Massachusetts Bail Reform

Create a pretrial services division, and train workers how to operate in the new system

David Harari '16
Hannah Marion '16
Daniel Moskowitz '15

This bill will shift Massachusetts away from a cash bail system, and instead use a risk-based system. The current cash bail system uses one's wealth to decide if one should go free as opposed to one's potential risk to commit another crime, or to show up for trial. In the new system, probation officers will evaluate people and give a recommendation to the judge regarding pretrial status. These officials will make their recommendation based on the individual's risk of committing a crime while awaiting trial and the risk of not showing up for trial.

The Bill

H. 1584: An Act reforming pretrial process

Elevator Speech

Ensuring public safety is the ultimate goal of our state government and the criminal justice system. The monetary based bail system in Massachusetts leads to the unnecessary detention of many low-risk people accused of crimes, while at the same time allowing dangerous individuals to re-enter their community simply because they can afford bail. Additionally, this broken system overcrowds Massachusetts's jails, which costs taxpayers unnecessary millions each year. Bail is supposed to be used to ensure that people show up to trial. However, the current cash bail system does not achieve this fundamental goal. Wealth is not proportional to flight risk. Yet, the current bail system prioritizes one's income over their potential danger to society.

We are asking you to support An Act Reforming Pretrial Process (Bill H. 1584), which uses a risk assessment method to create a more efficient probation system that prioritizes the safety of society. This bill will create a Pretrial Services division within the Office of Probation. Probation officers will assess one's risk and give a recommendation to the judge. This type of responsible planning can save the state millions of dollars, reduce the prison population, and build safer communities. We are asking you today to vote this bill favorably out of committee.

Hannah Marion '16, David Harari '16 and Daniel Moskowitz '15
**House Ways and Means Script**

Senator Spilka and Representative Dempsey, our state cannot afford to continue financing its broken bail and pretrial process. Our country is built on the basic principle that each citizen should have equal rights and equal opportunity, regardless of their socio-economic status. Someone who is accused of a crime should not be denied freedom because he/she cannot afford bail. A growing number of states are reforming their pretrial systems in the name of both equal opportunity and responsible planning. In Maine, these reforms have led to a 98.8% appearance for court dates, a 93% public safety rate, and decreasing costs. Massachusetts needs to follow their lead and reform our bail process.

The current bail system is monetary based. This results in the pre-trial incarceration of over 5,000 people daily in Massachusetts, which is costing the state millions. Bail is meant as insurance that a defendant will be present in court for his or her trial. Wealth is not proportional to flight risk, so why are wealthier individuals being favored over lower income citizens? The state needs to return to the original purpose of bail and protect equal opportunity.

An Act Reforming Pretrial Process (Bill H. 1584) can remedy this inefficient and unfair process. Probation officers will use a newly implemented risk assessment method to aid in their recommendation to the judge on whether or not an individual should be offered bail. This risk assessment tool will take various factors into account: the accusation, criminal record, and social and professional situation. This will allow the judge to make a well-informed decision. Judges will still retain the final decision.

According to estimates based on data from other states with similar reforms, implementing this type of bail reform will cost Massachusetts approximately ten million dollars. Some people may contend that the cost of the bill is too high and that the state should use its budget on something other than freeing potential criminals. However, while this bill has a high short term cost, over the course of several years it will save the state approximately thirty million dollars. As mass incarceration decreases the state will not need to pay the extravagant funds to keep one imprisoned. Others may argue that the state is letting criminals go free until their trials, which endangers their communities. However, the state is currently releasing potential criminals solely based on their ability to pay bail. It is far safer to have a system that releases people depending on risk rather than economic status.

Mr. Chairman, we are asking that you vote this bill favorably out of the Ways and Means Committee in the name of community safety and responsible planning. This decision will save the state money that is currently lost by overcrowded detention centers and serve as a positive modification to Probation Services and justice system as a whole.

**Letter to the Legislator**

My name is Daniel Moskowitz and I am a senior and Brandeis University. As a registered voter in your district, I am writing to you today to discuss pre-trial bail reform in Massachusetts. Specifically, I would like you to support An Act Reforming Pretrial Process (Bill H.1584). This legislation will create a more efficient and equitable bail process.

I am asking for your support because I know you share these values. As a co-sponsor of HD 2089, legislation to promote the use of restorative justice practices, you are keenly aware of the need to reform the criminal justice system. Acts such as restorative justice and pre-trial bail reform will alleviate the overcrowding of the Massachusetts jail system and ensure that all citizens, regardless of wealth, are treated equally before the law.

The current bail system in Massachusetts forces many low-risk people accused of crimes to go to jail for no reason other than that they can not afford bail. The existing process puts an emphasis on incarceration and not public safety. Such a mechanism incorrectly assumes that low-income defendants are more likely to commit a crime, or not show up for their trial. The bail reform act will implement a new system that will use a risk assessment method to determine who should go free pre-trial and who should be in jail. This type of reform has been adopted by multiple states already and has a proven track record. States such as Maine and Washington D.C. have proved that moving away from a monetary based bail system can save the state government millions of dollars. In both of these places, crime and recidivism rates have dropped and more than 80% of individuals attend their court date. Jails are also not as overcrowded as they used to be because there are far fewer pretrial inmates to house. Instead of spending unnecessary dollars incarcerating citizens who cannot post bail, the state can allow those who do not pose a risk to society to continue with their lives as they await trial.

I encourage you to fully support this bill and to work on helping it pass by defending it in front of your peers and the Judiciary Committee. Our communities need this reform and our state needs these savings.
Excerpts from Campaign Journals

David
At the beginning of our class’ last visit to the State House, my group and I met with Representative Paul Tucker, from Salem and a member of the Joint Committee on the Judiciary. We learned that Representative Tucker was in the police department for 32 years as a detective before retiring as Police Chief. His perspective on bail and pretrial issues was unique and insightful. We created a connection with him, handed him our legislative research report and discussed the issue for about twenty minutes. Representative Tucker was receptive, wanted to find out more about the problem and offered to help us by giving us the contact information of his friend Frank Cousins, the Essex County Sheriff. It was very rewarding for us to have an unplanned and impromptu meeting be as relevant and helpful to our project. Hearing from legislators with different backgrounds, expertise and points of view helped make our understanding of the situation more complete and clear.

Hannah
Daniel, David, and I met with Representative Carvalho’s aide in his office at the State House to discuss our bill with him and to encourage him to get Representative Carvalho to vote for the bill. The aide did not know much about the bill, so we spent most of the time explaining the bill to him. More than other aides we had met with before, he asked a lot of substantive questions about the bill and how it would impact the current system, specifically highlighting judges’ jurisdiction and other concerns he had regarding the information we provided him with. It was really great to see the growth that we’ve had as a group in this meeting, as all of us were able to answer every question he asked and also point to places in our legislative advocacy report that offered statistics and information regarding his questions.

I think we were very well prepared for this meeting and Carvalho’s aide gained an understanding of the bill and its importance that he lacked before. One thing that perhaps would have made the meeting even better would be being able to give him our storybook to show to Representative Carvalho, because realistically Carvalho probably doesn’t have time to read the full report. Another thing we probably could have done better is be more pushy about the importance of the bill and create a greater emotional impact on him because I felt we were perhaps a little too straightforward about presenting our information and didn’t offer real emotional reasons for supporting this bill.

Update
As of September, the official record noted that a hearing was scheduled for the bill on June 9, 2015.

For more information
Criminal Justice Policy Coalition
cjpc.org