

FROM POLICY TO PROGRESS:

A ROADMAP FOR THE SUCCESSFUL IMPLEMENTATION OF THE PRETRIAL FAIRNESS ACT

The Pretrial Fairness Act, a part of the criminal justice omnibus SAFE-T Act passed in January 2021, will take full effect in January 2023. It ends the use of money bond, ensuring that pretrial fairness is available to all Illinoisans and not just those who can afford it. The legislation was drafted based on national best practices and the Illinois Network for Pretrial Justice's Principles for Bond Reform.



The Illinois Network for Pretrial Justice offers the following recommendations, as well as an accompanying report, to assist with implementation of the Pretrial Fairness Act:

RECOMMENDATION #1:

End the use of financial conditions of pretrial release.

Courts should not impose any financial conditions of release on accused people, such as charging people money for pretrial supervision or programs. Financial conditions recreate the harms of money bond by criminalizing poverty.

RECOMMENDATION #2:

Avoid reliance on restrictive conditions, surveillance, and mandated services for people released pretrial.

Most people return to court without conditions on their release. Courts should not preemptively impose supervision requirements on accused people and should instead give them the opportunity to succeed independently in the community while awaiting trial.

RECOMMENDATION #3:

Limit the use of conditions that hinder accused people's pretrial success and prevent them from performing personal responsibilities.

Conditions of pretrial release such as drug testing and electronic monitoring should be limited in their use. These burdensome requirements and extreme restrictions on movement replicate the harms of pretrial jailing by making it difficult for people to maintain their jobs, education, health care, and overall well-being. They also increase people's likelihood of being incarcerated pretrial due to technical violations.

RECOMMENDATION #4:

Retain the Pretrial Fairness Act's restrictions on when and how pretrial detention may be ordered.

Pretrial incarceration should be limited to cases where there is an identifiable safety risk or threat of willful flight, as written in the law. Courts should also reduce reliance on risk assessment tools, which contribute to racial disparities in pretrial release decisions. If used, assessments should be evaluated to minimize racial disparities and used only to recommend appropriate voluntary support for people released pretrial, not to determine whether to detain people.

RECOMMENDATION #5:

Establish systems for effective data collection and publication prior to the full implementation of the Pretrial Fairness Act.

Data availability is essential to the success of the Pretrial Fairness Act. Statewide systems to collect, process, and publicly share data on pretrial release decisions, case outcomes, and demographics of people impacted by the system must be in place prior to January 2023, and they must be continually evaluated and improved thereafter.

RECOMMENDATION #6:

Provide the training, funding, and administrative reforms necessary to ensure that court practices conform to the law.

The Illinois court system must commence a robust effort to educate judges, prosecutors, and defense attorneys across the state on the changes coming to the pretrial justice system, and increase funding to public defenders so they can provide the law's intended benefits to hundreds of thousands of Illinoisans in 2023 and beyond.

Learn more at EndMoneyBond.org and PretrialFairness.org!