



CITY OF BEVERLY HILLS

455 NORTH REXFORD DRIVE • BEVERLY HILLS, CALIFORNIA 90210

Lili Bosse, Mayor

September 5, 2017

The Honorable Lorena Gonzalez Fletcher
Chair, Assembly Appropriations Committee
State Capitol, Room 2114
Sacramento, CA 95814

RE: SB 10 (Hertzberg) Bail: pretrial release. – OPPOSE

Dear Chair Gonzalez Fletcher:

On behalf of the City of Beverly Hills, I write to you in respectful **OPPOSITION** to **SB 10 (Hertzberg)**. This bill would revise California's pretrial release system in a way that would jeopardize public safety and impede local control.

Specifically, **SB 10 (Hertzberg)** would limit pretrial detention to specified persons; eliminate the use of county bail schedules; and, establish county pretrial services agencies tasked with conducting risk assessments on arrested persons and preparing reports with recommendations for conditions of release.

This bill inhibits local control and flexibility relative to allowing each jurisdiction to determine who will handle the various aspects of the pretrial program, including assessments, reports, and monitoring. In a county as large as Los Angeles County, which includes 88 incorporated cities and more than 10 million residents, a single county pretrial service agency as proposed by this bill would be unable to effectively create and implement a thoughtful and collaborative pretrial process. It is imperative that each jurisdiction be able to determine and assign pre-trial responsibilities as determined appropriate at the local level.

Additionally, **SB 10 (Hertzberg)** would create a logistical dilemma through its imposition of a strict timeline for pretrial release. The bill makes it extremely onerous to achieve pretrial detention for dangerous defendants, as district attorneys would be required to file a written motion at the arraignment, containing a myriad of required allegations, and be expected to prove those allegations in a contested hearing within 48 hours of the arrest. The impacts of this truncated timeline are clear: potentially dangerous individuals who would have been safely detained at a judge's discretion in the current system would instead be released, to the detriment of the public's safety. Further, this bill requires the pretrial release of many individuals arrested for certain misdemeanors and felonies.

SB 10 (Hertzberg) contradicts the California Constitution as amended by Proposition 8, the Victim's Bill of Rights, which voters passed in 1982. Prop 8 added the following language to Article I, § 12 of the California Constitution:

In fixing the amount of bail, the court shall take into consideration the seriousness of the offense charged, the previous criminal record of the defendant, and the probability of his or her appearing at the trial or hearing of the case.

Additionally, the voters of California passed Proposition 9, "Marsy's Law," in 2008. Prop 9 added the following language regarding bail to Article I, § 28 of the Constitution:

In setting, reducing or denying bail, the judge or magistrate shall take into consideration the protection of the public, the safety of the victim, the seriousness of the offense charged, the previous criminal record of the defendant, and the probability of his or her appearing at the trial or hearing of the case. Public safety and the safety of the victim shall be the primary considerations.

A person may be released on his or her own recognizance in the court's discretion, subject to the same factors considered in setting bail.

This new vision for bail as proposed by **SB 10 (Hertzberg)** cannot be reconciled with the Victim's Bill of Rights and Marsy's Law in our state constitution. More importantly, victims of crime are entitled to have the criminal justice system view criminal acts as serious threats to the safety and welfare of the people of California.

This bill would remove control of important aspects of pretrial proceedings from the jurisdictions best able to manage them, while inhibiting those jurisdictions in their efforts to perform one of their most essential duties, ensuring the safety of their residents. SB 10 is

a well-intended attempt to address the fact that the bail system affects persons of differing income levels differently. However, nearly every county now has a pretrial services division in place to screen defendants and recommend their release on appropriate conditions, without bail, when doing so does not pose a serious danger to the public or a significant risk of non-appearance for the defendant's hearing. For these reasons, the City of Beverly Hills respectfully **OPPOSES SB 10 (Hertzberg)**. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Lili Bosse", written in a cursive style.

Lili Bosse

Mayor, City of Beverly Hills

cc: Members and Consultants, Assembly Appropriations Committee
The Honorable Robert Hertzberg, 18th Senate District
Andrew K. Antwih, Shaw / Yoder / Antwih, Inc.