



Testimony submitted to the Joint Committee on the Judiciary
In support of S.802 and H.1584 - An Act reforming pretrial process
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Since 1973 the League of Women Voters of Massachusetts has supported expanding the use of release on recognizance, a speedy trial, and criteria other than a person's ability to pay bail to determine the conditions of the person's release pending trial.¹

In Massachusetts, as many as 5,000 people are being held pretrial every day. A study of the Middlesex pretrial population shows that it has grown in the past 6 years and so has the average length of stay,² despite a falling crime rate.

In addition to the cost to the Commonwealth for housing these individuals prior to trial, it prevents them from going to work or school, taking care of their families, paying their bills, attending job training, going to substance abuse or mental health programs, and thus may end up losing their jobs, their housing or even custody of their children.

Our current pretrial process is a two-tier system, where individuals with limited financial resources are held pretrial and those with means are released, even when they are charged with similar offenses.

H.1584 and S.802 address many of these concerns:

1. The formation of a Pretrial Services division which will:
 - a. develop and implement a validated risk assessment tool
 - b. collect and analyze data on the pretrial process while protecting confidentiality
 - c. provide mandatory training for judicial officers using the risk assessment tool
 - d. utilize Office of Community Corrections (OCC) programs, which are currently underutilized to support individuals in making court dates, provide needed corrective services to decrease the potential for repeated offenses, and save the Commonwealth money, since community services are significantly less expensive than incarceration.
2. A risk assessment tool will help judges make informed decisions about release options and determine an individual's resources so, if monetary bail is levied, it will be an inducement to appear.
3. These bills include mechanisms for review of denied release and reassessing the need to hold individuals beyond 120 days pretrial.

¹ <https://lwwma.org/wp-content/uploads/2014/03/Where-We-Stand.pdf>

² <http://www.middlesexsheriff.org/Press%20Releases/May15/NIC%20-%20MSO%20Report.pdf>

There are concerns we hope can be addressed during the legislative process.

1. It is unclear whether “The sheriff, superintendent, keeper or other officer in charge of the jail may, upon approval of the commissioner, place a person who is charged with a crime and committed for trial, in a community corrections program under chapter 211F,” will be required to take the mandatory training as required under Section 59(C), which we feel would be beneficial.
2. Regarding Section 46 of the bills, we recommend the risk assessment tool take caretaking responsibilities into account, which can make it difficult to attend programs or show up for court dates, when setting conditions for release and explicitly mention needed services such as affordable child care.
3. Cost savings from decreasing the jail population might be earmarked to pay for additional programs provided through the Pretrial Services division and to decrease fees and fines levied on individuals with little means.

We urge legislators to make sure that these bills are passed and that the risk assessment process and the OCC are adequately funded.

Thank you for your consideration.