



PFA's Frequently Asked Questions

What does the Pretrial Fairness Act (PFA) do?

The PFA modernizes pretrial release practices in Illinois, including:

- Eliminating cash bail
- Requiring pretrial release for most misdemeanors and non-violent felonies
- Limiting eligibility for pretrial detention with a focus on safety and risk of flight
- Outlining the use of electronic monitoring as a condition of release
- Requiring victims to be notified of pretrial hearings and given a chance for an order of protection

Does the PFA end the detention of the most violent offenders before trial?

The PFA continues the practice of allowing judges to detain someone depending on the criminal charges, or if they think a person poses a danger to the community or a flight risk. What changes is that individuals cannot languish in jail pretrial for low-level crimes because they cannot afford bail.

I heard there was a lawsuit against the PFA – what's the PFA's status?

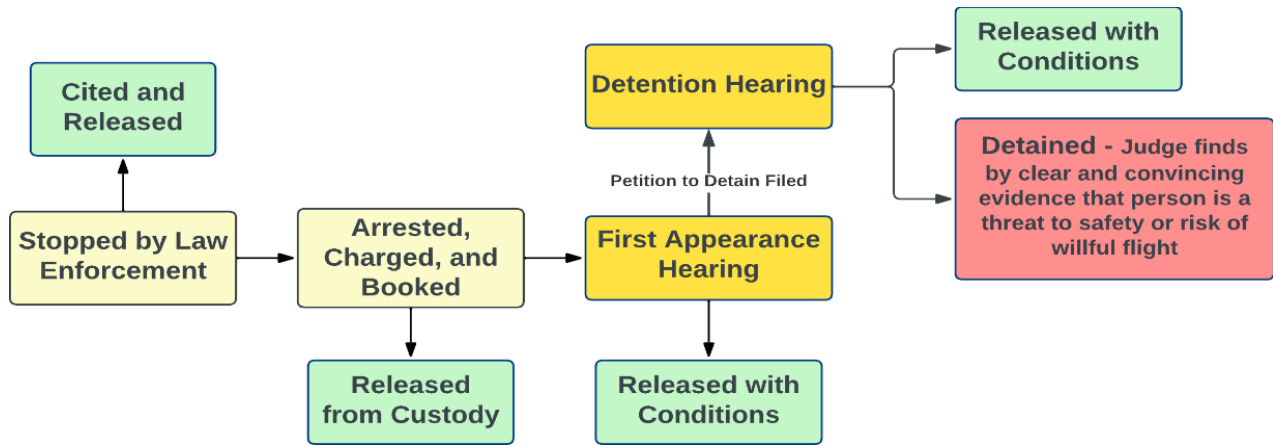
The Illinois Supreme Court ruled against the lawsuits to the Pretrial Fairness Act during summer 2023 and established the PFA's implementation date for September 18, 2023.

How much time did Cook County spend preparing for the end of cash bail?

- The criminal justice stakeholders have worked for over two years as a part of a working group with Loyola University to project case volume, coordinate logistics, and ensure a smooth transition for the PFA implementation.
- The stakeholders expanded the number of courtrooms, court calls, and hours dedicated to the new first-appearance court based on the projections produced by the working group.

What are the processes laid out by the PFA?

See the below chart.



Who can be considered for pretrial detention?

Someone can be held in detention (jail) awaiting their trial based on the public safety or willful flight standards laid out in the law.

Public safety standard

- Certain felony charges, notably including severe offenses such as first-degree murder, armed robbery, home invasion, aggravated vehicular hijacking, and sex offenses.
- Weapon-related offenses fall under this standard, encompassing actions like illegal possession of firearms and the unlawful sale or delivery of firearms.
- Domestic violence offenses and violations of orders of protection are taken into account to maintain the well-being of affected individuals and the broader society.

Willful flight standard:

- Standard applies when it is demonstrated that a defendant poses a flight risk, and they are charged with a detainable offense according to the public safety standard; or
- Any class 3 felony or more severe charges. The dual conditions of both flight risk and the nature of the offense guide the consideration of bail eligibility.

What are the benefits of eliminating cash bail?

The current system allows wealth, rather than danger to the community, to determine whether someone remains in jail pre-trial. A person charged with murder, rape, sex offenses, or gun crimes can use cash to pay for release and be back on the streets.



Wealth-based incarceration has caused harmless people unable to afford bail to lose jobs, homes, and child custody while awaiting trial and disproportionately criminalizes people of color and the poor.

Have any other entities done something like this?

Cash bail is not used in the federal court system in addition to the several states and localities have already reduced their reliance on cash bail (New Jersey, New York, Washington D.C.). Numerous studies show pretrial reform has no negative impact on crime or court appearance rates. A November 2020 [evaluation of research](#) from 12 jurisdictions where pretrial reforms had taken place found no evidence that crime increased as a result. A [2022 Harvard review of existing research](#) concluded that overall, pretrial detention is a far greater threat to public safety than pretrial release.

Has reducing wealth-based incarceration led to higher crime rates in Cook County?

No. From October 2017 to March 2023, [only 3.5% of defendants charged with a felony committed a new violent crime while on pretrial release](#) according to data from the Chief Judge. In addition, Loyola University researchers that Cook County's reduction in the use of cash bail starting in 2017 [did not lead to increased criminal activity](#).

What happens to people currently in jail because they can't afford their bail?

Any person in custody with a bail set is entitled to a hearing within seven, sixty, or ninety days depending on the charge.

How will the PFA impact victims, especially those of domestic violence?

The Pretrial Fairness Act is supported by numerous advocacy organizations focused on ending gender-based violence and sexual violence, specifically because they believe it will increase safety for survivors.

- Safety: Under the Pretrial Fairness Act, if a state's attorney is concerned for the safety of a domestic violence survivor or their family, they have 24-48 hours to prepare for a hearing where a judge weighs evidence to decide if the accused person should be detained pretrial.
 - Under the current system, people charged with domestic violence may be released directly by the police or after only one quick court date.
 - The Pretrial Fairness Act ensures that release decisions in domestic violence and sexual violence cases are made by a judge after a careful



hearing and goes further in taking victims' safety into consideration than the current process.

- Notification: The Act makes it mandatory that victims are notified of each stage of the decision-making process in their case, including the release of a person charged with domestic violence.
- Money: Currently, access to money determines which people charged with domestic violence stay in jail. Under the new rules, careful consideration by a judge will determine which people stay in jail

How does the PFA impact electronic monitoring?

Electronic monitoring can still be used as a condition of release for a non-detainable crime. Offenders on electronic monitoring are still monitored and subject to court restrictions during times when they participate in basic activities such as grocery shopping, medical appointments and taking children to school.

Where can I do additional research on the PFA and the end of cash bail?

[Loyola's Center for Criminal Justice](#) has developed several briefs and data tools to better understand the PFA and its implementation. The [Safety and Justice Challenge](#) and [Civic Federation](#) also have primers on ending cash bail and the PFA.