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Title: AN ORDINANCE establishing interim conditions of eligibility for the use of pretrial alternatives to detention; and amending Ordinance 12432, Section 2, as amended, and K.C.C. 2.16.120 and Ordinance 14561, Section 9, and K.C.C. 2.16.122.

Sponsors: Bob Ferguson, Jane Hague

Indexes: Adult and Juvenile Detention

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Attachments: 1. Ordinance 17148.pdf, 2. Attachment 2 2011-0205 Information Currently Used by the Superior Court at Arraignment 4-26-11, 3. Attachment 3 2011-0205 Description of Community Corrections Division Alternative Programs 4-26-11, 4. Attachment 4 2011-0205 Requirements of Ordinance 16953 4-26-11, 5. Attachment 5 2011-0205 Background on Pretrial Risk Assessment Tools 4-26-11, 6. Attachment 6 2011-0205 Case History Examples 4-26-11, 7. 2011-0205 staff report 4-26-11, 8. 2011-0205 Pretrial Risk Assessment eligibility requirements sr pj 05-10-11.doc, 9. 2011-0205 Pretrial Risk Assessment eligibility requirements sr pj 06-28-11 final.doc, 10. 17148 Amendment Package 7-25-11.pdf

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Clerk 07/26/2011

AN ORDINANCE establishing interim conditions of eligibility for the use of pretrial alternatives to detention; and amending Ordinance 12432, Section 2, as amended, and K.C.C. 2.16.120 and Ordinance 14561, Section 9, and K.C.C. 2.16.122.

STATEMENT OF FACTS:

A. The King County department of adult and juvenile detention, through its community corrections division, operates a series of alternatives to incarceration for pretrial defendants and sentenced offenders, including work education release, electronic home detention and day reporting programs through the community center for alternative programs.

B. To participate in the alternatives to detention provided by the community corrections division, a defendant must be ordered to the program by the court and must be statutorily eligible for the program. Washington state law governs eligibility for post conviction participants and prohibits the use of these programs for individuals serving sentences following conviction of a violent or sex crime. There are currently no eligibility conditions for pretrial defendants.

C. In 2010, the King County council adopted Ordinance 16953, signed by the executive, that directed the creation of a pretrial risk assessment tool that will use objective criteria and actuarial calculations to assess the risk that a defendant will fail to appear before the court or will reoffend while awaiting trial, presenting a danger to public safety.

D. A risk assessment tool will aid the superior and district courts in making pretrial release decisions and will uniformly assess risk across all defendants, reducing the potential for high risk offenders to be released into the community through alternatives to detention programs, posing a danger to public safety. The tool will also reduce the potential of low risk offenders serving time in secure detention, resulting in additional taxpayer expense.

E. Until a risk assessment tool is implemented, it is in the interest of the county to further promote public safety by establishing interim eligibility conditions on the use of alternatives to detention to limit the use of these by the highest risk defendants.

F. The Washington state Administrative Office of the Court has issued a domestic violence manual for judges that states:

1. The lethal potential of domestic violence is well documented;
2. Studies also show that domestic violence tends to escalate in frequency and severity over time;
3. Research also suggests that domestic violence tends to escalate when the victim leaves the relationship; and
4. The victim is especially vulnerable to retaliation or threats by the defendant during the pretrial period.

G. It is in the interest of the county to further promote public safety by establishing interim eligibility conditions on the use of alternatives to detention to limit the use of these alternatives by serious domestic violence offenders until a risk assessment tool is implemented.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Ordinance 12432, Section 2, as amended, and K.C.C. 2.16.120 are each hereby amended to read as follows:

A.1. The department of adult and juvenile detention is responsible to manage and be fiscally accountable for the Seattle division, the Kent division, the juvenile division, the community corrections division and the administrative services division, each of which shall have equal standing within the department. Through the Seattle division and the Kent division, the department shall operate the King County adult correctional facility and the security operation of the work and education release unit in Seattle and the Regional Justice Center adult correctional facility in Kent. Through the juvenile division, the department shall operate the county's juvenile detention facility. Through the community corrections division the department shall administer programs that provide alternatives to confinement in the adult correctional facilities, as well as services and support functions directed toward reduction of the adult correctional facilities' populations. Through the administrative services division, the department shall administer personnel operation, budget and fiscal operations and other central support services for the department. In addition, the administrative services

division shall be responsible for the administration and monitoring of jail health expenditures and services through a jail health levels of service agreement and contract with its health services contractor. The division shall monitor the provision of health care services and is responsible for ensuring that minimum inmate health care needs are met and monitoring the cost-containment provisions for both operational and health care related costs.

2. The judges of the superior court have final authority for approval of all screening criteria for admission to the juvenile detention facility and alternatives to confinement in the juvenile detention facility. The department shall implement such criteria approved by the superior court related to the juvenile detention facility. The department shall implement the criteria approved by the superior and district courts related to adult detention facilities and alternatives to confinement, subject to the eligibility conditions in subsections E. and F. of this section.

B. The duties of the Seattle division and the Kent division shall include the following:

1. House adult persons who are any combination of arrested for, charged for or held on investigation of a criminal offense;
2. House adult persons during trial, and before sentencing after conviction;
3. House adult persons serving sentences not exceeding one year;
4. Maintain records and process and identify property of persons confined or committed to correctional facilities operated by the division;
5. Perform functions related to residential and building security, including supervision of persons confined or committed to correctional facilities operated by the division;
6. Transport confined or committed adult persons to and from court and provide secure escort of those persons outside the facilities;
7. Provide nutritional meals daily to confined or committed adult persons, including preparation of special meals in response to medical and religious requirements;

8. Provide health care to confined or committed adult persons in conjunction with the Seattle-King County department of public health, including medical, dental and psychiatric care;

9. Provide social services to and for confined or committed adult persons, including, but not limited to, the following: classifying those persons; evaluating mentally ill or developmentally disabled confined or committed persons, including referral to available community programs; reviewing those persons with psychiatric problems; reviewing other special population groups; providing general population group management; and providing outside agency access to those persons including special visitation, library, recreational and educational services; and

10. Ensure compliance with laws and regulations applicable to the management and operation of the correctional facilities.

C. The principle function of the juvenile division is to operate the county's juvenile detention facility in a safe, secure and humane manner as prescribed by state law and court rules. The juvenile division shall administer alternatives to secure detention as approved by the court, a school program, a health program and other related programs. The juvenile division shall be operated in a manner that will give reasonable access to the defense bar, juvenile probation counselors and social service providers and educators, consistent with appropriate security measures and public safety.

D. The duties of the administrative services division shall include administering personnel operations, budget and fiscal operations and other central support services involving all divisions in the department to ensure consistency and efficiency of operations. The department's director (~~([øf])~~) of the administrative services division shall oversee these operations and services, and the operations and services shall conform to county policies and procedures and to department guidelines and practices.

E. An individual is not eligible for the pretrial alternative to adult detention entitled community corrections alternative program basic if the individual is charged with a violent offense or sex offense and has one or more convictions of a violent offense or sex offense, as defined in RCW 9.94A.030, in the ten years

before the date of the charged offense.

F. An individual is not eligible for the pretrial alternative to adult detention entitled community corrections alternative program basic if the individual is charged with a domestic violence felony offense and has one or more convictions of a domestic violence felony offense, as defined in RCW 9.94A.525, in the ten years before the date of the charged offense.

SECTION 2. Ordinance 14561, Section 9, and K.C.C. 2.16.122 are each hereby amended to read as follows:

A. The community corrections division is established as a subordinate administrative office under ((~~King County Charter~~)) Section 350.10 of the King County Charter. The division manager shall be subject to ((~~the provisions of King County Charter~~)) Section 340 of the King County Charter, requiring that the appointed division manager be subject to council confirmation. The department shall provide administration, analytic and other support to the division.

B. The duties of the community corrections division shall include:

1. Based on screening criteria approved by the superior and district courts and eligibility conditions in subsections C. and D. of this section, implementation of alternatives to adult detention, including, but not limited to, electronic home detention, work and education release, day and evening reporting and work crews;
2. Assessment of the needs of adult persons place in alternatives to detention; and
3. Contracting with private nonprofit community agencies to provide services for relicensing offenders.

C. An individual is not eligible for the pretrial alternative to adult detention entitled community corrections alternative program basic if the individual is charged with a violent offense or sex offense and has one or more convictions of a violent offense or sex offense, as defined in RCW 9.94A.030, in the ten years before the date of the charged offense.

D. An individual is not eligible for the pretrial alternative to adult detention entitled community

corrections alternative program basic if the individual is charged with a domestic violence felony offense and has one or more convictions of a domestic violence felony offense, as defined in RCW 9.94A.525, in the ten years before the date of the charged offense.

SECTION 3. A. It is expected that the public benefit of the interim eligibility conditions on the use of pretrial alternatives to adult detention will be superseded by the approval and use of a validated pretrial risk assessment tool by the courts. As such, the conditions established in sections 1 and 2 of this ordinance expire sixty days following the acceptance by motion of the report required in Ordinance 16953, Section 3 that describes the implementation and use of the tool.

SECTION 4. In conjunction with the development of a risk assessment tool, the pretrial risk assessment work group shall perform a comprehensive, holistic review of the county's pretrial release, pretrial diversion and therapeutic court programs and practices to determine any disproportionate impacts on racial, ethnic or other minorities. The review shall include, but not be limited to, personal recognizance, felony administrative release on recognizance, release on bail, drug court, mental health court, family treatment court and alternative to detention programs. The work group shall submit its findings to the council and executive in the form of a report to be submitted in conjunction with the report that describes the implementation and use of the tool for the first six months after validation as required in Ordinance 169543.