



National Association for Court Management

Resolution # _____1_____ Year _____2016_____

- Supporting Fair Practices in the Application of Fines and Fees for Pretrial Release -

WHEREAS, the practice of using an evidence-based risk assessment to determine the likelihood of failure to appear for court or rearrest, if released, is vital to ensuring compliance and fairness in pretrial practices; and

WHEREAS, according to the American Bar Association the purpose of bail is to ensure that defendants will appear for trial and all pretrial hearings for which they must be present; and

WHEREAS, the Pretrial Justice Institute has taken the position that the impact of pretrial detention, regardless of the length, leads to the increased likelihood of an individual's loss of access to education and employment, which can in turn result in an increased risk for rearrest; and

WHEREAS, the American Civil Liberties Union has taken the position that the number of indigent persons who are incarcerated due to the inability to pay legal debts is increasing at an alarming rate, creating a racially-skewed, two-tiered system of justice that violates the basic constitutional rights of poor people; and

WHEREAS, courts have the authority to impose substantial legal financial obligations on defendants in a wide range of cases; and

WHEREAS, these legal financial obligations can lead to high levels of debt and incarceration for failure to pay which can be burdensome and harmful to defendants and their families and act as barriers to successful societal reintegration; and

WHEREAS, the increasing use of fines and fees in the criminal justice process, e.g. citations, bail, court appearances, charges for public defender representation, room and board for jail or prison, drug testing, counseling services, electronic monitoring, probation and parole supervision, fees for late payment or nonpayment, interest charges, and other miscellaneous surcharges make the concept of providing options in the payment of fines and fees too costly and narrowly focused to be true alternatives; and

NOW, THEREFORE, BE IT RESOLVED that NACM, as a collaborative partner, supports, commends, and endorses the Conference of State Court Administrators (COSCA) Policy Paper on Evidence-Based Pretrial Release. NACM stands with COSCA in urging court leaders to utilize evidence-based risk assessments when pretrial release is an option to protect the rights of persons charged with an offense, and to ensure public safety.

BE IT FURTHER RESOLVED that NACM supports the leadership of the Conference of Chief Justices and the Conference of State Court Administrators' National Task Force on Fines, Fees and Bail Practices in its efforts to develop solutions to problems related to unnecessary and unlawful pretrial detention and its impact on poor persons involved in the justice system.

APPROVED BY VOTE OF THE NACM BOARD ON _____7/8/16_____