

Public Comment to the Task Force for Racial Equity in Criminal Justice, April 21, 2023

The North Carolina Interfaith Cash Bail Reform Committee (NC ICBRC), a project under the auspices of the NC Council of Churches, is staffed by a group of NC church member volunteers who work on cash bail bond reform as educators and advocates.

We believe people of faith, once they understand the injustices of for-profit cash bail, will be motivated to educate and advocate for reform in their local judicial district and statewide to replace for-profit cash bail with alternatives which preserve public safety and do not incarcerate people simply because they cannot afford bail.

The immoral NC for-profit cash bail system extracts money from people while they await trial for low level, non-violent crimes, sometimes for weeks or months.

In 2007, the American Bar Association explained why they adamantly oppose compensated sureties (commercial bail):

1. In a money bail system, the defendant's ability to post bail is completely unrelated to the risk to public safety.
2. Decisions regarding who will [be offered bail so they can] be released are up to the bond agents, not the courts.
3. The bond agents make their decisions in secret.
4. The poor and middle-class who cannot afford the non-refundable fees nor put up assets as collateral are being discriminated against.

NC law (G.S. 15A-534-a) contains an express preference for nonfinancial conditions except when certain circumstances are present (i.e. risk of flight, risk of harm, seriousness of offense). Yet in NC in cases where the highest charge was a misdemeanor, secured bonds were imposed 68% of the time in 2018. In some counties the percentage was over 80%.¹

Contrary to what is claimed in political ads, for profit cash bail actually increases crime because time in jail pretrial disrupts lives. People unable to pay bail often plead guilty just to get out of jail, leaving with a criminal record. They leave jail poorer and are more likely to commit crimes due to desperation from job loss, loss of housing or transportation, or family issues.²

¹ Source: UNCSG Criminal Justice Innovation Lab, How Big a Role Does Money Play in North Carolina's Bail System? <https://cjl.sog.unc.edu/areas-of-work/bail-reform-2-0/>

These percentages do not tell us anything about the nature of the misdemeanor cases at issue or the defendant's pretrial risk. We also do not know how many cases involve imposition of a secured bond after a failure to appear.

² 2020 Wake Forest Law Review article by Jessica Smith, UNC SG Criminal Justice Innovation Lab

Over 50% of county jail detainees are charged with low level crimes. It is expensive to house them, the average cost per NC inmate is over \$30k per year³, and that doesn't include the cost of building and maintaining the facility. Use of summonses or citations, and pretrial release programs or release with supervision is much less expensive, and would require fewer tax dollars to support.

For profit cash bail is unnecessary for public safety. Cash bail is only intended to ensure people charged with a crime show up for their court date. People who are a threat to others can be detained without bail. Very few people charged with low level crimes go into hiding, they miss court dates for other reasons, such as inability to get off work or arrange child care, and are easily rearrested.⁴ The insurance companies who underwrite the bail industry have almost no losses due to bail forfeiture. It's their most profitable business (\$2 billion in profit per year in the US)⁵. The US and the Philippines are the only countries in the world using for profit cash bail. The US Military doesn't use it and neither do several States.

Cash bail provides a false sense of security while imposing unjust, racially biased pretrial release conditions on those least likely to afford it. According to a [study done by the National Association of Counties](#), two-thirds of the confined population in county jails is pretrial and most often, these jails identify a majority of their confined jail population as low risk. Typically, a disproportionate percentage are persons of color.

Forcing people of low wealth to pay a non refundable fee to a bail bondsman for a low level crime just makes their lives harder and provides no benefit to the community. It is one reason jails are overcrowded and is the most expensive way to deal with nonviolent, low level offenders who represent the vast majority of people charged with an offense.

3

<https://www.vera.org/publications/price-of-prisons-2015-state-spending-trends/price-of-prisons-2015-state-spending-trends/price-of-prisons-2015-state-spending-trends-prison-spending>

⁴ <https://www.prisonpolicy.org/reports/bail.html>

⁵ [*Selling off our Freedom: How insurance corporations have taken over our bail system*](#), Color of Change and ACLU, 2017