

New Jersey's leadership on bail reform a shining, bipartisan success

For about two centuries in this country, arrested people have been required to put down money as a motivation to return for trial. Not only did that result in unfairly jailing poorer people without a trial, it also took the focus off whether a suspect would endanger the community if released.

In the centuries ahead, 2017 will be regarded as the year cash bail was abandoned in favor of a remarkably more effective system — with New Jersey as the leader of the nationwide movement.

Since the state's landmark bail reform act took effect Jan. 1, judges have decided within 48 hours of arrest whether to detain or release defendants based on their risk to public safety. Before deciding, they review a public safety assessment for each defendant and a preliminary law enforcement report. They also consider a prosecutor's recommendation, if any.

In the first three months, of the more than 10,000 people arrested in the state, just 12 percent were detained. The rest were released on their own recognizance or, if merited, with monitoring and restrictions.

The United States spends at least \$14 billion per year on pretrial incarceration, says the Pretrial Justice Institute. It says there are nearly a half-million people awaiting trial in jail, mostly because they can't afford bail.

Incredibly, two-thirds of American prisoners have not even been convicted.

Rising bail amounts have shifted the U.S. jail population toward those awaiting trial, from 51 percent in 1983 to 63 percent in 2015, says the Justice Department.

Other states are following New Jersey's lead.

Starting in July, judges in Maryland will consider alternatives to bail for nonviolent defendants. Voters in New Mexico approved a constitutional amendment to reform their bail system. Lawmakers in California and Texas are considering major changes to their bail systems.

In New Jersey, there have been some issues with the new system, and they have been appropriately addressed.

A Little Egg Harbor Township man was arrested in January on charges of soliciting sex with a minor and then released, despite being a registered sex offender.

Since his prior offense occurred when he was a minor, it didn't figure in the evaluation of his threat to public safety. The county prosecutor appealed the release decision and he was then detained.

Addressing such issues, the state Attorney General last month directed prosecutors to seek detention in more cases, including those involving gun crimes and sex offenses. Judges deciding whether to detain or

release a suspect can consider prior convictions not in the public safety assessment and can order a defendant detained if prosecutors request it.

The next day, the state Supreme Court acted on changes to defendant assessments requested by the Attorney General, making it more likely those accused of gun crimes and repeat offenders will be detained until trial.

This kind of adjustment to the new system — “based on a review of empirical data and the legitimate concerns raised by various segments of the criminal justice community,” as the administrator of state courts put it — is a reassuring sign that the public remains protected.

The New Jersey Law Journal this month judged bail reform a success and called it “a giant step forward in criminal justice reform, with no diminution of public safety.”

We agree, and consider it an example of the important improvements society can make when government officials at all levels work without regard to politics.