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Why Criminal Justice Reform Is Important for New Jersey



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We are now less than a year away from implementing one of the most historic and comprehensive changes to how the New Jersey Judiciary administers justice.

As the Jan. 1, 2017 deadline to effectuate criminal justice reform nears, we are preparing to launch pilot programs during the first quarter of this year in the Camden, Morris/Sussex and Passaic vicinages.

Criminal justice reform is the result of a committee Chief Justice Stuart Rabner formed and chaired, a constitutional amendment, and the enactment of the bail/speedy trial reform law. The state will shift from a system that relies principally on setting monetary bail as a condition of release to a risk-based system that considers objective factors unrelated to a defendant's ability to pay monetary bail.

Criminal justice reform will change the procedure judges use to set conditions of release and how quickly a criminal defendant is tried. It will have a positive impact on thousands of people who would otherwise be detained until trial because they cannot afford even a modest bail amount.

A risk-based system promotes community safety and also considers whether the

defendant will appear for future court appearances and whether the defendant is likely to obstruct the criminal justice process.

In my column in the fall edition of the *Judiciary Times*, I answered several questions about this initiative. Additional questions and answers can be found below, and others will appear in future columns.

Why are we doing this?

The criminal justice system is rooted in two principles: That those accused of a crime are innocent until proven guilty and that they have a constitutional right to a speedy trial.

Under the current system in which judges set a dollar amount of bail, poor defendants who pose little risk of danger or flight are sometimes held in county jail because they can't make even modest amounts of bail.

One study revealed that about 12 percent of New Jersey's county jail population remained in custody because they couldn't post bail of \$2,500 or less. More than two-thirds of these indigent defendants were members of racial and cultural minority groups.

Meanwhile, under current law, defendants with assets can post bail and be released even if they pose a serious risk of flight or danger to the public.

How will the bail system change under criminal justice reform?

Under criminal justice reform, judges will assess the level of risk each defendant presents and impose conditions of release. Judges will use an objective risk-assessment tool that has been tested and validated with data from thousands of actual cases in New Jersey.

Judges will consider factors such as the defendant's age at the time of arrest, pending charges, prior convictions and whether any of those involved violence,

prior failures to appear, and prior jail sentences.

With that information, each defendant will be classified as low, moderate, or high risk and may be released on conditions without having to post monetary bail. Defendants who are released pretrial will be monitored by pretrial services staff, similar to those in the federal system and a number of states.

The staff, who will be employed in a pretrial services unit that will be part of the Judiciary, will complete risk assessments so that a judge can set conditions of release within 48 hours of each arrest. The staff will monitor defendants on release based on the level of supervision that each defendant requires. For low-risk defendants, that could amount to just a phone call or text to remind them to show up in court. As the risk level increases, the nature of the monitoring will be enhanced.

Judges also will be able to order those defendants who pose a serious risk of flight, or a serious risk of danger to the community or to witnesses, to be held without bail.

How will the speedy trial component work?

The speedy trial component will set limits on the amount of time a defendant can remain detained before trial. There are three distinct speedy trial limits: 1) from arrest to indictment, 2) from indictment to trial, and 3) an overall limit from detention to trial. The law contains appropriate extensions of time for pretrial motions, competency hearings, plea negotiations, the consent of the parties, and other excludable time.

While these reforms represent a dramatic transformation in how our criminal justice system will operate, I am confident that our dedicated judges and staff, working together as they do on so many other initiatives, will make criminal justice reform a reality.