



Contra  
Costa  
County

To: Board of Supervisors  
From: LEGISLATION COMMITTEE  
Date: March 14, 2017

Subject: Support Position on AB 42 (Bonta): Bail Reform and SB 10 (Hertzberg): Bail: Pretrial Release

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**RECOMMENDATION(S):**

ADOPT a "Support" position on AB 42 (Bonta): Bail Reform, as amended, and a position of "Support" on SB 10 (Hertzberg): Bail: Pretrial Release, as amended, as recommended by the Legislation Committee. Both bills require the court to release a defendant being held for a misdemeanor offense on his or her own recognizance unless the court makes an additional finding on the record that there is no condition or combination of conditions that would reasonably ensure public safety and the appearance of the defendant if the defendant is released on his or her own recognizance.

**FISCAL IMPACT:**

The intent of these bills is to safely reduce the number of people detained in jail pre-trial, while addressing racial and economic disparities in the pre-trial system, and to ensure that people are not held in pre-trial detention simply because of their inability to afford money bail. There is an unknown fiscal impact on the County General Fund from the potential reduction in the pre-trial population held in County jails.

**BACKGROUND:**

The Board of Supervisors' adopted 2017 State Platform includes policies related to the law

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☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☒ RECOMMENDATION OF BOARD COMMITTEE

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Action of Board On: **03/14/2017** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

**VOTE OF SUPERVISORS**

AYE: John Gioia, District I Supervisor  
Candace Andersen, District II Supervisor  
Diane Burgis, District III Supervisor  
Karen Mitchoff, District IV Supervisor  
Federal D. Glover, District V Supervisor

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: March 14, 2017

David Twa, County Administrator and Clerk of the Board of Supervisors

By: June McHuen, Deputy

Contact: L. DeLaney,  
925-335-1097

cc:

and justice systems, Public Safety Realignment, and reentry efforts.

These policies include

## BACKGROUND: (CONT'D)

#189 related to bail reform: SUPPORT legislative reform of current bail provisions that will replace reliance on money bail with a system that incorporates a pretrial risk assessment tool and evidence-based pre-trial release decisions. The current reliance on fixed bail schedules and commercial money bonds ignores public safety factors and unfairly penalizes poor people who are awaiting trial. Bail reform in this manner will ensure that only dangerous persons who cannot be safely supervised in the community while they are awaiting trial will be held in custody pretrial. Locally, our County has moved in this direction with an AB109 funded pre-trial program.

AB 42 (Bonta): Bail Reform and SB 10 (Hertzberg): Bail: Pretrial Release: Two bills that have been introduced thus far. The bills are essentially similar and state the intent of the Legislature to reduce the number of people detained pretrial and to ensure that people are not held simply because of their inability to afford bail: "It is the intent of the Legislature to enact legislation to safely reduce the number of people detained pretrial, while addressing racial and economic disparities in the pretrial system, to ensure that people are not held in pretrial detention simply because of their inability to afford money bail."

Both bills would require the court to release a defendant being held for a misdemeanor offense on his or her own recognizance unless the court makes an additional finding on the record that there is no condition or combination of conditions that would reasonably ensure public safety and the appearance of the defendant if the defendant is released on his or her own recognizance.

SB 10 was referred to the Senate Committee on Public Safety, which is chaired by Senator Nancy Skinner. AB 42 is pending hearing in Assembly Public Safety.

AB 42 is included as *Attachment A*. SB 10 is included as *Attachment B*.

The Legislation Committee considered both bills at its February 13, 2017 meeting and voted unanimously to recommend a position of "Support" on both bills to the Board of Supervisors.

## CONSEQUENCE OF NEGATIVE ACTION:

If the Board of Supervisors does not adopt a "Support" position on these bills, the County will not be able to advocate for them.

## ATTACHMENTS

Attachment A: AB 42 (Bonta)

Attachment B: SB 10 (Hertzberg)