HOUSE BILL 262

53RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2018

INTRODUCED BY

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AN ACT

RELATING TO BAIL; ESTABLISHING STANDARDS FOR PRETRIAL RISK
ASSESSMENT INSTRUMENTS USED FOR PRETRIAL RELEASE OR DETENTION
DECISIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

    SECTION 1. [<u>NEW MATERIAL</u>] BAIL--PRETRIAL RELEASE--
PRETRIAL DETENTION--PRETRIAL RISK ASSESSMENT INSTRUMENTS.--

        A. A pretrial risk assessment instrument used for
determination of pretrial release or detention shall:

            (1) be objective, standardized and developed
based on analysis of empirical data and factors relevant to the
risk:

                (a) of failure to appear in court when
required; and

                (b) to public safety;

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1   (2)   be consistent with and guided by current

2   research and evidence-based best practices;

3   (3)   be regularly reviewed according to current

4   best practices and standards and adjusted, as appropriate, to:

5   (a)   predict risk of failure to appear in

6   court and risk to public safety;

7   (b)   ensure that the risk assessment

8   instrument is equally accurate across all racial groups, ethnic

9   groups and genders and that the validation study shall include

10   testing for predictive bias and disparate results by race,

11   ethnicity and gender; and

12   (c)   minimize disparate results;

13   (4)   not include race, ethnicity, national

14   origin, immigration status, gender, religion, sexual

15   orientation, education level, employment status, socioeconomic

16   status, arrests that did not lead to conviction or housing

17   status as factors used in assessing risk or determining a risk

18   score or level;

19   (5)   give appropriate weight to factors,

20   including criminal history, in a manner that ensures accuracy

21   while minimizing racial and economic disparities;

22   (6)   once adopted, be transparent and all

23   documents, records and information used to build or validate

24   the risk assessment shall be open to public inspection,

25   auditing and testing; and

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(7)   be annually validated by the New Mexico sentencing commission.

B.   As used in this section:

(1)   "pretrial risk assessment instrument" means an objective, standardized analysis of information about an arrested person that accurately measures the arrested person's probability of appearing in court as required and the arrested person's potential risk of criminal conduct while on pretrial release pending trial; and

(2)   "validated" means developed through peer-reviewed research and statistical analysis based on the characteristics of the population being assessed as enumerated in this section.

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