



Supreme Court of Illinois

April 28, 2017

ILLINOIS SUPREME COURT ADOPTS STATEWIDE POLICY STATEMENT FOR PRETRIAL SERVICES

The Illinois Supreme Court has adopted a statewide policy statement for pretrial services. The statewide policy statement is a continuation of the advancement of pretrial services in Illinois.

"This policy statement seeks to serve as a guide for all of our trial courts," Illinois Supreme Court Chief Justice Lloyd A. Karmeier said. "The goal of pretrial services is to reduce the pretrial incarceration rate while ensuring that defendants comply with approved pretrial release. This process includes the application of a validated pretrial risk assessment tool which aids judges in making research-based decisions about whether defendants should be detained or released prior to their criminal trials."

The statement is as follows:

*Illinois pretrial principles and practices are founded upon the presumed innocence of the accused – the cornerstone of our nation's justice system. As such, defendants are entitled to bail practices that are consistent with the requirements of due process. Article I, section 9 of the Illinois Constitution requires that, with few exceptions, "All persons shall be bailable by sufficient sureties ***." Our bail statutes provide for release on recognizance when a court is of the opinion that the defendant will appear as required, will not pose a danger to any person or the community, and will comply with the conditions of release. Monetary bail should be imposed only when the court determines that no other conditions of release will reasonably assure the defendant's appearance in court (725 ILCS 5/110-2). Illinois' bail statutes further provide numerous factors to be considered when determining the amount of bail and conditions of release and further require that bail not be oppressive (725 ILCS 5/110-5).*

Within this constitutional and statutory framework, individuals who present a risk to community safety, or who have repeatedly failed to appear in court, should be held in custody. However, people who are low-risk and non-violent should not remain in jail solely because they cannot afford bail.

The Illinois Supreme Court seeks to ensure a fair, efficient, transparent, accountable and adequately-resourced system of pretrial services in each of Illinois' 24 judicial circuits. The Illinois pretrial system includes the use of an evidence-based and validated risk assessment tool to assist our judiciary in determining whether defendants should be detained or safely released into the community pending the outcome of their case. The power of an evidence-based risk

instrument, combined with manageable and reasonable post-release conditions designed to mitigate offender risk, form the crucial foundation of a successful pretrial system of justice.

The Illinois Supreme Court supports models of urban and rural pretrial practices that address the unique needs of our complex system of justice while maintaining public safety and defendant accountability. The models, however, are anchored in the principle that release decisions must be individualized and based upon a defendant's level of risk. This is the essence of due process.

Pretrial services are conducted under a state statute that provides circuit courts in Illinois must establish a pretrial services agency with the mission of guiding and aiding judges as they decide whether defendants should be detained in custody or released on bond while their criminal cases move through the court system.

"The Pretrial Policy Statement adopted by the Supreme Court provides clarity to the Illinois Courts regarding our crucial role in this most fundamental due process right," said Michael J. Tardy, Director of the Administrative Office of the Illinois Courts. "Further, the policy serves as a principled pillar to guide governance and oversight of pretrial services. As such, it will expand the development of policies and resources to help our state courts in implementing evidence-based pretrial services."

Cook, Kane and McLean counties have been testing one risk assessment tool, the Public Safety Assessment (PSA). In Cook, the reported jail population has decreased from 9,543 in July 2014 to 8,112 in August 2016. Also, the percentage of defendants eligible for a pretrial bond assessment who had an assessment completed has jumped from 52.7% in May 2014 to 96.2% in August 2016. In Kane, the number of assessments increased from 8 assessments from January-October 2015 to 3,219 assessments for a similar period in 2016. McLean completed 312 assessments from January-August 2015, while increasing to 1,249 during that time in 2016.

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