



CHANGING LANDSCAPES

Community Court-Watchers' Observations of the Second Year of Pretrial Fairness Act Implementation

In Spring 2025, almost two years after the enactment of the Pretrial Fairness Act, the Illinois Network for Pretrial Justice trained over 50 volunteer court-watchers to observe 167 detention hearings at the Leighton Criminal Courthouse over the course of six weeks. Their observations shed light on why pretrial jailing, which declined in the first year of implementation, has increased in Cook County despite the strong limits that the law sets on detention.

- **96% of accused people that prosecutors sought to jail were Black or Latine, and most were young men.**
- **Judges granted 74% of prosecutors' petitions to detain.** One court-watcher noted, "It seems as though the default decision is to detain—the burden of proof seems to be on the defense rather than the prosecutor." This is especially concerning given that approximately half of the detention-eligible cases filed result in dismissal or acquittal.
- **Over two-thirds of detention petitions were filed against people accused of possessing, but not using, a gun.** Prosecutors and judges were inclined to regard anyone accused of simply possessing a gun as dangerous, even though many people who carry guns do so for their own protection, not because they intend to cause harm. Judges granted detention petitions in 70.3% of these cases.
- **A low risk assessment score signals that a judge should release a person and yet of the 30.5% of the people with a low score, judges detained or subjected 80.4% of these people to electronic monitoring.**

RECOMMENDATIONS FOR IMPROVING IMPLEMENTATION

This recent data suggests that Cook County is slowly reversing the gains made when the Pretrial Fairness Act was first implemented. This is alarming given the documented adverse effects of jail on the accused, their families and communities. In order to ensure that detention is truly limited for individuals who pose a safety or flight risk and that the system is sufficiently transparent, we make the following recommendations.

RECOMMENDATIONS FOR COOK COUNTY STATE'S ATTORNEY BURKE:

Grant more discretion to prosecutors to decide whether to file felony charges and whether to seek detention.

- Immediately end policies (1) requiring prosecutors to seek detention in all cases involving certain charges regardless of the accused's background and the facts of the arrest and alleged offense (2) allowing the Chicago Police Department to avoid prosecutorial screening and oversight by directly filing felony charges for most gun possession offenses.

Release usable data on pretrial detention petitions and outcomes.

- Fulfill her campaign promise of increasing, rather than decreasing, transparency by regularly updating the Felony Dashboard. She should also amend her office's Detention Dashboard to include the race, age and gender of the accused and add a button to download the underlying data as a table to make it usable by researchers and the public.

Reinstate the policy of disclosing police officers who have a history of misconduct.

- Resume the practice of maintaining and disclosing a list of police officers with a history of misconduct in order to give prosecutors, defense attorneys, and judges important information to assess the actions and accounts of police officers.

RECOMMENDATIONS FOR CHIEF JUDGE BEACH:

Call on judges to engage in more holistic decision-making.

- Chief Judge Beach should ensure that judges are taking advantage of the increased information and time they are now granted for detention hearings and engage critically with the prosecutor's narratives and arguments.

Collect data on judicial decision-making and regularly assess judicial performance.

- The Office of the Chief Judge should (1) collect and release case-level data for each pretrial conditions or detention hearing as a downloadable table that includes demographic information of the accused and details on outcome of the hearings and (2) consider other mechanisms to assess judicial decision-making in detention cases, such as random transcript reviews or court observations.

RECOMMENDATIONS FOR THE ILLINOIS GENERAL ASSEMBLY:

Protect the detention eligibility net.

- The Illinois General Assembly must protect the detention eligibility net from potential attacks, including undue expansion, in future legislative sessions.

Reverse changes to the Pretrial Fairness Act's safety standard made in a 2022 trailer bill.

- The General Assembly should reinstate the Pretrial Fairness Act's original safety standard, which required that the accused person pose "a *specific*, real, and present threat to the safety of any person or persons", rather than the current requirement that they pose a generalized "real and present threat to . . . *the community*" or issue clarifying language in order to prevent the unnecessary jailing of accused people who do not pose a specific danger to a person.

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