

Bail Reform Is Working

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The 2014 state constitutional bail reform amendment relegated cash bail to the last resort to ensure defendants' appearance at trial. Other methods such as assessing flight and recidivism risks and monitoring were preferred going forward. At the same time the amendment authorized for the first time no-bail "preventive detention" for serious alleged crimes.

The amendment, its implementing legislation, and timely judicial decisions and directives are having a direct, positive effect on the lives of low-income New Jerseyans. A judiciary criminal justice reform report for 2020, released Oct. 8, 2021, indicates that there was only 0.2% of the jail population (14 people) incarcerated for inability to pay cash bail of \$2,500 or less. The percentage of low-risk defendants incarcerated in 2012 was 12%; in 2018, 4.6%; and in 2019, 2.4%.

This dramatic, steady decline represents thousands of families being spared the evictions, repossessions, disruption of children's education, inability to assist in defense, etc. that are associated with pretrial incarceration of low-flight-risk defendants who have not yet been convicted of a crime because they cannot pay cash bail.

The report indicates that indictable criminal activity by defendants who were released pretrial remained steady at under 14% for three years running. This seems to indicate that concerns about recidivism by those released pretrial have not materialized to any considerable degree. The report further indicates that court appearances by defendants who were released pretrial have increased slightly to more than 90%.

On the other hand, the percentage of people in jail for serious crimes (formerly with a constitutional right to bail before the amendment) has increased steadily since 2018. This will be welcome news to those favoring preventive detention.

These results indicate that the reform of bail in New Jersey, while difficult to implement, has been a very significant success. We commend all of those who were involved.