

H.296 Testimony, Representative Michelle Bos-Lun

Cash bail is a human rights issue: it is an economic justice issue, a racial justice issue and a disability rights issue.

Prior to my election to the legislature last November I worked at the Brattleboro Community Justice Center as reentry coordinator. I worked with many individuals with varied experiences in the justice system.

I became concerned about cash bail disproportionately impacting the poor and resulting in long periods of incarceration when I was contacted by a man staying in a Vermont correctional facility who was unable to be released because he could not pay \$200. He was eligible to be released. His charge was a minor one, but he did not have a way to pay \$200. He was awaiting trial behind bars where it would be determined if he was guilty of the charges. I spoke with his mother who lived out of state, I spoke to him many times. I got letters from him, but I was not able to help him with his request to facilitate payment of \$200 for bail to get him out of a Vermont Correctional Facility while he was awaiting trial. He first contacted me in the winter. Summer was about to begin when he finally got to court and was released.

As my concern about this individual grew, I realized this was a systemic problem.

The incarcerated population in Vermont and around the US disproportionately consists of people from marginalized populations.

*Many individuals who are incarcerated are people experiencing mental health challenges. (Nationally 56% of people who are incarcerated are living with a mental health diagnosis).

*BIPOC individuals are more likely to be incarcerated. (In Vermont 1% of our population is black, but 11% of the incarcerated population is).

*People who are homeless or lack stable housing and stable employment often also lack the resources to pay \$200 to get out of prison while awaiting trial.

Bail reform in Vermont lowered bail to about \$200 for nonviolent expungeable misdemeanors, but that is an impossible amount for some vulnerable individuals to come up with. Some people may consider \$200 a minor fee. For the poor it can be unreachable. \$200 is keeping individuals behind bars when others facing the same charges are able to be released.

This week California decided that cash bail would be eliminated for those who are unable to pay. Illinois made the decision in February to eliminate cash bail entirely over the next two years. New Jersey has replaced its system of releasing defendants through cash bail with a

system that evaluates whether a defendant would pose a safety risk to the public if released. Kentucky, New Mexico, New Jersey, Nebraska, Indiana, and New York have all enacted bills or are considering bills to change cash bail in their states.

Around our country there is increasing awareness of the injustice of keeping people incarcerated who cannot afford cash bail, while people who can afford to pay or who have others who can pay for them, are able to be released. Keeping people who have not been convicted of a crime locked up because they can not afford bail is not justice. People who are incarcerated for even relatively short periods are likely to lose jobs, housing and even custody of their children.

H. 296 would move Vermont towards a system of justice that is more just. It would enable defendants facing less serious charges to be released after arrest and before trial without requiring payment of cash bail. It would require collection of pretrial racial data and it would require courts to set up a notification system to help individuals make it to their trials. Most people who miss their court dates do not miss them due to intention but due to a number of other challenges: maybe lacking a ride to the courthouse or challenges remembering details about the day and time their trial .H.296 is not the only approach to this issue. Around the country different versions of bail reform are being offered. I welcome your committee work further on this issue to develop the best option for Vermont. This bill is just a beginning in the movement towards a system that is fairer to all.

H.296 only will apply to people charged with expungeable offenses. It will keep people who lack economic resources, who are facing charges for minor crimes from waiting in prison for the trial that may or may not find them guilty. In the DOC report from Feb 21 of this year 180 individuals were incarcerated in Mississippi. If we could change our policies so that individuals awaiting trial for less serious offences would not be incarcerated for inability to pay bail, maybe we could bring some individuals back from Mississippi. Having fewer people incarcerated will save our state money that is currently spent keeping people locked up. .

Keeping a person incarcerated is expensive. The costs of incarceration in Vermont range annually from \$22,805- \$46,546. This is a daily rate range of \$62.47-\$127.52, or a monthly rate or \$1874-\$3825 (for a 30 day month). If we could correct our justice system and keep people out of prison for minor offenses while awaiting trial, it would be both the morally right thing to do and the financially wise choice for the State of Vermont as well.

H.296 would prevent individuals being incarcerated while awaiting trial for minor crimes. If we could reduce the number of people held in Vermont prisons who have not been convicted of a crime, it would be a step toward justice and could be a step toward keeping Vermonters in Vermont when they are sentenced.

I would like to see Vermont move away from cash bail as a way to get people to show up for trial, and move towards another system that will hold all people accountable without offering options to those with more economic means that are not available to all.

To keep the poor incarcerated while awaiting trial for minor charges is not justice. I urge your Committee to carefully consider this bill to move Vermont to a more just system of justice.

Thank you