by stakeholders to identify appropriate offenses where prosecution may be initiated by notice to appear.**

- 4. Require adoption of pre-charge procedures for: (a) timely judicial determination of probable cause and conditions of release upon warrantless arrest; (b) opportunity for timely judicial hearing for review of conditions of release; and (c) release of arrestees when a complaint is not promptly filed.**
- 5. Require adoption of post-charging procedures for timely judicial hearing for review of conditions of release.**
- 6. Increase access to appointed defense counsel after arrest for timely review of release conditions.**
- 7. Encourage local jurisdictions to examine whether a pretrial supervision program will reduce unnecessary pretrial detention.**
- 8. For those that adopt a pretrial supervision program, leave it up to each jurisdiction to decide what agency is best suited to provide these services.**
- 9. Pretrial supervision should be reserved for individuals who pose a flight and public safety risk.**
- 10. Streamline case processing so individuals will not find themselves on pretrial supervision any longer than necessary. We recommend use of *The Pretrial Justice Planning Guide for Courts* for those courts that adopt a pretrial supervision program. It is designed specifically for judges and court managers interested in improving their jurisdiction's pretrial practices. The worksheets are designed as templates that can be modified to reflect the context in which each jurisdiction's pretrial system functions (e.g., court structure, legal authority, use of money bail, existence of pretrial services). It provides a step by step process that are aimed at a wide range of challenges and stakeholders engaged in reform efforts.**

PRELIMINARY RECOMMENDATIONS TABLED

The Task Force intends to continue examination of suggested procedures for pre-charge and post-charge review of conditions of release. Our hope is to suggest a best practices model. We will also examine the use of video representation for public defense counsel to appear for the limited purpose of bond modification.

We continue to examine best practices and statutory impediments to issuing notices to appear in lieu of arrest.

The Task Force continues to examine the benefits of the federal constitutional and statutory framework regarding detention based on risk of flight and danger to public safety and the state constitutional and statutory framework for the same. We continue to examine how states that have a constitutional provision like the Kansas provision have approached preventative detention practices based on public safety.

Our next meeting will be February 7, 2020 from 9:00 a.m. – 4:00 p.m. Format of meeting has yet to be determined.