

Providing Pretrial Liberties to Non-Violent Misdemeanors

Proposed Legislation: an amendment to Mississippi Code §21-23-8, §99-5-11, and §99-5-13 to stop abusive bail practices

The Problem:

Cash bail is one of the most corrupt and broken parts of the justice system. It lets the size of a person's wallet determine whether a person – who has been accused, but not convicted of a crime – can return home or stay locked up in jail while awaiting their day in court. This unfair and unjust system punishes those who are not wealthy even before they have had a chance to defend themselves in court. The consequences are tremendous. People lose their jobs, their housing, and even their families.

Mississippi's cash bail system punishes those who are too poor to pay. Detained individuals are often compelled to plead guilty to minimize risk and secure a release or more likely to accept a plea bargain or probation than those who are released pretrial. As a result, they increase their prospect of conviction, incarceration, and longer prison sentencing. Inability to pay bail criminalizes the impoverished and worsens a system in which the poorest are punished more severely than the wealthy.

This cash bail system disproportionately impacts Black people and other people of color. Research shows that Black and Hispanic defendants are overwhelmed with costs and fees higher than those of their white counterparts notwithstanding conviction for similar offenses.

The Solution:

Imprisonment by way of the inability to afford bail should not serve as a penalty to ensure court appearance. The presumption should be no bail and release on personal recognizance. However, when bail is necessary, it should only be imposed when no other conditions will ensure appearance in court and after an assessment of a defendant's ability to pay has been performed.

More than half of the 12,000 people held inside Mississippi county jails have not been convicted yet, while counties foot the bill for housing them. This amendment will help save precious taxpayer dollars while also providing the autonomy judges need to reasonably determine the most effective way to ensure the accused's return to court.

Main Points:

- The purpose of bail is “to guarantee an appearance at trial.” It is not to punish individuals for being accused with a crime. Any defendant charged with a bailable offense shall be released as a matter of right.
- The cash bail system unfairly punishes people simply because they don't have enough money to purchase their freedom. Wealth-based detention denies most people a fair chance at justice, disproportionately affecting Black people and other people of color. Detaining someone who has not been convicted of a crime and because they lack the financial resources to afford a cash bond implicates several constitutional protections, including under the Eighth Amendment, due process, and equal protection.
- In Mississippi, 56% of the 12,000 people in county jails, have not been convicted yet and are awaiting trial.
- High monetary bails promote a system of wealth-based incarceration, and feeds the for-profit bond industry.
- People caught in this system lose their jobs, homes and families, simply because they do not have enough money to make bail – regardless of guilt, innocence or legality of the arrest.
- Cities and counties often face costly litigation and the local taxpayers bear the burden for the misuse of bail.

CASH BAIL REFORM AND 5 REASONS TO SUPPORT IT

Money bail is one of the most corrupt and broken parts of the justice system. It lets the size of a person's wallet determine whether a person - who has been accused, but not convicted of a crime - can return home or stay locked up in jail while awaiting their day in court. When a person can't pay bail, they risk loss of employment, family, and home. Ending mass incarceration in Mississippi begins with bail reform.

Here are 5 reasons why you should support cash bail reform...



1. WEALTH-BASED DETENTION DENIES MOST PEOPLE A FAIR CHANCE AT JUSTICE.

14 out of every 25 (56%) individuals sitting behind bars have not been convicted of a crime.* The money bail system unfairly punishes people who don't have money, simply because they don't have money.

2. DO THE MATH! BAIL REFORM SAVES TAXPAYER DOLLARS.

The average minimum jail cost per inmate is \$50/day. That could total \$18,250 per year per detainee. Counties end up wasting precious taxpayer dollars to jail someone who is awaiting trial.

3. PRETRIAL DETENTION INCREASES THE POSSIBILITY OF CONVICTION AND LONGER SENTENCING.

Pretrial detention, or the jailing of people awaiting trial, increases the possibility of conviction and longer sentences because defendants are more likely to take plea deals and receive prison sentences.

4. THE BAIL BOND INDUSTRY PROFITS OFF THE BACKS OF THE PEOPLE TOO POOR TO PAY FOR THEIR FREEDOM.

These "bail sharks" like the status quo, which lets them reap profits off the backs of people who have no other option but to sign predatory financial contracts to get their loved ones out of jail. They trap people in debt through non-refundable fees and installment plans with high interest rates.

5. THE CASH BAIL SYSTEM TARGETS BLACK PEOPLE AND PEOPLE OF COLOR.

Money bail unfairly punishes people of low and moderate income, which disproportionately affects Black people and other people of color. Black people are more likely than white people to remain in jail after an arrest, even where they are charged with the same offense and have a similar history.



*ACLU Mississippi Blueprint for Smart Justice