

New Solutions Campaign

Promoting Fair & Effective Criminal Justice • Strengthening Families & Communities

On August 11, 2014, Governor Christie signed historic comprehensive bail reform (S946/A1910) into law. On November 4, 2014, New Jersey voters passed Ballot Question #1 enacting the reform which will take effect in January 2017. Below is a brief summary of the new law, as well as a sample of reasons why its passage was a responsible and necessary criminal justice reform.

Why do we need bail reform legislation in New Jersey?

New Jersey's bail system is broken. Nearly three-quarters of the 15,000 people in state jails are awaiting trial rather than serving a sentence. Decisions about who is released pending trial are based on the ability to pay bail and not on the risk to the community. Nonviolent, low-risk arrestees are warehoused in jails for long periods at great financial cost to New Jersey simply because they cannot pay sometimes nominal bail amounts. Meanwhile, high-risk offenders who do have the financial resources can obtain release.

More than half of the individuals in New Jersey jails are being held for nonviolent offenses. Many of these individuals could safely be released on bail pending trial but lack the financial resources to pay the arbitrary bail amounts set by New Jersey's bail schedule. The average length of time individuals are held pending trial is almost one year.

Almost 40 percent of those held in New Jersey's jails are there solely because of their inability to pay bail. More than 10 percent cannot pay bail amounting to \$2,500 or less (more than 800 inmates are held for the inability to pay \$500 or less).

It costs about \$100 a day to hold an individual in a New Jersey jail, so warehousing an individual for almost a year while awaiting trial costs New Jersey taxpayers more than \$30,000. Thus, New Jersey's current policy of jailing an individual who cannot pay, for instance, \$500 bail, can cost New Jersey taxpayers more than \$30,000—just while that person awaits a trial.

In addition, the jailed person is separated from his or her family physically, emotionally and financially, further exacerbating the challenges this individual and family face. This is a lose-lose situation for everyone.

How will New Jersey's bail reform law fix the broken system?

New Jersey's comprehensive bail reform law will create a fairer, safer and more cost effective bail system. By allowing the supervised release of low-risk individuals who do not threaten the security of their communities, we can prioritize public safety while encouraging fiscal responsibility. At the same time, this new law will strengthen families and communities by allowing low-risk individuals to remain with their families, keep their jobs, and get connected to services, including drug treatment, pending trial.

How does the New Jersey bail reform law work?

New Jersey's comprehensive bail reform law (1) prioritizes non-monetary release options; (2) requires use of a validated risk assessment before an initial bail hearing in order for the court to make individualized determinations for release decisions; (3) establishes a comprehensive pretrial services agency within each county that will monitor and counsel those awaiting trial; (4) allows for the pretrial detention of truly dangerous individuals; and (5) guarantees timelines for a speedy trial.

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New Jersey's bail reform law closely mirrors federal pretrial release policies that have been proven effective and will prioritize public safety while encouraging fiscal responsibility. The New Jersey Administrative Office of the Courts is responsible for implementing bail reform and a Pretrial Services Program Review Commission was established through the bail reform law to oversee and assist with effective implementation. The Commission will report annually to the Governor, the Legislature and the Supreme Court.

How has bail reform implementation played out in other jurisdictions?

Other jurisdictions have seen great success from bail reform. Kentucky and the District of Columbia have become models for pretrial justice and bail reform. For example, in 1976, Kentucky enacted legislation that outlawed commercial bail bonding, implemented a statewide pretrial release program and declared pretrial release the default option for the majority of defendants. Data gathered after the law took effect revealed that appearance rates for court remained extremely high, between 95 and 98 percent, and the operational costs of the program were far lower than the costs associated with incarceration.

In 2005, Kentucky began a monitored conditional release program for pretrial defendants in a further effort to relieve jail overcrowding and reduce the growing financial burden of high incarceration rates. The program identifies appropriate candidates for release using an evidence-based risk assessment instrument and provides the court with a range of non-monetary release options that will best ensure a defendant's future appearance as well as the safety of the community. Thus far, the program is saving millions of dollars and appearance rates remain extremely high.

One year later, the Kentucky legislature appropriated funds for a pilot project that placed a social worker in select public defender offices throughout the state to provide indigent defendants awaiting trial with treatment and counseling services. In one year, the project cut recidivism rates to less than half of what they were in counties where the program was not used and saved \$1.4 million in incarceration costs.

Who supports bail reform?

Bail reform in New Jersey is supported by a large diverse statewide coalition of civil rights, antipoverty and criminal justice reform organizations such as the Drug Policy Alliance, New Jersey State Conference of the NAACP, Antipoverty Network of NJ, ACLU-NJ, NJ Institute for Social Justice, NJ Black Issues Convention, Latino Action Network, and the Integrated Justice Alliance. The coalition also includes numerous faith-based organizations like the Evangelical Pastors Association of Hudson County, Unitarian Universalist Legislative Ministry of NJ, Lutheran Office of Governmental Ministries of NJ and dozens of individual congregations and faith leaders from across the state.

Now that the bail reform law has passed, effective implementation is crucial if we want to fix our broken system and help those unjustly warehoused in our county jails. Please contact the New Solutions Campaign at 609-396-8613 or nj@drugpolicy.org to get more involved with the implementation of bail reform and other important criminal justice reforms.