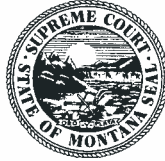


**The Supreme Court of Montana**  
Office of the Court Administrator

**Beth McLaughlin**  
Court Administrator



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June 13, 2018

TO: Legislative Finance Committee  
FROM: Beth McLaughlin, Court Administrator  
RE: SB59 Update

A handwritten signature in black ink, appearing to be "Beth McLaughlin", written over the "FROM:" line of the header.

Attached are several documents explaining the pre-trial risk assessment program implemented in five Montana counties. The pilot project, which was funded on a one-time-only basis by the 2017 Legislature, provides a detention risk assessment and funding for pre-trial services to the counties.

The Supreme Court, through an appointed Advisory Committee, adopted performance measurements, which will be reported to the 2019 Legislature. The Legislature will determine whether the program continues to receive funding beyond FY2019.

The attached budget shows projected spending for FY2018 and FY2019. However, the appropriation was biennial. Most of the appropriation will be spent in FY2019.

Please contact me if you have questions about the project.

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**MONTANA JUDICIAL BRANCH**  
**Pretrial Diversion Program**  
**A partnership with the Arnold Foundation and Montana Counties**  
**June 2018 Update**

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- The program, required by the 2017 Legislature's SB59, establishes the use of an evidence-based detention risk assessment and recommendations for managing defendants who are released awaiting trial. **The project will maximize public safety, maximize court appearance and maximize the appropriate use of release and detention.**
- The Judicial Branch was accepted as a pilot site for the Arnold Foundation's Public Safety Assessment, which provides the evidence-based assessment at no cost along with free technical assistance. Arnold also provides data analysis after the project has been up and running.
- 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 additional information about whether a defendant can be successful in the community while awaiting trial. Judges always make the ultimate decision about release and release conditions.
- The Montana pretrial supervision model was developed by a MT team of prosecutors, public defenders, court officials and law enforcement personnel.
- Four of the pilot counties – Butte Silver Bow, Lake, Lewis and Clark and Missoula are actively using the PSA. Yellowstone County will be active by the end of June.
- The Judicial Branch employees 2.0 FTE to conduct the assessment using criminal history. The PSA is available to the relevant court within 24 hours of a defendant's arrest. Central expenses include a .5 program manager, 2.0 PSA processors, a central pre-trial case management system, and general operating expenses.
- Counties involved in the project receive state funding to provide services to defendants awaiting trial to remain law-abiding, at work and participating in necessary support services. Resources might include court reminders (through the automated case management system), check-ins, electronic monitoring, drug testing and limited use of money bond depending on what is required for each defendant.
- In other jurisdictions that have implemented a pretrial release program using the Public Safety Assessment, the demand on detention facilities has dropped while court appearances have increased.

## Facts about the Public Safety Assessment (PSA)

- The PSA was created using the largest, most diverse set of pretrial records ever assembled 1.5 million cases from approximately 300 jurisdictions across the United States. Researchers analyzed the data and isolated factors that most often exist for defendants who commit a new crime, commit a violent crime, or fail to return to court if released before trial.
- Data has been collected from 300 different cities, counties and 7 state court systems (Colorado, Connecticut, Florida, Maine, Ohio, Virginia and Kentucky) and the District of Columbia
- Data was collected from Federal Pretrial services in all 50 states
- No face-to-face interview with defendant is required
- Assessment consists of 9 risk factors that will accurately determine a defendant's likelihood to: commit a new offense, appear at future court proceedings and flag violent offense while on pretrial release status
- Assessment information is similar to what is collected during a defendant's initial booking
- Assessment administrator must be accurate in reading and interpreting the CJIN/NCIC and the Montana Court Data system
- It is expected that there will be a 24-hour turn-around for completion of the assessment and delivery to the court, prosecutor and public defender
- The PSA is objective. It does not consider subjective factors such as: race, gender, income, religion, education, home address and family
- PSA promotes consistent application of release conditions using a matrix developed by each state/jurisdiction
- The PSA minimizes dual system errors (releasing high risk and detaining low risk defendants)
- Neutral factors can help judges gauge the risk that a defendant poses, they do not impede a judge's discretion or authority in any way. The decision about whether to release or detain a defendant always rests with the judge regardless of the scores produced by the risk assessment

### Post-conviction related studies have shown

- Criminal history risk factors, those obtained without an interview, are the strongest predictors of FTA and NCA (new research)
- Pretrial risk assessments that contain only non-interview dependent risk factors are equally predictive as those that include interview –dependent risk factors.
- Research shows the criminal history/system involvement factors are usually the stronger prediction.

**Judicial Branch - SB59**  
**Pre-Trial Program Projections for FY18 & FY19**

	FY18	FY19
Appropriated Amount	780,000	780,000
Less SB 261 reductions	(3,915)	(3,909)
Less Vol Reductions per 17-7-140	(80,000)	(80,000)
<b>Total Available Appropriation</b>	<b><u>\$ 696,085</u></b>	<b><u>\$ 696,091</u></b>

Personal Services Projections (includes 1% inc)

<b>Total Personal Services</b>	<b>113,871</b>	<b>175,862</b>
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Operating:

Start-up costs for new employees		
Desk/Chair/Filing Cabinet (\$1,200 X 2)	2,400	-
PC (\$1,400 X 2)	2,800	-
Start-up office supplies (\$500 X 2)	1,000	-
General Office Supplies	2,500	2,500
Travel (Advisory committee)	75,000	75,000
CJIN Subscription	600	600
CJIN per Inquiry cost (.07 x 24,783)	1,735	1,735
AutoMon 1 yr (Jan 2018 - Dec 2018)	21,000	10,500
AutoMon one-time implementation fee	7,500	-
Meeting Supplies - estimate	2,500	2,500
Postage & Mailing	275	275
ITSD Phone/Long Dist Svcs (\$490 for 4 employees)	1,960	1,960
Rent	<u>24,000</u>	<u>24,000</u>
<b>Total operating</b>	<b><u>143,270</u></b>	<b><u>119,070</u></b>
<b>Total Personal Services &amp; Operating</b>	<b><u>\$ 257,141</u></b>	<b><u>\$ 294,932</u></b>
Available Approp	696,085	696,091
Less Total PS & Operating	<u>257,141</u>	<u>294,932</u>
Available for Grants to Counties**	<u><u>438,944</u></u>	<u><u>401,159</u></u>

\*Year 1 includes actual costs incurred through PPE 9/29/17

\*\*Grants determined by a base plus crime rate