

## 2018 Seattle City Council Statement of Legislative Intent

Ready for Notebook

Tab	Action	Option	Version
303	1	A	2

**Budget Action Title:** LAW, SMC, and SOCR report on bail reform

Ongoing: No

Primary Sponsor: Herbold, Lisa

Councilmembers:

Staff Analyst: Asha Venkataraman

Date		Total	SB	KH	LG	BH	LH	RJ	DJ	MO	KS
	Yes										
	No										
	Abstain										
	Absent										

### Statement of Legislative Intent:

This Statement of Legislative Intent (SLI) asks the City Attorney's Office (LAW) to work with the Seattle Municipal Court (SMC) and the Seattle Office for Civil Rights (SOCR) to provide a two-part joint report to the Chair of the Civil Rights, Utilities, Economic Development & Arts committee and the Council Central Staff Director regarding whether and how the City will reform its bail practices, including but not limited to use of an actuarial tool instead of cash bail. Part I of the report is due by March 1, 2018 and Part II of the report is due June 30, 2018.

A 2013 Arnold Foundation study funded by the City on pre-trial criminal justice practices showed that more than 60 percent of inmates across the country are being held in detention while their cases move through the court system. In Seattle, research from an SMC study showed that 31 percent of individuals in custody who were charged with misdemeanors in 2014 remained in jail while waiting for their next court date because they were unable to come up with cash for bail. The ACLU issued a 2016 position paper entitled "No Money, No Freedom", detailing the two-tiered monetary based justice system created by cash bail. It stated that "[j]udges in Washington often impose bail at an amount much higher than many people can afford to pay, and without consideration of individual financial circumstances and resources....This two-tiered approach denies justice to individuals, undermines the fairness of the court system, and imposes unacceptably high costs on the accused, their families, and our communities." Though the original purpose of bail was a deposit to ensure a person would show up to their court date, it has "become an excessive financial burden, one so great that it prevents the accused from getting out of jail while his or her case is pending."

Jurisdictions such as the District of Columbia and the federal court system have all but eliminated cash bail, instead using a system to identify the small percentage of defendants who pose the greatest likelihood of danger to the community and detain only those individuals. King County Juvenile Detention uses a detention risk assessment instrument (DRAI) rather than bail to look at a wide range of criteria and provide a composite score determining risk. Depending on the score, the DRAI recommends release on personal recognizance,

electronic monitoring, or detention, and a judge can use these recommendations to determine release. Several other jurisdictions including Phoenix, AZ, Chicago, IL, and Charlotte, NC use a public safety assessment (PSA) to look at factors determining whether a person is likely to be a flight risk, reoffend, or violently reoffend to determine whether to detain a person.

These or other actuarial tools can provide more consistency in the pre-trial release process and eliminate the use and impact of cash bail. This SLI requests an examination of how these or similar tools used in jurisdictions not using cash bail could be used at SMC. Part I of the report should include:

- A survey of actuarial tools used instead of cash bail, including a review of any evaluations done on those tools; and
- Best practices associated with such a tool.

Part II of the report should include:

- Whether LAW and SMC plan to implement bail reform, including use of an actuarial tool, and if so, a timeline for reforms;
- A recommended process for community engagement before and throughout implementation of bail reform;
- Estimated savings in jail and court costs;
- An analysis of unintended consequences that should be addressed before implementation; and
- Any necessary legislative, regulatory, or rule changes needed to implement bail reform.

**Responsible Council Committee(s):** Civil Rights, Utilities, Economic Development and Arts Committee

**Date Due to Council:** Part I: March 1, 2018

Part II: June 30, 2018