Written Testimony of Alaska State Sen. Mia Costello Against House Bill 1323

Chair Collier, Vice Chair Zedler and the honorable members of the Texas House Criminal Jurisprudence Committee, thank you for the work you do to consider thoughtful criminal justice policies that will keep your entire state safe.

I write to you today as the Majority Leader in the Alaska Senate, a fellow lawmaker, and an initial bill sponsor for major criminal justice reform legislation passed in 2016. Unfortunately, since those reforms were passed, we have seen tremendous negative consequences to our communities. Last session, I introduced a repeal bill and this session, Alaska Governor Dunleavy has introduced a package of bills to repeal and replace what remains of SB91.

I am part of the effort to roll back those reforms—including a pretrial risk assessment tool—because they have failed Alaska. Failed to keep our communities safe, failed to keep criminal defendants from reoffending and failed to reduce our crime rate.

As you consider bail reform legislation for your state, I feel compelled to urge you to consider the consequences we have seen in my home state. We have heard from judges, prosecutors and law enforcement that the pretrial risk assessment tool implemented in Alaska has created a revolving door of crime, where defendants are arrested one day and back in our communities committing more crimes the next. This is compounded by the opioid epidemic in our state.

The algorithm is supposed to provide a risk assessment on each criminal defendant that gauges whether they are high, medium or low risk for failing to appear for future court hearings and how likely they are to commit additional crimes.

The algorithm was developed specifically for Alaska using data on our criminal population and uses six data points to come up with a score for two pretrial risk assessments, "failure to appear" and "new criminal arrest." This includes the defendant's age at first arrest and the number of prior FTA warrants against the defendant, among other items.

What the algorithm doesn't consider is the nature of the defendant's charges, potential harm to the public or their personal financial resources or ties to the community. It also doesn't take into account whether or not the defendant has a criminal record in any other state. It cannot predict whether a defendant is a danger to the public if released. It also cannot predict if a defendant will flee the state if released, as we have often seen happen.

If the defendant receives a moderate or low score, they are often released on their own recognizance. Since Alaska passed these criminal justice reforms in 2016, our crime rates have spiked. We went from 25th in the nation in burglary to 14th, 13th in the nation for larceny to second and 17th in the nation to second for property crime, according to FBI crime data. In fact, since these reforms passed, Alaska has landed in the top 15 in every category of crime for the first time in our history.

I am hopeful that Alaska will pass legislation addressing the shortcomings of our criminal justice reforms. And I am hopeful that Texas will learn from our experience so that your citizens do not see the same increase in crime and recidivism here.

Thank you for your time and consideration of this testimony.

Alaska State Senator Mia Costello

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