Pretrial Diversion Program Project Overview

❑ The program, required by the 2017 Legislature, established the use of an evidence-based detention risk assessment and recommendations for managing defendants who are released awaiting trial. The program was funded again on an OTO basis by the 2019 and 2021 Legislature.

❑ **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 *validated pretrial risk assessment tool*.

(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 conditions and determine placement options;

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

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

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

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

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

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

❑ **The project goals, adopted by the Supreme Court Advisory Committee, continue to be maximizing public safety, maximizing court appearances, and maximizing the appropriate use of release and detention.**

❐ The evidence-based risk assessment in use is the Arnold Foundation's **Public Safety Assessment,** which was adapted for Montana. The PSA is a tool to analyze each defendant's current and prior criminal conduct and previous failure to appear in court. The research-based factors, including a focus on violent offenses, provides a judge with information about whether a defendant can be successful in the community.

❐ Montana components of the PSA, such as the violence list, were developed by a Montana working group comprised of county attorneys, public defenders, law enforcement, judges, and others.

❐ A Pretrial Release Guide provides a release overview – but does not dictate – release conditions. The original release guide was updated and implemented this month based on the previous experience.

❐ Seventy-five percent of the budget is allocated to the five original pilot counties. The remaining budget covers the cost of the PSA processors, a part-time program director, and the case management system used to process and report the PSAs.

❐ The five original pilot counties are Lewis and Clark, Butte Silver Bow, Lake, Missoula, and Yellowstone County. Only the five original counties receive funding for services. Flathead and Cascade counties used the PSA but stopped in 2020 primarily for workload reasons.

❐ Counties involved in the project receive funding to assist defendants awaiting trial to remain law-abiding, at work, and participating in necessary support services. Judges have the tools necessary to release defendants while maximizing public safety and ensuring defendants appear in court.

❐ Tools include court reminders, check-ins, electronic monitoring, drug testing and limited use of money bond depending on what is required for each defendant.