

# Bail reform pays dividends as number of low-risk defendants jailed pre-trial drops again

Number held on bail of \$2,500 or less drops to just 14 in most recent annual survey

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In 2014, New Jersey voters backed a constitutional amendment to allow judges to order certain criminal suspects be detained without bail and pushed the courts away from holding minor offenders awaiting trial.

Since that measure went into effect in 2017, the number of individuals imprisoned on bail of \$2,500 or less while awaiting trial fell to just 14 last year, the New Jersey Judiciary announced Friday. A study conducted in 2012 put the number at more than 1,500, fully 12% of the state's prison population.

“Based on what the hands-on experience is with the courts system, it's proven out that we got it right,” said Assemblyman John Burzichelli (D-Gloucester), a prime sponsor of the amendment's enabling legislation, which allowed the courts to set non-monetary release conditions.

The number of pretrial inmates held on bail of \$2,500 or less has declined each year since the new rules went into effect. Replicated studies found such individuals accounted for 4.6% of New Jersey's prison population in 2018, and 2.4% in 2019.

“If the point of it was to ensure that some of the tenets of American society — that you're innocent until proven guilty and those people that are low societal risks are allowed to be out of jail — then it's worked,” said Sen. Nicholas Scutari (D-Union), chair of the senate's judiciary committee and another prime sponsor. “The data bears out that it's working.”

The declines persisted even as widespread trial delays spurred by the pandemic pushed the number of incarcerated persons up slightly.

Scutari also credited the reforms with saving counties money that would have been used on corrections. Union County this summer transferred inmates held at its county jail in Elizabeth to the Essex County Correctional Facility. County officials expect the arrangement to save Union \$103 million over the next five years.

Officials in Hudson County approved a similar agreement to share substance abuse treatment and re-entry services with Union. The Union County facility is still being used as an intake hub and for temporary detentions.

The reforms initially caused some consternation among judges, who voiced concerns over the impact of stricter trial deadlines, but — save for the delays caused by COVID-19 — those do not appear to have borne out.

“I remember the judges were going crazy. ‘It’s going to be crazy. It’s too much work,’” Scutari said. “But now they’ve gotten it done, just like I expected. We have an excellent judiciary. They got it done. They understand it now. It’s working, just as intended. Low-risk individuals are being allowed to await trial with their freedom, and we’re not jeopardizing people’s safety by putting high-risk people out there.”

The policy shift has not led to a rise in indictable offenses committed by individuals on pretrial release, the report says. That number has held steady at about 13.8% since 2017, and court appearance rates for such persons increased to 90.9% last year, from just under 90% in 2019.

The share of individuals incarcerated for serious offenses increased again, rising to 79.7%. It was 75.9% in 2019 and 74.9% in 2018.

“Too many people have ended up in jail not because they committed a serious crime, but because they can’t afford bail. That unfair system, which reigned in New Jersey for a century, unfairly punished the poor and working class,” Rep. Donald Norcross (D-01), who sponsored the bill as a state senator, said in a statement. “We have more to do to improve equity and abolish discrimination in our criminal justice system — but the annual criminal justice reform report shows we are on the right path.”