



Cash Bail Frequently Asked Questions

If you stop cash bail, doesn't that mean we're letting criminals walk free?

People held on bail have not been convicted of a crime and have yet to have their day in court. Keeping people in jail pretrial violates their presumption of innocence and frequently ruins lives.

Okay, but even if they haven't been convicted, some people charged with crimes are guilty. Should we really be letting them out pretrial?

If a judge has clear evidence that a person poses an immediate and grave threat of violence to another person, the judge has other tools at his or her disposal to protect public safety. The judge may impose a condition of release or restriction upon that person's liberty or detain that person until their trial. Ending cash bail doesn't mean that a dangerous person deemed a threat to others can't be detained pretrial.

But will people even show up for their trial if they've been released without having to put up cash bail as collateral?

There's no evidence that failure-to-appear rates go up when cash bail is not implemented. Evidence does show that a reminder text message is a significantly more effective tool than cash bail when it comes to ensuring people show up for their court date.

Why give a break to people charged with a crime, especially when plenty of them will be found guilty?

It's not about cutting people breaks, it's about the constitutional presumption of innocence to which every person charged with a crime is entitled. What's more, when someone is locked up for days, weeks, or longer, their lives can quickly become a crisis as they might lose their jobs, cars, homes, even their families when they are unable to maintain their daily livelihood.

Recent studies have shown that pretrial detention correlates with worse case outcomes compared to defendants who are able to make bail. Furthermore, individuals held in pretrial detention are actually more likely to commit a crime after being released than those individuals who were released pretrial.

Cash bail has been used for decades; I'm just not comfortable upending a system that works.

Cash bail only works for the wealthiest individuals who can buy their way out of jail. For everyone else, the system is quite broken. Cash bail is also out of step with the rest of the world. The United States and the Philippines are the only two common law countries in the world who use cash bail.

So what are the alternatives to cash bail?

Unsecured monetary bail is more effective than monetary bail at getting defendants to come to court. Phone call reminders increase appearance rates by 42 percent and mail reminders may increase appearance rates by as much as 33 percent.

Two-way text messaging apps that notify defendants of pending court dates and allow them to communicate with their lawyers have shown great promise in dramatically reducing failure to appear rates.

But why do we have to do this in my community when we don't know what the outcomes will be?

We do know what the outcomes will be. Washington, D.C., New Jersey, New Mexico, Arizona, Alaska, Colorado, Kentucky, and Maryland have moved to eradicate cash bail.

Washington, D.C. has been operating successfully without cash bail since the 1960s and officially eradicated financial conditions of release in 1992. Nearly all D.C. defendants are released either on their own signature or with non-monetary conditions. Ninety percent of released defendants make all scheduled court appearances, and 91 percent of released defendants remain arrest free pre-trial. Both court appearance rates and rearrest rates are far better than the national average.

In 2017, New Jersey released all but 5.6 percent of defendants facing charges and reduced the state's pretrial jail population by 20 percent. New Jersey's elimination of cash bail did not lead to a rise in violent crime. To the contrary, the state saw no major bump in violent crime, and for many serious crimes, the rates have dropped.

There is plenty of other evidence showing the same. We aren't advocating doing away with all mechanisms of bail, just cash bail. This reform will make our communities safer and stronger.