



Charles E. Miller  
President of Charles J. Miller Bonding, Inc.  
Testimony before Ohio House Criminal Justice Committee  
Substitute House Bill 439  
Tuesday, March 20, 2018

Good afternoon Chairman Manning, Vice Chair Rezabek, Ranking Member Celebrezze, and members of the Ohio House Criminal Justice Committee. My name is Charles Eddie Miller and I am here to testify in opposition to Substitute House Bill 439 as the owner of Charles J. Miller Bonding, Inc.

Like many of my colleagues here, I purchased my bail bond business from my father in 1991. After my son finished college as an Ohio Bobcat, he joined our business – making us a third generation Ohio business. I am proud of the work I do and proud to say that there are hundreds of criminals who appeared to face justice in Ohio because of the work all bondsmen do every day.

Unfortunately, the legislation we are discussing today will mean that hundreds of criminals in Ohio will be receiving a get-out-of-jail-free card because of an unproven, risk assessment tool proposed in Substitute House Bill 439.

By eliminating bond schedules and replacing them with an unproven “risk assessment tool,” using a black-box algorithm to determine a suspect’s risk of flight, we are undermining the court’s authority. Additionally, taking money bail out only leaves a condition. If they fail to appear, how can you ensure they will follow a condition? If they aren’t there, there is no way to impart a condition on them.

While some will argue that using a mathematical equation may remove bias, it also takes common sense and experience out of the equation. The tools rely on the information provided by the defendant, which is not always accurate or complete. In addition, algorithms created for the tools merely take into consideration a defendant’s criminal history, not their current crime nor their long-term failure to appear history.

States using the tools are reporting instances where non-violent criminals are not “passing” the assessment and being denied the right to reasonable bail and even more instances where dangerous criminals are being released right back into the neighborhoods where their victims reside with no incentive to return for their required court appearances. In fact, a woman named June Rodgers is now suing the state of New Jersey. Last year, New Jersey enacted similar legislation – and four months later, June’s 26-year old son, Christian, was gunned down by a man who shot him in the back 22 times. The man was originally brought in for illegally possessing a gun, but due to the use of the risk assessment tool, was deemed “fit” to be released on his own recognizance.

The president of the Police Benevolent Association Local 231 in that community said that New Jersey’s reform effort has been exploited by career criminals. Under the old system, those criminals would have spent more time in jail and less on the streets, but now, and I quote: “I’m seeing the same exact people every week. I’m just seeing them come in with new charges. It’s more work for officers.”

This may play out the same for Ohio if we enact this legislation.

New Jersey isn't the only state where this legislation is failing. 11 states across the country (including West Virginia, California, Texas just to name a few) have considered – and rejected – similar legislation over the last couple of years. In Kentucky, a study by George Mason Law concluded that the introduction of the risk assessment tool in the state raised the failure-to-appear rate and did not result in the decline of the pretrial re-arrest rate. Next, Nevada's Governor vetoed proposed legislation explaining that it was “an unproven method for determining whether a criminal defendant should be released from custody without posting bail. No conclusive evidence shows this is effective. It does not balance the interests of justice and public safety.”

We don't even have to go to another state – we only need to look at our own Lucas County where this system is being piloted. In Lucas County, the failure to appear rate has climbed to estimates in the 40% range. In my business, the rate is less than 8%. That's because I have a very personal, very real incentive to ensure they appear in court and to ensure justice is served.

Let's remember, bail is to ensure a defendant appears in court so that justice may be served.

With this legislation we're creating a “catch me if you can” scenario here in Ohio – when it is entirely unnecessary. In Ohio's current bail system, risk assessment of the accused is performed in each step of the process – from the time of arrest through the bond hearing.

The courts use bond schedules that identify how much bail should be charged for defendants accused of various misdemeanors when judges are not available to set bond.

According to Rule 46 of the Ohio Rules of Criminal Procedure, when setting bail a judge should consider, among other things, the circumstance of the crime, whether a weapon was used, the weight of evidence against the defendant, the defendant's family ties, employment, financial circumstances, length of time in the community, prior convictions and record of appearing in court.

Risk assessment is being performed in each step of the way in this process by the Police Officer, Judge, Bondsman, Probation Officer, or anyone affiliated with a defendant's arrest. This is already happening every day in Ohio. This is how justice is served.

In conclusion, my colleagues and I would be pleased to work with the state of Ohio to develop proven solutions that are not detrimental to Ohio's justice system. However, risk assessment tools have not proven to be effective. While there is room for improvement to Ohio's justice system, House Bill 439 has numerous unintended consequences and is an unfortunate distraction from real reform that will positively impact Ohioans. The bail system isn't broken.

Thank you for your time and consideration. I'm happy to answer any questions.