



The State of Maryland

Executive Department

EXECUTIVE ORDER
01.01.2014.08

Governor's Commission to Reform Maryland's Pretrial System

- WHEREAS, It is the duty of Executive Branch officials to maintain public safety, in part by arresting and detaining individuals suspected of criminal activity in advance of trial;
- WHEREAS, Maryland officials recognize a fair and equitable pretrial system should release detainees who are expected to appear in court and pose minimal risk to public safety;
- WHEREAS, Maryland's current pretrial process is a two tiered approach; arrestees appear in front of a District Court Commissioner, and if they are not released, they then appear in front of a District Court Judge;
- WHEREAS, Under the Maryland Court of Appeals' decision in *Richmond v. DeWolfe*, issued in September 2013, arrestees have the right to an attorney in an initial appearance before a District Court Commissioner;
- WHEREAS, To comply with the *Richmond* decision under the current system, arrestees must be provided with an attorney in front of both the District Court Commissioner and the District Court Judge;
- WHEREAS, The Commission to Study the Laws and Policies Relating to Representation of Indigent Criminal Defendants by the Office of the Public Defender was authorized in May 2012 to study the District Court Commissioner and pretrial release systems;
- WHEREAS, This Commission recommended implementing a validated pretrial risk screening tool and creating a statewide pretrial program for all Maryland counties;
- WHEREAS, Pretrial risk assessment instruments can be traced back to 1961 in New York City;
- WHEREAS, Over 30 years of pretrial risk assessment research has found that several objective factors are significant predictors for pretrial

failure (i.e. failure to appear or commission of a new offense); those objective factors include but are not limited to violations of parole/probation, prior convictions, prior violent offenses, prior property or drug offenses, prior failures to appear, juvenile arrests, number of incarcerations, and number of pending cases;

WHEREAS, Pretrial risk assessments tools are used around the country, and several states use risk assessment tools;

WHEREAS, It would be beneficial, for both public safety and cost reasons, for Maryland to adopt a statewide pretrial program to assess and supervise pretrial defendants;

WHEREAS, Such a statewide pretrial program would utilize a validated risk assessment tool to make pretrial release decisions; the assessment would allow for the immediate release of defendants who pose a minimal risk to public safety and are at low risk of failing to appear for court, and arrestees not immediately released would appear before a District Court Judge and be represented by counsel;

WHEREAS, The State intends to pilot a risk assessment tool in one or more counties; and

WHEREAS, A Governor's Commission to Reform Maryland's Pretrial System would gather experts and interested parties to conduct a comprehensive examination of the relevant issues and develop recommendations for reform to ensure that Maryland operates the best possible statewide pretrial system.

NOW THEREFORE, I, MARTIN O'MALLEY, GOVERNOR OF THE STATE OF MARYLAND, BY VIRTUE OF THE AUTHORITY VESTED IN ME BY THE CONSTITUTION AND LAWS OF MARYLAND, HEREBY PROCLAIM THE FOLLOWING EXECUTIVE ORDER, EFFECTIVE IMMEDIATELY:

A. There is a Governor's Commission to Reform Maryland's Pretrial System (Commission).

B. Membership.

(1) The Commission consists of the following voting members:

(a) Two members appointed by the President of the Senate;

(b) Two members appointed by the Speaker of the House of Delegates;

(c) The Secretary of the Department of Public Safety and Correctional Services or a designee;

(d) The Executive Director of the Governor's Office of Crime Control and Prevention or a designee;

(e) The Chief Judge of the Court of Appeals or a designee;

(f) The Public Defender of Maryland or a designee;

(g) One member representing a State's Attorney's Office;

(h) One member of the Maryland State Bar Association;

(i) One member of local law enforcement;

(j) One representative of the bail bond industry;

(k) Two members of the Maryland Correctional Administrators Association;

(l) One victim advocate;

(m) One national expert in pretrial services;

(n) One representative of local government; and

(o) Up to six additional members, as appointed by the Governor.

(2) The members identified in Section B(1)(g) through B(1)(o) shall be appointed by the Governor and shall serve at the pleasure of the Governor.

(3) The members of the Commission shall reasonably reflect the geographic, racial, ethnic, and gender diversity of the State.

C. The Governor shall designate the Chair from among the members.

D. In the event of a vacancy on the Commission, the Governor shall appoint a successor.

E. Procedures.

(1) Members of the Commission may not receive any compensation for their services but may be reimbursed for reasonable expenses incurred in the performance of their duties, in accordance with the Standard State Travel Regulations, as provided in the State budget.

(2) The majority of voting members of the Commission shall constitute a quorum for the transaction of any business.

(3) The Commission may adopt such other procedures as may be necessary to ensure the orderly transaction of business, including the creation of committees.

(4) The Chair may, with the consent of the Commission, designate additional individuals, including interested citizens, elected officials, educators, or specialists with relevant expertise, to serve on any committee.

(5) The Commission may consult with State agencies to obtain such technical assistance and advice as it deems necessary to complete its duties. All Executive Department agencies shall cooperate with and assist the Commission in carrying out its responsibilities. The Department of Public Safety and Correctional Services and the Governor's Office of Crime Control and Prevention shall be the lead State entities assisting the Commission. The Governor's Office of Crime Control and Prevention will staff the commission.

F. Purposes. The Commission shall have the following objectives:

(1) Conduct a comprehensive examination of ideas that the State of Maryland could implement to ensure that Maryland operates an equitable and efficient statewide pretrial program;

(2) Review approaches of other states and municipalities that use validated risk assessment tools;

- (3) Recommend how an objective validated risk assessment tool could be used in the State of Maryland;
- (4) Consider other methods to reduce the amount of time that low-risk arrestees are detained and other methods of pretrial diversion;
- (5) Develop and issue recommendations, including recommendations for legislation, that the State of Maryland should undertake to achieve these goals;
- (6) Assist and advise the State on issues arising from the ongoing implementation on a pilot basis of a risk assessment tool in one or more counties; and
- (7) Consider other related matters as the Commission deems necessary.

G. Reports and Recommendations.

- (1) The Commission shall submit a final report to the Governor, the President of the Senate, and the Speaker of the House of Delegates, no later than December 1, 2014.
- (2) The Commission may submit additional reports as directed by the Governor.

GIVEN Under my Hand and the Great Seal of the State of Maryland, in the City of Annapolis, this 27nd day of May, 2014.



Martin O'Malley
Governor

ATTEST:



John P. McDonough
Secretary of State

