

Testimony to the Senate Committee on Judiciary

March 2, 2023

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Background

- Bail creates a two-tier system.
 - Those awaiting trial who have money can be home with their communities, and those who don't have money end up in jail simply because they can't afford to pay bail.
 - When people are incarcerated they often lose their jobs, their housing, and even their kids. Their lives and communities are irreparably disrupted.
 - Bail disproportionately harms poor people, as well as people of color, who are more likely to experience bias when bail is set.

- Legally, bail cannot be used to keep people accused of violent offenses from being in the community.
 - It's deeply concerning to me that it seems like bail in Vermont is being used in an attempt to hold people in jail.
 - If it's clear in advance of a trial that significant violence has been committed, other tools could be used, such as a hold on that person.

- "Failure To Appear"
 - People are charged with FTA because they had no phone and no address, so did not and could not know about the court date.
 - Transportation is an issue
 - They were not trying to avoid prosecution, yet their FTA will be used against them in setting higher and higher bail.

About the Vermont Freedom Fund

- VFF is a volunteer run, 501(c)(3) tax-deductible fund that bails out our incarcerated community members in Vermont. We work with those detained and their legal counsel to provide the bail funds they need in order to be released.
- We believe...
 - cash bail is an abuse of the criminal justice system, criminalizes poverty, and has a disproportionate effect on Black people, Indigenous people, people of color, and immigrants.
 - wealth should not determine who is kept in jail.
- We were founded in 2018 alongside Migrant Justice when their leadership was being illegally targeted by ICE (before Migrant Justice and several immigrant community leaders received \$100,000 in damages from ICE).
- In 2021 we began paying community bail in addition to immigration bond.
- The need is great, and we do not have enough money to meet the need.

- Every person for whom we post bail doesn't have the money for bail.
- Beginning with our first pre-trial bail in 2021, we have posted bail 39 times, for a total of \$46,950.
- We have posted bail for 11 people in Jan and Feb 2023, for a total of \$8850.
- We've paid bails ranging from \$50 to \$5,000.

Call to Action

- 1) There's too much discretion with bail.
 - a) Judge Rainville self-described himself as "the bail judge", seemingly intentionally creating situations where people are kept in jail for inability to pay before they've been to trial.
 - b) We need to eliminate cash bail for more consistent outcomes no matter where you live in Vermont.
 - c) Section 2 is tasked with coming up with new, innovative solutions, and the groups who are included in making a proposal should reflect that.
- 2) We need to take action to make sure people know about their hearings.
 - a) Urgency for the addition of electronic notification of hearings
- 3) VFF would like to be included in the group of stakeholders creating a proposal to eliminate cash bail.