HB 439 – Pretrial release

HB 439

Reps. Dever and Ginter

Title Information
To amend sections 2903.212, 2907.41, 2919.251, 2935.15, 2937.22, 2937.222, 2937.23, and 2941.58 and to enact sections 181.27 and 2937.231 of the Revised Code to require courts to use the results of a validated risk assessment tool in bail determinations; to allow nonmonetary bail to be set; to require courts to collect certain data on bail, pretrial release, and sentencing; and to require the state Criminal Sentencing Commission to create a list of validated risk assessment tools and monitor the policies and procedures of courts in setting bail and utilizing pretrial supervision services.

Background
An ad-hoc committee of the Criminal Sentencing Commission studied and issued recommendations on ways in which Ohio can reform its bail/pre-trial process. H.B. 439 includes some of those recommendations. The bill requires courts to use a validated risk-assessment tool in making bail determinations, and generally eliminates the use of bond schedules. The bill also requires courts to collect a variety of data, including the rates at which defendants who are released on bail cause physical harm to persons or property or fail to appear, how often courts accept a pretrial service agency's recommendation in setting bail, and detailed information about every criminal case handled by the court, such as the name, section number, and degree of the offense, the name of the court, judge, and offender, the offender's city, county, and state of residence, and details as to the risk assessment used to set bail, the defendant's risk score, any release recommendations, monetary bail set, and whether a bond schedule was used. In addition, the bill charges the Criminal Sentencing Commission with collecting from courts monthly numbers pertaining to probation and case disposition.

Judicial Impact
While judges recognize the strong interest in reforming the bail process in Ohio, the data collection provisions in the bill are problematic. These data-reporting requirements will have a huge impact on courts and their staff. Many courts simply do not have the personnel, funding, or space to accommodate the bill's mandates. Additionally, the data sought would likely vary in format and reporting method from court to court. The 88 courts of common pleas and 100-plus municipal and county courts in the state all operate autonomously, each with their own record-maintenance systems. Any time data is to be collected with the intention to do

statewide analysis, it is important to have uniform defining, collection, and reporting requirements so as to ensure an "apples to apples" comparison. Ohio's court system is not a unified-court system, and thus any efforts to collect and report data from all of the individual courts must take this into account. With the level of detailed information sought to be collected in H.B. 439, a statewide computer system would ideally allow for the information to be collected from the various courts and then assembled in a manner that is usable, but no such system currently exists, and implementing one would likely come with a hefty price tag.

Conclusion
H.B. 439 should be amended to remove the onerous data collection and reporting mandates it imposes on courts. Or, the bill should be amended to provide for some uniform, statewide standard of collecting and reporting the data, and funding should be provided to ensure that all courts collect and report the data in a uniform manner.