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TO: Chair Delegate Luke Clippinger  
Vice Chair Delegate Vanessa E. Atterbeary  
Members of the House Judiciary Committee

RE: HB 49, entitled “Criminal Procedure – Pretrial Release – Pretrial Risk Assessment Instruments”.

DATE: January 20, 2020

I am writing in support of HB 49, entitled “Criminal Procedure – Pretrial Release – Pretrial Risk Assessment Instruments”.

Before I get into specifics, please allow me to give you some background about me. I am a Professor and Director of the School of Criminal Justice at the University of Cincinnati, where I have been on the faculty since 1980. My professional background includes more than 40 years of professional experience in the fields of criminal justice, juvenile justice, community corrections, courts and corrections. I am also the primary developer of the Ohio Risk Assessment System (ORAS), which includes the ORAS-Pretrial Assessment Tool, which is used in a number of jurisdictions throughout the United States. I have also conducted workshops to judges on “What Works in Pretrial Assessment” for the National Center for State Courts, the National Judicial College and the Maryland Judicial College. In 2016 I also testified on the use of pretrial assessment to the Judicial Council of California, Administrative Office of the Courts.

A fundamental decision of a pretrial agency lies in the recommendation made to the court regarding whether an individual is detained or released, and if released, with or without some conditional requirements. The pretrial release decision generally considers two factors: 1) the likelihood that a defendant will appear for subsequent court hearings and 2) the likelihood that public safety will not be jeopardized as a result of the defendant’s return to the community. This is an important decision since it must strike a balance between the individual’s personal freedom and public safety.

I have several recommendations that I often give to those wishing to reform pretrial. First, pretrial agencies should utilize a risk assessment instrument to help guide decisions. We have known for many years that including a *valid* actuarial risk assessment instrument is more accurate at predicting failure-to-appear and likelihood of new criminal behavior than professional judgement alone. This also can provide an opportunity for those that cannot afford bail to be released on their own recognizance.

My second recommendation is that any tool used to help predict risk needs to be validated. It is important that the tools are normed and validated on the population for which they are being used. This helps determine if the indicators included in the risk determination are predicting the desired outcomes, and that the scores used to determine risk levels are placing defendants in proper categories. This helps ensure that the tools are working as designed and are free of bias. While it is not uncommon for an existing tool to be adopted, it is my professional recommendation that any jurisdiction using a pretrial assessment instrument begin the validation process as soon as sufficient data has been gathered to conduct an analysis. After that, as a general rule tools should be validated every five years. This of course is in line with your proposed bill and is consistent with best practices.

Thank you for giving me the opportunity to comment on the bill and I applaud you for your efforts.

Sincerely,

A handwritten signature in black ink, appearing to read 'Edward Latessa', with a long, sweeping underline that extends to the right.

Edward Latessa, Ph.D.  
Professor and Director