

Department of Planning and Budget 2018 Fiscal Impact Statement

1. Bill Number: HB 997

House of Origin ☒ Introduced ☐ Substitute ☐ Engrossed
Second House ☐ In Committee ☐ Substitute ☐ Enrolled

2. Patron: Gilbert

3. Committee: House Courts of Justice

4. Title: Pretrial services programs

5. Summary:

Current law authorizes counties and cities to establish pretrial services programs. These programs have the following duties and responsibilities:

- Interviewing and investigating defendants detained in jails awaiting a bail hearing;
- Preparing a pretrial investigation report with recommendations to assist courts in determining whether to release a defendant on bail
- Supervising and assisting all defendants released by the courts to the supervision of the pretrial services programs to ensure compliance with the terms and conditions of bail; and
- Conducting random drug and alcohol tests on any defendant under supervision.

Under the statutes authorizing the establishment of pretrial services programs, the Department of Criminal Justice Services (DCJS) is required to:

- Prescribe standards for the development, implementation, operation and evaluation of pretrial services, and
- Develop risk assessment and other instruments to be used by pretrial services agencies

The proposed legislation would repeal the statutes authorizing the establishment of pretrial services programs and their use by courts.

6. Budget Amendment Necessary: Indeterminate. See Item 8.

7. Fiscal Impact Estimates: Preliminary. See Item 8.

8. Fiscal Implications:

All local pretrial services agencies receive funding from the Commonwealth. Many localities provide supplemental funding for the programs, but the local share of the costs varies widely. In FY 2018, DCJS has approved the distribution of \$10.3 million to local pretrial services agencies.

If the authorization for pretrial services program were repealed, DCJS would no longer need the appropriation used to support them. However, this savings would likely be partially offset by an increase in state per diem payments to jails, although it is not possible to project the extent of such offset.

The Compensation Board reimburses jails \$4.00 per day for each defendant held in jail awaiting trial. In FY 2017, the daily cost for the state for supervising defendants released to the supervision of pretrial services was, according to data from DCJS, \$3.32. In FY 2017, there were 26,622 pretrial services placements. Almost 38 percent of those placements, or over 10,000 defendants, were released to pretrial supervision on their personal recognizance or unsecured bond. Although there is not sufficient data available to determine how many inmates would not have been able to post bond, data from DCJS indicate that 82.1 percent of the placements in FY 2017 had incomes below the federal poverty threshold. In FY 2017, the average time under supervision in pretrial services was 114 days, but there is not sufficient data to estimate how long indigent defendants would have spent in jail awaiting trial. In summary, the elimination of the availability of pretrial services would likely result in an increase in jail per diem reimbursements by the Commonwealth, but, because there is not sufficient data to estimate how many additional defendants would remain in jail awaiting trial nor how long their pretrial stay in jails would be, it is not possible to estimate the potential additional costs.

Currently, jail populations used to forecast the need for new or expanded jails include the impact of pretrial services programs. If those programs were eliminated, more defendants than had been anticipated might be held in jail awaiting trial and create the need for more jail beds sooner than had been anticipated. Because the Commonwealth reimburses localities 25 percent of the cost of new or expanded jails and funds additional security staff needed for those additional beds, these additional costs could occur sooner than had been forecasted.

9. Specific Agency or Political Subdivisions Affected:

Department of Criminal Justice Services
Counties and cities with pretrial programs
General district court judges
Magistrates
Commonwealth's attorneys

10. Technical Amendment Necessary: None.

11. Other Comments: The proposed legislation would not be effective until July 1, 2019.