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THE NATIONAL SHERIFFS' ASSOCIATION SUPPORTS FAIR AND JUST BAIL REFORM AND APPROPRIATE JUDICIAL DISCRETION IN BAIL DECISIONS

WHEREAS, the Constitutions and statutes of the United States and the fifty states differently recognize and protect the right to bail, but, to varying degrees, the laws recognize and protect a presumptive right to bail or pretrial release, prohibit excessive bail, and protect the writ of habeas corpus;

WHEREAS, the purposes of bail are reasonably to (1) ensure a person's appearance in court as required and (2) protect public safety;

WHEREAS, critical roles of courts and magistrates include exercising the authority and discretion to protect federal and state rights and public safety and hear evidence and arguments and make fair and just bail decisions in individual cases;

WHEREAS, bail or conditions of release, including use of technology and pretrial-services and supervised-release professionals, significantly contribute to persons enjoying pretrial release consistent with the presumption of innocence and public safety;

WHEREAS, the protection of both individual rights and public safety turn, in part, on adequately funded bail-related infrastructure, including prosecutors' offices, public defenders' offices, courts and magistrates and their clerks, sheriff's offices and police departments, and pretrial-services and supervised-release departments;

NOW, THEREFORE, BE IT RESOLVED, that the National Sheriffs' Association encourages states to institute and preserve the role of courts and magistrates in the bail process, including giving them the authority to determine bail or conditions of release, or, when justified, to deny bail or pretrial release;

BE IT FURTHER RESOLVED, that the National Sheriffs' Association encourages states to authorize courts and magistrates to consider appropriate factors in making bail decisions, such as (1) the seriousness of the offense charged, including whether an offense involves violence or a controlled dangerous substance; (2) the weight of the evidence; (3) the person's criminal record; (4) the person's ability to give bail; (5) the nature and seriousness of the danger to a person or the community posed by the person's release; (6) the person's voluntary participation in a pretrial drug-testing program; (7) the presence or absence in the person of a controlled dangerous

substance; and (8) whether the person violated a condition of bail or other form of release, including pretrial release or release on deferred adjudication, probation, or parole, and the nature of such a violation.

BE IT FURTHER RESOLVED, that the National Sheriffs' Association supports fair bail procedure, including an accused person's right to testify or present evidence and the right to cross-examine witnesses who appear at a bail setting and the right to prompt review of a bail decision, bail amount, or condition of release, and the prosecution's right to present evidence or witnesses at a bail hearing and the right to prompt review of a bail decision, bail amount, or condition of release.

BE IT FURTHER RESOLVED, that the National Sheriffs' Association opposes automatic release without bail or arbitrarily low-bail policies as being inconsistent with public safety and justice.

BE IT FURTHER RESOLVED, that the National Sheriffs' Association encourages states, counties, and other local jurisdictions to fund their bail infrastructure adequately.

BE IT FURTHER RESOLVED, that the National Sheriffs' Association supports programs to divert persons away from county jails where appropriate, including programs for persons suffering from mental illness or an intellectual or developmental disability or substance use disorder, veterans, and victims of commercial sexual exploitation.

BE IT FURTHER RESOLVED, that the National Sheriffs' Association supports the principles that a bail system should not deny a person's federal or state rights because of indigence or race, nor impose disparate adverse impacts on any group because of indigence or race.