

A Brief Guide to the California Chief Justice's Pretrial Detention Reform Workgroup

Significant attention is focused on pretrial detention throughout the country. Courts, counties, and municipalities have been the subject of multiple lawsuits asserting constitutional violations. Chief Justice Tani Cantil-Sakauye expressed concerns about individuals who are detained pretrial solely because they are too poor to afford bail in her 2016 State of the Judiciary address to the California Legislature. Members in both houses of the California Legislature introduced legislation aimed at pretrial reform.

Judicial decision making is integral to pretrial detention. The Chief Justice established the Pretrial Detention Reform Workgroup to provide analysis and recommendations for areas in which courts may identify better ways to make release decisions that will promote fairness, protect the public, and ensure court appearances. The workgroup is guided by the following principles:

- Pretrial custody should not occur solely because a defendant cannot afford bail
- Public safety is a fundamental consideration in pretrial detention decisions
- Defendants should be released from pretrial custody as early as possible based on an assessment of the risk to public safety and the risk for failing to appear in court
- Mitigating the impacts of implicit bias on pretrial release decision-making should be considered
- Reform recommendations should consider Court and justice system partner resources
- Non-financial release alternatives should be available
- Establish consistent and feasible practices for making pretrial release, detention, and supervision decisions

The Chief Justice charged the workgroup with developing recommendations to meet overarching pretrial detention reform objectives. The recommendations may include changes to rules of court or California law, best practices for courts and justice system partners, or suggestions for related areas in need of study. The group will receive input from state and national experts, justice system partners, regulators, victim and civil liberty advocates, and states and localities that have recently undergone pretrial reform efforts.

The workgroup began its work in December 2016 and will conclude in December 2017. The recommendations will be presented to the Chief Justice for her consideration and will later be shared with Judicial Council advisory committees, as appropriate.