

# HOUSE BILL NO. 5440

October 20, 2021, Introduced by Reps. LaGrand, Steven Johnson, Brann, Young, Hood, Sowerby, Rogers, Aiyash, Kuppa, Stone, Whitsett and Yancey and referred to the Committee on Judiciary.

A bill to amend 1927 PA 175, entitled  
"The code of criminal procedure,"  
(MCL 760.1 to 777.69) by adding section 6f to chapter V.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

### CHAPTER V

1  
2       **Sec. 6f. (1) In making its determination of risk when setting**  
3 **bond under section 6 of this chapter, the court may consider**  
4 **information provided by an actuarial risk assessment instrument**  
5 **that has been approved for use in pretrial release decision making**

1 by the state court administrative office under this section for use  
2 in that court.

3 (2) A county or court may request approval of an actuarial  
4 risk assessment instrument used for pretrial release decision  
5 making from the state court administrative office. The state court  
6 administrative office shall make a determination on a request under  
7 this subsection within 90 days and approve or deny the request as  
8 follows:

9 (a) If the state court administrative office determines that  
10 the instrument is validated and appropriate for pretrial release  
11 decision making, it shall approve the request, and the county or  
12 court may use the actuarial risk assessment instrument for the 5  
13 years immediately following the approval. After 5 years have  
14 elapsed from the date of approval, the county or court shall not  
15 use the instrument unless the instrument is revalidated and  
16 resubmitted by the county or court to the state court  
17 administrative office and it is approved under this section.

18 (b) If the state court administrative office determines the  
19 instrument has not been validated or is not appropriate for  
20 pretrial release decision making, it shall deny the request, and  
21 the county or court may not use the actuarial risk assessment  
22 instrument. If the county or court subsequently validates the  
23 assessment, the county or court may resubmit a request for  
24 approval.

25 (3) If the state court administrative office determines that  
26 an actuarial risk assessment instrument is appropriate for pretrial  
27 release decision making and is validated for use on a statewide  
28 population, it may approve the instrument for statewide use.

29 (4) Before approving an instrument for use under subsection

1 (2) or (3), the state court administrative office shall consult  
2 with relevant stakeholders, which may include all of the following:

3 (i) District court judges.

4 (ii) Circuit court judges.

5 (iii) Prosecutors.

6 (iv) Defense attorneys.

7 (v) Law enforcement agencies.

8 (vi) The Michigan domestic and sexual violence prevention and  
9 treatment board.

10 (vii) The Michigan coalition to end domestic and sexual  
11 violence.

12 (viii) Other relevant advocacy organizations.

13 (5) If the state court administrative office denies the  
14 request under subsection (2), a county or court has the right to  
15 make an immediate appeal to the state court administrator. Based on  
16 the available evidence, the state court administrator may affirm or  
17 overrule the state court administrative office's denial of the  
18 request.

19 (6) As used in this section:

20 (a) "Appropriate for pretrial release decision making" means  
21 that an actuarial risk assessment instrument has been shown to be  
22 unbiased on the basis of race, gender, and socioeconomic status.

23 (b) "Validated" means that an actuarial risk assessment  
24 instrument has been determined to accurately predict risk of  
25 nonappearance, to public safety, or both in the pretrial context in  
26 the population in which the instrument will be used.

27 Enacting section 1. This amendatory act takes effect 90 days  
28 after the date it is enacted into law.