



Paul B. DeWolfe: Let bail reform happen

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Every day, Maryland residents are detained because they are poor. Some, like Shannon, languish in jail for because a judge imposes a money bail beyond their means. Others, like Rafiq, have family members who are indebted to a bail bondsman and remain in debt even after the charges are dropped. Yet others, like Lisa, guilty to flimsy charges as means to get out of jail and return to their families.

Money bail has been a central component of Maryland's pretrial system for decades – and there is finally some momentum for change. Attorney General Brian E. Frosh has questioned the constitutionality of Maryland's system, and coupled with numerous task forces and working groups over the years that have identified it as a problem, there is broad agreement that the system needs to be fixed.

After extensive input and deliberation, Maryland's highest court, the Court of Appeals, unanimously approved changes to its pretrial rules to deprioritize money bail. Looking at the District of Columbia and other jurisdictions that have successfully transitioned from a wealth-based process to an evidence-based system, the new rule carefully crafted to afford judges the discretion to impose the terms needed to ensure an individual's return while making clear that financial conditions should neither be a priority nor a means to keep someone in jail solely because they cannot afford to pay.

The rule is slated to go into effect this coming July, but may be thwarted by the Maryland General Assembly's extensive support from the bail industry, Senate Bill 983 seeks to keep problematic practices in place. Contrary to the court rule, it would prohibit judicial officers from giving preference to nonfinancial conditions. Even in cases where a victim's safety may be in jeopardy, SB 983 would allow judges to impose a dollar amount for the defendant's release.

The court rule is an important step in ending Maryland's two-tiered pretrial system. By letting the rule go into effect, the legislature can encourage judges to treat defendants equally, regardless of income. The rule is not perfect; it needs to be implemented before determining what further reform may be needed. If it passes SB983, the Assembly will perpetuate a system that punishes the poor.

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