



Charleston County
Criminal Justice Coordinating Council
ACHIEVING PRETRIAL JUSTICE

Legal Framework

- ▶ “In our society, liberty is the norm, and detention prior to trial or without trial is the carefully limited exception.” *United States v. Salerno*, 481 U.S. 739, 755 (1987).
- ▶ Presumption of Innocence. Preserved in American law by the 1894 U.S. Supreme Court Case, *Coffin v. U.S.*
- ▶ Bond decisions to consider individual circumstances of each defendant. *Stack v. Boyle*, 342 U.S. 1 (1951).
- ▶ United States Constitution:
 - Right to due process of law–5th and 14th Amendments
 - Right to equal protection under the law–14th Amendment
 - Prohibition against excessive bail–8th Amendment



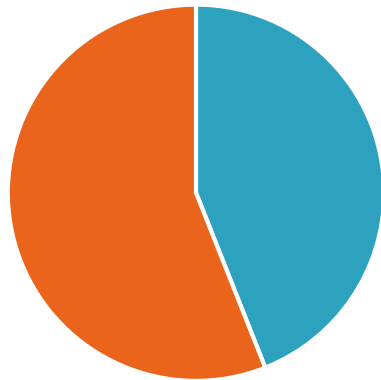
Relevant State Law

- ▶ Magistrate may set bond on any offense not carrying a punishment of death or life imprisonment. (Exception for Burglary–1st degree) S.C. Code 22–5–510(A)
- ▶ Magistrate may deny bail to a person charged with a statutorily–defined violent offense, depending upon nature and circumstances of the event. S.C. Code 22–5–510(A)
- ▶ Magistrate may not set bond on a violent offense when the person was already on bond for another, unrelated, violent offense. The bond hearing must be held in Circuit Court within 30 days. S.C. Code 17–15–55(C)

Need for Improved Pretrial Practice

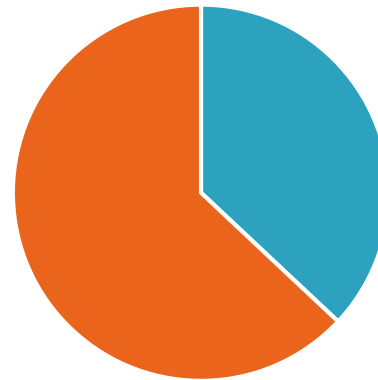
Growing cost of pretrial detention

2000 Jail Population



■ Convicted ■ Pretrial

2015 Jail Population



■ Convicted ■ Pretrial



When held 4–7 days, low-risk defendants are 50% more likely to commit new crimes before trial; compared to equivalent defendants held ≤ 24 hours

Improving Pretrial Justice

Misperceptions

- ▶ Soft on crime
- ▶ Empty the jails
- ▶ Endanger the public
- ▶ Release at any cost

Realities

- ▶ Focus on those who need to be incarcerated 
- ▶ Identify those who can safely be released 
- ▶ Set conditions to mitigate risk, assure appearance and public safety

Impact of Pretrial Detention

Who will pick up my son from school.
Will I lose custody?

Who will let my dog out? How do I get them a key?

I waited 2 months to schedule this surgery.
How much longer will I wait?

I've had this job for 6 years. Will I get fired?

Rent was due yesterday. Will I be evicted while in jail?

I was supposed to check on my mom and mow her lawn.
Who will look out for her?

