



Fact Sheet

BAIL REFORM

Background

The topic of bail reform has been popular this year, and there are proposals both in Sacramento (SB 10-Hertzberg, which CPOA opposes) and in Washington D.C. where Senators Kamala Harris (D-CA) & Rand Paul (R-KY) have introduced the *Pretrial Integrity and Safety Act* in Congress.

Supporters of both bills argue that the criminal justice system determines who will be placed behind bars based upon how "rich they are."

Comparison of Federal v. State Proposals

Pretrial Integrity and Safety Act-U.S. Senate

- Defendant cannot be charged fees for implementation of court date notifications (text, call, fax, email, etc.)
- U.S. DOJ will make 6 grants at \$10M (over 3-years) to various States or Tribal Courts to replace money bail as a condition of pretrial release.
- The \$10M will be divided with \$6.5M going to the State or Tribal Court, and \$3.5M marked for technical assistance, performance and training entities.
- Judge must determine, by clear and convincing evidence and after the defendant has hearing with counsel, that the appearance of the defendant in court and the safety of the community cannot be assured.
- Pretrial assessments must be validated to not disproportionately detain individuals on basis of race and ethnicity.

SB 10-California State Senate

- Requires each county to establish a pretrial services agency to gather information about newly arrested persons, conduct pretrial risk assessments of detainees (except those charged with violent felonies), and prepare recommendations to the court.
- If a person is arrested under a warrant issued by another county, the judge in the county of arrest can release the detainee (with or without conditions of release), or set monetary bail.
- Prohibits pre-arrest release for serious or violent felonies, felony witness intimidation, spousal rape, DV, stalking, or a felony while the person was on pretrial release.
- Requires pretrial release of misdemeanors, rather than cited and released, except if charged while on pretrial release. Release is subject to an agreement and no release conditions may be imposed.

Law Enforcement Concerns

- We're not sure SB 10 establishes a reasonable determination of who should be released pretrial. If SB 10 gets signed by the Governor, it will likely set the stage for how California would use the grants provided under Senator Harris's federal proposal for bail reform.
- Pretrial Services Agency in the county could require the pre-arraignment release of a person charged with a misdemeanor without providing the opportunity for a judge to determine whether the defendant is a risk to the victim or public safety.
- Courts already have the discretion to release a defendant on their own recognizance, or to reduce bail as they see fit for defendants who do not pose such risks.
- Without bail agents, local LE agencies will have limited to no resources to have to find FTA's.