

Commentary: Illinois bail reformers: New Jersey's model works, plain and simple.

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In his State of the State address, Gov. J.B. Pritzker said he wants to eliminate cash bail in Illinois and called on lawmakers to act on the idea in the spring session. An admirable goal, one that has been pursued in a handful of states such as New Jersey, California and New York.

But now comes the hard part — navigating the special interests to arrive at an effective new law that, when implemented, results in successful criminal justice reform.

Our message to Gov. Pritzker and the Illinois legislature: New Jersey reform works and you should copy it, plain and simple. There is no need to reinvent the wheel. New York tried an approach different from New Jersey and, so far, it has been a disaster.

New Jersey's bail reform program was implemented in 2017 after years of careful study and bipartisan negotiation. Already enormously successful, these reforms were championed by Republican Gov. Chris Christie, a Democratic legislature and the state judiciary with support from prosecutors, defense attorneys and the American Civil Liberties Union. New Jersey has since enjoyed precipitous drops in violent crime, major decreases (over 29%) in pretrial incarceration, and virtually no change in recidivism or court appearance rates. And New Jersey taxpayers save hundreds of millions of dollars by not having low-risk, nonviolent offenders needlessly incarcerated.

“danger” was going to be a proxy for racial bias to overwhelmingly impose bail on nonwhite defendants. But with an overhaul of this magnitude to the criminal justice system, New York had an opportunity to dig deeper and do better.

New York’s flawed design is a head-scratcher because it runs counter to, and seemingly ignores, the already successful program implemented by its neighbors in New Jersey. New Jersey requires that risk of flight and potential danger to the community be measured. Prosecutors are empowered to seek and judges are empowered to grant pretrial detention based on the risk posed by each individual defendant. In lower-risk cases, the offender is released on nonmonetary conditions, such as electronic monitoring, curfew and drug testing. In the highest-risk cases, prosecutors can seek and judges can grant pretrial detention without bail.

Criminal justice reforms are vital, but we cannot lose sight of the first and most important function of the criminal justice system: to protect our communities. In some widely reported cases over the last few weeks in New York, dangerous offenders have been automatically released and, predictably, are reoffending. In New Jersey, prosecutors and judges can assess the danger posed by each individual offender and, if necessary, hold that person without bail pending trial. While no bail system will ever be perfect, every system will benefit from experience and adaptation. We learned from our own experience and made adjustments and improvements along the way.

Failure is not an option, either for Illinois or for the larger bail reform movement nationwide that could be stifled if Illinois stumbles like New York has so far. New Jersey is ready and willing to help by sharing our processes, our successes and the growing pains we suffered. Our message to Illinois is

simple: Please don't start from scratch, use New Jersey's successful model instead.

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