

June 11, 2020

SB10 - PRETRIAL RELEASE AND DETENTION

Referendum 1856 (18-0009), Referendum to Overturn a 2018 Law (SB10 Pretrial Release and Detention) That Replaced Money Bail System with a System Based on Public Safety Risk, is on the November 3, 2020 Ballot

A "YES" vote is to UPHOLD the legislation, Senate Bill 10 (SB 10). The law requires that all California counties use a state approved pretrial assessment system and replace monetary bail with supervised non-monetary conditions to ensure that a suspect returns to court for trial.

A "NO" vote is to REPEAL the legislation, Senate Bill 10 (SB 10), which will enable counties to continue to manage their own pretrial programs and keep monetary bail as one of the tools to ensure that a suspect released on bail will return to court for trial.

Study of Current System: Early in 2016, California Chief Justice Cantil-Sakauye called for a review of California's 'unsafe and unfair' bail system. In October 2016, she established the *Pretrial Detention Reform Workgroup (PDRW)* to study the current system and to develop recommendations for reform.

By October 2017, PDRW had concluded that "California's current pretrial system unnecessarily compromises victim and public safety" and had produced a set of ten recommendations "to replace our current system of money bail with one based on a defendant's risk to the public":

1. **Implement a robust risk-based pretrial assessment and supervision system to replace the current monetary bail system.**
2. Expand the use of risk-based preventive detention.
3. Establish pretrial services **in every county.**
4. **Use a validated pretrial risk assessment tool.**
5. **Make early release and detention decisions.**
6. Integrate victim rights into the system.
7. Apply pretrial procedures to violations of community supervision.
8. Provide **adequate funding and resources.**
9. Deliver **consistent and comprehensive education.**
10. **Adopt a new framework of legislation and rules of court to implement these recommendations.**

SB10, "a new framework of legislation", provides the government and penal codes to support the PDRW recommendations. It was passed by the 2018 legislature "across strict party lines" and signed into law by Governor Brown.

Objections to SB10

Civil rights and bail industry groups challenged SB10 with a veto referendum and have continued to develop arguments and evidence records to support their position.

In February 2020, the *California Globe* reported that 110 civil rights groups believe that risk assessments are not the answer, in large part because the assessments appear to continue inequities of the current system. Others believe that too many "low level" offenders are already being unconditionally released back into communities only to commit more crimes.

Many believe that bail, which is "commonly understood" as "the money or security a person accused of a crime is required to provide to the court in order to be released from custody, with the purpose of assuring public safety and the defendant's future appearance in court", serves vital functions. Those vital functions include elements such as allowing the individual on release the opportunity to resume a normal life, including working in a job that might otherwise be lost and maintaining family life.

As representative of the bail industry, the *American Bail Coalition* is already working to reform bail. The Coalition states that "**Regulated public and private bail funds should be established to allow for persons to exercise their Eighth Amendment right to bail.**" It supports providing assistance for "indigent and low-level eligible defendants to afford them a right to bail, rather than trammel their liberties by subjecting them instead to state supervision." Courts should continue to be able to use a system in which a judge sets bail for an individual, often using a specific schedule.

The consequences of redefined California bail (Sec.1320.32) are controversial: Bail becomes "Non-monetary procedures and conditions which a defendant must follow during his or her release from jail prior to arraignment and/or trial", in other words 'state supervision'. [\[CLICK HERE FOR MORE INFO.\]](#)

THE BOTTOM LINE

Vote NO if you believe THE USE OF MONETARY BAIL SHOULD CONTINUE to be one of the "tools" used to return a defendant to court for trial and that 'state supervised' release is not an acceptable substitute for the entire existing bail system.

Vote NO if you believe CALIFORNIA DOES NOT NEED ANOTHER STATE MANDATED BUREAUCRACY;

- a bureaucracy to pay for and use 'scientifically sound' risk level assessments
- a bureaucracy to replace judges in making some decisions about holding a suspect in custody or releasing the suspect with no supervision required or with non-monetary bail (state supervision)
- a bureaucracy to develop and monitor procedures and conditions to which suspects must adhere while on non-monetary bail
- a bureaucracy to replace the entire existing bail industry and the functions it serves in allowing eligible suspects to lead independent lives during their time on bail and which provides much or most of the personnel to return reluctant or hiding suspects to court for their trials.

Spread the word!