

HOUSE BILL NO. 4657

May 24, 2023, Introduced by Reps. Pohutsky, Wilson, Meerman, Price, Byrnes, Hood, O'Neal, Hope, Hoskins, Grant, Weiss, Morse, Rheingans, Scott, Andrews, Rogers, McKinney, Tsernoglou, Brabec, Edwards and Young and referred to the Committee on Criminal Justice.

A bill to amend 1927 PA 175, entitled
"The code of criminal procedure,"
(MCL 760.1 to 777.69) by adding sections 11 and 11a to chapter V.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER V

1
2 **Sec. 11. (1) The state court administrative office shall**
3 **create a pretrial services division. The pretrial services division**
4 **shall do all of the following:**

5 **(a) For each judicial circuit, certify, contract with, and**

1 regularly review for recertification 1 or more agencies to provide
2 pretrial services in the judicial circuit.

3 (b) Develop and publish the certification criteria used to
4 select pretrial services agencies under subdivision (a) and update
5 the published criteria every 5 years to reflect research on or
6 developments in providing effective pretrial services.

7 (c) Maintain a list on the division's public website that
8 identifies, by judicial circuit, each pretrial services agency
9 certified under subdivision (a).

10 (d) Identify and disseminate evidence-based best practices to
11 pretrial services agencies for the provision of pretrial services
12 that will increase the likelihood that a defendant is not
13 rearrested and attends all required court appearances.

14 (e) Establish training protocols to ensure pretrial services
15 agencies are following the evidence-based best practices identified
16 and disseminated under subdivision (d).

17 (f) Establish performance measures for pretrial services
18 agencies and ensure complete and accurate information and data
19 collection for those performance measures.

20 (g) Request and collect by January 31 of each year and publish
21 on the division's website by April 30 of each year information and
22 data, by judicial circuit, from each pretrial services agency
23 regarding all cases closed during the previous calendar year,
24 including, but not limited to, all of the following:

25 (i) Disaggregated by the defendants who receive supportive
26 services only, pretrial supervision only, or both supportive
27 services and pretrial supervision, all of the following
28 information, as applicable:

29 (A) The number and rate of defendants released on pretrial

1 services who fail to appear.

2 (B) The number of defendants who missed 1 or more court dates.

3 (C) Any known reason for a failure to appear collected by the
4 pretrial services agency.

5 (D) The number of warrants issued for failures to appear.

6 (E) The number of defendants detained during the pretrial
7 period or placed on pretrial electronic monitoring after a failure
8 to appear.

9 (ii) Information regarding defendants in pretrial electronic
10 monitoring programs, including, but not limited to, the total
11 number of defendants in each program, each defendant's demographic
12 information including race, ethnicity, age, and sex, the charges
13 for which each defendant was ordered to electronic monitoring, and
14 the length of time that each defendant was subject to electronic
15 monitoring.

16 (iii) Information on the pretrial rearrest of defendants
17 released during the pretrial period, including the number of the
18 defendants rearrested and charged with a new misdemeanor, serious
19 misdemeanor, nonviolent felony, and violent felony offense while on
20 pretrial release, the outcome of any rearrest, and how long after
21 the initial release during the pretrial period these rearrests
22 occurred.

23 (iv) Information on the voluntary supportive services offered
24 by the agency, including the number of defendants receiving each
25 available service and those defendants' pretrial rearrest and court
26 appearance rates.

27 (v) The ratio of full-time pretrial services agency staff to
28 defendants who are under pretrial supervision and receiving
29 supportive services from each agency.

1 (vi) The average salaries and other compensation paid to
2 pretrial services agencies administrators and staff.

3 (h) Evaluate the performance of each pretrial services agency,
4 assist each agency that does not meet the performance standards set
5 by the division to improve pretrial services, and decertify
6 agencies that are unable to meet the standards after assistance by
7 the division.

8 (i) Analyze and evaluate the data collected and undertake any
9 research or studies necessary to improve the delivery of pretrial
10 services in a manner that is consistent with meeting the needs and
11 circumstances of each county and of the defendants receiving
12 pretrial services, ensuring the appropriate use of pretrial
13 services, and identifying and mitigating racial or other
14 disparities.

15 (j) Request and receive, from any department, division, board
16 or commission, bureau, agency or political subdivision of this
17 state, or public authority, any assistance or legally available
18 information or data necessary to enable the division to properly
19 carry out the division's functions, powers, and duties.

20 (k) Investigate and monitor any other matter related to
21 pretrial services, as needed.

22 (l) Develop recommendations for the distribution and
23 expenditure of appropriations for pretrial services. In developing
24 the recommendations, the division may consider all of the
25 following:

26 (i) A pretrial services agency's performance measures.

27 (ii) The commitment of local resources and changes to the
28 pretrial services provided by a judicial circuit.

29 (iii) The geographic balance of funding by region, population,

1 crime rate, poverty rate, and individual community need.

2 (m) Target grants that support innovative and cost-effective
3 improvements to the provision of evidence-based pretrial services,
4 including collaborative efforts serving multiple counties.

5 (n) Apply for and accept any grant or gift intended for a
6 purpose of the division. Subject to the laws and regulations that
7 apply to appropriated funds, the grants or gifts received under
8 this subdivision may be expended by the division to effectuate any
9 division purpose.

10 (2) From amounts appropriated to the pretrial services
11 division to fund pretrial services agencies, the division shall
12 determine the amount of funding to provide after consulting with
13 the local funding unit and considering all of the following:

14 (a) The local needs and resources identified by local funding
15 units.

16 (b) The average number of defendants receiving supervision or
17 supportive services at any 1 time by the agency and in the judicial
18 circuit.

19 (c) Any other factor as may be deemed necessary.

20 (3) As used in this section, "local funding unit" means a
21 funding unit as that term is defined in section 4803 of the revised
22 judicature act of 1961, 1961 PA 236, MCL 600.4803.

23 Sec. 11a. (1) A pretrial services agency certified by the
24 division under section 11 shall provide supportive services and
25 supervision to defendants released during the pretrial period and
26 ordered to pretrial services. A pretrial services agency shall
27 comply with the requirements of this section and section 11.

28 (2) A pretrial services agency must be a public entity under
29 the supervision and control of a county or municipality or a

1 nonprofit entity under contract to the county, the municipality, or
2 this state. A county or municipality may contract with another
3 county or municipality in this state to provide pretrial services
4 in its area. A county, a municipality, and this state shall not
5 contract with a private or for-profit entity for pretrial services.

6 (3) In addition to the requirements developed by the division
7 under section 11, to be certified by the division, a pretrial
8 services agency shall demonstrate all of the following:

9 (a) Independent operation from law enforcement and probation
10 with separate leadership, staff, and operating budget.

11 (b) Collaboration experience with other community-based
12 organizations.

13 (c) The capacity to create individualized plans and provide
14 supportive services for each defendant released during the pretrial
15 period and ordered to pretrial services.

16 (4) For each defendant, a pretrial services agency shall do
17 all of the following:

18 (a) Conduct an individualized needs assessment to determine
19 the least restrictive means of supervision or voluntary supportive
20 services, if any are necessary, to reasonably ensure the defendant
21 remains free of rearrest during the pretrial period and attends all
22 required court appearances. The assessment tool utilized by the
23 agency must be approved by the division and must not lead to
24 unnecessary supervision practices.

25 (b) Provide evidence-based and voluntary supportive services
26 that have been shown to increase the likelihood that a defendant is
27 not rearrested during the pretrial period and attends all required
28 court appearances, including all of the following:

29 (i) Automated text message reminders for required court

1 appearances.

2 (ii) A dedicated and reliable procedure for communicating with
3 the court regarding rescheduling court appearances.

4 (iii) Transportation assistance.

5 (iv) Child care assistance during required court appearances,
6 where practicable.

7 (v) Resources and referrals for housing and employment, where
8 practicable.

9 (c) If necessary, provide evidence-based supervision to
10 reasonably ensure the defendant is not rearrested during the
11 pretrial period and attends all required court appearances. The
12 supervision must be limited to text message, telephone, or video
13 check-ins unless the court determines, in accordance with section
14 6b of this chapter, that a significant liberty restraint is
15 necessary to address the defendant's risk. The defendant must not
16 be required to pay for services provided or mandated by a court or
17 provided by a pretrial services agency.

18 (5) By January 30 of each year, each pretrial services agency
19 shall prepare and file a report with the division that contains all
20 of the information required under section 11(1)(g) for cases closed
21 during the previous calendar year. The report must not include any
22 personal identifying information for a defendant.

23 (6) As used in this section:

24 (a) "Division" means the pretrial services division created in
25 section 11.

26 (b) "Personal identifying information" means a name, number,
27 or other information that is used for the purpose of identifying a
28 specific person or providing access to a person's court records,
29 including, but not limited to, a person's name, address, telephone

1 number, driver license or state personal identification card
2 number, Social Security number, or criminal history report.

3 (c) "Public entity" means this state, including all agencies
4 thereof, any public body incorporated in this state, including all
5 agencies thereof, any registered nonprofit agency in this state, or
6 any non-incorporated public body in this state of whatever nature,
7 including all agencies thereof.

8 Enacting section 1. This amendatory act takes effect 2 years
9 after the date it is enacted into law.