

HOUSE BILL NO. 444

INTRODUCED BY K. SEEKINS-CROWE, M. YAKAWICH, L. SMITH

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO THE PRETRIAL PROGRAM ADMINISTERED BY THE COURT ADMINISTRATOR; ADDING A REQUIREMENT FOR THE PROGRAM TO USE A DANGEROUSNESS OR LETHALITY ASSESSMENT; INCLUDING A DANGEROUSNESS OR LETHALITY ASSESSMENT IN THE INFORMATION A COURT MAY USE WHEN CONSIDERING THE RELEASE OR DETENTION OF CERTAIN DEFENDANTS; AND AMENDING SECTIONS 3-1-708 AND 46-9-109, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 3-1-708, MCA, is amended to read:

"3-1-708. Pretrial program -- rulemaking. (1) Within the limits of available funds, the office of court administrator shall develop and administer a pretrial program for misdemeanor or felony defendants that includes the use of:

- (a) a validated pretrial risk assessment tool; and
(b) a dangerousness or lethality assessment for individuals charged with an offense of 45-5-202, 45-5-206, 45-5-213, or 45-5-215 against an intimate partner.

(2) The office of court administrator may use program funds to:

- (a) develop, implement, and administer the pretrial program; and
(b) make allocations to counties or organizations contracting with a county to provide pretrial services.

(3) Allocated funds may be used for pretrial services staff, to obtain assessment instruments, and to provide supervision of pretrial misdemeanor or felony defendants.

(4) In administering the pretrial program, the office shall:

- (a) identify priorities for funding services and activities and the criteria for the allocation of program funds, including that courts accepting funds shall use a validated risk assessment tool to assign release

1 conditions and determine placement options;

2 (b) monitor the expenditure of funds by counties and organizations receiving funds under this  
3 section;

4 (c) evaluate the effectiveness of services and activities under this section;

5 (d) establish an advisory council that includes local and district court judges and other  
6 stakeholders to provide guidance to the office; and

7 (e) develop policies and procedures necessary to implement this section, subject to approval of  
8 the supreme court.

9 (5) (a) Funds available under subsection (1) consist of state appropriations and federal funds  
10 received by the office for the purposes of administering the pretrial program or any funds received pursuant to  
11 subsection (5)(b).

12 (b) The office may accept gifts, grants, and donations from other public or private sources, which  
13 must be used within the scope of this section."  
14

15 **Section 2.** Section 46-9-109, MCA, is amended to read:

16 **"46-9-109. Release or detention hearing.** (1) The release or detention of the defendant must be  
17 determined immediately upon the defendant's initial appearance.

18 (2) In determining whether the defendant should be released or detained, the court may use a  
19 validated pretrial risk assessment tool and shall take into account the available information concerning:

20 (a) the nature and circumstances of the offense charged, including whether the offense involved  
21 the use of force or violence;

22 (b) the history and characteristics of the defendant, including:

23 (i) the defendant's character, physical and mental condition, family ties, employment, financial  
24 resources, length of residence in the community, community ties, past conduct, history relating to alcohol or  
25 drug abuse, criminal history, and record concerning the appearance at court proceedings; and

26 (ii) whether at the time of the current arrest or offense, the defendant was on probation, on parole,  
27 or on other release pending trial, sentencing, appeal, or completion of sentencing for an offense;

28 (c) the nature and seriousness of the danger to any person or the community that would be posed

1 by the defendant's release; ~~and~~

2 (d) the property available as collateral for the defendant's release to determine if it will reasonably  
3 ensure the appearance of the defendant as required; and

4 (e) for a defendant charged with a violation of 45-5-202, 45-5-206, 45-5-213, or 45-5-215 against  
5 an intimate partner, a dangerousness or lethality assessment approved by the court administrator.

6 (3) Upon the motion of any party or the court, a hearing may be held to determine whether bail is  
7 established in the appropriate amount or whether any other condition or restriction upon the defendant's release  
8 will reasonably ensure the appearance of the defendant and the safety of any person or the community."

9 - END -