

May 29, 2020

To: Drafting Committee on Alternatives to Bail, and Observers
From: Committee Co-Chairs and Reporters
Re: Current Draft of Alternatives to Bail Act (dated May 29)

To all—

I.

Attached to this email is a copy of the current “clean” draft of the ULC Alternatives to Bail Act (the “Act”). We have also attached a “redlined” version that allows you to see changes made since our meeting of April 1. There have been multiple revisions to the Act, based on negotiations with the Committee on Style and some additional review by the co-chairs and reporters. (See II, below.) The bulk of the new language appears only in the Comments.

We ask that if you have feedback on this version of the Act you provide it by **June 8**. Thereafter, the Reporters and Chairs will incorporate all relevant changes and circulate the final version of the Act to you and all commissioners by **June 11**. This will give all commissioners a full week to review the final version prior to our Committee’s appearance on the virtual dais for the “informal review session” of the Act on **June 18**, to which all commissioners are invited.

II.

Let us provide you with a brief history of the work on the draft since our last committee meeting.

The reporters prepared a draft based on the committee’s decisions at that meeting. After review by and coordination with the co-chairs, the draft was forwarded to the Committee on Style on April 16. On May 6 we received Style’s comments and proposed modifications. The co-chairs jointly considered those proposals, and most of them were incorporated into the draft.

There continued to be some language difficulties, however, the major one of which the drafting committee had wrestled with for several hours of our committee meetings. That was how to express with adequate clarity the very readily understood and generally agreed upon principle that the Court must fairly determine a way to balance the risks of nonappearance and other proscribed actions with the basic right of an accused to be at liberty pending trial. This is addressed in Sections 303 to 308.

On May 20, the co-chairs had a second dialogue with Style, and differences between the two committees were tentatively resolved. Based upon these agreements, the reporters on May 27 completed a new draft that included these agreed upon resolutions and compromises as well as additional commentary. After final review by the co-chairs, the reporters generated the attached draft.

Regarding the name of the Act: The Committee on Style has consented to our request to the Executive Committee that the name of the Act be Pretrial Release and Detention Act. We have also requested the Executive Committee to designate the Act a Uniform Act, and not a Model Act. As of the writing of this memo, we have not been told of the Executive Committee's decision on these requests.