

Our Story - Pretrial Program 2017-present

The 2017 Montana Legislature passed a package of bills called “Justice Reinvestment”. Included in the package of bills was House Bill 59, based on an interest to develop a pretrial program for the State of Montana. House Bill 59 passed and is now in Montana Code Annotated 3-1-708. House Bill 59 placed the pretrial program in the Office of the Supreme Court Administrator. House Bill 59 was drafted to address a variety of issues such as: jail overcrowding, backlog of court cases, ensuring defendants are provided swift and appropriate due process and defendants released pretrial gain support to remain crime free and make all court appearances.

The legislation mandated the pretrial program use a validated pretrial risk assessment tool. After researching existing pretrial assessments and considering developing its own, the staff from the Office of the Court Administrator Office (OCA) recommend to the Chief Justice and the appointed Advisory Committee that OCA utilize an instrument developed by the Laura and John Arnold Foundation called the Public Safety Assessment (PSA). OCA was granted permission by the foundation to utilize the PSA and provided a great deal of training and support in the development of the pretrial project including a series of meetings with stakeholders from the five selected pretrial “pilot” counties (Butte/Silver Bow, Lake, Lewis and Clark, Missoula, Yellowstone),

In a recent pretrial journal regarding Montana’s pretrial project, it was stated that “All of these counties now have access to a PSA report and recommendations for release conditions submitted electronically from the appropriate court administrator to the appropriate judge, prosecutor, and defense attorney. The efficiency of this process allows these counties to make release decisions effectively and efficiently, eliminating or lessening the likelihood of unnecessary detention.”

In the summer of 2017, the Chief Justice and Court Administrator selected the statutory required Advisory Committee. In October of 2017, a Working Committee was established and presented the implementation plan to the Advisory Committee.

In the fall of 2017, the committees finalized the budget, signed an agreement with Arnold Ventures, created a business model, vision, objectives, and mission statement for the pretrial program. The Working Committee, along with consultants, and the attorney for Arnold Ventures met to address and create a list to identify violent charges and developed the [Pretrial Release Guide \(PRG\)](#).

A decision was made to use a centralized assessment model to pilot the pretrial programs in the five counties. A Pretrial Project Manager/Coordinator (PPM), one full-time Lead PSA Processor and two part-time PSA Processors, who are employees of

the Montana Office of the Court Administrator, based in Helena, serve the counties. A Case Manager is assigned in each county to manage the project funded by the OCA.

In the Spring of 2018, the pretrial program went “live”, and the counties began sending charging documents electronically to the PSA coordinator and processors. The documents are reviewed to determine if it meets the criteria for preparing a PSA. For those eligible for pretrial release, a criminal history investigation and a review of court information systems is conducted. The PSA report is generated with the recommended level of monitoring and release conditions. The county-based case manager ensures the PSA report is disseminated to the appropriate judge, county attorney and defense attorney. The case managers work to ensure the defendant receives supervision and services as recommended to aid each defendant’s chances for pretrial success. The efforts of the case manager, contracted services providers and the OCA processors combine to achieve the goal of pretrial to maximize release, maximize public safety and maximize court appearances for defendants encountering Montana’s justice system.

To ensure PSA accuracy and consistency OCA processors have daily and weekly quality assurance audits. These audits are reviewed by the Pretrial Project Manager/Coordinator monthly and discussed at the Processors monthly meeting. The Pretrial Project Manager also facilitates monthly meetings with the Case Managers and Processors to discuss any issues or new developments in the program.

Since the program was established nearly 35,000 PSAs have been prepared by the OCA Processors, averaging 3,445 PSAs a year. The program continues to evolve. For instance, charges such as Partner Family Member Assault or DUI 2nd and above, if the defendant scores a 1, the PSA score is automatically bumped to a 2. (Refer to PRG). With continued funding from the Montana Legislature, the Montana Supreme Court intends to expand the pretrial program to additional counties in 2023.