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May 8, 2017

The Honorable Ricardo Lara
California State Senate
State Capitol, Room 5050
Sacramento, CA 94249

RE: SB 10 (Hertzberg) Bail: pretrial release. – OPPOSE AS AMENDED

Dear Senator Lara,

The Association of California Cities – Orange County (ACC-OC) would like to express its opposition to Senate Bill 10 (Hertzberg). SB 10 would implement a revised pretrial release procedure to reduce bail costs in California by eliminating the important public safety tool of bail. The ACC-OC is supportive of our regional and local law enforcement partners and prioritizes the public safety of cities and their residents. Unfortunately, SB 10 puts municipalities in jeopardy by releasing high-risk offenders without any form of bail or guaranteed monitoring. This measure not only negatively impacts local law enforcement agencies, but shifts unfunded, mandated costs to counties for the implementation of this bill.

The passage of Propositions 57 and 47, and AB 109's public safety realignment has triangulated to stretch and strain the ability for local law enforcement officials to meet all of the recent state mandates. These laws have resulted in the early criminal releases, reduced sentencing, and the reclassification of past felonies and misdemeanors to allow the formally incarcerated to become released without any promised funding for law enforcement and the communities they serve. Four of Orange County's largest cities saw a significant increase in violent crime, and the County has experienced a 20 percent increase in property crime. Law enforcement officials spoke out strongly in opposition to the propositions and realignment when they were introduced, and now, for the same reasons, SB 10 will only exacerbate the situation. Additionally, there is already a bail, recognizance release, and jail system in place that is at the discretion of law enforcement and judges to review and determine fair and appropriate options for releases related to the crimes for which individuals are arrested. Bail is used as a tool that can often act as a deterrent or resource for specified crimes before a crime is even committed. If the true need for this bill is because of the described claim of disproportionate or excessive bail amounts then this bill should focus on reforming those costs, not completely overhauling or eliminating a significant public safety tool.

This bill would replace the bail system with a pretrial services agency. The agency would conduct a pretrial risk assessment on an arrested person and prepare a pretrial services report that includes the results of the pretrial risk assessment and recommendations on conditions of release. The bill would require the pretrial services agency to transmit the report to a magistrate, judge, or court commissioner and the magistrate, judge, or court commissioner, within an unspecified number of hours, to issue an oral or written order to



release the person, with or without release conditions. Currently, existing law states that in setting, reducing, or denying bail, the judge or magistrate shall take into consideration the protection of the public, the seriousness of the offense charged, the previous criminal record of the defendant, and the probability of his or her appearing at trial or hearing of the case. The public safety shall be the primary consideration. The law provides that in considering the seriousness of the offense charged, the judge or magistrate shall include consideration of the alleged injury to the victim, and alleged threats to the victim or a witness to the crime charged, the alleged use of a firearm or other deadly weapon in the commission of the crime. These considerations would be eliminated or change if SB 10 were to pass. Further, this bill requires each county to develop a pretrial services agency that meets State specifications, and to annually report to the State pretrial release and detention information. This infringes on what counties are already doing to best serve their jurisdictions and costs associated to developing this new agency would not be covered by SB 10.

Lastly, at the very least, SB 10 should be considered after December 2017. California Chief Justice, Cantil-Sakauye, has formed the Pretrial Detention Reform Work Group to address bail issues. According to the Work Group, their recommendations will be provided this December. The recommendations may offer more information on how to best proceed when considering bail reform, and if this bill is addressing the root of the challenges, addressing key shortfalls, or moving in the wrong direction.

In order to protect not only our communities but our local law enforcement officials, legislation that continues to release and reduce sentencing of those who have been arrested or have already committed crimes is not supportable for the well-being of our cities. For this and the reasons described above, the Association of California Cities – Orange must oppose SB 10. Should you have any questions about our position or about ACC-OC, please contact Diana Coronado, ACC-OC's Legislative Affairs Director, at (714) 953-1300 or at dcoronado@accoc.org.

Sincerely,



Heather Stratman
Chief Executive Officer
Association of California Cities – Orange County

cc:

The Honorable Robert Hertzberg
Senate Appropriations Committee, Members
ACC-OC Board of Directors