

The background features a large, faint seal of the Judicial Council of California. The seal is circular and contains the text "JUDICIAL COUNCIL OF CALIFORNIA" around the perimeter and "1920" at the bottom. In the center of the seal is a figure holding a scale of justice and a sword, with a banner below it.

SB-10 Pretrial Release or Detention: Pretrial Services

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PDR Workgroup

- Year-long process of intensive study and analysis by workgroup of 11 judges and 1 CEO
 - Presentations by over 40 speakers
 - Consistent message from all:
Current system is not safe and not fair



PDR Recommendations

- Implement a Robust Risk-Based Pretrial Assessment and Supervision System to Replace the Current Monetary Bail System
- Use a Validated Pretrial Risk Assessment Tool
 - Judges remain the final authority in making release or detention decisions but need information to fashion appropriate conditions of pretrial release
- Deliver Consistent and Comprehensive Education on the Development and Implementation of a Pretrial Release and Supervision System
- Adopt a New Framework of Legislation and Rules of Court to Implement These Recommendations



SB 10 Legislation

- Does NOT change:
 - Current cite and release policies and procedures
 - Current arraignment policies and procedures
- Biggest changes are to:
 - Prearraignment release
 - Transparency of pretrial detention



SB 10 Legislation

- Removes monetary bail as an option for pretrial release
- *Prearraignment* release for persons arrested for misdemeanors (with exceptions)
- *Prearraignment* release by Pretrial Assessment Services
 - Assessed as low risk (with exceptions)
 - Assessed as medium risk (with exceptions and conditions)
- Provides for pretrial detention following a hearing if:
 - Judge determines by clear and convincing evidence that no conditions can reasonably assure public safety or return to court



SB 10 Legislation

Created categories of offenses and risk levels

- Different levels of review
- Move toward greater scrutiny as seriousness increased
- Detention based on risk, not lack of money

Eliminated cash bail or bail bonds

- Low risk offenders can be released, regardless of financial resources
- High risk offenders can be detained, regardless of financial resources

Detention based on assessment tool, investigation by Pretrial Assessment Services (PAS), and evidentiary hearing



SB 10 Legislation

Misdemeanor Charges — No Pretrial Assessment Services (PAS) Investigation

- **Requires release within 12 hours of booking**
- Exceptions for:
 - domestic violence, stalking
 - sex offenses
 - multiple DUIs
 - multiple FTAs
 - pending trial or sentencing
 - on postconviction supervision
 - other serious factors



SB 10 Prearraignment Review by PAS

Felony Charges — PAS review with risk assessment tool within 24 hours

- Exclusions for:

- same factors as for misdemeanors, PLUS
- serious or violent felony charge
- felony offense involving physical violence or threat of violence, likelihood of great bodily injury
- felony offense while armed or used deadly weapon



SB 10 Prearraignment Review by PAS

Low Risk Defendants

- Must be released by PAS within 24 hours of booking on own recognizance
- PAS may impose conditions; defendant cannot be required to pay for conditions

Medium Risk Defendants

- Local court rule can add to exclusions from review
- May be released on OR or supervised release, or detained
- Detention standard: substantial likelihood that no conditions of release will reasonably assure public safety or return to court



SB 10 – Prearraignment Review by Court

- Option of local court
- Broader scope of defendants; exclusions limited:
 - High risk
 - Charged with serious or violent felony
 - Pending felony trial or sentencing
- Local court may authorize SJO's
- Release standard the same as PAS



SB 10 – Arraignment

- If defendant is in custody, must occur within 48 hours of booking (excluding weekends/holidays)
- All cases subject to review by judicial officer
- Defendants are released pretrial unless the prosecutor requests a Preventive Detention Hearing



Preventive Detention Hearing

- Conducted by a judicial officer
- Held within 3 court days if defendant is in custody
- Right to counsel and to appointed counsel if indigent
- Victim given notice and opportunity to be heard
- Findings must be stated on the record



Preventive Detention Hearing

- Prosecution must establish probable cause that the defendant committed the charged crime
- Rebuttable presumption of detention for specified crimes
- Evidence
 - Statements of defendant and victim
 - Testimony of defendant
 - Offers of proof and argument of counsel
 - Reliable hearsay



Standard for Pretrial Detention

Only if:

1. Detention is permitted under the United States and California Constitutions
2. Court determines **by clear and convincing evidence** that no nonmonetary condition or combination of conditions of pretrial supervision will reasonably assure public safety or the appearance of the defendant in court as required.

The court must state the reasons for ordering preventive detention on the record



Funding/3 Streams

- Funds to the JCC to allocate to the courts for associated court costs.
- Funds to the JCC to allocate to the courts for contracting for pretrial assessments.
- Funds for pretrial supervision directly to probation departments.



Additional Information

- Webpage: <http://www.courts.ca.gov/pretrial.htm>
 - Public information related to the implementation of SB 10
 - FAQs
 - Infographics
 - Future reports on the legislation



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Questions?



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