

THE BAIL PROJECT

TESTIMONY TO THE SENATE JUDICIARY COMMITTEE IN SUPPORT OF SB 27

March 1, 2023

Chair Sears, Vice Chair Hashim, and Members of the Committee,

On behalf of The Bail Project, I am pleased to submit this testimony in support of Senate Bill 27, legislation which, if passed, will significantly improve Vermont's pretrial system by reducing wealth based detention, increasing return to court, and providing law makers with critical data to inform future decisions and improvements.

The Bail Project is a national nonprofit that provides free bail assistance and pretrial support to thousands of low-income people every year, while also advancing policy change at local, state, and national levels. Our work across the country proves that cash bail is unnecessary and that there are more effective ways to advance pretrial justice.

Cash bail rests on the misconception that financial incentives are necessary to ensure an individual's return to court. Cash bail, by definition, is a form of conditional release. When judges set cash bail that people cannot afford, it defeats the purpose of bail, violates the U.S. Constitution which explicitly prohibits the use of excessive bail, and fills jails with people who are accused of crimes, but not yet convicted. The human toll of cash bail is catastrophic, levied almost exclusively on the poor, and disproportionately on communities of color. People who are jailed pretrial often wait months, and sometimes years, for their cases to resolve — all while they are at risk of losing their employment, housing, children and more.

At The Bail Project, we know there is a better way. Using a National Revolving Bail Fund, we provide free bail assistance to thousands of people living in poverty every year and support them through the duration of their cases. Since the launch of our first site in 2018, we've paid bail for more than 27,000 clients with a 92% court appearance rate.

Our experience demonstrates that cash bail is not necessary to ensure return to court, and that simple measures such as text and phone call reminders about court dates substantially improve appearance rates. Court notification systems are a straightforward, yet powerful tool to support return to court and facilitate a more cost effective pretrial process. They reduce administrative costs as a result of decreased rates of rearrest, issuance of bench warrants, and reductions in the

number of hearings that need to be rescheduled. For example, Hennepin County's District Court estimated cost savings of over \$3 million per year as a result of their text message court notification system, which reduced failure to appear rates by 35% for individuals who received a reminder. Court reminder systems also reduce the workloads of judges, sheriffs, and prosecutors.

At The Bail Project, our data not only demonstrates that our model works, but also informs our organizational decision making. Robust and holistic data on the pretrial system is another critical tool for lawmakers to strengthen Vermont's pretrial system. Pretrial data can inform legislative and stakeholder decision-making on future pretrial policies at the state and local levels. A more robust data collection and reporting system would also highlight the successes of Vermont's improved pretrial system, and allow lawmakers to ensure resources are directed towards the most impactful pretrial interventions - and is a recommendation that The Bail Project would strongly encourage the stakeholder working group established by SB 27 to include in their proposal to end cash bail.

Additionally, to ensure that the future elimination of cash bail in Vermont upholds due process and maximizes liberty and individual rights, The Bail Projects encourages the stakeholder workgroup and legislature to include due process protections and establish processes that require judges to use the least restrictive conditions necessary to ensure return to court, meet evidentiary thresholds in determinations of risk, and establish rigorous processes for detention hearings as part of their ultimate proposals.

The Bail Project supports SB 27 and respectfully urges the members of this committee to support this important measure. Please do not hesitate to contact me with any questions you might have about our position.

Sincerely,

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