

NJ Jail Population Down Almost One-Fifth After Bail Overhaul

New Jersey's jail population dropped 19 percent in the first five months after a sweeping bail overhaul took effect, according to recently released state statistics.

Two-thirds of counties saw declines in their jail populations of at least 10 percent, while five counties shed more than 25 percent, during the period spanning Jan. 1 through May 31, according to data released by the Administrative Office of the Courts. Essex County saw a decline of nearly 37 percent of its jail population.

The statistics also showed a nearly 36 percent drop in the statewide jail population when comparing May 31, 2017, to the same date two years earlier.

The state has all but eliminated cash bail after overhauling a series of laws in January. Courts previously decided whether to detain or release defendants before trial based on their ability to post monetary bail. Now, courts consider a points-based system to determine a defendant's risk of fleeing or committing another crime.

The previous system was criticized for discriminating against the poor. A 2013 report from the Drug Policy Alliance found that 12.5 percent of New Jersey inmates were held in custody because they couldn't afford bail of \$2,500 or less. Proponents also argued the new system would cut jail costs as they became less crowded.

Superior Court Judge Glenn Grant, the director of Administrative Office of the Courts, said it's still too early to make long-term projections on how the bail overhaul will affect jail or prison populations. But he said the state was working to make a fairer system that also prevents high-risk offenders who are wealthy from buying their way out of pretrial detention.

"It disproportionately placed poor people in jail simply because they didn't have money," Grant said of the old system. "And it disproportionately allowed people with access to money to get out of jail."

The statistics showed that of the 17,550 defendants held in county jails in the five-month period from January through May, nearly 2,300, or 13 percent, were detained pending trial based on their risk assessments. Those are "individuals that under the old system had a chance to get out," Grant said.

Alexander Shalom, an attorney at the American Civil Liberties Union of New Jersey, said his group is pleased with the new statistics, but added it will likely take years to analyze data and make more changes to ultimately get to a system "respecting the presumption of innocence."

"It's obviously a positive signal, and we have to look at it in the context of what the old system looked like," he said. "There were 1,500 people in jail simply because they couldn't post \$2,500. With a system as irrational and unfair as that, of course when you switch to a system that assesses risk instead of wealth, you will get a bunch of those people out of jail."

The bail overhaul had the backing of Gov. Chris Christie, state lawmakers and Chief Justice Stuart Rabner of the state Supreme Court. New Jersey voters also approved part of it in a 2014 referendum.

But not everyone sees it as a positive. The bail bonds industry lobbied against it, fearing it would put them out of business. They argued that some defendants released under the new system pose a risk to public safety. The state Supreme Court tightened bail reform rules in May to make it more likely that repeat offenders and those facing gun charges are held until trial.

County officials have complained of the upfront costs associated with implementing the new law. The bail overhaul also guarantees defendants a trial within two years, and county prosecutors' offices have hired more investigators, assistant prosecutors and other staff to comply with the speedy trial requirement, said John Donnadio, executive director of New Jersey Association of Counties.

The group filed a complaint with the state Council on Local Mandates and argued the bail law was unconstitutional because it imposed an "unfunded mandate" on New Jersey local governments. But the council dismissed the challenge in February when it decided the new law was exempt from such challenges since it involved implementing a provision of the constitution.

Donnadio said Monday that the drops in jail population are "terrific" and indicate the law is fulfilling its intention. But he said counties won't see any immediate cost savings in jails since they won't cut corrections officers right away to adjust to the lower populations. That will take years of attrition, he predicted.

"We might not see those costs savings until three or four years," he said. "We don't know what those (jail population) numbers are going to look like five, six months down the road. You might see a spike with repeat offenders."

On the prosecution side, Donnadio said, counties will "never see cost savings there" because of the speedy trial aspect of the law.