

TO: Senate Judiciary Committee

FROM: Claire Chevrier, Policy Counsel, ACLU of Ohio

DATE: June 16, 2021

RE: Senate Bill 182 - Proponent Testimony

Dear Chairman Manning, Vice Chair McColley, Ranking Member Thomas, and members of the Senate Judiciary Committee:

My name is Claire Chevrier, and I am a resident of Columbus, Ohio and Policy Counsel at the ACLU of Ohio. Thank you for the opportunity to present proponent testimony on Senate Bill 182, which the ACLU of Ohio strongly supports.

Adam Coy, the former police officer indicted for the murder of Andre Hill, is home with his family awaiting trial after posting a \$1 million bond.¹ Preston Chaney died of COVID-19 in a Houston jail because he couldn't post his \$100 bond.² Money bail has never kept us safe; it's just about providing the wealthy with a way out of jail while leaving everyone else behind bars.

Currently, every municipal court in Ohio has a bond schedule that covers misdemeanors and many also cover felonies. Bond schedules are tables that on one side typically list a crime (e.g. theft) or crime type (e.g. first degree misdemeanor) and a corresponding dollar amount that an accused individual can post in order to free themselves from jail. These bond schedules are used before an individual has the opportunity to see a judge, and they vary widely across the state. They typically do not consider an individual's ability to pay, nor do they provide judges the opportunity to step in if there is a safety concern. This creates a two-tiered system of justice: If you're wealthy and dangerous you can go home, and if you're poor and pose no threat you remain in jail.

Once accused individuals see a judge, this scenario is often repeated; if a judge sets financial conditions of release, wealthy individuals again get the opportunity to buy their freedom and those without the funds languish in jail. This system of wealth-based detention is dangerous for two main reasons.

1. When individuals are held in jail pretrial because they can't afford their bail, they are put at risk of losing their jobs, their homes, and even

¹ <https://abc6onyourside.com/news/local/former-columbus-police-officer-adam-coy-post-bond-released-from-jail>

² <https://www.houstonchronicle.com/news/houston-texas/crime/article/harris-county-jail-indifference-human-suffering-15926278.php>



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custody of their children. This unnecessary jail time has a long-term and destabilizing effect on individuals' lives. So much so that research shows pretrial detention increases the likelihood that people will get rearrested in the future.³ Even if you're found innocent, you are more likely to commit poverty-related crimes to survive once released. While we often hear the word "recidivism," it's important to call it what it is: more crime later, because our money bail pretrial system unnecessarily unravels people's lives, making poverty that much harder to escape.

2. Money bail also creates perverse circumstances in which wealthy and dangerous individuals are quickly released. The Buckeye Institute wrote a report in 2017 called "Money Bail: Making Ohio a More Dangerous Place to Live."⁴ It described a number of different true stories from Ohio in which individuals—some charged with very serious and dangerous crimes—were able to buy their release. In one of the cases the report highlighted, a man purchased his freedom after trying to kill his ex-wife; once released, he killed her.

SB 182 is not just a bail reform bill; it's a necessary public safety measure. This bill reimagines bond schedules so they maintain their efficiency while protecting our community. By establishing a presumption of release, SB 182 creates for everyone the release path bond schedules reserve for the wealthy.

It also adds a necessary safety component. Under the presumption of release, everyone must get released within 24 hours *unless* a judge or prosecutor is concerned the individual poses a threat, in which case the individual can remain detained and get a hearing within 48 hours for most crimes. This initial release decision is not an added requirement—it does not require a hearing or findings—it just gives judges the opportunity to step in and stop someone from being released. This means, for the first time, initial release decisions will be hinged on whether someone poses a threat, not how much money they have.⁵

While SB 182 is a public safety bill, not all reform efforts have centered public safety like it does. New York, for example, initially reformed its pretrial system by prohibiting judges from setting money bail for most crimes and it did not have preventative detention as an option. SB 182 does the opposite: it maintains judges' ability to set money bail for *any* crime after making certain findings, it centers and expands preventative detention, and it gives judges more opportunities to step in to set conditions of release and contemplate detention. While other versions of reform have created safety problems, SB 182 addresses the safety problems that already exist.

There are many other reasons to support SB 182 in addition to public safety.

³ <https://www.vera.org/downloads/publications/Justice-Denied-Evidence-Brief.pdf>

⁴ <https://www.buckeyeinstitute.org/library/doclib/2017-12-11-Money-Bail-Making-Ohio-a-More-Dangerous-Place-to-Live-By-Daniel-J-Dew.pdf>

⁵ SB 182 also promotes public safety by strengthening and expanding preventative detention—or the opportunity for judges to detain individuals charged with the most serious crimes for the entire pretrial period without relying on money bail.

- It is incredibly expensive to hold people in jail unnecessarily. Bail reform could save Ohio up to \$264 million each year.⁶
- Pretrial detention causes worse case outcomes. People who remain in jail pretrial are more likely to get convicted, are more likely to get sentenced to jail or prison, and receive longer sentences compared to individuals charged with the same crime who purchase their pretrial release. Bail reform is needed so that convictions are actually a reflection of guilt and not resources.⁷
- Our current money bail system disproportionately affects people of color. Black individuals are more likely to receive financial conditions of release and are more likely to receive higher financial conditions of release than white individuals charged with the same crime.⁸
- People who remain in jail pretrial are put at risk of losing their jobs, their homes, and even custody of their children. Families get ripped apart and children unnecessarily enter the child welfare system due to wealth-based detention.⁹

It's unsurprising that so many people across Ohio are passionate about bail reform. 75% of Ohio voters believe that Ohio's criminal justice system is in need of reform. 77% favor requiring a hearing on release options and conditions in front of a judge within 48 hours. 69% believe in creating a release path for most people to go home the same day as their arrest if they do not pose a threat. Each of these proposals was supported by a majority of Republicans and Democrats.¹⁰

Good policy earns strange bedfellows. Together with conservative organizations, faith leaders, survivor advocacy groups, and stakeholders across the state, the ACLU of Ohio is a proud member of a broad coalition that support bail reform. We are grateful for the leadership of Senators McColley and S. Huffman and ask that you join them and vote yes on SB 182.

⁶ https://www.acluohio.org/sites/default/files/ACLUofOhio_OhioCouldSaveBigByImplementingBailReform-AFiscalImpactAnalysis_2020-0913.pdf

⁷ https://www.acluohio.org/sites/default/files/fiscalimpactreport-addendum_2021-0312.pdf

⁸ https://www.acluohio.org/sites/default/files/ACLUofOhio_BailReform-FiscalImpactAnalysis_RacialDisparitiesInOurCourtSystem_2020-1105.pdf

⁹ <https://www.vera.org/downloads/publications/Justice-Denied-Evidence-Brief.pdf>

¹⁰ https://www.acluohio.org/sites/default/files/field_documents/bailpolling_one-pager_2021-0323.pdf