

Five FAQs about Bail Reform in Illinois

1. Didn't Illinois pass bail reform this past summer?

Answer: Kind of. The Bail Reform Act of 2017 (Senate Bill 2034) was signed into law by Governor Rauner on June 9, 2017. While the new law is a step in the right direction, it is nowhere near the comprehensive reform we need. While the Act recommends judges avoid using money bonds, it does not actually restrict judges from using money in any case in front of them. As a result, advocates and justice system stakeholders alike predict it will have little impact on bail setting practices and the jail population in Cook County.

2. What is the lawsuit trying to accomplish?

Answer: This historic class-action lawsuit wants to stop judges from using unpayable money bonds as a back-door around the constitutional limitations on pretrial detention. The suit was brought by two named Plaintiffs who represent everyone incarcerated in Cook County Jail who has been found eligible for release, but who remains in custody solely because they cannot afford to post the required amount of bond set by a judge. Ultimately, the lawsuit seeks a declaration from the court that Cook County bond practices—practices that result in the incarceration of thousands of people simply because they are poor—violate the United States and Illinois Constitutions and the Illinois Civil Rights Act.

3. What is the relationship between the lawsuit and Chief Judge Evans' General Order 18.8A?

Answer: Chief Judge Evans issued General Order No. 18.8A, which addresses procedures for bail hearings and pre-trial release, in July 2017 while this lawsuit was pending. In his order, Judge Evans instructs judges to set money bonds only in amounts that people can pay within 48 hours. If followed, Order 18.8A would prevent pretrial detention based solely on inability to pay a monetary bond. The judicial defendants are arguing that General Order 18.8A makes the lawsuit irrelevant, but the order itself could be rescinded at any time. In addition, lawyers for the Plaintiffs argue that Judge Evans does not have the power to pass the Order.

4. What's the deal with money bond and pretrial detention?

Answer: Right now, people who cannot pay their bonds make up the majority of people incarcerated in Cook County Jail. More than 4,000 people are locked up only because they can't afford to pay their bonds. That means that unpayable money bonds are the primary cause of pretrial incarceration in Cook County. It also means that African American people and other people of color are systematically disadvantaged in our court system because they are less likely than white people are to be able to pay a money bond.

Several other states have recently enacted reforms through legislative changes or court rules that limit money bond to amounts that people can pay. That move separates pretrial release and detention decisions from access to money and ensures that no one is incarcerated solely because they cannot pay a money bond.

5. What does The Coalition to End Money Bond want?

Answer: The Coalition to End Money Bond wants permanent, statewide bail reform that decreases the number of people incarcerated pretrial. This can be accomplished in multiple ways, including through state legislation or an Illinois Supreme Court rule limiting the use of money bond as a condition of release. We want a community that honors the presumption of innocence by incarcerating fewer people overall and making sure that access to money has no role in who is free and who is locked up.