



Pretrial Fairness Act Overview

Justice Advisory Council Advisory Board

Friday, September 8, 2023



Objectives

- Become familiar with the high-level provisions in the Pretrial Fairness Act.
- Understand the Cook County planning process and role of the Justice Advisory Council
- Understand the Supports and Services workgroup and developed principles

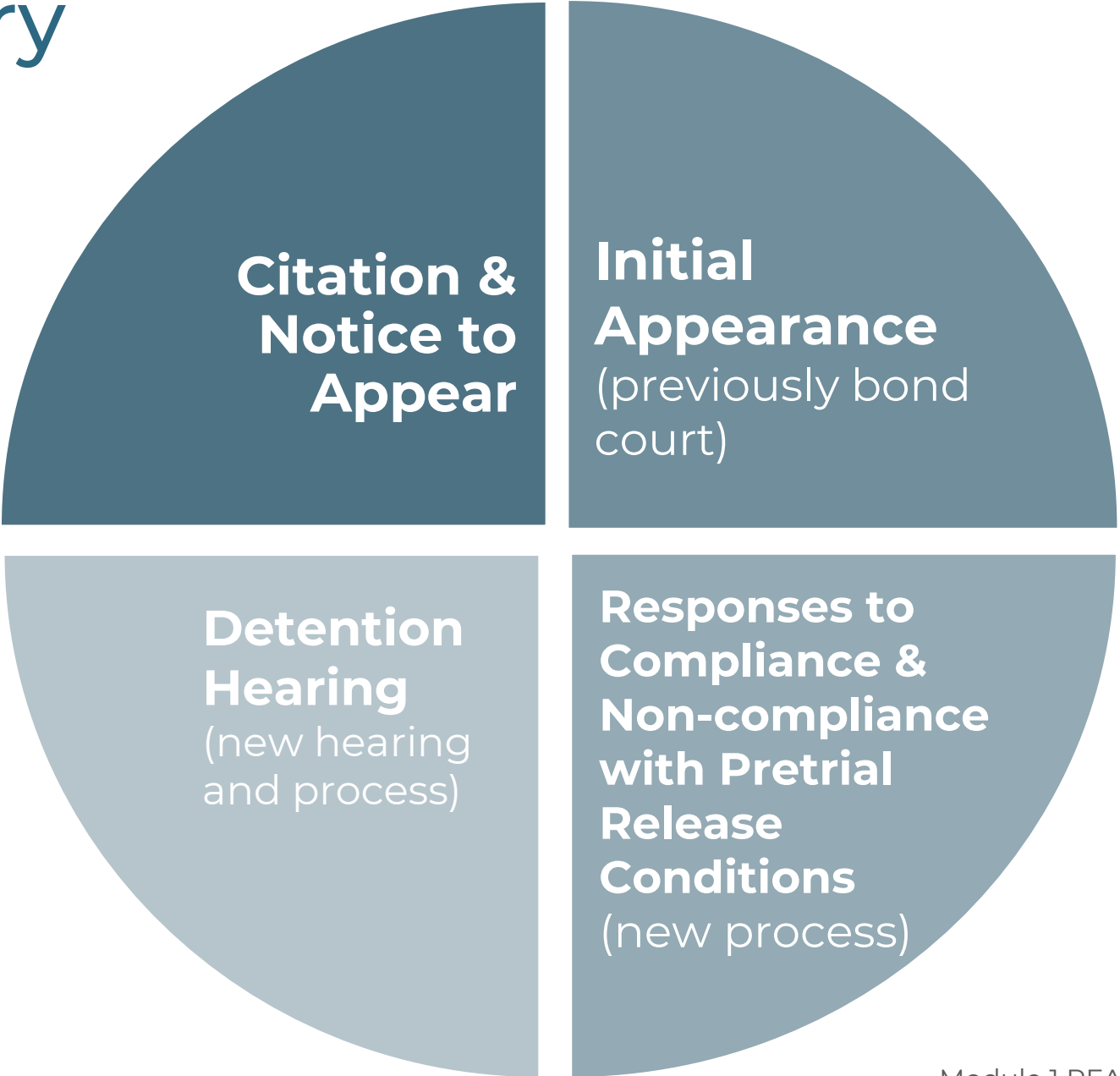


Pretrial Fairness Act Overview

Pretrial Fairness Act overview

- **Most provisions go into effect September 18, 2023**
- **Eliminates the use of monetary bond**
 - Removes all references to monetary bond
 - Money bond will no longer be used as a condition of pretrial release
- **Limits pretrial detention eligibility based on charge type**
 - Specifies charges eligible for detention
 - Outlines the requirements that must be met for detention
 - Willful flight or dangerousness

Four primary areas of change



Citation and Notice to Appear

Requires law enforcement to release people charged with certain offenses in the field with a citation and notice to appear
(Class B and C criminal misdemeanor offenses)

Increases the range of charges for which law enforcement may release people from the police station with a citation and notice to appear

(Offenses that are not detainable under 110-6.1 (a). This includes Class A misdemeanors and some felonies)

Initial Appearance

The judge shall order release or set a detention hearing based on a verified petition from the state's attorney

The conditions of release shall be the **least restrictive conditions necessary** to reasonably ensure the person's appearance in court, safety of any other person or the community

Detention Hearing

Detention only shall be imposed when it is determined that the defendant poses a specific, real and present threat to a person, or persons or the community, based on the specific articulable facts of the case or has a high likelihood of willful flight.

Responses to Compliance with Pretrial Release Conditions

The court may at any time remove previously set conditions of release

At each subsequent appearance, the judge must find that the current conditions imposed are necessary to reasonably ensure the appearance of the defendant, the safety of any other person, and the compliance of the defendant with all the conditions of pretrial release.

If electronic monitoring, GPS monitoring, or home confinement is imposed, the court shall determine every 60 days if no less restrictive condition of release or combination of less restrictive conditions of release would reasonably ensure the appearance, or continued appearance, of the defendant for later hearings or protect an identifiable person or persons from imminent threat of serious physical harm

Responses to Non-Compliance with Pretrial Release Conditions

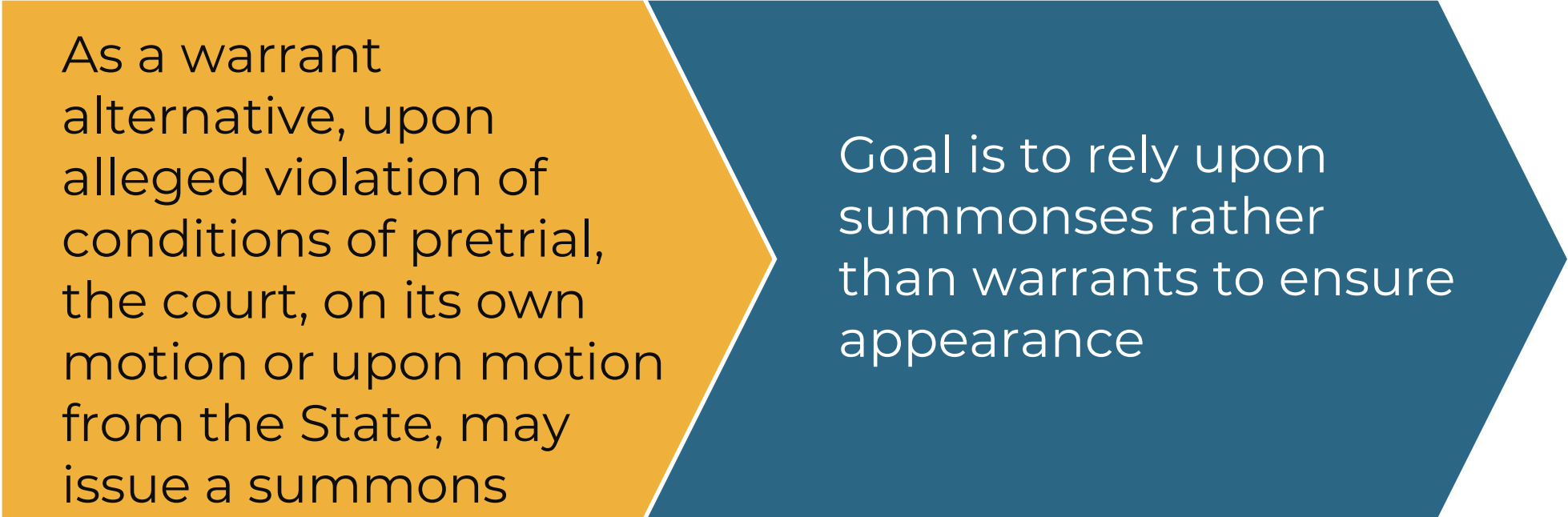
Responding to violations of pretrial release conditions

Response options for violations of pretrial conditions are determined based on the original charge and the nature of the violation or new arrest. *They include:*

- Issuing a summons and/or warrant **(110-3, 110-6 (c))**
- Imposing sanctions for violations **(110-6 (b)-(f))**
- Revoking pretrial release **(110-6 (a))**

Responses to Non-Compliance with Pretrial Release Conditions

Summons





Cook County Planning Approach

PFA Planning Structure: Vision for the Pretrial System

The pretrial system in Cook County should be...

Equitable & Just

All people – regardless of race, ethnicity, gender, or financial status – equally enjoy the benefits of a safer, fairer pretrial system that honors the fundamental right to a presumption of innocence and treats every person accused of a crime equally.

Safe

Prioritize public safety by reserving detention for individuals presenting a specific, significant, and real threat to another's safety or otherwise pose a threat that cannot be mitigated without detention and assigning release conditions based on the least restrictive criteria, with access to wealth playing no role in whether someone is detained or released.

People-Focused

Center victims, impacted individuals, and communities by moving efficiently and safely towards justice for victims and the safe return of people to their lives and communities as quickly as possible, and incorporating the voices of those who are impacted by the system when evaluating its performance.

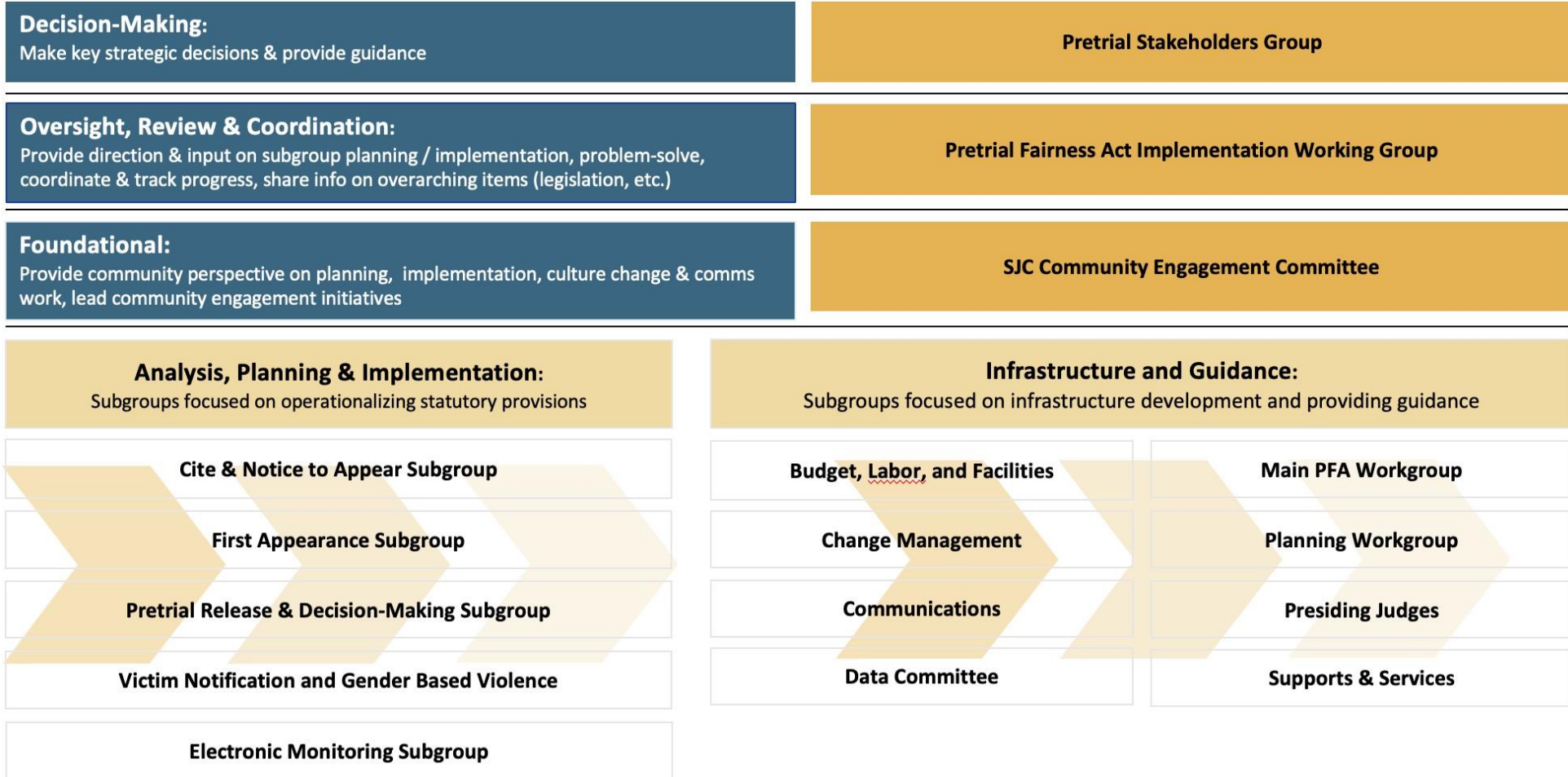
Data-Driven

Regularly evaluate practices both quantitatively and qualitatively to ensure they are not only constitutional and in line with IL law, but also conform with national standards on effective pretrial services and result in positive outcomes from the pretrial system (e.g. *successful pretrial release, increased public safety for all, etc.*)

Aligned & Efficient

Agencies, community organizations, and individuals involved in the pretrial process coordinate practices and policies in order to streamline an individual's experience, build on existing efforts, adequately resource services, and use taxpayer funds responsibly.

PFA Planning Structure: Workgroup Structure





JAC's Role in the PFA

JAC's Role in the PFA

- Contract management for TA support
- Guide the collaborative work group structure in partnership with the Public Defender's Office to
- Support communications and decision making across stakeholder agencies and with high level leadership
 - Setting priorities across workgroups and navigating relationships between stakeholder agencies
- Leading external communications collaborations around PFA education and outreach



Support & Services

PFA Supports & Services Subgroup Deliverables

1. Engage with service provider community to:
 - a) Provide education on the PFA and its potential impact
 - b) Learn from service providers about how they anticipate the PFA impacting their clients
2. Complete a Sequential Intercept Map (SIM) to identify gaps in services and areas of opportunity***
3. Provide information to criminal justice stakeholders about the supports + services landscape, and potential changes under the PFA
4. Develop a monitoring plan for the impact of the PFA on service delivery and accessibility to support course correction when needed

S&S Modified SIM / Facilitated Dialogue

The Supports and Services Subgroup convened a group of about 50 individuals (in-person and virtual) for a two-day conversation about the implementation of the PFA and the support and services available to individuals during their pretrial status.

Participants included representatives of county and city agencies, community-based provider organizations, advocates, and persons with lived experience.

The session was facilitated by staff from Policy Research Associates (PRA) with support from the MacArthur Foundation's Safety and Justice Challenge and coordinated by Justice System Partners.

The agenda included an overview of the PFA and the County's implementation plans, and a discussion regarding currently available services, how those services are accessed, and strengths and challenges of the existing coordination and delivery system.

S&S Modified SIM / Facilitated Dialogue

Participant discussions included topics such as the impact of legal system involvement on people's lives, how to best meet people's basic needs to avoid and decrease legal system involvement, and how to decrease disparities across systems, especially during the pretrial phase.

In lieu of a typical SIM, this activity evolved into a facilitated dialogue about the topic and generated a list of key considerations and six-month and twelve-month priorities.

The priorities were narrowed to the top three through group discussion.

Top Three Supports & Services Priorities

Priority One: Develop communication mechanisms to communicate service availability to impacted people instead of through system partners

Priority Two: Build increased cohesion

Priority Three: Educate and clarify expectations with the system

Principles of Pretrial Supports and Services

1. Services should be accessible voluntarily.
2. Services should be provided by community-based services providers.
3. Services should be comprehensive, holistic, and individualized.
4. Service provision should be confidential and separate from the criminal legal system proceedings.



THANK YOU!



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