Justice Reform

Bail reform will make Ohioans healthier
Samuel Johnson, Tanisha Pruitt, Ph.D. and Piet van Lier

All Ohioans deserve a criminal legal system that treats everyone fairly, no matter our income, race or gender. But many Ohioans are in jail before their trials because they cannot afford to buy their freedom. On any given day, as many as 12,600 Ohioans are incarcerated as they await trial, compared to 3,000 in 1978 — driven mostly by bail set by local courts. Although overall crime rates have fallen, people in jail pretrial often outnumber those who have been convicted.

Cash bail is a secured promise requiring payment before someone can be released from jail. This system allows people to pay for their release to await trial, but leaves those who cannot pay in jail for days, weeks or months, creating disparities along race and class lines. National research has shown that 90% of people in jail pretrial are there because they cannot afford bail, though it does little to ensure people appear in court. Courts are more likely to jail Black people pretrial than similarly charged white people and less likely to release Black people without requiring they pay bail. Black people are also more likely to face discrimination that makes it harder for them to secure legal representation.

Two pieces of bipartisan state legislation, House Bill 315 and Senate Bill 182, would largely eliminate cash bail. The bills would require courts make a preliminary release decision within 24 hours of an arrest. If a judge or prosecutor believes a person poses a specific threat, a hearing would be required within 48 hours to 72 hours.

Bail reform can improve health outcomes
Our research review strongly suggests that the presumption for release contained in these bills would improve Ohioans’ health by reducing the likelihood that people accused of crimes lose their jobs, housing or custody of children and lessening damage to the health of those who otherwise would be held while awaiting trial. The bills hold judges accountable by requiring them to provide written explanations when they release people conditionally.

Mental health
Pretrial incarceration increases stress and can degrade the mental health of individuals who are detained. Suicide is the leading cause of fatalities in jails, where the death rate has grown over the past two decades. Many people in jails need mental and physical health care, but jails typically lack the ability to provide adequate treatment.

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3 Murder rates, however, increased in 2020 and 2021 across the country, including in Cleveland. See Scofield, Drew. News 5 Cleveland. “Cleveland’s year-to-date homicide numbers are highest in a more than a decade,” August 15, 2021. https://bit.ly/3o4A9d4
7 Ibid.
11 Ibid.
Physical health
Because the criminal legal system rapidly cycles people in and out of jails there is little time to screen and treat them for illnesses like HIV and tuberculosis. All incarcerated people are at risk of being victims of violence while in jail, especially trans people who are 10 times more likely to be victims of violence. Early in the pandemic, high turnover rates turned jails into incubators for COVID-19, fueling the virus’s spread in the general population.

Children and families
Family members of incarcerated people are often considered “hidden victims” of the criminal legal system. These impacts ripple throughout the community, into schools, neighborhoods, and workplaces, and high levels of stress and anxiety for children of people detained can have negative effects into adulthood.

Effects on women
Because they are generally paid lower wages and less likely to be part of the formal labor force, they often have more trouble affording bail. Yet women often shoulder costs like bail, attorney fees, and court fines. Pretrial incarceration can worsen already strained finances and support systems of single mothers, while those detained are more likely to lose children to foster care than women with children in foster care who are not detained.

The LGBTQ+ community
Nearly one in six transgender people has been incarcerated, including half of Black transgender people. Courts often impose higher bail amounts on LGBTQ+ individuals because they are stereotyped as greater flight risks and more dangerous.

People who use drugs
Nationally, 63% of people serving sentences in jails were identified as having substance abuse disorder. Since 2000, 381% more people have died from drugs or alcohol in jail. Research shows a connection between increases in local jail admission rates and fatal overdose rates.

Recommendations and conclusion
HB 315 and SB 182 would reduce racial inequality in the criminal legal system, decrease the toll of incarceration, protect people from the spread of disease and threats to their physical safety, and shield children from the often life-derailing trauma of having a parent detained. The bills would also reduce violence toward incarcerated members of the LGBTQ+ community and overdose rates among those using illegal drugs, while improving treatment.

As introduced, HB 315 and SB 182 mandate a clear presumption for release without relying on risk assessments and onerous pretrial supervision. Release without undue conditions must stay in these bills if they are to achieve expected goals. These bills, if passed into law, would free thousands of Ohioans from the trap of the current bail system and take significant steps toward a more humane, just and equitable criminal legal system.

18 Ibid.
20 Digard and Swavola 2019.