



**Testimony of John McCabe  
Illinois Probation and Court Services Association (IPCOSA)  
Senate Executive Committee  
Subject Matter Hearing – HB 163, Sen. Amend.#2 Proposed Bail Reform  
January 9, 2021**

Good afternoon Chairman Hunter, Senator Righter, Members of the Committee. My name is John McCabe, on behalf of the Illinois Probation and Court Services Association (IPCOSA) which represents the more than 3,200 Illinois Probation officers, who work in Illinois' 24 Circuit Courts, in all 102 counties. For clarification, Probation is not Parole. Parole is a function of the Illinois Department of Corrections. Our Officers work in the Judicial Branch, under the supervision of the 24 Chief Circuit Judges, with standards and rules promulgated by the Probation Division of the Administrative Office of Illinois Courts (AOIC) and the Illinois Supreme Court.

IPCOSA has always been in support of bail reform in Illinois, advocating for the establishment of Pretrial Departments, under the Pretrial Services Act which was adopted in 1985.

IPCOSA has long advocated expansion of Pretrial and the adoption of evidenced-based practices and utilization of research to improve outcomes for offenders and promote public safety in our communities.

Just four years ago, we worked both in the General Assembly and within the Judicial branch to achieve the considerable progress we have seen thus far, with Public Act 100-1 and since. We have been in complete support of the efforts of the Supreme Court Commission on Pretrial to properly and adequately implement bail reform throughout Illinois.

I would also like to point out that the Illinois Supreme Court fully embraced bail reform. Even before Public Act 100-1 was passed, the Court adopted the principles of Three Days Count. Anytime an individual languishes in jail for more than three days awaiting trial, their life starts to unravel. They cannot support their family, jobs are often lost, all because of a mistake, and a lack of financial means to make bail. The Supreme Court created the Commission on Pretrial Practices. Here is their final report.



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More than 80 pages long. Judge Robbin Stuckert and the other members should be congratulated for their outstanding work, work that is still ongoing.

I will get right to the point. IPCSA cannot support the current No Cash Bail proposals without the following items: *We need to strengthen any implementation of No Cash Bail by giving the Courts an adequate implementation schedule.* Three years would be ideal, two would be the absolute minimum. When New Jersey implemented no cash bail, one of the keys for its success was that New Jersey had two and one-half years to implement those provisions. Other jurisdictions that have implemented without adequate implementation time are still experiencing problems.

We need to utilize that time to adequately train judges, state's attorneys, circuit court clerks, probation officers, and public defenders, to apply all aspects of Public Act 100-1 and any new requirements that will come out of this current effort. This will allow each county to get their stakeholders to understand the benefits of Bail reform.

We have several more items from the Commission on Pretrial Final Report still to implement and should be addressed. *Data collection should be assigned to the Courts, not to the Criminal Justice Information Authority.* Standardizing data collection will function better within the Judicial branch. Implementation can be streamlined and reinforced by the Supreme Court. In the current State Fiscal Year, the General Assembly provided funding to the Supreme Court to start data collection and sharing with all the courthouse stakeholders in the Bail & Pretrial system.

*A single, statewide, Pretrial assessment tool, with statutory requirements to be free from racial and gender bias, has not yet been implemented.* There are currently three different assessment tools being used by counties. While an assessment tool will not eliminate bias in the criminal justice system, the goal is to eliminate bias within the assessment. Continual evaluation of data and outcomes and regular adjustment by



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AOIC will continue on the path to that goal. It also allows judges to utilize a validated tool to help make a decision on the need for jail in each individual case.

*An important tool for achieving better attendance at court hearings by defendants free on bond, is a court reminder, similar to those used by doctors' offices. Simple, yet very effective. Unfortunately, it does have a cost. The most logical office to be assigned that function is the Circuit Court Clerk, because they have information on all of the cases, including those not assigned to a Probation Department. If you want bail reform to work, you have to assign that function. It cannot be an unfunded mandate, the State has to pay for it.*

Another similar provision from PA 100-1 that has not yet been fully implemented yet is the universal provision of legal counsel for bail decisions throughout Illinois. Defendants who are not afforded legal counsel during bail decisions, often find themselves held until trial. Without a legal advocate, they are prone to making bad deals with prosecutors just to get out of jail. This is a major tenet of Pretrial Reform, and like other aspects, costs money.

All of the largest counties already provide this through their fulltime Public Defender offices. However, the vast majority of counties, and all much smaller, do not have full time Public Defenders. Very few of them have PD's available on weekend. We have supported legislation to create a grant program for counties that can't afford the expansion of public defender services. We have not received support for this legislation from the State Appellate Defender, due to budgetary concerns. We continue to support the need but now would therefore suggest such a grant program be assigned to the Supreme Court.

In the last three State budgets, the Supreme Court has requested, and the General Assembly has provided, increased funding for adding additional Pretrial Officers



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throughout Illinois. The traditional funding structure for Probation, is that counties pay the salaries, fringes, travel, training, and office. *The Supreme Court reimburses the counties for just the salaries and does provide some training for departments.* However, in the past, during the many budget crises at the State, funding for those salaries has often been reduced, and at its lowest, fell below 70 percent of the statutory requirement. Now, many counties are leery of accepting new positions. Some because of the cost of the fringes [Social Security and pension], and some because of the history of the reduction in reimbursements. The AOIC may have to move to a model of full funding of fringes, in order to get counties to start a Pretrial Services Department.

*If you want reform, you are going to have to do more than just passing reform provisions. You are going to have to commit to funding it.*

Now, what will happen, if an adequate implementation schedule and these other reforms aren't funded. First of all, offenders that have committed serious offenses, or are an otherwise danger to the community, they will be held in jail under preventative detention. That is the system that replaces cash bail. If there is a failure in a Pretrial system, that is overloaded without adequate training, or even buy-in by local stakeholders, then the outcome will actually result in an increase in pretrial detentions, and an increase in local jail populations.

Please keep in mind, that probation has been at the center of criminal justice reform throughout the history of both. John Augustus started Probation in Boston in 1841 by convincing a Judge to give him the charge of a "common drunkard". He returned to court in three weeks with a sober and changed man. Illinois created a separate Juvenile Court system in 1899. And, Illinois eliminated private bail bondsmen in 1964. Illinois is the home of criminal justice reform. But we are fortunate in that



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we are now in an era of research, and data collection, to create, support and evaluate the best, evidence-based practices.

These changes we are requesting are aimed solely at strengthening your efforts and giving No Cash Bail its best chance to work, and find acceptance throughout the State, and within the criminal justice system.

We look forward to working with you on this important step forward. If you have any questions, please do not hesitate to contact me, (312) 543-0644 or [johnmccabe@att.net](mailto:johnmccabe@att.net).