

MARYLAND ALLIANCE FOR JUSTICE REFORM

Working to end unnecessary incarceration and build strong, safe communities



Pretrial-Justice Reinvestment Act

What's the problem?

In 2014 [Maryland's sentenced prison population](#) averaged 21,011, and our local jail populations (24 jurisdictions combined) averaged 11,454. Of these, 65.8% were Marylanders awaiting trial and constitutionally presumed innocent. Moreover Maryland pretrial detention costs range from \$83-\$153 per-inmate per-day; by comparison, pretrial assessment & supervision programs cost approximately \$2.50 per person per day. [Taxpayers in Maryland](#) paid about 19% higher than the other states per inmate.

[Studies show](#) that “failure to appear” rates for those with pretrial supervision equals those of our traditional bail systems. With nondiscriminatory pretrial risk assessments, those “high risk” to reoffend may be kept in pretrial detention and those “low or moderate” may be released safely with appropriate supervision conditions.

[“Last year in Baltimore](#) over 8,200 largely black and poor citizens — not convicted of any crime, just arrested and presumed innocent — were granted bail, but nevertheless kept in jail because they were too poor to put up the money. Another 7,000-plus were freed on bail but only after collectively paying millions of dollars to bail bondsmen, money they will not get back even if they are ultimately found innocent.”

Poor citizens should not be held in pretrial detention just because they cannot pay a bail bond that more affluent citizens could pay. The Supreme Court has ruled that “liberty is the norm, and detention prior to trial or without trial is the carefully limited exception... [The government may hold those who] pose a threat to the safety of individuals or to the community which no condition of release can dispel” and those found likely to flee. Because inability to pay a small money bond does not “pose a threat” or show likely flight, many jurisdictions have faced class action litigation resulting in abolition or changes to traditional money-bail rules.

What's wrong with the current system? It increases economic and racial disparities; it allows defendants who pose a risk to community safety but have access to money to buy their way out of jail; it coerces guilty pleas by individuals desperate for release on any terms; and it ignores evidence-based practices proven effective in other jurisdictions.

What's one solution?

Baltimore City and five other Maryland jurisdictions already staff different models of pretrial screening and supervision. With the 2017 Pretrial-Justice Reinvestment Act (“PJRA”), three or more jurisdictions would serve as pilots to adopt more efficient, web-based risk-assessment and best-practices supervision. After two years, other jurisdictions, with support from the DPSCS Pretrial Division, could receive training and adopt their own pretrial assessment and supervision programs with savings from reduced pretrial detention.

Following D.C.'s and Colorado's nationally-recognized models, PJRA broadens the definition of bail to include “reasonable conditions, set by the court and accepted by the defendant, to ensure the defendant's appearance in court when required.” It also creates a strong preference for nonmonetary bail conditions.

The PJRA also aims to preserve public safety and reduce pretrial detention with:

1. increased use of citations in lieu of arrest;
2. prompt prosecutorial screening especially for cases involving pretrial detention;
3. expediting “technical” violation of probation cases to avoid delays;
4. diversion programs to redirect appropriate individuals to mental health, substance abuse, mediation, and “restorative justice” programs as available.

Will this work?

Other states, including Colorado and Kentucky, have implemented evidence-based reforms that could provide a model for Maryland. Indeed, over the past few years, two high-level state commissions have studied Maryland's bail system and recommended a series of reforms that would result in a major overhaul of that system. The 2016 [Abell Foundation/Pretrial Justice Institute Report](#) offers a path to implement necessary changes and calls local and state leaders to take action now.

In Kentucky, which has implemented pretrial risk assessment and services, only 43% of detention center offenders are held in detention prior to their trial compared to Maryland's averaged rate of nearly 66%. [Other states](#) and their counties have made similar progress.

However, because bail bondsmen are a well-organized lobby and contribute significantly to legislators' campaigns, voter support must be well organized.

Status of the Legislation

The Pretrial-Justice Reinvestment Act (PJRA) is currently being drafted. From a fiscal perspective, excessive money bail and costly pretrial detention (averaging more than \$100 per diem in Maryland) can be replaced by less costly (about \$2.50 per diem) and more effective pretrial-supervision. Lower pretrial detention also might reduce taxpayers' Public Defender costs.

Clearly, the need and opportunities for pretrial reform are greatest in Baltimore City where detention and pretrial supervision are already funded and under State control. This legislation enables pilot programs with preexisting funding in other county jurisdictions, as recommended by the Abell/PJI report, for collaboration with the State so "wrinkles...can be ironed out" in shared pretrial tools, policies and procedures.

The Maryland Pretrial-Justice Reinvestment Act will begin the process of establishing, in phases, a uniform, statewide, data-driven, nondiscriminatory pretrial system—as part of a comprehensive Maryland Justice Reinvestment policies—with the goals of reducing taxpayer costs, reducing harm to pretrial detainees, reducing pretrial delays, and reducing future crime via more effective pretrial diversion.

Learn More!

- The Abell Report *Finishing the Job: Modernizing Maryland's Bail System* offers a path toward implementing the necessary changes and calls on local and state leaders to take action now. [http://www.abell.org/sites/default/files/files/cja-pretrial616\(1\).pdf](http://www.abell.org/sites/default/files/files/cja-pretrial616(1).pdf)
- Robert C. Embry Jr. speaks out about the effects of bail in Baltimore. See this article at: http://digitaledition.baltimoresun.com/tribune/article_popover.aspx?guid=5b91cc2c-fc49-4b17-bf0c-d98a44ab8229
- In 2014 the Governor's Commission to Reform Maryland's Pretrial System studied characteristics of the current pretrial system, including outcomes associated with the provision of counsel at the initial appearance phase. See the full report at: <http://www.goccp.maryland.gov/pretrial/documents/2014-pretrial-commission-final-report.pdf>

Many other resources can be found at: <http://www.ma4jr.org/pretrial-justice>

Note: This document contains hyperlinks. To access those documents, see the online version at:

<http://www.ma4jr.org/pretrial-fact-sheet/>

The Maryland Alliance for Justice Reform (MAJR) is a nonpartisan association of over forty community organizations and churches with members in every part of the state, formed to support justice reinvestment. Individual supporters include judges, attorneys, corrections professionals, as well as returning citizens, victims, and service providers.