



**H.296- An act relating to reducing the imposition of cash bail
Jessica Barquist, Policy & Organizing Director
House Judiciary Committee- April 1, 2021**

The Vermont Network is philosophically in support of the elimination of the cash bail system. Cash bail creates and perpetuates inequities and disparities in the criminal legal system by creating circumstances where an individual's freedom is dictated by their ability to access funds. We believe cash bail is unequivocally an inequitable and unjust system. We understand the need for bail reform and the disproportionate impacts of our criminal legal system on BIPOC individuals and communities, as well as individuals who experience poverty.

I would like to preface all my comments that follow with the understanding that the purpose of cash bail is to mitigate the risk of flight. Cash bail is not intended to be, nor should it be, how we achieve victim safety.

In practice, however, cash bail also serves some unintended, yet positive, functions – namely, victim safety. It is within this framework that we offer some additional thoughts regarding survivor safety in reforming this admittedly imperfect and harmful system. We must look at whether there are any further policy reforms needed to mitigate any unintended harm to victims that might be caused by the removal of cash bail.

Victim Safety

As cash bail is currently serving a safety function for some victims in our state, we must consider how, in the face of elimination of cash bail, we can better identify risk of danger for victims. As you may have heard from us many times in prior testimony, the most dangerous time for domestic violence survivors is when they take the first steps to leave an abusive relationship. Sometimes this is precipitated by law enforcement involvement and criminal charges.

Cash bail does help to promote victim safety in some situations. When an individual who causes harm is held pending bail, this time can provide a critical window of safety for a survivor - the time it takes to for an individual to assemble bail funds and have them processed by the court provides survivors with critical time needed to plan for and create safety. We need to provide protections and resources to victims.

As a state we currently do not have any systematic, empirical ways for the criminal legal system to assess dangerousness or risk of harm – especially in domestic violence cases. While it is true that individuals can be held without bail in serious felony cases, we also know that the charged



offense does not always correlate with the dangerousness of a particular situation. It is possible for an individual charged with misdemeanor domestic violence to pose a grave lethality risk to their partner.

We recognize that, when bail is granted, well-tailored conditions of release can also help account for victim and public safety. However, these conditions can vary widely, based on the judge and the information presented during the arraignment. In addition, many offenders do not adhere to the conditions, thereby posing sometimes life-threatening risks to victims.

Elimination of Bail for Expungable Offenses

We think it could potentially be premature to remove cash bail for any offenses until the Work Group is convened and can address the issues related to victim safety. Although there are currently no crimes of domestic or sexual violence that are expungable, domestic violence crimes can sometimes get charged as a lesser offense that could be expungable - for example, simple assault.

Stakeholders Work Group

We are grateful to be included in the list of stakeholders in this working group and welcome the chance to explore these complex issues further. We do hope that the Work Group will consider what additional policy recommendations might be required to better assess immediate dangerousness and risk within the criminal legal process.

Requirement of Racial Data on Pretrial Detainees

The Vermont Network supports this section of the bill. This data is essential in order to have a full picture of how pretrial risk determinations are currently being made.

Notification System for Upcoming Court Hearings

We are supportive of increased notification for all parties involved in legal proceedings. We fully support making the process of navigating the legal system as accessible and easy to understand as possible for all parties involved.

Thank you for the opportunity to testify.