

MONETARY BAIL

WHAT IS MONETARY BAIL?

Monetary bail, also known as cash bail, is a pretrial practice affecting individuals charged with a crime and awaiting trial. Generally, monetary bail is a payment required for a person to be released from jail while awaiting a court hearing for certain crimes. This bail is sometimes a condition of release as part of a defendant's overall bond – an agreement between the accused individual and the court to appear for trial. The practice of collecting monetary bail is meant to protect public safety by ensuring the accused individual returns to court for prosecution.

November 4, 2020

Defendants, upon conclusion of their cases, are often reimbursed their monetary bail money minus any required court-imposed fees or fines. However, defendants who fail to appear in court forfeit their monetary bail to the court. Those forfeited funds are then used to fund victim services, diversion programs, circuit clerks' offices, sheriffs' offices and other criminal justice system activities.

MONETARY BAIL REFORM

There is a growing national and statewide movement to abolish monetary bail as part of broader conversations about policing and criminal justice reforms.

Opponents of monetary bail argue that the practice disproportionately impacts poor individuals and members of minority communities who may not be able to afford their monetary bail, leading to increases in incarceration and sometimes resulting in those individuals losing their jobs and housing, among other negative outcomes.

Proponents of monetary bail argue that the system enhances community safety and increases the likelihood of individuals returning to court for scheduled appearances, which tends to reduce the occasions for recurring arrests.

MONETARY BAIL IN ILLINOIS

In Illinois, individuals are required to post 10% of their court-ordered monetary bail amount in order to be released from jail. In 2017, the Illinois General Assembly passed a statewide bail reform law (Public Act 100-0001), which provided for a presumption that most people charged with nonviolent crimes could be released without posting monetary bail. Instead, judges could order them to wear electronic monitors,



enforce curfews or impose a number of other restrictions until their cases are resolved. The law also provided that monetary bail can be required for more serious charges, but that a person could not be held in jail solely for an inability to pay that bail.

In April 2020, the Illinois Supreme Court Commission on Pretrial Practice issued a final report detailing 54 recommendations for reforming pretrial practices in Illinois. In its report, the Commission acknowledged the movement to eliminate monetary bail, but noted:

“...far too many jurisdictions in Illinois lack an adequate framework to allow for effective evidence-based pretrial decision making and pretrial supervision. As a result, judges are too often forced to make detention decisions based on scant information, assessing a person’s danger to the community and risk of court nonappearance based on little more than the charging information and details elicited in a bail hearing, if any. This, combined with the absence of a well-defined pretrial detention statute, results in judges relying too heavily on what may sometimes be the only mechanism – monetary conditions.”

WHERE WE STAND

The Illinois Municipal League (IML) prioritizes the health, safety and welfare of the public who work and live in the communities in which accused individuals awaiting trial are released. IML also recognizes the significant time and costs incurred by municipal police officers who are often tasked with re-arresting criminal defendants who fail to appear at trial, and who must also appear at court when defendants are on trial.

IML opposes legislative efforts to abolish monetary bail that do not take into consideration risks to the community or the lack of adequate criminal justice infrastructure to implement alternative pretrial practices at the local level.

IML supports expanded state funding that would allow local jurisdictions to implement proven pretrial practices that ensure not only public safety, but also criminal defendant court appearances. Funding for expanded conditions of release may serve as alternatives to incarceration and monetary bail, and could include risk-based assessments, required check-ins and ankle monitoring.

iml.org/policingreforms

