Warrant Reform Statute

Below is a draft of our warrant reform statute.[1] The statute employs a comprehensive approach that addresses both the backlog of outstanding warrants, and ensures that going forward, warrants are only used when there is a clear public safety need.

First, the statute ensures warrants are only issued when truly necessary (as a summons can often be used instead). It limits warrants for low-level offenses and prohibits them for infractions and unpaid fines and fees all together. The statute also gives individuals multiple opportunities to appear, and institutes mechanisms such as grace periods and sign and release warrants to prevent warrants for failure to appear.

Next, the statute improves notice (i.e. through text message notification) and improves access to the courts to avoid warrants from being issued in the first place.

Finally, the statute ensures warrant database integrity by providing courts guidance to purge stale and invalid warrants from the system.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS

(a) SHORT TITLE.—This Act may be cited as the "Warrant Accountability Reform and Reimagining Adequate Notification Transmittal Act of 2021" ("WARRANT Act").

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

TABLE OF CONTENTS

[1] We would like to acknowledge Gibson, Dunn & Crutcher LLP, with the help of many of its lawyers, for their significant research and editorial assistance in the development of this model statute. We especially want to thank Marcellus McRae and Roscoe Jones Jr., for their leadership in this effort, and Frances Waldmann, for her work managing the research and revisions. We are grateful for the work they did to bring this project to fruition.

SEC. 2. DEFINITIONS

Note: In recognition of the diversity amongst states in the administration of the criminal justice system, we defer to the state legislature to assign the oversight duties to the appropriate state or local agency that can best oversee the implementation of this legislation. This may require the collaboration of multiple agencies, which should be defined in this section. This model bill contains multiple references to the Supervisory Board, but we welcome each State to amend as needed to ensure the most efficient implementation of these measures.

For the purposes of this statute:

(1) ISSUING ENTITY—The term "Issuing Entity" means any local or state court, agency, or other entity with the authority to issue warrants.
(2) OFFICE OF COURT ADMINISTRATION—The term "Office of Court Administration" is the administrative arm of the court system, [under the direction of the Chief Administrative Judge], and is the agency tasked with oversight on warrant reform.
(3) DEFENDANT—The term "Defendant" refers to a person charged with committing a violation of the law, including a juvenile under the age of eighteen, unless indicated otherwise.
(4) ARREST—The term "Arrest" means to place a person under actual or constructive restraint and take a person into custody for the purpose of charging that person with an offense. "Arrest" does include desk appearance tickets (*or similar state mechanism*) where individual is taken into custody, provided a future date for arraignment, but is not booked in a custodial facility. Detaining a defendant to serve a sign and release warrant, or to complete a protective frisk for officer safety under *Terry v. Ohio* is not an arrest.
(5) LOW-LEVEL OFFENSE—The term "Low-Level Offense" refers to any non-violent misdemeanor, technical violation of probation, and status offense by juveniles, for which incarceration is an authorized punishment. Low-Level Offenses are punishable by less than a year of incarceration. Low-Level Offenses do not include any crime of violence, including a sexual offense, or an offense involving domestic violence.

Note: We strongly recommend using either an existing state standard for the definition of low-level offenses, infraction, and felony and referencing specific criminal code violations for this definition.

(6) INFRACTION—The term "Infraction" refers to offenses punishable only by fines and Court Costs, where incarceration is not authorized. Infractions

include the violation of an administrative regulation, an ordinance, a municipal code, and a state or local traffic rule. *[Depending on the jurisdiction, they may sometimes be called a petty offense.]*

(7) FAILURE TO APPEAR—The term "Failure to Appear" is a criminal charge for missing a court date that is separate from the underlying offense. *[reference specific state statute for failure to appear, also called bail jumping in some states*.]

(8) EFFECTIVE NOTICE—The term "Effective Notice" refers to an order by an Issuing Entity that meets the following standards:

(i) Initial Notice. Effective notice requires an initial notification that meets the following standards:

(1) The hearing date must be within the 30-day period following the date notice is provided, and at least six business days ahead of the appearance date;
(2) The time, date, and location where the defendant must appear;
(3) The name, contact information, and address of the Issuing Entity with jurisdiction in the case;
(4) An explanation of the consequences if the defendant fails to appear before the Issuing Entity;
(5) A clearly visible notification that the defendant cannot be arrested or jailed for failure to pay a fine;
(6) Information regarding alternatives to the full payment of any fine or costs owed by the defendant, if the defendant is unable to pay that amount;
(7) Information regarding all Remote Access or After Hours alternatives to satisfy the appearance requirement; and
(8) If applicable, information on how to reschedule defendant's appearance.

(ii) Effective notice must be sent by first-class mail to the defendant. Once text messaging notification is phased in, the Issuing Entity must also send the Initial Notice and Reminders by text message, in accordance with Section 502. Text messages are defined as short, alphanumeric electronic communications to a mobile telephone. Effective notice by text message must include information to defendant that it is from the Issuing Entity, and may link to a website page with all required information above.

(9) WARRANT—The term "Warrant" in this statute refers to arrest warrants, bench warrants, [*and sign and release warrants*]. The term does not cover search warrants, which are typically issued by a judge to search a specific premises for evidence of a specific crime.

(10) ARREST WARRANT/BENCH WARRANT—The term "Arrest Warrant" in this statute refers to a written order from a court directing a peace officer to arrest a person. A bench warrant is a warrant authorizing arrest, typically issued when an individual fails to appear in court or violates a court order.

(11) SIGN AND RELEASE WARRANT—A "sign and release warrant" is a warrant authorizing an officer to briefly detain an individual and provide them a sign

and release form with next court date. The sign and release warrant does not permit a person to be taken into custody or transported for booking.

(12) SUMMONS—The terms "Summons" is a written order issued by a court which commands a person to appear before a court at a stated time and place.

Title 1 and 2 of this statute limit issuing warrants for low-level offenses and give defendants charged with these types of offenses multiple opportunities to appear in court before authorizing an arrest warrant.

TITLE I—LIMITS ON ISSUING WARRANTS

SECTION 101. Limits On Issuing Warrants Pursuant to Criminal Charges

(a) GENERAL REQUIREMENTS FOR A SUMMONS OR WARRANT—A summons or warrant may be issued only if the facts in the complaint, supporting documents, and/or supplemental sworn testimony establish probable cause to believe an offense has been committed and that the defendant committed it. Except for sealed warrants [*insert relevant state law*], all warrants shall be accompanied by notice sent via first-class mail to the address shown on the notice to appear or to the defendant's last known address. The notice shall include: (1) information about the type of warrant and whether incarceration is an expected consequence, (2) court address and phone number for the Issuing Entity, (3) contact information for the local public defender, (4) clear instructions that the defendant should contact their attorney (if they have one) or Issuing Entity to resolve the warrant.

(b) ADDITIONAL WARRANT REQUIREMENTS—

(1) The Issuing Entity must issue a summons rather than an arrest warrant where the underlying complaint is a Low-Level Offense or Infraction. A bench warrant for Low-Level Offenses is authorized only when the individual has missed at least two consecutive court dates, pursuant to Section 201, and the court has complied with notice requirements.

(2) For all other offenses, the Issuing Entity shall issue a summons instead of an arrest warrant unless there is a substantial likelihood that the accused will not respond to a summons, or the defendant's whereabouts is not reasonably discoverable, or the arrest is necessary to prevent harm to the defendant or another.

(3) This statute shall not prevent the Issuing Entity from issuing a warrant for other offenses that defendant is also charged with, that are not Low-Level Offenses or Infractions, and where Issuing Entity is statutorily permitted to issue warrants.

(c) Optional: To effect a warrantless arrest, a law enforcement officer may not rely on a determination of probable cause provided by another law enforcement officer without the approval of a judge. A law enforcement officer may still rely on facts relayed by other officers in determining whether probable cause exists.

Note: Some jurisdictions have used a system of "wanteds" as a substitute for arrest warrants. Unlike a warrant which requires a probable cause determination by a detached and neutral

magistrate, a "wanted" is based solely on an officer's determination that there is probable cause for an arrest. In jurisdictions that use wanted, an officer can add a "wanted" flag to a local or state criminal system database, instructing other officers to detain the individual if they happen to come across them. We would recommend including the clause if this practice exists anywhere within the state.

SECTION 102: Ensuring Accuracy of Warrants

Note: Jurisdictions do not need to create a new warrant office to satisfy the terms of the statute. Typically, the sheriff's office may be able to satisfy the requirements below. The warrant office will enable law enforcement officers to verify warrants before initiating an arrest. We recognize that some of this section may be redundant as many jurisdictions already require officers to verify warrants with the sheriff's office before arresting—though the specific provisions about searches incident to arrest may be worth incorporating.

If jurisdictions choose to institute sign and release warrants (see Section 201), the warrant office would also be authorized to schedule court dates for sign-and-release warrants.

The statute recognizes that staffing an office 24/7 may be difficult in smaller jurisdictions, and provides for an alternative for less populated areas. For these jurisdictions, officers can arrest an individual after hours (and without manually verifying the warrant) for incarcerable offenses but not infractions.

(a) WARRANT OFFICE—The "warrant office" is the agency or subdivision of an existing agency, responsible for maintenance of a warrant database. [*Jurisdictions may specify hours of operations based on what is reasonable given staff and resource constraints.]* The Issuing Entity shall designate or create a warrant office, within [one year] of statute's enactment if one does not already exist.

(b) OBLIGATION TO CONFIRM ARREST—Law enforcement officers shall make a reasonable effort to confirm the validity of a warrant with the warrant office before arresting the defendant on the basis of that warrant.
    (1) Such confirmation must be made manually by calling the warrant office.
    (2) Except as provided in section 103(c), an officer who fails to confirm the validity of a warrant before arrest, and would have otherwise received information that an arrest would not be authorized under law (e.g. the warrant is inaccurate, outdated, or otherwise invalid), shall be liable in an action at law under [the relevant state's] provisions for false arrest.
    (3) An officer shall not conduct a search incident to an arrest based solely on the discovery of an outstanding warrant before confirming that the warrant is in fact valid, except as permitted by section 103(c). Nothing in this section shall preclude an officer from conducting a protective frisk or search based on some other legal justification, including [*cross reference to state law*]. Evidence discovered in violation of this subsection may not be introduced in any subsequent criminal proceedings against the defendant.

(c) EXCEPTION FOR WARRANT OFFICES IN [SMALLER] JURISDICTIONS:

(1) During non-business hours, the officer may effectuate an arrest warrant originating from [list designated smaller] jurisdictions without calling the warrant office for crimes punishable by incarceration.
(2) The officer will not be liable for false arrest if the warrant office would have found the warrant to be invalid, but the warrant appeared facially valid to a reasonable officer.

TITLE II—WARRANT REFORM

Note: This section aims to provide defendants charged with Low-Level Offenses and Infractions multiple opportunities to appear in court (and multiple notifications) before an arrest warrant is issued. First court dates can be rescheduled by the defendant, or might be rescheduled by the court if the defendant does not appear. Individuals who miss court again will receive a grace period. After the 72 hour grace period has passed, the court may issue an arrest warrant for Low-Level Offenses. Even when arrest warrants are authorized, the presumption is to release defendants on their own recognizance. For subsequent missed court, individuals will receive the benefit of a grace period, after which the Issuing Entity may authorize a warrant.

SECTION 201. Protocols Before Issuing Warrants For Failing to Appear.

(a) OPTION TO RESCHEDULE—The first court date may be rescheduled for any reason by the defendant without approval from the Issuing Entity. This change can be made by phone or in person. The change can also be made online after an online platform has been put in place (pursuant to Section 503(b)). The hearing must be scheduled between 30 to 60 business days thereafter, unless a defendant requests a sooner date and the prosecutor consents.
(b) RESTRICTIONS ON WARRANTS AFTER ONE MISSED COURT DATE—For a Low-Level Offense or Infraction, or a Failure to Appear on a Low-Level Offense or Infraction, an Issuing Entity may not issue a warrant after one missed court appearance. If the defendant fails to appear in Court, the Issuing Entity will automatically issue a new hearing date no sooner than 30 business days thereafter, and no later than 60 business days thereafter, with Effective Notice provided to the defendant.
(c) GRACE PERIODS—When a defendant charged with a Low-Level Offense [or Infraction *if the jurisdiction permits sign and release warrants*] fails to appear at a second scheduled appearance before an Issuing Entity, the Issuing Entity may not issue a warrant until the passage of at least 72 hours after the missed court appearance.
    (1) The 72-hour period does not include any day on which the Issuing Entity is not in session. The defendant can appear in person or through counsel, via telephone, or via other means to contact the court and reschedule the appearance date. [Once the text notification system (pursuant to Section 502) has been implemented, the Issuing Entity shall send a text message to the defendant with instructions on the grace period, how to appear, and how to get in touch with the public defender's office].

(2) If the defendant appears within the 72-hour period, the Issuing Entity may not issue a warrant and must reschedule the court appearance, if the underlying case is not resolved by that appearance.

(d) LIMITED AUTHORIZATION FOR ARREST WARRANTS— For Low-Level Offenses, there will be a presumption that the Issuing Entity at the bail hearing will not institute a cash bail and will release the individual on their own recognizance, unless there is a finding that defendant is a flight risk or must be held for public safety. For Infractions, the Issuing Entity may never issue a bench warrant.

(e) SUBSEQUENT WARRANTS—For any subsequent missed court dates for Low-Level Offenses, the Issuing Entity must provide a 72-hour grace period pursuant to Section 201(c), and then may issue a bench warrant.

A number of jurisdictions have instituted various ways to decrease the reliance on arrest warrants that lead to unnecessary incarceration. Sign and release and book and release policies allow officers to provide new court dates for individuals after a first missed court date, typically because mail is not received. Here, we offer a number of possibilities that jurisdictions can consider implementing, including (1) information-only warrants, (2) sign and release warrants, and (3) book and release warrants.

(1) "Information-only" warrants authorize officers to inform the defendant of the existence of an unresolved Infraction and/or related Fine or Court Cost, without taking them into custody. In addition, the officer shall provide the defendant with contact information for the courts, instructions on how to request a court date, as well as where to obtain further information on ability to pay assessments, payment plans, and applicable online methods to make payments. These "information-only" warrants would not provide individuals with new court dates, but for jurisdictions without the required infrastructure for sign and release or book and release, they may still encourage resolving infractions, and fines and fees.

(2) Sign and release warrants authorize officers to stop the defendant, provide a new court date, and have the defendant sign paperwork acknowledging receipt of the new court date. In Hennepin County (and once a newly passed law is implemented, all of Minnesota), sign and release warrants are permitted when defendants miss their first true court appearance. Sign and release warrants are used on misdemeanors with the exception of certain person-related offenses.

(3) Book and release warrants authorize officers to take a defendant into custody, book the individual (including fingerprinting and photographing the defendant), provide the individual with a new court date, and release them. Again, these warrants are intended for defendants who have missed their first true court appearance due to not receiving the mail. In Hennepin County, for example, book and release warrants are used on some more serious cases, such as gross misdemeanors and some felonies. These warrants have resulted in almost two-thirds of individuals showing up to court once issued a new court date.

The following language would statutorily authorize sign and release warrants, but as stated above, jurisdictions could consider information-only or book and release policies as well to decrease reliance on jails and arrest warrants.

(f) FAILURE TO APPEAR; ISSUANCE OF A SIGN AND RELEASE WARRANT.
The court [may/shall] issue a sign and release warrant if:
(1) the court issued a summons;
(2) the summons was served by mailing it to the defendant's last known address and was returned as undeliverable;
(3) the defendant failed to appear at the time and place identified in the summons;
(4) the defendant had not previously failed to appear in the same case; and
(5) the defendant is charged with a Low-Level Offense or Infraction.
A sign and release warrant shall not require the defendant to post bail or comply with any other conditions of release. A sign and release warrant does not authorize the arrest of the defendant. Any court record provided or made available to a law enforcement agency shall indicate that the warrant is a sign and release warrant.

(g) DUTIES FOR LAW ENFORCEMENT OFFICERS ON A SIGN AND RELEASE WARRANT
When a peace officer encounters a defendant who is the subject of a sign and release warrant, the officer shall inform the defendant of the missed court appearance and provide a new notice that includes a time to appear.
(1) Notice of the new time to appear shall be made in writing and must include the court file number or the warrant number. The defendant may be asked to sign a form acknowledging receipt of the notice. A defendant may not be required to sign the acknowledgment, but the peace officer or other employee may indicate that a notice was given and that the defendant refused to sign.
(2) After providing the notice, the peace officer shall release the defendant at the scene.
(3) As soon as practicable after providing the notice, the peace officer shall: inactivate the warrant or direct the appropriate office or department to inactivate the warrant; and submit a form or other notification that can be filed in the court's electronic filing system that includes the court case number, updates the defendant's personal contact information, and indicates that the defendant received notice of the new time to appear.

(h) PROCEDURE TO NOTIFY PEACE OFFICERS; SCHEDULING NEW COURT DATES.
(1) By [*date*], the sheriff of every county, in coordination with the district court of that county, shall develop a procedure to inform peace officers about the type of warrant issued by the court and provide hearing dates for sign and release warrants.
(2) At a minimum, the procedure shall include:
(i) a warrant office that a peace officer can contact at any time to determine the type of warrant issued by a court;
(ii) if the warrant is a sign and release warrant, the ability to obtain an updated time for a defendant to appear to answer the charge;
(iii) the ability to inactivate a sign and release warrant after a defendant has been notified of the new time to appear; and
(iv) the ability to submit a form or other notification to the court's electronic filing system updating the defendant's personal contact information and indicating that the defendant received notice of the new time.

TITLE III—FAILURE TO APPEAR REFORM

Failure to appear ("FTA," also called "bail jumping" in some jurisdictions) is a separate crime in 46 out of 50 states. Even when individuals are acquitted of underlying charges, they can face prosecution for missed court dates. In many jurisdictions, FTA rates do not make a distinction between individuals who miss court entirely or are just a few minutes late. FTA penalties can be as high as 10 years in prison. Past FTAs are highly considered when setting bail. People of color are more likely to have past FTAs which can lead to confinement, and higher scores on pretrial risk algorithms in jurisdictions that use them.

This section reforms the use of FTAs by preventing the charge of an FTA for an Infraction, ensuring it is only charged when an arrest warrant is also authorized, providing defenses when there is good cause for missing court, and limiting the penalty for FTAs.

SECTION 301. Limits on Charging Failure to Appear Offense

(a) INFRACTIONS—The separate offense of "Failure to Appear" will not be charged where the only charged offense(s) are Infractions. A Failure to Appear offense can be charged only if a bench warrant is authorized under Section 201.
    (1) For Low-Level Offenses, the separate offense of Failure to Appear may be charged after the second consecutive missed court date.
    (2) For Low-Level Offenses, if defendant appears during the grace period, Failure to Appear cannot be charged.

(b) GOOD CAUSE—Even in cases where the "Failure to Appear" offense can be charged, the following basis shall serve as an affirmative defense for missing court: personal illness, auto accident, death or severe illness in the immediate family or other severe physical or emotional hardship. The court may accept verification in writing (i.e., letter from a physician, official accident report, obituary notice) but is not required to do so.

(c) LIMITS ON FAILURE TO APPEAR FOR TARDINESS—The prosecutor is not authorized to charge Failure to Appear until court is adjourned. If the defendant appears in court after their case is initially called, Failure to Appear cannot be charged. Instead, the Issuing Entity [or prosecutor] shall call the case later in the docket or reschedule defendant's case for a new date. [*Note: in some jurisdictions, the Issuing Entity will call the cases on the docket, rather than the prosecutor. Language should be amended to reflect the local practice.*]

Note: States are encouraged to go even farther in eliminating penalties to failure to appear if possible, for example, maximum caps on incarceration and fines—or removing incarceration as an option all together.

(d) PENALTY—
    a. The maximum allowed punishment for "Failure to Appear" shall not exceed the maximum allowed punishment for the underlying offense.
    b. Any mandatory minimum penalties for failure to appear shall be eliminated.
    c. Any fines authorized by law must consider defendant's ability to pay, pursuant to Section 402.

(e) NOTICE—For all offenses, "Failure to Appear" may be charged only if the defendant received Effective Notice for the court date.

TITLE IV—DEBT COLLECTION REFORM

SECTION 401: Reforming Warrants for Debt Collection

This section prevents law enforcement officers from collecting criminal justice debt, which research has shown undermines trust in law enforcement and decreases public safety. It also eliminates some of the most problematic, yet common, methods courts respond to unpaid Fines/Court Costs: incarceration, driver's license suspensions, disenfranchisement, and deprivation of basic services. These levers have actually been found to be counterproductive to encouraging payment.

(a) COURT COSTS—For the purposes of this section, the term "Court Costs" refers to all fees, costs, surcharges and assessments in all matters involving a violation of law. This includes but is not limited to charges for: i) appointed counsel; ii) probation or parole supervision; iii) electronic monitoring; iv) diversion programs; v) services such as treatment and drug testing; and vi) costs of incarceration including room, board and health care.
(b) FINES—The term "Fines" refers to financial sanctions and criminal penalties.
(c) LIMITATIONS ON ENFORCEMENT—With the exception of serving a sign and release warrant, law enforcement officers shall not collect or enforce unpaid Fines or Court Costs.
(d) LIMITATIONS ON PUNITIVE MEASURES FOR FAILURE TO PAY—
    (1) The Issuing Entity shall not incarcerate an individual for the failure to make payments on Court Costs or Fines, failure to complete community service, or associated Failures to Appear due to Court Costs/Fines/community service.
    (2) The Issuing Entity shall not suspend a driver's license, deprive a defendant of the right to vote, or block access to public resources or services for nonpayment of Court Costs or Fines, Infractions, or Failures to Appear due to Court Costs/Fines/Infractions.
    The Department of Motor Vehicles shall lift any outstanding suspensions of drivers' licenses due to Court Costs/Fines.
    (3) The Issuing Entity may convert criminal justice debt to a civil judgment.

[*Most states have laws allowing criminal justice debt to be converted to a civil judgment, but there are potential risks to liberty and financial security with civil judgments. State and local laws and practices may allow imprisonment for civil debt, permit greater authorization and use of wage garnishment (even compared to the criminal justice system), fail to protect a subsistence income and essential property, lack the ability to individualize assessments on civil debt, and*

require high rates of interest. Depending on your state's laws, authorizing civil judgments may not improve justice or equity, and option (3) should be removed].[2]

SECTION 402. Reforming Fines and Court Costs

The section requires the Office of Court Administration to implement ability to pay hearings if they do not already exist, ensure defendants can modify financial obligations in the future, and offers options in lieu of full payment of the Fine/Court Costs, such as payment plans and community service.

(a) ASSESSMENT OF FINES AND COURT COSTS— Before a court issues Fines and Court Costs on a defendant, a court has an affirmative obligation to inquire whether the defendant has sufficient resources or income to immediately pay all or part of the Fines/Court Costs.

(b) Within six months of statute's enactment, the Office of Court Administration (the "OCA") shall issue guidance to Issuing Entities on how to assess the individual's ability to pay before instituting any Fines/Court Costs, including clear guidelines on presumptions of inability to pay and instructions on how to calculate a person's total income.

(c) ALTERNATIVES—If the court determines that the defendant lacks sufficient resources to reasonably be expected to pay all or part of the fine and/or court costs immediately, the court must determine whether the fine and/or court costs should be:
    (1) waived in full or in part; or
    (2) required to be paid at some later date or in a specified portion at designated intervals, without additional fees or interest for later payments; or
    (3) converted into community service at the request of the defendant; or
    (4) satisfied through any combination of methods under Subdivisions (1)-(3).

(d) NOTICE—The Issuing Entity must provide notice to defendants of its obligation to conduct ability to pay hearings and that waiver or reduced fines and fees are available. The Issuing Entity must also provide notice that individuals will not be incarcerated due to Court Costs and Fines. This information must be provided in plain language:
    (1) on any citation issued;
    (2) on the court's website;
    (3) on any online payment site;
    (4) in any court FAQs;
    (5) at any hearing where Fines, fees, or any other monetary sanctions will be assessed or are at issue.

(e) MODIFICATIONS—The defendant should be notified of the ability to request waiver, modification, or conversation of Fines or Court Costs at a future date if their ability to pay changes.

[2] Carolyn Carter et. al., *Collecting Criminal Justice Debt Through the State Civil Justice System*, National Consumer Law Center (May 2021) https://www.nclc.org/images/pdf/criminal-justice/Rpt_CJ_Debt_State_Civil_Justice_System.pdf

TITLE V—ACCESS TO COURTS

SECTION 501. After Hours Access.

Note: In recognition that expanded After Hours and Remote Access court appearances will likely require additional financial resources, this section was drafted with a proposal for a study on accessibility. However, to the extent possible, we encourage legislatures to implement more concrete reforms to allow expanded court access through After Hours and Remote Access. Legislatures can choose to appoint a Judicial Task Force on After Hours Court Access for the study, or have the Office of Court Administration [or other state judicial administrative body] study access directly.

(a) AFTER HOURS ACCESS—In this section:
  (1) "Ordinary business hours" means 9:00 am to 5:00 pm, Monday through Friday;
  (2) "Type of access" or "type of alternative access" means any form of access outside of ordinary business hours, or remote access either during or outside of ordinary business hours, in which a defendant can meet their warrant- or summons-related appearance obligations;

(b) REMOTE ACCESS—The term "Remote Access" refers to any opportunity to complete a court appearance through a technological platform where physical appearance in the court is not required.

(c) STUDYING ACCESS—The OCA [*or insert State judicial administrative body*] shall coordinate with each state and local Issuing Entity to study access to state and local courts.

Each Issuing Entity must submit a court accessibility assessment to the OCA no later than six months after the effective date of this legislation. The assessment must, at minimum, include the following:
  (1) The number of warrant or summons-related hearings held per week;
  (2) Staffing numbers during ordinary business hours;
  (3) The Issuing Entity's budget for the previous calendar year and allocation of that budget;
  (4) If an Issuing Entity currently offers access outside of ordinary business hours:
    (i) The type of access provided;
    (ii) The current number of hours per week that the entity is open outside of ordinary business hours for each type of additional access provided;
    (iii) Staffing numbers outside of ordinary business hours.

(d) COURT ACCESSIBILITY PLAN—The OCA shall coordinate with each Issuing Entity to assist in the entity's preparation of a court accessibility plan ("Plan"). The Plan shall be provided to the OCA no later than one calendar year after the effective date of this legislation. The Plan must, at minimum, include the following:

Note: We recognize that the capacity to develop and implement such a plan will be different in each state and may influence whether putting the proposal burden on the Supervisory Board or Issuing Entity is the best approach. We encourage each state to adjust this section to maximize bureaucratic bandwidth and efficiency.

(1) The Issuing Entity's capacity using existing resources to provide additional access outside of ordinary business hours, including the possibility of remote access and after-hours access;
(2) Alternatives for individuals to meet their appearance obligations in the event that an Issuing Entity is not properly staffed, through reducing hours during regular business hours (to allow for after-hours access), additional grace periods, remote appearance, or rescheduling;
(3) A budgetary evaluation of the estimated resources that would be required for the Issuing Entity to offer a minimum of 10 hours per week outside of ordinary business hours;
(4) A one-year proposal to phase in at least one type of additional access for a minimum of five hours per week outside of ordinary business hours.

SECTION 502. Notifications

Note: Text message reminders have been found to significantly reduce the rate of FTAs. Text messages can be provided by the court or through the public defender's office. This statute contemplates a court-initiated program, with the hope of reaching the most clients at the earliest stages of proceedings. But states might opt for a public defender-led notification system, which has its own benefits, including potentially more accurate contact information and improved advocacy when clients can text their public defenders in response.

(a) COURT REMINDER PROGRAM—On and after [one year after statute's enactment date], the OCA [or body with delegated authority] shall administer a court reminder program in at least [four] judicial district courts to remind criminal defendants to appear at each of their scheduled court appearances and to provide reminders about unplanned court closures. The objective of such reminders is to significantly reduce the number of defendants who are taken into custody solely as a result of their failure to appear in court. No later than [two years after enactment], the program must be administered in every eligible court in the state.
(b) OPTION TO USE THIRD-PARTY VENDOR—The OCA may choose to issue a request for a proposal to choose a third-party vendor to develop and operate the court reminder program or administer it without utilizing a third-party vendor depending on technical capabilities that already exist.
(c) USE OF TEXT REMINDERS— Each Issuing Entity participating in the court reminder program shall enroll every defendant in the program. A defendant may opt out of participating in the program. The program must use text messages unless and until a more effective technological means of reminding defendants becomes available.
(d) FIRST CLASS MAIL—Effective notice will continue to include first-class mail as well. One notification shall be sent by first-class mail on the date that the court hearing is set by the Issuing Entity.
(e) NUMBER OF REMINDERS—The program must:
    (1) Provide at least two text message reminders for all court appearances for defendants: a week before the court date and the day before the court date.

The reminders must include at least the date, location, and time of the court appearance and contact information for questions related to the court appearance.

(2) Reminders should incorporate consequences of nonappearance and encourage defendants to make a plan to come to court.

(3) Provide an alert to a defendant who misses court with instructions that the defendant should immediately contact his or her attorney, if the defendant has one, or the court to determine next steps;

(4) If the defendant's court date is canceled or rescheduled, provide a text message with information including rescheduled court date or instructions on contacting the court.

[Note: the following provisions are geared towards tracking efficacy of the notification system. Many jurisdictions do not currently track failures to appear, so this section starts by collecting baseline data, and then additional data points once text messaging notification has started. Depending on resources, legislators may choose to add these provisions, while balancing the administrative burden of these requirements.]

(f) DATA COLLECTION—Upon the enactment of this statute, the Issuing Entity shall immediately begin to track the number of criminal defendants who fail to appear for their scheduled court appearance.

On and after [one year after enactment], the Issuing Entity shall track:

(1) The number of defendants who provided a working telephone number and received at least one text reminder;

(2) The number of defendants in each eligible court who failed to appear for a court hearing;

(3) The number of defendants in each eligible court who were sent a reminder to a working telephone number from the program but who nonetheless failed to appear for a court hearing.

(g) EXPANDED REMINDERS— Within [two years of statute's enactment], the Office of Court Administration (the "OCA") shall issue guidance to Issuing Entities to expand the court reminder program to:

(1) Text reminders for community supervision appointments,

(2) Text reminders to pay Court Costs and Fines.

In each case, the OCA shall institute at least one text reminder before the relevant due date or appointment date.

(h) ABSENCE OF LEGAL RIGHT—Nothing in this section creates a right for any defendant to receive a reminder from the court program.

SECTION 503. Warrant Resolution Opportunities

Warrant resolutions sessions are an opportunity for individuals to deal with outstanding warrants for failing to appear without fearing incarceration. While incarceration is a potential penalty for Low-Level Offenses, the goal of these sessions is not to resolve these matters and sentence individuals, but to quash outstanding warrants, reset cases with a new court date (and allow defendants with warrants time to obtain counsel). More minor matters such as payment

plans for fines and fees or rescheduling community service may also be accomplished at these sessions.

(a) WARRANT RESOLUTION SESSIONS—The term "Warrant Resolution Session" refers to a designated court docket for the purpose of addressing warrants for Low-Level Offenses and Infractions without the fear of incarceration. The sessions allow individuals to address warrants for Low-Level Offenses, address outstanding Fines/Court Costs/community service, create payment plans where applicable, and schedule new court dates.

(b) IMPLEMENTATION PLAN—To prevent any backlogs of warrants, the Office of Court Administration shall create a plan within six months for implementing warrant resolution sessions.

(1) Individuals whose warrant is due to failing to appear for court for a Low-Level Offenses will not be incarcerated at the warrant resolution session, and a new court date will be set. This provision does not prevent the lawful arrest of individuals for other outstanding arrest warrants on more serious matters or arrest warrants from other jurisdictions.

(2) These sessions must include a notification and outreach component to encourage those with active warrants to attend the event.

(3) Warrant resolution sessions will take place as determined by each Issuing Entity, but at least once a month for the first six months beginning no later than three months after the delivery of the plan. After those sessions, the OCA shall instruct each Issuing Entity on standards dictating the frequency of sessions. Each Issuing Entity can appeal to the OCA to decrease the number of sessions with a showing that need has decreased.

(4) The Plan shall include explore the feasibility of providing on-site child care, food, and transportation vouchers for Warrant Resolution Sessions.

(5) [The Issuing Entity shall track the number of warrants resolved at each warrant resolution session and report the number to the OCA.] [*Note: This is a data tracking provision that can be added if it does not create too much of an administrative burden on courts*].

(c) BASIC ONLINE PLATFORM—Within one year after enactment, the OCA shall create a basic online resolution platform where defendants can reschedule first court appearances without approval from the Issuing Entity (pursuant to Section 301) and pay Fines and Court Costs electronically without having to appear in court. At minimum, this platform will allow defendants who can pay the full, unadjusted amount of the Fine and Court Cost to complete payment.

(d) ENHANCED ONLINE PLATFORM—The OCA [or designated task force] shall create an implementation plan for an enhanced online platform, within 2 years of enactment. This plan shall include:

(i) An online request form where defendants can provide information to request a reduction in the Fine and/or Court Cost, request a payment plan, request community service, or request more time to pay the Fine/Court Cost, as outlined in Section 201.

(ii) After filling out the request for adjustment online, the Issuing Entity will review the request within thirty days, make a finding, and provide

Effective Notice to the defendant about the result and as applicable, next steps for satisfying the assessed financial obligation.

(iii) The OCA shall include in the Plan a mechanism to recall warrants when a defendant makes a payment on Fines/Court Costs associated with outstanding warrants.

TITLE VI—IMPROVING INTEGRITY OF WARRANT DATABASES

SECTION 601: Database Reform

(a) DATABASE REFORM PLAN—The OCA [*or insert State judicial administrative body*] shall coordinate with each state and local Issuing Entity to institute best practices regarding warrant database management. These best practices will be instituted in [four judicial districts] within one year of statute's enactment, and all judicial districts within two years. Those best practices must include, at a minimum:

(1) All Issuing Entities must fully transition from paper records for warrants to electronic databases;

(2) All Issuing Entities must implement internal controls to prevent erroneous or illogical data entries;

(3) All Issuing Entities must clear warrant backlogs by eliminating warrants for certain Low-Level Offenses and by devoting resources to serving warrants for more serious offenses.

SECTION 602. Guidance for Purging Warrants

Note: This section identifies two categories of warrants—subsection (a) outlines warrants that are relatively easy to identify for purging, while subsection (b) may require more guidance and discretion based on the particular warrant database. State legislatures should build in required time to identify warrants to purge, particularly for jurisdictions still using a paper-based system.

(a) PROGRAM TO CLEAN WARRANT DATABASES—Issuing Entities shall identify and purge the following warrants from existing warrant databases [within – months of enactment]:

The following provisions ensure that individuals are no longer arrested for existing warrants for infractions. Option 1 is an optimal solution, and should be used for jurisdictions that are able to identify and purge these warrants. For jurisdictions in which identifying these warrants is more difficult (e.g. those that use a paper-based system) OR as a stopgap until all such warrants are identified and purged, we offer option 2.

(1) *Option 1*: Issuing Entities shall identify and purge any warrant authorizing arrest for an Infraction or for a Failure to Appear offense for an Infraction from existing warrant databases [within – months of enactment].

(2) *Option 2*: A peace officer shall not arrest any individual with a warrant for an Infraction or for a Failure to Appear offense for an Infraction.
(3) Warrants associated with Low-level Offenses and Infractions, and related Failure to Appears, over ten years old shall be purged form the system. Agencies shall review the warrant database and clear such warrants [once a month].
(4) Warrants issued in the juvenile court for Low-Level Offenses for individuals who are now over twenty-one.

(b) SECONDARY WARRANTS TO PURGE—The OCA shall issue guidance on reducing the following types of warrants, as appropriate:
(1) Warrants with little chance of being served, including, but not limited to, warrants with out-of-state or out-of-country addresses;
(2) Warrants for defendants who are already incarcerated and have been served;
(3) Warrants issued for violations that are no longer considered a crime;
(4) Warrants for minor crimes that are currently still crimes, but which do not or rarely result in prosecution, even if an arrest is made; and
(5) Warrants for deceased defendants. Such entries can be verified by comparing death records for counties against warrant databases, with manual verification, where needed.