



Legislation Text

File #: 2010-0430, **Version:** 3

Clerk 10/25/2010

AN ORDINANCE relating to the development, adoption and use of a pretrial risk assessment tool for the adult detention population that will provide a uniform, objective measure of the relevant risk factors for presenting a danger to the community or failing to appear in court; requiring enhanced reporting on the pretrial defendant population and notification of screening criteria for alternatives to secure detention.

STATEMENT OF FACTS:

- A. The King County department of adult and juvenile detention, through its community corrections division, operates a series of alternatives to incarceration for pretrial defendants unable to post bail and sentenced offenders, including work education release, electronic home detention and day reporting programs through the community center for alternative programs. These alternatives provide the courts with options between jail and release to the community.
- B. In order to be eligible to participate in the alternatives to detention provided by the community corrections division, a defendant must be ordered to the program by the court and must be statutorily eligible for the program. Washington state law governs eligibility for post conviction participants. There are currently no uniform eligibility conditions for pretrial defendants.
- C. The community corrections division operates the intake services unit. This unit serves the function of a pretrial services program for King County courts, interviewing defendants shortly

after arrest to gather information about residence, ties to the community, employment, criminal history and substance abuse and mental health status, and investigating defendants' past criminal history. The unit presents the results of its interviews and investigations to the court at initial appearance or arraignment to aid the courts in reaching a pretrial release decision. There is no uniform tool to objectively assess risk based on these results for the adult population.

D. In 2007, the council unanimously adopted as part of the 2008 budget, a provision requiring the office of management and budget to review the current use of community corrections alternatives and programs and evaluate whether changes in screening, processing, sentencing or monitoring compliance could lead to a better utilization of these programs.

E. In May 2008, the office of management and budget recommended that the county explore the implementation of a pre-trial risk assessment tool to be administered by the intake services unit to help the court identify risk levels when making pretrial releases decisions. In August 2008, the Justice Management Institute issued a report supporting this recommendation.

F. Pretrial risk assessment tools use objective criteria and actuarial calculations to assess the risk that a defendant will fail to appear before the court or will reoffend while awaiting trial, presenting a danger to public safety.

G. King County juvenile court services successfully utilize a risk assessment tool to screen offenders and guide placement in detention or alternatives to detention.

H. King County established a pretrial risk assessment work group and hired a national expert to explore the feasibility of implementing a risk assessment tool for pretrial defendants in the adult population. In 2009, the work group reached consensus that a risk assessment tool would have multiple benefits, including: increasing efficiency by better organizing intake reports, speeding up pretrial release decisions, and better managing the jail population; protecting public safety by identifying higher risk defendants; reducing the likelihood of biases that might result in

disproportionate confinement of minorities or other groups or individuals; and helping the public better understand decisions that are made. The workgroup recommended that a risk assessment tool was needed and selected a plan for developing and implementing a tool.

I. A risk assessment tool will aid the court in making pretrial release decisions and uniformly assessing risk, reducing the potential for high risk offenders to be released into the community and for low risk offenders to serve time in detention, costing additional taxpayer dollars.

J. Collecting and reporting data on the pretrial population participating in alternatives to detention programs will allow county policy makers, the courts, and the division to evaluate these programs and ensure that they continue to reduce recidivism, save taxpayer dollars, and protect public safety.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. K.C.C. 2.16.120.A.2. and 2.16.122.B.1. provide that the department of adult and juvenile detention and its community corrections division shall implement alternatives to adult detention based on screening criteria approved by the superior and district courts. The superior and district courts are respectfully requested to consider approval of screening criteria for participation by pretrial defendants in the alternatives to adult detention programs, specifically for defendants with a prior felony conviction, and are respectfully requested to notify the council of the status of screening criteria by March 1, 2011. The notification should be filed in the form of a paper original and an electronic copy with the clerk of the council, who shall retain the original and provide an electronic copy to all councilmembers and to the committee coordinator for the law, justice, health and human services or its successor. Based on the findings of the report, the council may consider further legislative action.

SECTION 2. The pretrial risk assessment workgroup convened by the adult justice operational master plan advisory group in 2009 shall proceed with the development of a validated risk assessment tool to inform the court when making pretrial release decisions. The tool shall provide a uniform, objective measure of the

relevant risk factors that a pretrial defendant will be not likely to appear when required or presents a likely danger of committing a violent crime, seeking to intimidate witnesses or otherwise unlawfully interfering with the administration of justice as set forth in Washington state Court criminal rules CrRLJ and CrR 3.2. These risk factors include, but are not limited to, past history or record of committing offenses, employment status, family and community ties, reputation, character, mental condition, length of residence in the community, and the nature of the charge. The workgroup shall report to the council quarterly, beginning in the fourth quarter of 2010 on the progress of the development of and the implementation plan for the tool. The quarterly reports shall be filed in the form of a paper original and an electronic copy with the clerk of the council, who shall retain the original and provide an electronic copy to all councilmembers and to the committee coordinator for the law, justice, health and human services committee or its successor.

SECTION 3. Upon the approval and use of a validated pretrial risk assessment tool by the courts, the department of adult and juvenile detention, working in consultation with the courts, shall transmit to the council for acceptance by motion a report that describes the implementation and use of the tool for the first six months after validation. The report shall be filed in the form of a paper original and an electronic copy with the clerk of the council, who shall retain the original and provide an electronic copy to all councilmembers and to the committee coordinator for the law, justice, health and human services committee or its successor.

SECTION 4. By December 1, 2010, the office of management and budget, working in consultation with the department of adult and juvenile detention and the courts, shall submit to the council for its review and acceptance by motion a report on the pretrial defendants charged with violent or sex crimes who were participants in community corrections alternatives to detention programs in 2009 and the first half of 2010. The report shall include, but not be limited to, an examination of the defendant's history of convictions for violent or sex crimes in the prior ten years, the rate at which the defendant failed to appear in court during the defendant's participation in the alternative, the number of defendants booked into the King County jail on a new crime during participation in an alternative, and the number of defendants who failed to comply with the

conditions of pretrial release using an alternative program. The report and legislation required to be submitted by this ordinance must be filed in the form of a paper original and an electronic copy with the clerk of the council, who shall retain the original and provide an electronic copy to all councilmembers and to the lead staff of the law, justice, health and human services committee or its successor.

SECTION 5. As directed in Ordinance 14430, which adopted the adult justice operational master plan, the executive, in consultation with the criminal justice council, regularly reports on the status of adults in secure detention and in the community corrections alternative programs. The executive shall also include a supplement to the detention and alternatives report in January 2011, February 2011 and April 2011, and monthly beginning in May 2011, that provides information on the pretrial adults participating in alternative programs, including but not limited to: the current pending charge, including whether it is a felony or misdemeanor, whether it meets the definition of "violent offense" in RCW 9.94A.030 and whether it meets the definition of "sex offense" in RCW 9.94A.030; any prior felony conviction in the state of Washington in the last ten years; failure to comply with the conditions of pretrial release or notice of reported violations that have been sent to the court or the King County prosecuting attorney in the current case or in past cases in King County; failure to appear before the court that ordered the alternative and failure to appear history in the last ten years in King County; and whether participants were rearrested by the King County sheriff, rebooked into the King County jail facilities or charged with a new offense by the King County prosecuting attorney. The executive shall also make every effort to include in the supplement other available information on the pretrial adults participating in alternative programs, including but not limited to: any prior felony conviction outside the state of Washington in the last ten years; any previous failure to comply with conditions of release outside of King County; failure to appear history in the last ten years outside of King County; and whether participants were rearrested, rebooked, or charged with a new offense by another agency or jurisdiction.