

STATEMENT OF PURPOSE

RS26766

This legislation prohibits the use of biased pretrial risk assessment algorithms for purposes of determining bail or conditions of release from jail pending trial.

FISCAL NOTE

This legislation has no fiscal impact to the general fund, other state funds, or to any local government budgets because the cost of validating these tools will be born by the vendor of that specific tool.

Contact:

Representative Greg Chaney
Senator Cherie Buckner-Webb
(208) 332-1000

DISCLAIMER: This statement of purpose and fiscal note are a mere attachment to this bill and prepared by a proponent of the bill. It is neither intended as an expression of legislative intent nor intended for any use outside of the legislative process, including judicial review (Joint Rule 18).



LEGISLATURE OF THE STATE OF IDAHO



Sixty-fifth Legislature

First Regular Session - 2019

IN THE _____

BILL NO. _____

BY _____

AN ACT

RELATING TO CRIMINAL PROCEDURE; AMENDING CHAPTER 19, TITLE 19, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 19-1910, IDAHO CODE, TO DEFINE TERMS AND TO PROVIDE CERTAIN REQUIREMENTS AND RESTRICTIONS FOR PRETRIAL RISK ASSESSMENT ALGORITHMS; AND PROVIDING SEVERABILITY.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Chapter 19, Title 19, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 19-1910, Idaho Code, and to read as follows:

19-1910. PRETRIAL RISK ASSESSMENT ALGORITHMS. (1) As used in this section:

(a) "Free of bias" means that an algorithm has been formally tested and shown to predict successfully at the same rate for those in protected classes as those not in protected classes, and the rate of error is balanced as between protected classes and those not in protected classes.

(b) "Pretrial risk assessment algorithm" means a process that creates and scores particular factors that have been shown to correlate with failing to appear in court or committing a new crime while out on bail, in order to then classify a person into a particular category of risk or to make recommendations as to bail and conditions of release based on such risk, whether made on an individualized basis or based on a grid or schedule.

(2) Pretrial risk assessment algorithms shall not be used in the state of Idaho by the state or any political subdivision of the state until first shown to be free of bias against any class of individuals protected from discrimination by state or federal law.

(3) The state or any political subdivision using a pretrial risk assessment algorithm must first have formally validated such assessment as having been free of bias and must post a validation report on its website and make it otherwise open to public inspection.

(4) All pretrial risk assessment algorithms shall be transparent, and all documents, records, and information used to build or validate the risk assessment shall be open to public inspection, auditing, and testing. No builder or user of a pretrial risk assessment algorithm may assert trade secret or other protections in order to quash discovery in a criminal matter by a party to a criminal case.

SECTION 2. SEVERABILITY. The provisions of this act are hereby declared to be severable and if any provision of this act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of the remaining portions of this act.