



KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

October 26, 2010

Ordinance 16953

Proposed No. 2010-0430.3

Sponsors Ferguson and Phillips

1 AN ORDINANCE relating to the development, adoption
2 and use of a pretrial risk assessment tool for the adult
3 detention population that will provide a uniform, objective
4 measure of the relevant risk factors for presenting a danger
5 to the community or failing to appear in court; requiring
6 enhanced reporting on the pretrial defendant population and
7 notification of screening criteria for alternatives to secure
8 detention.

9 **STATEMENT OF FACTS:**

10 A. The King County department of adult and juvenile detention, through
11 its community corrections division, operates a series of alternatives to
12 incarceration for pretrial defendants unable to post bail and sentenced
13 offenders, including work education release, electronic home detention
14 and day reporting programs through the community center for alternative
15 programs. These alternatives provide the courts with options between jail
16 and release to the community.

17 B. In order to be eligible to participate in the alternatives to detention
18 provided by the community corrections division, a defendant must be
19 ordered to the program by the court and must be statutorily eligible for the

20 program. Washington state law governs eligibility for post conviction
21 participants. There are currently no uniform eligibility conditions for
22 pretrial defendants.

23 C. The community corrections division operates the intake services unit.
24 This unit serves the function of a pretrial services program for King
25 County courts, interviewing defendants shortly after arrest to gather
26 information about residence, ties to the community, employment, criminal
27 history and substance abuse and mental health status, and investigating
28 defendants' past criminal history. The unit presents the results of its
29 interviews and investigations to the court at initial appearance or
30 arraignment to aid the courts in reaching a pretrial release decision. There
31 is no uniform tool to objectively assess risk based on these results for the
32 adult population.

33 D. In 2007, the council unanimously adopted as part of the 2008 budget, a
34 provision requiring the office of management and budget to review the
35 current use of community corrections alternatives and programs and
36 evaluate whether changes in screening, processing, sentencing or
37 monitoring compliance could lead to a better utilization of these programs.

38 E. In May 2008, the office of management and budget recommended that
39 the county explore the implementation of a pre-trial risk assessment tool to
40 be administered by the intake services unit to help the court identify risk
41 levels when making pretrial releases decisions. In August 2008, the

42 Justice Management Institute issued a report supporting this
43 recommendation.

44 F. Pretrial risk assessment tools use objective criteria and actuarial
45 calculations to assess the risk that a defendant will fail to appear before the
46 court or will reoffend while awaiting trial, presenting a danger to public
47 safety.

48 G. King County juvenile court services successfully utilize a risk
49 assessment tool to screen offenders and guide placement in detention or
50 alternatives to detention.

51 H. King County established a pretrial risk assessment work group and
52 hired a national expert to explore the feasibility of implementing a risk
53 assessment tool for pretrial defendants in the adult population. In 2009,
54 the work group reached consensus that a risk assessment tool would have
55 multiple benefits, including: increasing efficiency by better organizing
56 intake reports, speeding up pretrial release decisions, and better managing
57 the jail population; protecting public safety by identifying higher risk
58 defendants; reducing the likelihood of biases that might result in
59 disproportionate confinement of minorities or other groups or individuals;
60 and helping the public better understand decisions that are made. The
61 workgroup recommended that a risk assessment tool was needed and
62 selected a plan for developing and implementing a tool.

63 I. A risk assessment tool will aid the court in making pretrial release
64 decisions and uniformly assessing risk, reducing the potential for high risk

65 offenders to be released into the community and for low risk offenders to
66 serve time in detention, costing additional taxpayer dollars.

67 J. Collecting and reporting data on the pretrial population participating in
68 alternatives to detention programs will allow county policy makers, the
69 courts, and the division to evaluate these programs and ensure that they
70 continue to reduce recidivism, save taxpayer dollars, and protect public
71 safety.

72 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

73 SECTION 1. K.C.C. 2.16.120.A.2. and 2.16.122.B.1. provide that the department
74 of adult and juvenile detention and its community corrections division shall implement
75 alternatives to adult detention based on screening criteria approved by the superior and
76 district courts. The superior and district courts are respectfully requested to consider
77 approval of screening criteria for participation by pretrial defendants in the alternatives to
78 adult detention programs, specifically for defendants with a prior felony conviction, and
79 are respectfully requested to notify the council of the status of screening criteria by
80 March 1, 2011. The notification should be filed in the form of a paper original and an
81 electronic copy with the clerk of the council, who shall retain the original and provide an
82 electronic copy to all councilmembers and to the committee coordinator for the law,
83 justice, health and human services or its successor. Based on the findings of the report,
84 the council may consider further legislative action.

85 SECTION 2. The pretrial risk assessment workgroup convened by the adult
86 justice operational master plan advisory group in 2009 shall proceed with the
87 development of a validated risk assessment tool to inform the court when making pretrial

88 release decisions. The tool shall provide a uniform, objective measure of the relevant risk
89 factors that a pretrial defendant will be not likely to appear when required or presents a
90 likely danger of committing a violent crime, seeking to intimidate witnesses or otherwise
91 unlawfully interfering with the administration of justice as set forth in Washington state
92 Court criminal rules CrRLJ and CrR 3.2. These risk factors include, but are not limited
93 to, past history or record of committing offenses, employment status, family and
94 community ties, reputation, character, mental condition, length of residence in the
95 community, and the nature of the charge. The workgroup shall report to the council
96 quarterly, beginning in the fourth quarter of 2010 on the progress of the development of
97 and the implementation plan for the tool. The quarterly reports shall be filed in the form
98 of a paper original and an electronic copy with the clerk of the council, who shall retain
99 the original and provide an electronic copy to all councilmembers and to the committee
100 coordinator for the law, justice, health and human services committee or its successor.

101 SECTION 3. Upon the approval and use of a validated pretrial risk assessment
102 tool by the courts, the department of adult and juvenile detention, working in consultation
103 with the courts, shall transmit to the council for acceptance by motion a report that
104 describes the implementation and use of the tool for the first six months after validation.
105 The report shall be filed in the form of a paper original and an electronic copy with the
106 clerk of the council, who shall retain the original and provide an electronic copy to all
107 councilmembers and to the committee coordinator for the law, justice, health and human
108 services committee or its successor.

109 SECTION 4. By December 1, 2010, the office of management and budget,
110 working in consultation with the department of adult and juvenile detention and the

111 courts, shall submit to the council for its review and acceptance by motion a report on the
112 pretrial defendants charged with violent or sex crimes who were participants in
113 community corrections alternatives to detention programs in 2009 and the first half of
114 2010. The report shall include, but not be limited to, an examination of the defendant's
115 history of convictions for violent or sex crimes in the prior ten years, the rate at which the
116 defendant failed to appear in court during the defendant's participation in the alternative,
117 the number of defendants booked into the King County jail on a new crime during
118 participation in an alternative, and the number of defendants who failed to comply with
119 the conditions of pretrial release using an alternative program. The report and legislation
120 required to be submitted by this ordinance must be filed in the form of a paper original
121 and an electronic copy with the clerk of the council, who shall retain the original and
122 provide an electronic copy to all councilmembers and to the lead staff of the law, justice,
123 health and human services committee or its successor.

124 SECTION 5. As directed in Ordinance 14430, which adopted the adult justice
125 operational master plan, the executive, in consultation with the criminal justice council,
126 regularly reports on the status of adults in secure detention and in the community
127 corrections alternative programs. The executive shall also include a supplement to the
128 detention and alternatives report in January 2011, February 2011 and April 2011, and
129 monthly beginning in May 2011, that provides information on the pretrial adults
130 participating in alternative programs, including but not limited to: the current pending
131 charge, including whether it is a felony or misdemeanor, whether it meets the definition
132 of "violent offense" in RCW 9.94A.030 and whether it meets the definition of "sex
133 offense" in RCW 9.94A.030; any prior felony conviction in the state of Washington in

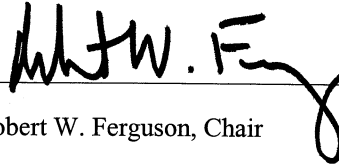
134 the last ten years; failure to comply with the conditions of pretrial release or notice of
135 reported violations that have been sent to the court or the King County prosecuting
136 attorney in the current case or in past cases in King County; failure to appear before the
137 court that ordered the alternative and failure to appear history in the last ten years in King
138 County; and whether participants were rearrested by the King County sheriff, rebooked
139 into the King County jail facilities or charged with a new offense by the King County
140 prosecuting attorney. The executive shall also make every effort to include in the
141 supplement other available information on the pretrial adults participating in alternative
142 programs, including but not limited to: any prior felony conviction outside the state of
143 Washington in the last ten years; any previous failure to comply with conditions of
144 release outside of King County; failure to appear history in the last ten years outside of

145 King County; and whether participants were rearrested, rebooked, or charged with a new
146 offense by another agency or jurisdiction.
147


Ordinance 16953 was introduced on 8/23/2010 and passed as amended by the Metropolitan King County Council on 10/25/2010, by the following vote:

Yes: 9 - Ms. Drago, Mr. Phillips, Mr. von Reichbauer, Mr. Gossett,
Ms. Hague, Ms. Patterson, Ms. Lambert, Mr. Ferguson and Mr. Dunn
No: 0
Excused: 0

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON


Robert W. Ferguson, Chair


ATTEST:



Anne Noris, Clerk of the Council

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CLERK
KING COUNTY COUNCIL

APPROVED this 3 day of NOVEMBER 2010.



Dow Constantine, County Executive

Attachments: None