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May 3, 2018

Cory Jasperson
Director, Governmental Affairs
Judicial Council of California
520 Capitol Mall, Suite 600
Sacramento, CA 95814-4717

Re: SB 10 (Hertzberg):Bail: Pretrial Release (Support)

Dear Mr. Jasperson:

The California Conference of Local Health Officers (CCLHO) voted at the CCLHO Board meeting on April 5, 2018 to take a Support recommendation on SB 10 (Hertzberg), a bill that would, beginning January 1, 2020, implement a revised pretrial release procedure in California.

CCLHO recommends a support position on SB 10, as modernization of the pretrial system is urgently needed in California, where thousands of individuals held in county jails have not been convicted of a crime and are detained while awaiting trial simply because they cannot afford to post money bail or pay a commercial bail bond company. For example, in 2015, 63 percent of people in California jails were either awaiting trial or sentencing. In 2016, the percentage of people in California jails awaiting trial or sentencing rose to 66 percent. As compared with the rest of the country, California has relied on pretrial detention at much higher rates.

The revised pretrial release procedure outlined in SB 10 would, among other things, require that a pretrial services agency conduct a pretrial risk assessment on an arrested person and prepare a pretrial services report that includes the results of the pretrial risk assessment and recommendations on conditions of release. The bill would also require, for a person in custody at the time of his or her arraignment, the judge or magistrate to consider the pretrial services report and to order the pretrial release of the person, with or without conditions, subject to the person signing a specified release agreement. If the judge or magistrate determines that pretrial release will not reasonably ensure the appearance of the person in court as required, SB 10 would require the judge or magistrate to set monetary bail at the least restrictive level necessary to ensure the appearance of the defendant in court as required.

SB 10 would also authorize a person to be detained pretrial only if the court makes one of several specified findings. Finally, SB 10 would require each county to establish a pretrial services agency that would be responsible for gathering information about newly arrested persons, conducting pretrial risk assessments, preparing individually tailored recommendations to the court regarding release options and conditions, and providing pretrial services and supervision to persons on pretrial release. CCLHO recommends that SB 10 further clarify the process for establishing and, if needed, funding the local pretrial risk agency described in the current version of the bill.

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CCLHO also recommends a support position on SB 10 due to the inequities in the current pretrial detention process. California's existing pretrial detention practices allow a person's wealth rather than the person's likelihood of success on pretrial release to determine whether the person will remain in jail before the person's case is resolved. Detaining people simply due to an inability to afford money bail violates the American principles of equal protection and fundamental fairness. Nationwide, the majority of people who are unable to meet money bail fall within the poorest third of society.

The consequences of pretrial detention, which include a greater likelihood of innocent people pleading guilty to a crime, longer sentences upon conviction, loss of employment, income, and housing, and traumatic family disruption, disproportionately affect people of color and low-income people. CCLHO is concerned that pretrial detention as a result of inability to pay exacerbates multiple inequities within our communities.

CCLHO was established in statute in 1947 to advise the California Department of Health Services (now California Department of Public Health), other departments, boards, commissions, and officials of federal, state and local agencies, the Legislature and other organizations on all matters affecting health. CCLHO membership consists of all legally appointed physician health officers in California's 61 city and county jurisdictions.

Should you have any questions, please contact me by phone at 530-265-7154 or by email at ken.cutler@co.nevada.ca.us.

Sincerely and on behalf of the CCLHO membership,

Original signed by Dr. Ken Cutler

Ken Cutler, MD, MPH
President, California Conference of Local Health Officers

cc: Karen L. Smith, MD, MPH, Director and State Public Health Officer, California
Department of Public Health