

INTRODUCTION

In September 2012, JPI released a series of three research reports explaining the weakness of money bail and for-profit bail bonding in the criminal justice system. This brief provides an update on pretrial and bail reform during the last year.

Overall, most jurisdictions continue to rely on money instead of scientifically measured public safety risk when it comes to pretrial release decisions. That practice, shown time and again to be ineffective, unfair and expensive, threatens public safety and puts money in the pockets of the for-profit bail bonding industry.

There has been some, mostly positive, movement in the areas of legislative activity, forfeiture collection, pretrial services expansion and bail bonding regulation since JPI launched its bail series in the fall of 2012.

LEGISLATIVE ACTIVITY

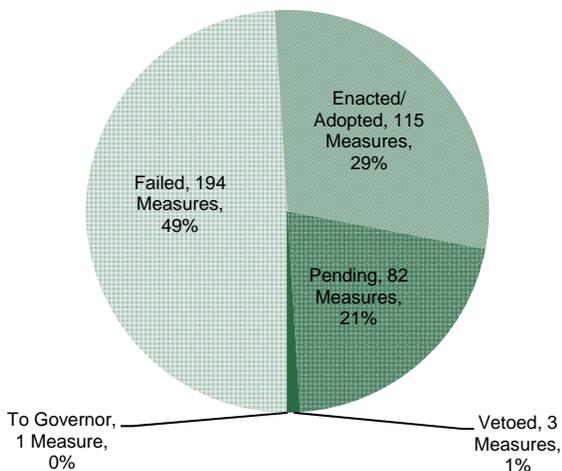
Each year, states introduce , reject or enact bills related to pretrial release and bail. In the 2012-2013 legislative cycle, 395 such bills were

considered across the U.S. and 114 bills were enacted. These bills cover pretrial release eligibility, options for release and for-profit bail bonding regulation. For a summary of all bills, see the National Council of State Legislatures’ *2012 Pretrial Release Legislation Overview*.¹

Perhaps the most critical action in 2013 was not a bill, but a Wisconsin privatized bail bonding budget provision (essentially a policy directive inserted in the state budget, circumventing the standard legislative process), introduced by legislators linked to the American Legislative Exchange Council (ALEC).² ALEC, a group known to give private corporations access to state legislators for the purposes of enacting special interest-friendly legislation, has a long track record of promoting the privatization of criminal justice processes and opposing government-run pretrial services programs.³

The provision, which would have allowed Wisconsin to reinstate bail bondsmen and bounty hunters was part of the bail bonding industry’s continual quest to regain “markets” that base release on risk rather than money. Vetoed by Wisconsin Gov. Scott Walker, the provision was also opposed by many legislators, judges and law enforcement officials.⁴ Wisconsin is one of only four states (also IL, KY and OR) that has eliminated for-profit bail bonding, having banned the corruptive practice in 1979, and is an example of a criminal justice system that does not rely on private, third-party insurers in the pretrial stage.

Bill and Resolution Status



BAIL BOND INDUSTRY BALKS AT ATTEMPTS TO COLLECT FORFEITURES

When a defendant fails to appear in court, the for-profit bail bondsman who guaranteed their bond is responsible for paying the full amount of the bond — called a forfeiture — to the court within a specified time. As JPI highlighted in *For Better or For-Profit: How the Bail Bonding Industry Stands in the Way of Fair and Effective Pretrial Justice*, many jurisdictions do not have the resources to pursue and collect forfeitures or simply lack the political will to do so. Many bail bondsmen have become accustomed to lax collection by the court which increases the bondsman's profit and reduces the risk of their business. It also negates any taxpayer savings that the industry claims to produce.

With the nation still feeling the effects of the financial crisis and federal sequestration, some jurisdictions have begun to collect forfeitures more aggressively as a source of much-needed revenue. These actions have angered some in the for-profit bail bonding industry who see the move as unfair and anti-business.⁵

SOME JURISDICTIONS UTILIZE PRETRIAL SERVICES TO EASE JAIL CROWDING

JPI's 2012 report, *Bail Fail: Why the U.S. Should End the Practice of Using Money for Bail*, described how, nationally, approximately 70 percent of people in jail have a pretrial status. Often, these individuals are confined before trial, kept apart from their families and away from personal and family financial responsibilities, simply because they cannot afford bail or the bondsman's premium.

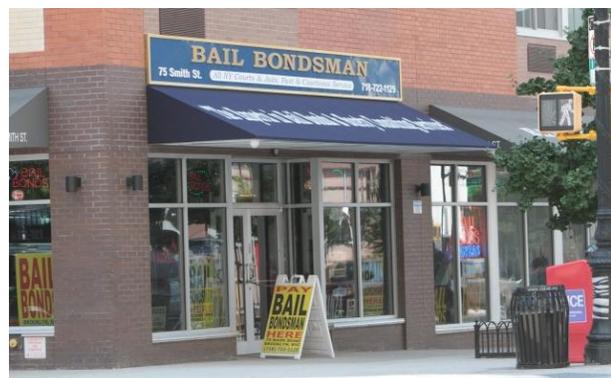
While this practice remains unchanged in many jurisdictions, some are looking toward pretrial programs to help ease crowding.⁶

These programs assess the flight and public safety risks of each defendant, suggest targeted interventions and a pretrial release plan. Rather than warehousing the accused because they cannot afford bail, the pretrial services approach allows them to return to their families and jobs if they pose a low public safety risk.

In California, for example, where the state is struggling to meet a 2011 U.S. Supreme Court order to reduce the state prison population, local and county jails have experienced increased crowding as they add convicted individuals to facilities already full of pretrial detainees. The Center on Juvenile and Criminal Justice has reported that "32 out of 58 counties in California are planning to add jail beds," while others, like San Francisco, Marin and Santa Cruz counties, are looking to supervised pretrial release programs to provide public safety and save jail space.⁷

CORRUPT BONDSMEN

For-profit bail bondsmen continue to exercise weighty control over the pretrial process and the lives of their clients. Essentially serving as an arrested person's jailer outside of the jail, they possess the power to revoke the bond, sending a client back to jail. Tales of corruption and illegal behavior by for-profit bail bondsmen were presented in *For Better or For Profit* and similar cases have emerged in the past year.



The office of New York bondsman George Zouvelos, who recently lost his license for dishonest practices. Photo: Jesse Ward for New York Daily News.

In one case, a Brooklyn, New York bondsman George Zouvelos recently lost his license to write bonds in the state after engaging in practices a judge called “reprehensible, unconscionable and unfair.” The bondsman used lengthy and confusing contracts with his clients and used obscure conditions to return them to jail and keep the bail premium they had paid.⁸

While not representative of every bondsman across the country, this case highlights the amazing amount of discretion and power given to what is, by definition, a third-party insurance agent.

RECOMMENDATIONS

Though there has been some positive movement in bail and pretrial reform since JPI’s 2012 bail series, there is much more that

can be done, particularly through public advocacy and education. Much of the general public continues to see the money bail system and the for-profit bail bonding industry as a lifeline to pretrial freedom and an equitable practice; however, as JPI’s report, *Bailing on Baltimore: Voices from the Frontlines of the Justice System* demonstrated, the impact of bail on the lives of people is neither fair nor effective.

JPI continues to advocate for:

1. Ending the use of money as a proxy for risk in pretrial systems
2. Eliminating the for-profit bail bonding industry in the criminal justice system
3. Increasing the use of pretrial services agencies to measure the public safety and flight risks of arrested individuals and supervise them during pretrial release.

¹ National Council of State Legislatures, “2012 Pretrial Release Legislation Overview,” August 2013.

<http://www.ncsl.org/issues-research/justice/2012-pretrial-release-legislation-overview.aspx>

² PR Watch, “Gov. Walker Vetoes Bail Bonds, Attack on Investigative Journalism,” July 1, 2013.

<http://www.prwatch.org/news/2013/07/12162/gov-walker-vetoes-bail-bonds-attack-investigative-journalism>

³ The Center for Media and Democracy, “ALEC Exposed: Guns, Prisons, Crime, and Immigration,” September 2013. http://alecexposed.org/wiki/Guns,_Prisons,_Crime,_and_Immigration.

⁴ Janine Anderson, “County court officials oppose bail bondsmen,” *Kenosha News*, June 10, 2013.

http://www.kenoshanews.com/news/county_court_officials_oppose_bail_bondsmen_471906058.html; Patrick Marley, “J.B. Van Hollen calls on Scott Walker to veto bail bonds budget item,” *The Journal Sentinel*, June 24, 2013.

<http://www.jsonline.com/news/statepolitics/jb-van-hollen-calls-on-scott-walker-to-veto-bail-bonds-budget-item-b9941132z1-212831641.html>

⁵ ValleyCentral.com, “Cameron County bail bonds companies fear going out of business,” July, 2013.

<http://www.valleycentral.com/news/story.aspx?id=928467#.UiDdrIzD-72>; Edward Ericson, Jr., “Bailing out Bondsmen, Insurer sues court over failure to enforce collections law,” *City Paper*, July 31, 2013.

<http://citypaper.com/news/bailing-out-bondsmen-1.1528260>; Yamil Berard, “Bail bondsman protests six-month suspension by county board,” *Star-Telegram*, September 17, 2013. <http://www.star-telegram.com/2012/09/16/4264333/bail-bondsman-protest-six-month.html>

⁶ Sharon Aungst, editor, *Pretrial Detention & Community Supervision: Best Practices and Resources for California Counties* (Sacramento: CAFWD.ORG, 2012). http://caforward.3cdn.net/7a60c47c7329a4abd7_2am6iyh9s.pdf

⁷ Center on Juvenile and Criminal Justice, “Counties using pretrial services to reduce jail overcrowding safely,” September 25, 2012. <http://www.cjcj.org/news/5237>; Beatriz E. Valenzuela, “Prison realignment in California: A progress report, one year later,” September 29, 2012. <http://www.sgytribune.com/20120930/prison-realignment-in-california-a-progress-report-one-year-later>

⁸ Oren Yaniv, “Brooklyn bondsman George Zouvelos loses license after judge finds his tactics ‘reprehensible’,” *Daily News*, August 8, 2013. <http://www.nydailynews.com/new-york/brooklyn/brooklyn-bondsman-george-zouvelos-loses-license-article-1.1420938>