

March 13, 2023



Senator Dick Sears Jr., Chair
Senate Committee on Judiciary
Vermont State House
115 State Street
Montpelier, VT 05633-5301

Dear Senator Sears:

I write on behalf of Fair and Just Prosecution to express our support for S. 27, seeking to limit the current imposition of cash bail and create a working group to develop recommendations to eliminate cash bail.

By way of background, [Fair and Just Prosecution](#) (FJP) brings together elected prosecutors from around the nation as part of a network of leaders committed to change and innovation. We hope to enable a new generation of prosecutors to learn from best practices, respected experts, and innovative approaches aimed at promoting a justice system grounded in fairness, equity, compassion, and fiscal responsibility. The leaders we work with hail from urban, suburban, and rural areas alike, and they collectively represent nearly 20% of our nation's population. I also spent a decade and a half, myself, as a federal prosecutor and saw firsthand the harms of unnecessary pretrial detention on individuals as well as communities.

We know that cash bail systems can create an unequal standard of justice that predicates release not on danger to the community, but rather the individual's ability to post bail. As such, these systems too often penalize poverty and unnecessarily keep people behind bars in ways that can destabilize them and their families. Indeed, studies have shown that pretrial detention – even for a brief period of time – can increase the likelihood of future contact with the criminal legal system and thereby adversely impact public safety.¹ Additionally, a cash bail system exacerbates racial disparities that too often pervade the criminal legal system.² Black and Latino men are often assessed higher bail amounts than white men for similar crimes – these higher bail amounts are imposed 35% more often for Black men and 19% more often for Latino men.³

FJP commends state and local leaders who are seeking to reexamine their criminal legal systems and consider new policies that create a fairer and more equitable approach to the pretrial process. We support measures that are guided by research and evidence and do not predicate release from

¹ [1] Léon Digard and Elizabeth Swavola, Vera Institute of Justice, Justice Denied: The Harmful and Lasting Effects of Pretrial Detention, April 2019, <https://www.vera.org/downloads/publications/Justice-Denied-Evidence-Brief.pdf>.

² See Meghan Sacks, Vincenzo Sainato, & Alissa Ackerman, Sentenced to Pretrial Detention: A Study of Bail Decisions and Outcomes. *Am J Crim Just* 40, 661–681 (2015). <https://doi.org/10.1007/s12103-014-9268-0>; Also see Devers, L., Bail Decisionmaking: Research Summary 1–2 (2011), available at, <https://www.bja.gov/Publications/BailDecisionmakingResearchSummary.pdf>.

³ Wendy Sawyer, How race impacts who is detained pretrial, Prison Policy Initiative, October 2019, https://www.prisonpolicy.org/blog/2019/10/09/pretrial_race/.

custody on a person's financial status.⁴ We believe that S. 27, as introduced, is a positive step forward in advancing these objectives.

As the Committee considers this issue, we also encourage you to look at advancements and reforms in states and jurisdictions across the country. The District of Columbia, and states like New Jersey and New Mexico have eliminated cash bail, and these reforms have proven to be effective. For example, studies of New Jersey demonstrated that there were no meaningful increases in failures to appear in court by defendants or new offenses committed by people who are released pretrial.⁵ And appearance rates continue to improve.⁶ Additionally, in your own state, justice system leaders are embracing promising and innovative approaches to move away from reliance on cash bail.⁷

In sum, we are supportive of S. 27 and believe that these proposed reforms will advance the interests of justice and public safety. Please do not hesitate to contact me if we can provide further information.

Sincerely,



Miriam Krinsky
Executive Director
Fair and Just Prosecution
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CC: Senator Nader Hashim, Vice Chair, Senate Committee on Judiciary
Senator Tanya Vyhovsky, Clerk, Senate Committee on Judiciary

⁴ Fair and Just Prosecution, Issues at a Glance: Bail Reform (2017), <https://www.fairandjustprosecution.org/staging/wp-content/uploads/2017/09/FJPBrief.BailReform.9.25.pdf>.

⁵ New Jersey Releases Annual Bail Reform Report, Drug Policy Alliance, April 2, 2019, <https://drugpolicy.org/press-release/2019/04/new-jersey-judiciary-releases-annual-bail-reform-report-additional-key/>.

⁶ Annual Criminal Justice Reform Report, New Jersey Court, 2021, <https://www.njcourts.gov/sites/default/files/courts/criminal/criminal-justice-reform/cjr2021.pdf>.

⁷ Elizabeth Murray, *State's Attorney Sarah George to End Cash Bail in Chittenden County*, Burlington Free Press, September 16, 2020, <https://www.burlingtonfreepress.com/story/news/local/2020/09/16/vermont-prosecutor-directs-office-stop-requesting-cash-bail/5816978002/>.