

STATE OF NEW YORK

9947--A

IN SENATE

November 13, 2024

Introduced by Sen. SALAZAR -- read twice and ordered printed, and when printed to be committed to the Committee on Rules -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the criminal procedure law and the executive law, in relation to establishing an office of pretrial services

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivisions 1, 2, 4 and 5 of section 510.45 of the criminal procedure law, as added by section 8 of part JJJ of chapter 59 of the laws of 2019, are amended and three new subdivisions 1-a, 2-a, and 6 are added to read as follows:

2 1. The office of [~~court administration~~] pretrial services shall certify and [~~regularly~~] review for recertification every three years one or more pretrial services agencies in each county to [~~monitor principals~~] provide services to people released under non-monetary conditions. In order to be certified by the office, each pretrial services agency shall demonstrate that such agency has the ability to perform the responsibilities required of pretrial services agencies as described in subdivision three-a of section 500.10 of this title and meets the minimum standards established by the office of pretrial services as described in subdivision two-a of this section. Such office shall maintain a listing on its public website identifying by county each pretrial services agency [~~se~~] certified in the state, including a phone number and email contact information for each pretrial services agency.

3 1-a. If the office determines that it is appropriate to decertify a pretrial services agency pursuant to paragraph (n) of subdivision two of section eight hundred thirty-seven-y of the executive law, but no suitable alternative agency exists, the office may permit the existing agency to continue providing services on a probationary basis, and the office shall identify and impose appropriate remedies and remedial measures, where appropriate, to bring the agency back in line with minimum standards. Remedial measures may include, but shall not be limited to, additional staff training, expanded supervision both within the agency

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [~~-~~] is old law to be omitted.

LBD13450-06-4

1 and from the office, and increased reporting requirements. If an agency
2 is placed on probation, the office shall reevaluate the agency every six
3 months for three consecutive periods. If there are no further infrac-
4 tions, then the agency shall be removed from their probationary basis.
5 If infractions are found, the agency shall continue on a probationary
6 basis until three periods are achieved without infractions.

7 2. Every such agency shall be [~~a public entity under the supervision~~
8 ~~and control of a county or municipality or~~] a non-profit entity under
9 contract to [~~the county, municipality or~~] one or more counties, munic-
10 ipalities, or the state, or a public entity under the supervision and
11 control of a county or municipality. [~~A county or municipality shall be~~
12 ~~authorized to enter into a contract with another county or municipality~~
13 ~~in the state to monitor principals under non-monetary conditions of~~
14 ~~release in its county, but counties,~~] A pretrial services agency may be
15 certified to provide services in more than one county. The office shall
16 identify and certify as a county's pretrial services agency a non-profit
17 entity able to fulfill the minimum standards set forth in subdivision
18 two-a of this section. If the office is unable to identify a non-profit
19 entity able to meet these requirements, the office may certify a public
20 entity. Counties, municipalities and the state shall not contract with
21 any private for-profit entity [~~for such purposes~~] to serve as a pretrial
22 services agency.

23 2-a. The office shall certify as pretrial services agencies only such
24 entities that meet the minimum standards set forth by the office. The
25 office may certify an entity that, by virtue of its relationships,
26 contracts, or other agreements, can demonstrate its ability to meet the
27 minimum standards in collaboration with other entities. The full and
28 complete set of minimum standards shall be determined by the office in
29 consultation with the advisory board, and shall include, but not be
30 limited to, the following:

31 (a) Demonstrated ability to support individuals released to super-
32 vision in complying with the terms of their release;

33 (b) Demonstrated ability to create individualized plans to support
34 individuals released to supervision that are informed by the results of
35 a comprehensive needs assessment that includes, but is not limited to,
36 the areas listed in paragraph (e) of this subdivision;

37 (c) Demonstrated ability to engage in sustained, reliable, and
38 supportive outreach to individuals released to supervision to ensure
39 they return to court, using the methods and in the settings that will
40 best meet the individual's needs;

41 (d) Demonstrated ability and capacity to support the number of indi-
42 viduals expected to be released to supervision;

43 (e) Demonstrated ability to connect individuals with available service
44 providers consistent with the requirements of an individual's pretrial
45 release, or their emergent needs and interests, including, but not
46 limited to, in the areas of mental health treatment, substance use
47 treatment, other medical treatment, emergency or transitional housing,
48 and workforce development;

49 (f) Demonstrated ability to ensure the protection of participating
50 individuals' personal information;

51 (g) Demonstrated ability to ensure organizational and staff completion
52 of training mandated by the office, and compliance with such training;
53 and

54 (h) For an agency seeking recertification pursuant to subdivision one
55 of this section, satisfactory completion of organizational and staff

1 training requirements and demonstrated history of successfully support-
2 ing individuals over the prior three years.

3 4. Supervision by a [~~pre-trial~~] pretrial services agency may be
4 ordered as a non-monetary condition pursuant to this title only if the
5 court finds, after notice, an opportunity to be heard and an individual-
6 ized determination explained on the record or in writing, that no other
7 realistic non-monetary condition or set of non-monetary conditions will
8 suffice to reasonably assure the [~~principal's~~] person's return to court.
9 Under no circumstances shall a person receiving pretrial services be
10 required to pay out-of-pocket for services provided or mandated by the
11 pretrial services agency, the office, or the court. Subject to appropri-
12 ations, services mandated by the office of pretrial services or the
13 court shall be eligible for funding from the office. Pretrial services
14 agencies shall make efforts to limit costs and other barriers to access-
15 ing mandated services.

16 5. [~~Each~~] The office of pretrial services shall gather information
17 from each pretrial [~~service~~] services agency [~~certified by~~] and the
18 office of court administration [~~pursuant to this section shall~~] at the
19 end of each year [~~prepare and file with such office an annual report,~~]
20 which the office of pretrial services shall compile, publish on its
21 website and make available upon request to members of the public. Such
22 reports shall not include any personal identifying information for any
23 individual [~~defendants~~]. Each such report [~~, in addition to other rele-~~
24 ~~vant information, shall set forth,~~] shall include but not be limited to
25 the following data disaggregated by each county served:

26 (a) the total number of [~~defendants~~] individuals supervised by the
27 agency during the course of the prior year;

28 (b) the length of time (in [~~months~~] days) each such person was super-
29 vised by the agency prior to acquittal, dismissal, release on recogni-
30 zance, revocation of release on conditions, [~~and~~] or sentencing;

31 (c) the race, ethnicity, age [~~and~~], sex and gender identity of each
32 person supervised, where available;

33 (d) the crimes with which each person supervised was charged;

34 (e) the number of persons supervised who were subsequently released on
35 recognizance;

36 [~~(e)~~] (f) the number of persons supervised for whom release conditions
37 were modified by the court, describing generally for each person or
38 group of persons the type and nature of the condition or conditions
39 added or removed;

40 [~~(f)~~] (g) the number of persons supervised for whom release under
41 conditions was revoked by the court, and the basis for such revocations;
42 and

43 [~~(g)~~] (h) the court disposition in each supervised case, including
44 sentencing information.

45 6. Pretrial services agency shall be responsible for conducting peri-
46 odic, individualized reviews for each individual case. Pretrial services
47 agencies shall conduct such reviews using best practices developed by
48 the office of pretrial services, and at intervals as determined by the
49 office of pretrial services. For each review, the pretrial services
50 agency shall determine whether the conditions of non-monetary release
51 imposed by the court should be modified or eliminated. If the pretrial
52 services agency's review concludes that a modification is warranted, the
53 agency shall make such a recommendation to the court. The court shall
54 review any recommendations to modify or eliminate the non-monetary
55 conditions the court imposed and make an individualized determination on

1 the record or in writing explaining the reasons for the court's determi-
2 nation and for any changes to the conditions imposed.

3 § 2. The executive law is amended by adding a new section 837-y to
4 read as follows:

5 § 837-y. Office of pretrial services. 1. There shall be in the divi-
6 sion of criminal justice services an office of pretrial services, here-
7 inafter in this section referred to as the "office".

8 2. The office shall have the following duties and responsibilities:

9 (a) to certify and contract with at least one agency providing
10 pretrial services in each county pursuant to section 510.45 of the crim-
11 inal procedure law;

12 (b) to develop application requirements and an application process for
13 entities seeking certification as a pretrial services agency, and to
14 make such application requirements and process publicly available. As
15 part of the application and selection process, the office may consider
16 input from local stakeholders;

17 (c) pursuant to and consistent with subdivision two-a of section
18 510.45 of the criminal procedure law, to develop, in consultation with
19 the advisory board, a comprehensive list of minimum standards that each
20 pretrial services agency must meet prior to becoming certified, and to
21 update and revise such minimum standards based on research, best prac-
22 tices, individual needs, or other relevant factors. The office shall
23 make such standards, including any revisions or updates to such stand-
24 ards, publicly available;

25 (d) to identify and disseminate best practices for the provision of
26 pretrial services that will maximize the likelihood that individuals
27 successfully attend court proceedings;

28 (e) to develop initial and ongoing training materials for staff work-
29 ing at pretrial services agencies, consistent with guidelines estab-
30 lished by the national association of pretrial services agencies. Train-
31 ing materials shall include but not be limited to relevant information
32 regarding pretrial laws in New York, cultural competency, trauma-in-
33 formed care, risk-needs responsivity, verbal de-escalation and crisis
34 intervention, overdose response, administration of overdose medication,
35 substance use disorders, mental health diagnoses, motivational inter-
36 viewing, foundational concepts of cognitive-behavioral therapy, and best
37 practices in community supervision. The office shall develop protocols
38 or best practices to ensure that all staff at pretrial services agencies
39 receive training concerning the state's pretrial laws, cultural compe-
40 tency, and trauma-informed care, and that staff receive additional
41 training that is appropriate based on their role and level of inter-
42 action with individuals under supervision. The office shall have the
43 authority to exempt individual staff members of a pretrial services
44 agency from specific training requirements if the office determines that
45 the individual staff member does not have direct, routine interaction
46 with the participants;

47 (f) to identify and disseminate evidence-based best practices for how
48 and when recommendations regarding the imposition of non-monetary condi-
49 tions are made to best ensure that people return to court, and to maxi-
50 mize the likelihood of success in the community;

51 (g) to identify or develop an appropriate questionnaire, instrument or
52 tool that meets the requirements for such questionnaire, instrument or
53 tool set forth in subdivision three of section 510.45 of the criminal
54 procedure law, and to develop best practices for use of such question-
55 naire, instrument or tool, that may be used in determining whether a
56 person poses a risk of flight to avoid prosecution in order to inform a

1 recommendation to the court regarding whether to impose non-monetary
2 conditions and, where necessary, on the types of conditions that would
3 be appropriate;

4 (h) to work with agencies providing pretrial services to establish and
5 implement the use of performance measures;

6 (i) to identify and develop solutions to address barriers to making
7 court appearances by:

8 (i) working with pretrial services agencies to identify common chal-
9 lenges and barriers to making court appearances in each county;

10 (ii) determining services needed to address the challenges and barri-
11 ers identified in subparagraph (i) of this paragraph including, where
12 necessary, by piloting new strategies to address these challenges using
13 national best practices and research from this and other fields; and

14 (iii) collaborating with other agencies, including the office of
15 mental health, the office of addiction services and supports, the office
16 for the prevention of domestic violence, the office of temporary and
17 disability assistance, and the department of health to develop strate-
18 gies for addressing the needs of those under pretrial supervision;

19 (j) to collect, receive and publish in a machine readable format on
20 the office's website on an annual basis the aggregate information and
21 data required pursuant to section 510.45 of the criminal procedure law
22 regarding the provision of services as well as any other aggregate
23 information or data identified by the office including, but not limited
24 to:

25 (i) any tool used to make decisions regarding placement with a
26 pretrial services agency and conditions of release, as well as the
27 research validating such tool and demonstrating that such tool is free
28 from discrimination on the basis of race, color, ethnicity, national
29 origin, age, disability, creed, religion, or sex, including sexual
30 orientation, gender identity, gender expression, pregnancy, pregnancy
31 outcomes, and reproductive healthcare and autonomy, or any other
32 protected class, as required under section 510.45 of the criminal proce-
33 cedure law;

34 (ii) the categories of supervision used by each pretrial services
35 agency and the number of individuals starting under each level or tier
36 where applicable, of supervision, disaggregated by race, sex, sexual
37 orientation, gender identity, age, and ethnicity, to the extent such
38 information is available;

39 (iii) pretrial failure to appear rates of individuals receiving
40 pretrial services, including the number who missed one or more court
41 dates, any information collected regarding reasons for failure to appear
42 collected by the pretrial services agency, how many individuals appeared
43 in court voluntarily following a failure to appear, how many warrants
44 for failures to appear were issued, and how many individuals were
45 detained pretrial or placed on electronic monitoring pretrial after a
46 failure to appear in court, broken down by race, sex, sexual orien-
47 tation, gender identity, age, ethnicity, pretrial services agency and
48 conditions of supervision, to the extent such information is available;

49 (iv) information on the pretrial rearrest of individuals receiving
50 pretrial services, including the number of individuals arrested and
51 charged with a new misdemeanor offense while released, the number
52 arrested and charged with a new non-violent felony offense while
53 released, and the number arrested and charged with a new violent felony
54 offense while released, the outcome of any rearrest, and how long after
55 release such arrests occurred;

1 (v) the types of services to which each pretrial services agency is
2 making referrals, any challenges identified in linking participants to
3 services and the names of the organizations to whom referrals are being
4 made;

5 (vi) information regarding any evaluation of a pretrial services agen-
6 cy conducted by the office;

7 (vii) information regarding persons placed on electronic monitoring
8 programs pretrial, including, but not limited to: the number of partic-
9 ipants; the demographics of the participant population, including race,
10 sex, sexual orientation, gender identity, age, and ethnicity; the charg-
11 es on which participants are ordered to the program; and the average
12 length of participation in the program, to the extent such information
13 is available; and

14 (viii) the average caseloads of staff providing such services;

15 (k) to request and receive from any department, division, board,
16 bureau, commission or other agency of the state or any political subdivi-
17 vision of the state or any public authority such assistance, information
18 and data, subject to limitations on the disclosure of information, as
19 shall enable the office to properly carry out its functions, powers and
20 duties;

21 (l) to analyze and evaluate all collected data, and commission or
22 undertake any necessary research and studies, to improve the delivery of
23 pretrial services in a manner that is consistent with meeting the needs
24 and circumstances of each county and of the individuals receiving
25 services, ensuring the appropriate use of services, and preventing any
26 disparities based on an individual's needs or their membership in a
27 protected class;

28 (m) to work with the office of court administration to develop train-
29 ing materials for judges and court staff on research and other relevant
30 information regarding best practices on the use of pretrial services and
31 non-monetary release;

32 (n) to evaluate the performance of agencies providing pretrial
33 services, assist agencies to improve services where programs do not meet
34 performance standards set by the office, and decertify programs or place
35 programs on probation that remain unable to meet the standards;

36 (o) to assist local jurisdictions to regularly elicit feedback from
37 current and former recipients of pretrial services regarding the court
38 process, the services they received, recommendations to improve such
39 services, and any other information that the office deems appropriate;

40 (p) to investigate and monitor any other matter related to pretrial
41 services as needed;

42 (q) to develop recommendations regarding the distribution and expendi-
43 ture of any monies appropriated for pretrial services. In making such
44 recommendations, the office may consider, in addition to measures of
45 performance, the commitment of local resources to such services and the
46 changes thereto, the geographic balance of funding among the regions of
47 the state, population, crime rates, poverty rates and individual commu-
48 nity needs;

49 (r) to apply for and accept any grant or gift for any of the purposes
50 of the office. Any monies so received may be expended by the office to
51 effectuate any such purpose, subject to the same limitations as to
52 approval of expenditures and audit as are prescribed for state monies
53 appropriated for such purposes; and

54 (s) to target grants in support of innovative and cost-effective
55 solutions that enhance the provision of quality pretrial services,
56 including collaborative efforts serving multiple counties.

1 3. The office shall establish an advisory board on pretrial services.
2 The office shall determine the size and composition of such advisory
3 board; provided, however, that such advisory board shall include at
4 least one representative from a non-profit pretrial services agency
5 staff, at least two current or former recipients of pretrial services or
6 individuals who were otherwise previously involved in the criminal
7 justice system, the New York state association of pretrial services
8 agencies, probation departments providing pretrial services, the New
9 York state association of counties, and national experts or researchers
10 as needed. The advisory board shall meet no less than two times per
11 year. The advisory board's responsibilities shall include, but not be
12 limited to: providing the office with recommendations for establishing
13 the minimum standards required by subdivision two-a of section 510.45 of
14 the criminal procedure law; reviewing any recommendations developed by
15 the office for ensuring the appropriate use of pretrial services and
16 improving the services that individuals under supervision are provided;
17 and reviewing the data compiled annually by the office.

18 4. The office shall delegate to a city of one million or more respon-
19 sibility for collecting data from such agencies within such city's
20 jurisdiction.

21 5. Within amounts appropriated therefor, funding shall be made avail-
22 able to pay for pretrial services programs certified under this section
23 pursuant to criteria established by the office of pretrial services,
24 which shall take into consideration the local needs and resources, the
25 average number of people receiving such services at any one time, the
26 level of services required by individuals under supervision, and such
27 other factors as may be deemed necessary. Subject to appropriations,
28 pretrial services agencies that receive funding from a local government
29 or municipality shall be eligible for funding from the office of
30 pretrial services.

31 § 3. This act shall take effect one year after it shall have become a
32 law. Effective immediately, the addition, amendment and/or repeal of
33 any rule or regulation necessary for the implementation of this act on
34 its effective date are authorized to be made and completed on or before
35 such effective date.