

Vera Institute of Justice

Criminal Justice Issues and Prisoners' Rights

<https://www.vera.org/blog/black-and-grassroots-advocates-help-illinois-make-history-with-bill-to-end-money-bail>

Public Facing Advocacy Writing

On January 13, the Illinois General Assembly passed HB 3653, a landmark [criminal justice reform bill](#) that was championed by [grassroots advocates](#) and representatives of Illinois Black Caucus. The bill will create an entirely new pretrial system for the state and will enact robust provisions to support the rights of people who are accused.

Once it is signed into law, Illinois will become the first state to completely eliminate the use of money and profit pretrial. Governor Pritzker, who previously pledged his commitment to ending cash bail in Illinois, has already voiced his support for the bill and is expected to sign it in the coming weeks.

It is true that there is other bail reform legislation across the country both proposed and enacted that has a more restricted eligibility for pretrial detention. What is significant about Illinois bill, however, is the precedent it sets of reining in who, under the new law, is considered dangerous and a public safety risk terms that are synonymous with Black and brown people in a country where the [legacy of slavery lives on](#) in the modern criminal legal system.

Though Black people are just over 13 percent of the population, they make up [one in four people](#) in our nations jails. Even places that have passed bail reform New Jersey, Washington, DC, and New York have not made meaningful strides to end racial disparities in jails. Prior to bail reform, Black people made up 54 percent of the jail population in New Jersey. After bail reform despite almost halving the number of people behind bars [55 percent](#) of the jail population is Black.

Why do earnest attempts at bail reform fail at addressing racism? One reason is that in most pretrial systems, including in New Jersey and Washington, DC, people facing relatively low-level charges are incarcerated either on bail or preventively detained under a [generalized](#) danger to another person or the community [standard](#). The lack of specificity allows for all kinds of bias to seep in and, unsurprisingly, studies have shown that judges consider Black and brown people more likely to be [dangerous](#). Illinois, however, is the first jurisdiction to limit who may be viewed as dangerous to only those facing certain charges where a judge finds a [specific, real and present threat](#) to another person. This narrower standard could be monumental, as it limits explicit or implicit biases in the system by requiring a more particularized finding of the kind of harm a judge sees as likely to occur. If followed, HB 3653 will lead to fewer people in jail and go a long way toward eliminating racial disparities in pretrial decisions.

The need for significant pretrial reform around the country is loud and clear. We know from research that money bail has never had any correlation with improved public safety. Even [two days](#) in jail can completely destabilize someone's life and cause serious financial hardship, and an overreliance on detention [actually undermines public safety](#). We also know from every other jurisdiction that has moved away from money and profit and increased the number of people released pretrial that public safety is not compromised as more people are released. The provisions in HB 3653 reflect this reality.

Illinois has long been ahead of the curve in recognizing the harms of money and profit in the bail system. [Nearly six decades ago](#), the state became the first to outlaw its bail bond industry and prohibit out-of-state bondsmen from operating within its borders. HB 3653 continues that legacy and is the product of years of organizing and coalition building by advocates. Because of their work, along with the commitment of the states Black Caucus and other progressive representatives, Illinois is poised to again make history.

Yet, just as in other jurisdictions that have implemented pretrial reforms, Illinois lawmakers and advocates of reform are already facing unfounded backlash to the bill. Some police departments, unions, states attorneys, and others are predictably, and baselessly employing fearmongering and dog-whistling tactics to claim that pretrial reform will make Illinoisans less safe.

The same baseless attacks were alleged in New York City after bail reform went into effect in January 2020. Despite misleading assertions by law enforcement that bail reform released dangerous criminals on the street, the New York Police Department's [own data](#) revealed that of the 11,000 people released by the courts since January 2020, only one had been charged with a shooting and very few overall were connected to new instances of violence and crime. Every jurisdiction that has passed wholesale bail reform has seen fewer people needlessly detained at no cost to public safety. Since implementing bail reform nearly four years ago, [crime has fallen](#) across all categories in New Jersey especially violent crime, which has fallen over 18 percent (a steeper rate than it has around the country). In Washington, DC, over 99 percent of people released pretrial remain arrest-free for a new violent charge.

Journalists and media outlets in Illinois and throughout the country need to [stop the fearmongering](#) and avoid misrepresenting bail reform as a threat to public safety. The media often focuses on outlier cases rather than the tens of thousands of people and families who benefit from progressive reforms. Journalists should tell the story of a mother reunited with her family because of bail reform, or the person connected to treatment instead of languishing in a jail cell, or the thousands that will benefit from HB 3653. They should look to the data and not to the sensational headlines. If they do, they will undoubtedly see that these reforms are rooted in robust evidence that both supports public safety and upholds the fundamental right to due process.

Illinois has taken a historic step toward remedying the transgressions of the past. The people of Illinois and journalists in the state and

throughout the nation must be prepared for backlash and remain committed to the principles reflected in HB 3653. Lawmakers must not allow racism, fearmongering, and dog whistles to derail this push to help close mass incarcerations front door and invest in safer and healthier communities for all.

Images Courtesy of the Coalition to End Money Bond with the Illinois Network for Pretrial Justice.

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