

Alaska Legislature

Representative Charisse Millett

Session:

State Capitol Building
Juneau, AK 99801
Phone (907) 465-3879
Fax (907) 465-2069
Toll free (888) 269-3879



Interim:

Anchorage LIO
716 W 4th Ave.
Anchorage, AK 99501
Phone (907) 269-0222
Fax (907) 269-0223

District 25

TO: Grace Abbott, Legislative Assistant, House Judiciary Committee
FROM: Mary Geddes, Staff Attorney, Criminal Justice Commission
DATE: March 16, 2016
RE: Data Required for Development of A Pretrial Risk Assessment Instrument

In Recommendation 2, the Alaska Criminal Justice Commission urged the use of risk-based decision-making for pretrial release. More specifically, the Commission recommended that the Legislature direct the DOC, in consultation with the Department of Law ("DOL"), Public Defender, Department of Public Safety ("DPS"), and Alaska Court System ("ACS"), to create an evidence-based pretrial release decision-making grid that strengthens the presumption of release on personal recognizance or unsecured bond for defendants with less serious charges and lower risk scores. This Recommendation was discussed on Monday, March 14, and in a memo submitted to Judiciary Committee staff on March 16.

House Judiciary Committee Member Representative Kreiss-Tomkins wondered what information is required for the development of a pretrial risk assessment instrument and how it's validated for a specific population. He asked me (1) what kind of data has been used by other jurisdictions in creating pretrial risk assessment instruments, and (2) does Alaska have the requisite data needed to create a good instrument.

Following the meeting today, I contacted staff at the Pretrial Justice Institute whose paper I had previously quoted. PJI consults with states and other localities in developing such instruments. PJI has provided the ACJC with a comprehensive list of all possible data that could be used to develop a pretrial risk assessment instrument, as well as an updated May 2015 discussion of the latest science on pretrial risk assessment. See [http://www.pretrial.org/download/advocacy/Issue%20Briefpretrial%20Risk%20Assessment%20\(May%202015\).pdf](http://www.pretrial.org/download/advocacy/Issue%20Briefpretrial%20Risk%20Assessment%20(May%202015).pdf)¹ PJI materials explain that a valid tool can be designed without everything on the list, although generally more data options are better than fewer.

¹ Pretrial Risk Assessment: Science Provides Guidance on Assessment Defendants, Pretrial Justice Institute, May 2015.

Based on what Commission staff know so far about the data requirements of valid pretrial risk assessment tools, it seems likely that Alaska will be found to have adequate, reliable information necessary to create a solid tool. Data used in a pretrial risk assessment could be drawn from any available and reliable information systems (DOC, courts, prosecutor's office, pretrial services agency). James Austin, Ph.D. and the President of the JFA Institute,² consulted by this attorney, also perceives that Alaska courts and DOC should have sufficient data for this purpose.

Once Alaska agencies determine which data items on the list can reliably be obtained, analysts would run statistical tests (usually binary logistic regression, among a few other tests) to determine which of the available data items are factors predictive of pretrial misconduct - and which are not - for Alaska's particular offender population(s).

Alaska's development process likely also will be able to draw on the work of the Arnold Foundation, which is currently developing an actuarial assessment instrument for national pretrial use and testing it on large populations.

² Dr. Austin is presently developing a prototype pretrial risk assessment tool for the State of Nevada.