

Pretrial

House Judiciary Hearing - HB205

March 16, 2016

Citation vs. Arrest

Recommendation One

Sections Addressed:

- ▶ **Sec.42:** Presumption to cite
- ▶ **Sec.43:** Civil protection for officers
- ▶ **Sec.44:** Notice to appear - 2 days
- ▶ **Sec.45:** Notice to appear -5 days

The Commission recommended expanding the use of citations in place of arrest for lower level non-violent offenses, with broad discretion for officer to arrest when a person presents a danger to self or others, a flight risk, or harm to property.

- ▶ 76% of pretrial admissions to prison are for misdemeanor charges.
- ▶ 56% of pretrial admissions to prison are for non-violent misdemeanor charges.

Risk-Based Release Decision-Making

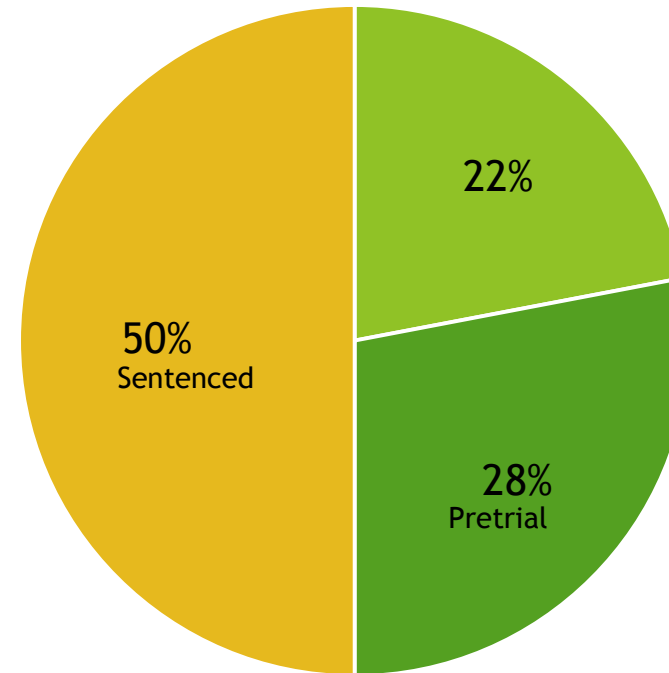
Recommendation Two

Sections Addressed:

- ▶ **Sec.41:** Court appearance in 24 hours
- ▶ **Sec.47:** Judicial review & reconsideration conditions of release
- ▶ **Sec.48:** Inability to pay considered
- ▶ **Sec.49:** Pretrial officers can arrest for violating court order
- ▶ **Sec.50:** Court appearance in 24 hours
- ▶ **Sec.51:** Limits judicial discretion to detain low- and moderate-risk pretrial defendants with non-violent, non-DUI misdemeanors/Class C Felony
- ▶ **Sec.52:** Presumption of release on OR or UB for low-risk defendants
- ▶ **Sec.53:** Pretrial services officer can search for alcohol
- ▶ **Sec.54:** Pretrial services officer can search for drugs, drug test
- ▶ **Sec.56/57:** Limits 3rd party custodian
- ▶ **Sec.63/142:** PFD garnishment

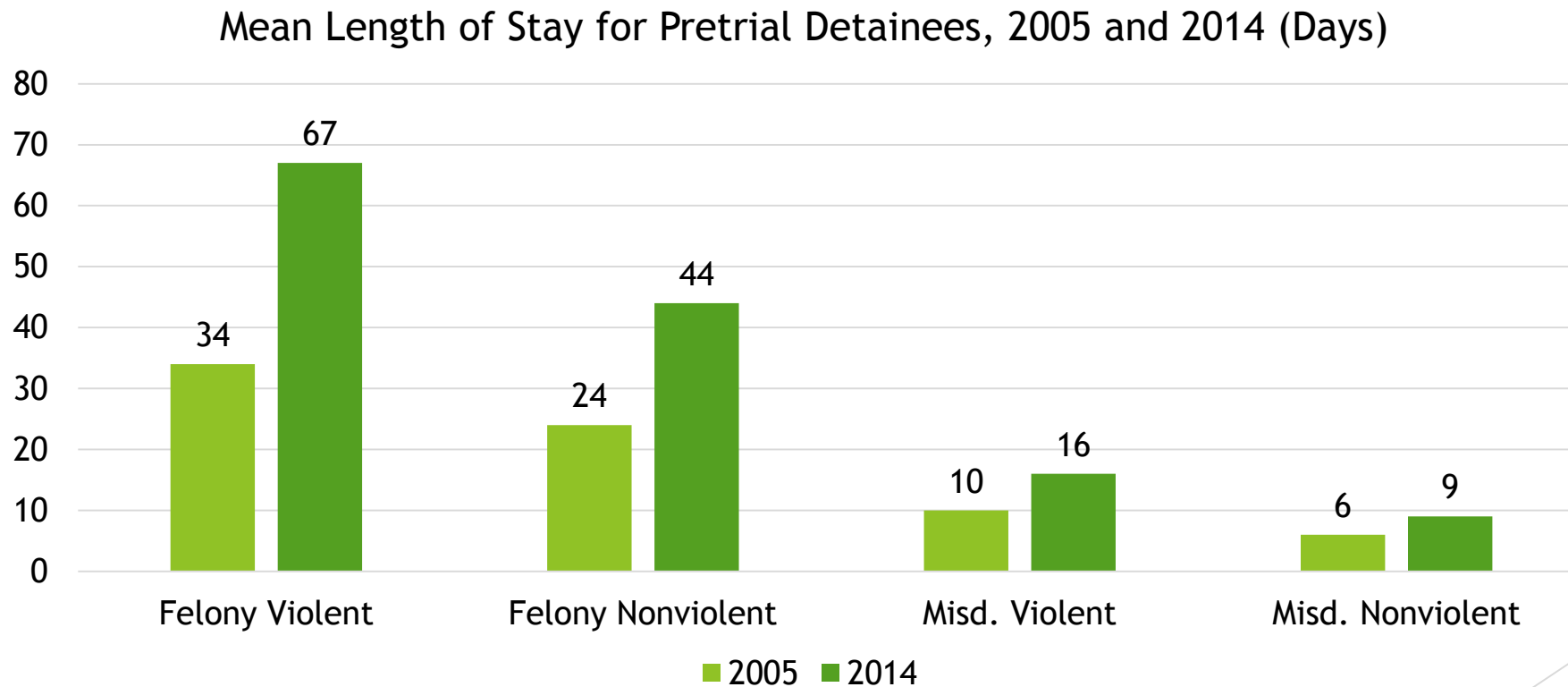
- ▶ 81% growth in the pretrial inmate population in the last decade
- ▶ 56% of pretrial admissions are for nonviolent misdemeanor charges.
- ▶ 28% of the prison population is pretrial

Prison Population by Status



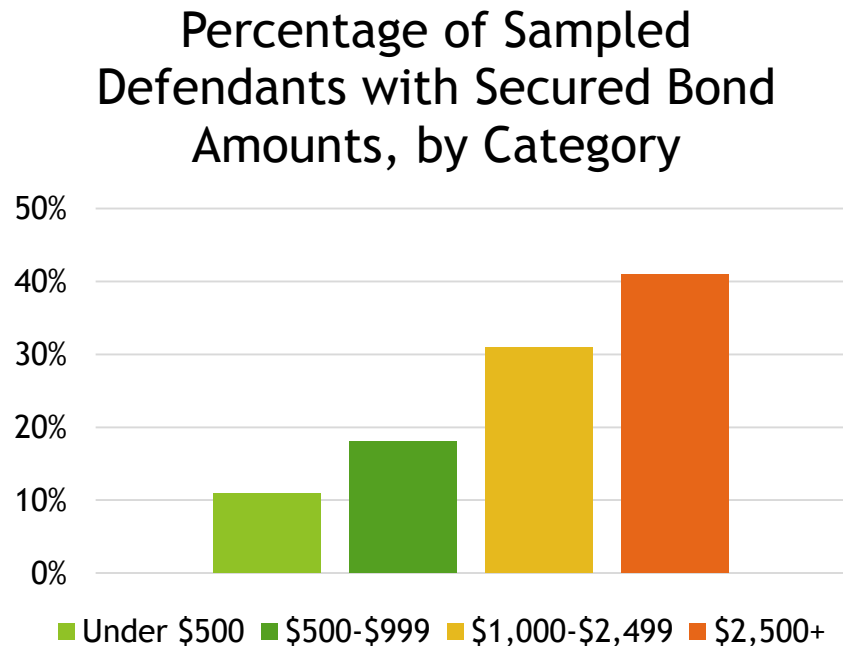
■ Supervision Violator ■ Pretrial ■ Sentenced

Defendants Staying Longer Pretrial Than In Past



Monetary Bail Leads to Detention on Low Bond Amounts

41% of Bonds Set At \$2,500 or More



Lower Release Rates For Higher Secured Bond Amounts:

- ▶ Under \$500: 36% unable to post
- ▶ \$500-\$999: 57% unable to post
- ▶ \$1,000-\$2,499: 62% unable to post
- ▶ \$2,500 or more: 66% unable to post bond.

Risk Assessment Tool Lacking in Release Decisions

- ▶ Release Linked to Ability to Pay Rather Than Defendant's Risk
 - ▶ Pretrial risk assessment not used in decisions about whether to release or detain, or in setting conditions of release.
 - ▶ Because secured bond is ordered in the majority of cases, release is often linked to ability to pay rather than the defendant's risk of pretrial failure.

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Pretrial Supervision of Higher Risk Defendants Released Pending Trial

Recommendations Three and Four

Sections Addressed:

- ▶ Sec.99: Establishes pretrial services division & pretrial services officers
- ▶ Sec.152: Hearing reminders for defendants

Implement Pretrial Supervision

- ▶ Minimal supervision with court date reminders
- ▶ Basic supervision (in-office appointments, phone calls, field visits)
- ▶ Enhanced supervision (higher frequency contacts, drug and alcohol testing, electronic monitoring)

Research shows that enhanced supervision should be focused on those who are most likely to fail pretrial.

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Questions?