



## **Sponsor Testimony – House Bill 315**

**Representatives Brett Hillyer and David Leland**

Ohio's 98<sup>th</sup> and 22<sup>nd</sup> House District

Chairman LaRe, Vice Chair Swearingen, and members of the House Criminal Justice Committee – thank you for the opportunity to provide sponsor testimony on HB 315. This legislation will create a much-needed comprehensive reform of the bail process in the state of Ohio.

The purpose of HB 315 is to overhaul the broken bail system in Ohio that far too often leaves members of our society facing inequity in our justice system. HB 315 strives to create a system that is fair and just for the individuals charged with crimes here in Ohio. The justice system in the United States operates under the legal assumption that all citizens are innocent until proven guilty in a court of law. The Eighth Amendment of the U.S. Constitution goes on to state that, “Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.”

Our legislation will create a presumption of release that requires that all individuals who pose no threat to any person and no threat of willfully skipping their trial are released within 24 hours of their arrest. For others, we require a conditions of release hearing before a judge within 48 hours of detention for most crimes. This provision would create for everyone an equitable way out of jail, while promoting public safety by limiting this initial release path to those who aren't a threat to someone's safety or of fleeing from justice.

Our legislation would not eliminate cash bail, but it would eliminate unaffordable, excessive cash bail that can keep poorer defendants behind bars indefinitely. Because of excessive bail amounts, those who are unable to pay often plead guilty to a crime when they may in fact be innocent. The fear of losing one's home, job, or even child weighs harder than the charge of pleading guilty. Some may be unable to pay a bail set at \$79 while another person can easily afford that bail amount. We can all agree, \$79 to one family does not reflect the same as \$79 would on another family. In a situation where two individuals are charged with the same crime and given the same bail amount, one could serve 28 days in jail until they are able to get to the hearing at which they plead guilty to the offense and the other could serve two or three days simply because they could afford the bail that was set. In this situation the outcomes for these two would be completely different, and that outcome would be reflective of only the economic means and resources of the individuals.

Finally, Ohioans resoundingly support bail reform. Polling done in December found that a resounding 70 percent of Ohioans agree that “We need to reform cash bail so we can ensure each and every Ohioan is treated fairly in the criminal legal system regardless of skin color or ability to pay.”

First, there are numerous reasons it is finally time to do away with our outdated bail system in Ohio. Here are just a few:

- On any given day in Ohio, over 60% of the people in our jails are there not because they've been convicted of a crime, but simply because they can't afford to pay cash bail. This can be as many as 12,000 Ohioans each day.
- People who are in jail because they can't afford cash bail risk losing their jobs, their homes, their cars, and even custody of their kids.
- Cash bail is incompatible with the concept of equal justice under the law. It keeps poor people in jail while wealthier people accused of the exact same crimes can buy their freedom.
- Keeping so many people in jail is a waste of tax dollars. Conservative estimates show bail reform could save Ohio upwards of \$250 million each year.

Second, I want to address a few common concerns about bail reform:

- There's a concern that bail reform will harm court appearance rates. But, example after example in jurisdictions that have enacted bail reform show it doesn't harm appearance rates.
- There's a concern that bail reform will increase costs to taxpayers. As I mentioned earlier, based on conservative estimates that assumed every individual released pretrial would require supervision, a report from just last year found that bail reform would save Ohio taxpayers between \$199 and \$264 million each year.
- There's also a concern that jurisdictions that have enacted bail reform have suffered as a result. But in the places that have enacted smart, well-tailored bail reform policies we've seen decreases in the total jail population, we've seen taxpayer dollars saved, and we've even seen an overall reduction in violent crime.

You can find more detailed, well-sourced answers to some of these common questions down at the bottom of our testimony.

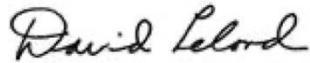
Finally, I want to linger on one last point: Cash bail does NOT make us safer. It allows wealthy people who may be dangerous to purchase their freedom and commit new crimes. We have numerous examples from right here in Ohio of wealthy people buying their freedom after being accused of horrible, unthinkable acts. We know of case after case, so I'll just read off a few examples:

- A man charged with raping his ex-girlfriend's 10-year-old daughter, who posted his \$200,000 bail and then murdered his 10-year-old victim and her grandparents;
- A man who was arrested after drunkenly ramming his ex-wife's car with his truck, who posted the \$100,000 bond set by the court and then waited outside her work and shot her twice in the head with a .45 handgun in the parking lot;
- The former mayor of a small town in Ohio who was indicted on eight counts of rape, eight counts of gross sexual imposition, and four counts of attempted rape of a minor. He was booked at the county jail and released on the exact same day after posting a \$75,000 bail. He later plead guilty to raping a four-year-old girl and was sentenced to life in prison.

Under our legislation we expand the provisions of Ohio law that allow for preventative pretrial detention when people are arrested for serious crimes. That means we stop the ruse of setting a high bail amount for people who are dangerous and hoping that protects us.

By finally moving us past the false sense of security – the illusion of safety – of the cash bail status quo, our legislation ensures the best outcomes for the public in cases when a defendant represents a flight risk or other risk to people or property. No innocent person should stay in jail because they can't afford bail. This is an opportunity to make our communities safer while moving us ever closer to justice for all.

Thank you for your consideration and with that we would be happy to answer any questions you may have.



**Representative David Leland**  
Ohio House District [22](#)



**Representative Brett Hillyer**  
Ohio House District 98

## Answers to Common Questions about Bail Reform

### Q: Will this effort harm appearance rates in court?

A: The quick answer is no. And there is a LOT of research to back this up.

- First, we have the benefit of looking at what happened in other jurisdictions that have gotten rid of or decreased the use of cash bail, and they experienced no change in appearance rates. Check out these articles about [Philadelphia](#), [Washington, D.C.](#) (page 35), [New Jersey](#), and [Yakima County, Washington](#). Also, remember, while some of these jurisdictions did away with cash bail entirely or nearly entirely, this bill does still allow for the use of cash bail in some circumstances.
- Second, there is no evidence that secured bonds (bonds that require upfront payment) and unsecured bonds (bonds that require no upfront payment) yield different appearance rates, yet the former does often cause unnecessary wealth-based detention. [See this article by Michael R. Jones.](#)
- Third, there are ways to substantially increase appearance rates without unnecessary detention, which we know creates devastating consequences for individuals. For example, court reminders have been repeatedly found to substantially increase court appearance rates ([study 1](#), [study 2](#), [study 3](#), [news article](#)).

### Q: How will this ensure public safety?

A: It's important to recognize how our current system fails to keep us safe. Currently, if you have money, even if you are dangerous, you are often able to buy your own release. For example (and there are many):

- Man arrested for trying to run over his wife released on \$100,000 and then killed his wife while out on bond. <https://www.buckeyeinstitute.org/library/doclib/2017-12-11-Money-Bail-Making-Ohio-a-More-Dangerous-Place-to-Live-By-Daniel-J-Dew.pdf>; <https://www.washingtonpost.com/news/morning-mix/wp/2015/12/10/an-ohio-man-allegedly-tried-to-kill-his-ex-wife-when-he-got-out-on-bail-police-say-he-finished-his-crime/>.
- A man was released on a \$50,000 bond when he shot a 20-year-old for refusing to join a gang. <https://www.buckeyeinstitute.org/library/doclib/2017-12-11-Money-Bail-Making-Ohio-a-More-Dangerous-Place-to-Live-By-Daniel-J-Dew.pdf>; [https://www.cleveland.com/metro/2016/06/cleveland\\_man\\_charged\\_in\\_shoot.html](https://www.cleveland.com/metro/2016/06/cleveland_man_charged_in_shoot.html).
- Former Mayor who raped a four-year-old girl was released on \$75,000 bail. <https://www.buckeyeinstitute.org/library/doclib/2017-12-11-Money-Bail-Making-Ohio-a-More-Dangerous-Place-to-Live-By-Daniel-J-Dew.pdf>; <https://www.wfmj.com/story/35230216/former-hubbard-mayor-richard-keenan-receives-life-sentence-for-child-rape>.

This bill is a public safety bill because it is seeking to end the wealth loophole that allows dangerous people to quickly purchase their release and return to the community. The bill accomplishes this in a number of ways: first, initial release decisions would no longer hinge on how much money someone has, but instead be based on whether a prosecutor or a judge decides to stop the individual's release and schedule a conditions of release hearing. Second, under this bill, judges could no longer set high financial conditions of release as a way to detain people (which, as described above, can create a dangerous scenario in which someone a judge wanted to detain is able to buy their release). Instead, judges could follow the procedural safeguards necessary to detain individuals without release options. This bill also adds additional crimes to the list of crimes for which this preventative detention is available (including felony domestic violence and felony violation of a protection order).

**Q: What about the increased cost to taxpayers?**

(From a [recent article in \*The Columbus Dispatch\*](#)) "We put ankle monitors on people when we get them out, and we make them pay for them," (Ohio Bail Agents Association Vice President Woody) Fox said. "Are taxpayers going to pay for more monitors? Are they going to pay for all this new paperwork? Are they going to pay for more cops to go track these guys down?"

**A:** According to a [recent report](#), bail reform like what is in these companion bills would save Ohio taxpayers between \$199 and \$264 million each year. This figure was determined by looking at the cost of holding people in jail unnecessarily (and 63% of those held pretrial are in jail for misdemeanors or non-person felonies) and what cost-savings could be realized if non-dangerous individuals were released instead of held on bonds they can't afford. However, this enormous cost-savings projection also took into consideration the increased costs of additional pretrial supervision needs (like to what the bail bondsmen in the Dispatch article referred). To make sure the estimates were conservative, it was assumed that every individual released would require pretrial supervision, which would add additional costs. Even when looking at both cost-savings and additional costs, the amount of money saved was estimated to be between \$199 and \$264 million each year.

It's also important to recognize that when bail bondsmen talk about charging individuals for their own release and supervision, they are charging legally innocent individuals. Even if bail bondsmen clients are ultimately found innocent, they do not get back the money they've paid bail bondsmen. Further, bail funds, like The Bail Project, which post bonds for individuals at no personal cost, have very high appearance rates ([in Cleveland, 95% of The Bail Project's clients returned to court](#)) despite the fact that they do not employ any carceral supervision tactics like GPS monitoring.

**Q: Haven't places that have undergone bail reform suffered as a result?**

**A:** There are many jurisdictions that have seen excellent results due to bail reform:

- In New Jersey, after they virtually eliminated cash bail in 2017, the jail population [decreased by 47%](#) and crime is down in all categories, especially violent crime which is down by [more than 18%](#).
- In Kentucky, after implementing broad administrative release for most misdemeanors and low-level felonies, Kentucky's jail population is [down nearly a quarter](#) with no effect on crime rates.
- In [Washington, D.C.](#), where cash bail was entirely eliminated decades ago, 94% of defendants are released pretrial, and of this group, 91% attend their future court hearings and between 98% and 99% are not arrested for new violent crimes.
- In [Houston](#), where reform followed a federal court case in which the bail-setting practices were found unconstitutional, the number of people released pretrial has skyrocketed, and there hasn't been any negative impact on public safety.

While other states have had pushback due to their versions of bail reform, this bill avoids the most problematic aspects of some versions of reform. For example, some bail reform efforts relied on removing judicial discretion (i.e. forbidding judges from ever setting conditions of release for certain types of crime or requiring the automatic release of some individuals). This bill does NOT do that. This bill actually increases opportunities for judges to step in and detain or set conditions of release for individuals. Some reforms have totally eliminated the use of cash bail, which this bill does not. Instead, this bill requires that if cash bail is set, that it be set in an amount the individual is able to afford. Some types of reform require or prohibit the use of risk assessments. This bill does neither; instead, it leaves the use of risk assessment tools up to individual courts and judges.

**What’s in the Bail Reform Bill – A Brief Outline:**

<b>What’s in the Bill?</b>	<b>What’s NOT in the Bill?</b>
A <b>presumption of release</b> that creates a release path so individuals who pose no threat to any person/organization or of willful flight can return to the community within 24 hours.	<b>Data collection</b> requirements.
<b>Expansions to preventative detention</b> so that felony domestic violence and felony violation of a protection order charges are now eligible.	Any mention of <b>risk assessments</b> .
For those not released within 24 hours, a <b>conditions of release hearing</b> is required within 48 hours for most crimes.	Any other criminal legal system reforms. This is a <b>clean bail reform bill</b> .
<b>Right to counsel</b> at conditions of release hearings.	
A list of <b>permissible conditions of release</b> .	
<b>Limitations on monetary conditions of release</b> , including: <ul style="list-style-type: none"> <li>• A <b>presumption against the setting of monetary conditions of release</b>, which can only be rebutted via clear and convincing evidence that no non-monetary condition would be sufficient to assure appearance.</li> <li>• A <b>requirement of written findings</b> on the record.</li> <li>• In cases where monetary conditions of release are used, an <b>ability to pay determination assuring any monetary condition imposed is affordable</b> to the individual.</li> </ul>	
Additional procedural safeguards for the <b>bond forfeiture</b> process.	
Language that creates <b>uniform definitions</b> for “bail” and “bond.”	