

Public Hearing

before

SENATE LAW AND PUBLIC SAFETY COMMITTEE

Senate Concurrent Resolution 128

*“Proposes constitutional amendment to authorize, under certain circumstances,
pre-trial detention of persons in criminal cases”*

LOCATION: Committee Room 10
State House Annex
Trenton, New Jersey

DATE: July 24, 2014
10:30 a.m.

MEMBERS OF COMMITTEE PRESENT:

Senator Donald Norcross, Chair
Senator Linda R. Greenstein, Vice Chair
Senator Peter J. Barnes III
Senator James W. Holzapfel



ALSO PRESENT:

Wendy S. Whitbeck
Office of Legislative Services
Committee Aide

Lisa Velasquez
Senate Majority
Committee Aide

Frank Dominguez
Senate Republican
Committee Aide

Hearing Recorded and Transcribed by
The Office of Legislative Services, Public Information Office,
Hearing Unit, State House Annex, PO 068, Trenton, New Jersey



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PUBLIC HEARING NOTICE

The Senate Law and Public Safety Committee will hold a public hearing on Thursday, July 24, 2014 at 10:30 AM in Committee Room 10, 3rd Floor, State House Annex, Trenton, New Jersey.

The public may address comments and questions to Wendy S. Whitbeck, Committee Aide, or make bill status and scheduling inquiries to Debra L. Mayberry, Secretary, at (609)847-3870, fax (609)777-2715, or e-mail: OLSAideSLP@njleg.org. Written and electronic comments, questions and testimony submitted to the committee by the public, as well as recordings and transcripts, if any, of oral testimony, are government records and will be available to the public upon request.

The public hearing will be held in accordance with Rule 24:3 of the New Jersey Senate on the following Senate Concurrent Resolution:

SCR-128 Norcross	Proposes constitutional amendment to authorize, under certain circumstances, pretrial detention of persons in criminal cases.
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Issued 7/17/14

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SENATOR DONALD NORCROSS (Chair): Good morning.
Welcome to the Law and Public Safety hearing on bail.
Roll call, please.

MS. WHITBECK (Committee Aide): Senator Holzapfel.

SENATOR HOLZAPFEL: Here.

MS. WHITBECK: Senator Barnes.

SENATOR BARNES: Here.

MS. WHITBECK: Senator Greenstein

SENATOR LINDA R. GREENSTEIN (Vice-Chair): Here.

MS. WHITBECK: And Senator Norcross.

SENATOR NORCROSS: Here.

MS. WHITBECK: Roll call is concluded.

SENATOR NORCROSS: Thank you.

Welcome to the hearing on SCR-128, which makes much needed changes to our State's bail system.

With regard to the process, this is a hearing for discussion only; we will not be voting on this Bill. Our goal is to hear from stakeholders on all sides of the issue.

To that end, we've had multiple hearings over the course of the last two years discussing both the resolution before the Committee, and the related Bill under consideration by the Legislature.

We held our first public hearing -- meeting on June 4, 2012; our second, June 27, 2013, with extensive participation from interested individuals and organizations, including many you'll hear from today.

We are meeting again here today to consider changes that will strengthen our criminal justice system, keeping the most violent offenders off the street.

Too often, violent offenders with ready access to cash post bail shortly after being arraigned and are back on the streets where they can terrorize their victims, coerce witnesses against them, and threaten the community at large.

In my District, in my home city, we have too many examples of violent offenders returning to the scenes of the crime to reoffend. Just last year, a man out on bail shot a woman who was scheduled to testify against him, nearly killing her. In 2011, a 20-year-old culinary arts student was killed by a man out on bail while awaiting trial for attempted murder. He was initially arrested seven months earlier. Another man killed his sister while out on bail for arson charges. Unfortunately, the list goes on and on.

Over and over again, violent criminals are released into our communities because our current system prioritizes an offender's wallet over his risk. It is time that we give our justice system the ability to weigh the public risk certain offenses pose to keep residents safe when considering bail of dangerous criminals. More to the point, this measure would bring New Jersey in line with the Federal courts, which has allowed judges this discretion since 1984.

Twenty-six other states, as well as the District of Columbia, have enacted the very types of measures that we're considering here today. This resolution acts as a companion Bill, which will allow judges the opportunity to consider non-monetary bail options for low-risk offenders. Forty percent of the state's prison population consists of nonviolent

offenders with rights to bail, but lacking the means to secure their freedom. The average length of stay for these individuals is 10 months before they ever see a trial, with about 1,800 nonviolent offenders each day waiting for trial because they couldn't make bail of \$2,500 or less.

This 10 months on the taxpayers' tab adds up quickly. More importantly, it's unethical to condemn a person to the life-long effects caused by a long prison stay when the only thing they've been found guilty of is being poor.

By giving judges the latitude to provide low-risk offenders with alternatives to pre-trial incarcerations -- such as drug rehabilitation or counseling, job training, or employment responsibilities -- we are empowering them to become tax contributors, not tax burdens.

Today, our job is to discuss SCR-128 and develop a new pre-trial release system -- that frees judges to make commonsense decisions about assigning bail, instead of remaining handcuffed by the rigid formulas that are in place -- by building a bail system that enables judges to put public safety first, understanding that offenders' risk is more important than his wallet.

We want to thank everybody for their participation today and leading up to today.

And now I'd like to call up our first witness to testify -- Mr. Todd Edwards of the NAACP, New Jersey.

Thank you, and welcome.

RICHARD TODD EDWARDS: Good morning.

Chairman and members of the State Law and Public Safety Committee, my name is Richard Todd Edwards, and I am the Political Action Chairman for the NAACP New Jersey State Conference.

I bring you greetings on behalf of our State Conference, the officers, Executive Committee, and members.

Founded in 1909, the NAACP is the nation's oldest and largest civil rights organization. From the ballot box to the classrooms, the thousands of dedicated workers, organizers, leaders, and members who make up the NAACP continue to fight for social justice for all Americans.

I bring a special greeting on behalf of our State Conference President, Richard T. Smith, who would have been here but is attending the NAACP 105th Annual National Convention in Las Vegas.

New Jersey's bail system is broken. Three-quarters of the people being warehoused in our jails are there awaiting trial rather than serving a sentence, and their average length of stay is about 10 months. Almost half of these defendants are incarcerated solely because they cannot afford often nominal amounts of bail.

The current system is unfair and unsafe. Those with money can obtain release no matter how serious the crime, or how much of a danger they pose to public safety. Those without money sit in jail for months on end, no matter how minor their offense and no matter that they pose no danger to public safety.

A great deal of work has been done by all involved -- this includes those of the Senate, the Assembly, the NAACP, New Jersey BIC, the Institute of Social Justice, the ACLU, and the Drug Policy Alliance -- just to name a few.

We wholeheartedly commend Senator Ronald Rice and Senator Nia Gill whose insight enabled us to move closer to support the constitutional amendment by their insistence that we more clearly define who a *defendant* is; ensuring that the risk assessment process is fair and equitable; that some explanations in regards to a financial note are included explaining how this legislation will be funded.

We realize that there's a desire to meet the August 4 deadline, and we wholeheartedly respect that. However, we also expect that every effort is made by all parties involved to ensure that the legislative document that will be attached to the proposed constitutional amendment be tight and right.

There is no room for error because people's lives are depending on it -- and on us. These documents are tied together. When we change the Constitution, we must ensure that the implementation instructions are sound, and will in no way be harmful to those who most often have been victimized by the justice system for too long.

The resolution before you is a step forward towards fixing these problems, but is insufficient standing on its own. SCR-128 only allows for pre-trial detention of high-risk defendants; it does implement a mechanism to allow for pre-trial release of low-risk arrestees. For this reason, we will only support this resolution for a constitutional amendment if it is balanced with comprehensive bill reform legislation that moves the current broken bail system away from using money bail and replaces it with a system that bases pre-trial release decisions on risk; however, still allowing a judge the discretion to use bail, if applicable.

Real, comprehensive bail reform promotes both safety and justice. Legislation to enact real, comprehensive bail reform must include several key elements: It must remove money as a primary mechanism of pre-trial release, basing pre-trial release decisions on risk rather than resources while still providing a judge to use bail, if applicable.

It must require the use of risk assessments on arrestees with higher-level charges, and the risk assessment procedures must be fair and equitable and non-discriminatory to people of color.

It must authorize the release of low-risk individuals under the least restrictive conditions possible. It must permit the detention of those who are judged to be truly dangerous. It must include a clear and definitive definition of the word *defendant*. It must include a financial note which will explain how the legislation will be funded. It must include clear and definitive language in regards to a speedy trial and acceptable timeframes that will be adhered to.

SCR-128, paired with a version of A-1910 and S-946 that includes these key elements, would better protect the rights of countless individuals who are incarcerated simply because they cannot afford to pay their way out of jail. It will guarantee safer communities by authorizing the detention of dangerous defendants, and it would benefit the State by mitigating the major financial burdens associated with unnecessary detention and excessive rates of incarceration.

Our support can be had if the legislation addresses the issues and concerns shared in my testimony today. The NAACP is ready and willing to continue to work with all parties involved to make this much-needed reform a reality.

Again, on behalf of our President Richard T. Smith, and the New Jersey State Conference of the NAACP, we thank you for your time and considerations of our concerns and requests.

SENATOR NORCROSS: Thank you.

Any questions from the Committee? (no response)

Seeing none, thank you for your testimony. We appreciate your input.

Next up we have Reva Foster and Reverend Ronald Tuff from New Jersey Black Issues Convention.

Good morning and welcome.

REVA FOSTER: Good morning; thank you very much, to the Chair and to the Committee. We're very happy to be here to represent the New Jersey Black Issues Convention, which is an organization of organizations with 40 organizations being represented by the two of us -- Reva Foster and Reverend Tuff, who is a First Vice Chair of the organization.

New Jersey Black Issues Convention supports bail reform -- The 40 organizations, that I mentioned earlier, represents -- and would like to see the bail reform put into effect. We do not want to violate the rights of citizens to due process of the law and we want to ensure that those who are charged with offenses and are arrested maintain their constitutional rights to a speedy trial.

We hope that you will take under consideration these comments that I am making at this time, and we'd also like to thank Senator Nia Gill and also Senator Ron Rice for all of their diligence and work to make sure that we are well aware of exactly the details of the amendments.

Thank you for the opportunity to speak before you for the New Jersey Black Issues Convention.

REVEREND RONALD TUFF: My name is Reverend Ronald Tuff and I am the Second Vice Chair of New Jersey Black Issues Convention.

And I would like to support the statements that my president has stated to the Committee this morning.

Thank you.

SENATOR NORCROSS: Thank you.

Any questions from the Committee? (no response)

Hearing none, thank you for your testimony.

Next up we have Roseanne Scotti from the Drug Policy Alliance.

ROSEANNE SCOTTI: Thank you, Mr. Chairman, and members of the Committee.

I will be very brief. I think the Chairman and other individuals who are going to speak today will discuss the statistics. And I think we all know them; this issue has been vetted for a very long time, at this point.

Suffice it to say that we have a broken bail system. We have a system that no matter how dangerous you are, if you have enough money, you can be released and do damage to all our communities. We have a system that no matter how low-level you are, your offenses, how little danger you pose, you will sit in jail simply because you do not have the resources. The average length of time, as the Chairman said, that people are currently sitting in jail -- and it's 40 percent of the people who are

sitting in jail -- are there simply because they cannot pay bail and they sit there for 10 months.

This is one step towards a comprehensive package. We do support this resolution, as long as it is paired with comprehensive bail reform legislation. We have been in communication with the Chairman, with the Senate President, with members on both sides of the aisle in both houses. We believe that S-946 is very, very close to being exactly what we need to implement real and comprehensive bail reform. And with that being the case, we would support this amendment.

Thank you.

SENATOR NORCROSS: Thank you.

Any questions from the Committee? (no response)

Seeing none, we appreciate your testimony.

Next is Dan Phillips of the Administrative Office of the Courts.

DANIEL PHILLIPS: I'll just be very brief.

We do support the resolution. It's consistent with the Chief Justice's Joint Committee on Criminal Justice -- the recommendations. And we appreciate -- very much appreciate the opportunity to participate in the process.

Thank you.

SENATOR NORCROSS: Thank you for your testimony.

Any questions from the Committee? (no response)

Seeing none, from the Camden County Police Department, Captain Greg Carlin.

Welcome back, Captain. It's good to see you.

CAPTAIN GREGORY CARLIN: Good morning, Chairman Norcross, members of the Committee.

Thanks again for allowing me the opportunity to testify before you today in support of this important legislation.

My name is Greg Carlin; I am a Captain with the Camden County Police Department. I am proud to say I've worked in Camden City for 20 years now.

During my years of service, I've witnessed and experienced firsthand the difficulties providing public safety in one of the most challenged cities in our country.

A significant shortcoming exists, though, in our State Constitution and State judicial system -- that is, simply, the inability to keep serious offenders in jail while they await trial. Instead, during their time awaiting trial, these individuals are free to reoffend and terrorize the communities we serve.

The Constitution of the State of New Jersey currently entitles individuals charged with a crime the right to bail prior to trial. An amendment to the Constitution is necessary that allows factors such as the nature of the crime, the defendant's criminal history, the protection of the public, flight risk, witness protection, and the likelihood of additional criminal acts being committed by the defendant -- all to be considered before a defendant is eligible for bail.

This change would have a positive impact on law enforcement and public safety statewide, and perhaps even a greater impact in our urban centers such as the City of Camden where there is a "no-snitching" culture that's pervasive. The code is emboldened by the fear of victims and

witnesses to cooperate with the police, only to be answered with violence of the offender who is quickly released on bail. And that is the case with a lot of shooting victims and witnesses; they just won't talk to us knowing that someone is going to be back on the street and there might be retribution.

The victims and witnesses in the City of Camden and the State of New Jersey have little faith in a system that appears to promote the swift release of offenders routinely. I've witnessed scores of offenders arrested for serious offenses only to be released a short time later to commit additional offenses.

Recently in Camden a 28-year-old male named James had an extensive criminal history involving drugs, weapons arrests, and other violence. In April of this year, James was out on bail for his ninth and tenth arrests as an adult.

On April 25, Camden County police officers were walking their beat in the Sycamore Court Apartments. This is an area known for its propensity for violence. The officers engaged a group of suspicious males; James was in the group. Without warning, James broke away from the group and began firing a handgun at officers at close quarters in Sycamore Court Apartments. He continued to do so, while officers scrambled for cover and returned fire. James continued to fire his weapon until it was empty, and fortunately no bystanders or officers were struck, and James only once.

Now, this unfortunate incident that created a substantial public safety hazard could have been avoided had only James been held without bail for his prior offenses until his trial.

This is just one example of many when those who commit serious offenses are allowed to function freely in society, but still pose serious public safety threats. Without an amendment to current law and the ability to exercise prudence before allowing certain offenders to obtain bail -- which is oftentimes dictated by a schedule -- a grave public safety threat for law enforcement and a law enforcement impediment will exist.

This constitutional amendment, as I stated before, is a game changer for law enforcement and public safety in New Jersey. Certainly to amend our Constitution requires an extraordinary issue, whereby no other remedy has worked. Violent offenders having the ability to quickly return to the streets to reoffend is our issue, and I assure you the turnstile bail process that currently exists has failed to keep our citizens safe, time and again.

SENATOR NORCROSS: Thank you, Captain.

Any questions? (no response)

I'd like to point out that the Captain is here on behalf of his Department -- certainly, Chief Thompson -- who came to me probably three-and-a-half years ago to discuss this very issue that we're talking about today. And that was the starting point for many of the discussions. I appreciate you coming out.

Next, I'd like to bring up Jerome Harris.

Welcome.

J E R O M E C. H A R R I S Jr.: Thank you, Mr. Chairman and members of the Law and Public Safety Committee.

My name is Jerome Harris, and I am the Interim President and CEO of New Jersey Institute for Social Justice. In our 15-year history, the

Institute has produced research, presented policy analysis, and collaborated with government on reform projects in the areas of criminal justice and juvenile justice to ensure public safety and fiscal responsibility.

The Institute applauds the Legislature for its continuing work on this incredibly important issue, and we want to emphasize that we are, too, committed to see this project through to its completion.

The importance of the comprehensive bail reform is underscored by the testimony that my colleague here to my right -- Scott Welfel -- gave before the Budget and Appropriations Committee on June 5. Scott recounted the story of his client, Mustafa, who had been arrested twice as an adult and, in both cases, the charges were ultimately dismissed. Even though Mustafa was innocent, he was held for many months before he could make bail. He was fired from his job because he could not report to work while in jail, and accrued nearly \$10,000 in bail bondsman fees. This is why we need to work together on bail reform.

I want to thank Senator Rice, Senator Gill, and Senator Norcross and others for their hard work in this area. There are many, many issues, and we've come a substantial way in addressing the language and the requirements of the companion bill, S-946, which will be important to implementing should the constitutional amendment being discussed today be passed.

Turning to SCR-128, we would prefer to see the proposed constitutional amendment include the right to speedy trial in the text of the amendment, while leaving the specific time requirements to be spelled out by legislative statute.

While the companion bill, S-946, includes these proposed speedy trial provisions, we believe the speedy trial principle should be enshrined in a constitutional amendment. This would ensure that the statutory speedy trial provisions could never be eliminated entirely.

We propose the following language be added to the end of the proposed constitutional amendment in SCR-128:

“Every person to whom pre-trial release is denied or who remains incarcerated after money bail is ordered shall be guaranteed the right to speedy proceedings, and the Legislature shall enact legislation to give effect to this right.”

Additionally, our support for SCR-128, authorizing pre-trial detention, is contingent upon enactment of an acceptable version of the implementation bill. We have received the latest version of S-946 as prepared by OLS; we are greatly appreciative of the changes that have been made. After review, we recommend that the following additional provisions be added to S-946 in order for the Institute to extend our full support to the Bill.

One -- and there's specific language provided in my written testimony -- extend speedy trial guarantees to defendants who cannot make bail; two, amend the substantial and unjustifiable risk exception to speedy trial to require a finding that there has not been unreasonable delay by the prosecution; three, to reconsider the maximum period to commence trial from two years to one year; and four, to mandate the risk assessment instrument be evaluated to ensure neutral application and neutral effects.

Finally -- and not related to the statutory matters before us -- I want to take the opportunity to comment that the ability to implement

this legislation, this change, can only occur if the judiciary is fully staffed. Without pointing fingers or assigning blame, we urge the Legislature and the Governor to work together to ensure that judicial vacancies -- both now and in the future -- be filled in order that we have adequate capacity to implement bail reform in New Jersey.

Thank you.

SENATOR NORCROSS: Thank you.

Any questions from the Committee? (no response)

Hearing none, thank you for your testimony.

Next up we have Senator Ron Rice.

Welcome, Senator.

SENATOR RONALD L. RICE: Thank you; thank you, Mr. Chairman for giving me an opportunity to speak.

Let me preface my remarks, for those who are here, because a couple of citizens working with the Drug Policy Alliance approached me about doing the right thing. Then when I told them the problem, they knew what I was talking about -- which means that they're just doing what they think is right, or what they're told, with the number of people locked up.

So I need to preface my remarks by indicating that the 6th Amendment of the United States Constitution guarantees a right to a speedy trial; that comes down to us via the 14th Amendment.

And I also want to state to the Committee here and to those folks who are here that those of us in the Legislature, those of us in the New Jersey Legislative Black Caucus, the community, we want the same thing. We commend you, Senator, on your attempt at legislation. This is not the

first bail bill put in; it's the first of its type. Senator Turner has a bill in, I have a bill in, and there are other bills. We get this more so than anyone else because we represent, like you do, these urban cities where this stuff is mostly taking place. So it's nice to hear the Captain talk, but the Captain didn't say anything about the tier underneath the violent crime -- criminals.

And so we want to be clear that we want the same thing, and that is the ability to keep the hard-core violent criminal in detention until there's a trial. We want that. What we do *not* want -- and this needs to be clear to everybody, including the media -- what we do not want is legislation that is well-meaning but violates the constitutional and civil rights of people in this state after years of us fighting and struggling, and in many instances, dying to obtain these rights. That may not be important to a lot of people who are not of color, or who don't understand the Civil Rights movement, but it's important to those of us who are products of that movement and still are fighting those battles today -- not just in New Jersey, but throughout the country.

As civil rights leaders, many of us have argued for years that the bail system, as it has been for years, is unfair and unjust in application for the poor -- and for blacks and minorities, in particular.

We all are aware that we have to fix this injustice, while at the same time give the courts the ability to detain our most vicious criminals who continue to commit violent crimes. I know that; my background is Criminal Justice Administration and Planning. I'm a former cop; I live in the City of Newark; I'm a former Councilman; I'm a former Deputy Mayor. I've been in the Senate for 28 years. I went to law school -- so I get that. And I understand that it's the bail piece of the Constitution that is giving

the judges -- coming about for the judges to hold those individuals that we want held.

But as we move on with this legislation, we're not doing it correctly. Because I'm going to tell you what it means. The way to accomplish all of this is to make sure and make certain that we do not violate the rights of citizens' due process -- because that's a due process issue here: Due process of the law, and to ensure that those who are charged with an offense and are arrested maintain their constitutional right to a speedy trial. As legislators, we have the responsibility to make laws that will not only protect the rights of all citizens today, but must protect the rights of the generations coming behind us and babies not yet born. That's our responsibility. This is what the Civil Rights movement was and still is all about. For those black leaders in this room who represent Civil Rights organizations and clergy -- they need to understand what the Civil Rights movement is all about. And the Civil Rights movement is not dead; it's just operating under another name now.

And so with that said, the reason we're arguing so much to have SCR-128 amended, to have speedy trial language inserted in that amendment, is because if you only do 946 -- regardless of what it says -- and you take bail out of the Constitution -- which is a guaranteed and authorized right, right now, for every citizen -- what it means is that after the sponsors are long gone and the rest of us are long gone, other legislators can come back and change and end that legislation without touching the Constitution -- what speedy trial and bail mean. That's what that is.

And if folks do not understand that -- and for these organizations, including the people who are being paid to come into town

to testify who don't understand that you have to do a legal analysis first as it relates to civil rights and constitutional rights -- you're wrong. Yes, we support what you support -- but there's another side to it.

And to turn back the hands of time to the days of Bill Connor, and George Wallace, and racist advocates of segregation injustice to us is wrong, and should not be tolerated by anyone -- particularly not tolerated by people of color, black civil rights leaders, and black clergy members. What is important, Mr. Chairman and Committee, is to have speedy trial dates in the constitutional amendments as opposed to just the Bill. In fact, to me, and to many of us, there may be a conflict to even have the constitutional amendment saying one thing, and the Bill indicating something else. And there may be challenges to it.

If the speedy trial dates are in the Bill, then there's no certainty from 946, if it's there, that there would be speedy trials. It can be altered, ignored for good cause, and subject to all kinds of changes and modifications.

The speedy trial dates in a bill is akin to a promise to do something. However, the promise can always be altered. For example, an example that we're all familiar with -- it is similar to the pension and benefit issue. We thought a contract had been created, and the Governor was contractually required to make pension payments on time. But the courts said that the contract is trumped by the constitutional requirement to have a balanced budget. Another reason we need it in the Constitution.

We have continued litigation with respect to thorough and efficiency; and that is because it is a general term, and thus subject to all the

whims of government and not fully funding our education -- which you argue about all the time. Because this is statutory stuff.

And if we are amending the Constitution to permit pre-trial detention, then there must be a certainty in the Constitution for specific dates for a speedy trial. If you remove the bail piece, Mr. Chairman and Committee, if we pass this amendment on ballot and you say we're removing the bail, and there's no longer a right for anyone to have bail -- that would give the judges the ability to make the decisions they want to make on the hardcore. But what it also does is to say that our intent to make sure poor people and others who cannot afford to be released -- the intent may not get carried out. Because the analysis done by the ALC (*sic*) and other folks -- we have no fiscal analysis -- we're telling you this Bill is going to cost between \$80 million and \$100 million; that's number one. And we don't know where the Legislature is going to find \$100 million, but we have until 2017 to get it. There are residents who are being sent information to support this Bill thinking that if we pass it in November, that after November some of the folks who are in jail presently, or who get detained, will be able to get out right away and won't be staying in there. That's not true. Those folks will be in jail next year, just like they're in jail this year -- until 2017.

So the question is, what is the rush to move the Bill without getting it right? We can put it on the ballot next year; there's more than enough time. And then if you remove the bail from the Constitution -- so none of us have a right to bail anymore -- someone is going to charge me with something I didn't do, and I'm sitting up in there and I want to go before a judge and have my day in court -- whether I'm pre-detained or out

-- and it's not happening speedily. Then the problem is very simple: What it means is that I don't get a speedy trial because the Constitution doesn't guarantee it. So I have to pay an attorney to go and argue the 6th Amendment, via the 14th Amendment. And if I can't pay for bail, I can't pay for an attorney.

And so there are a lot of problems. No one has looked at the number of judges, county by county, that we're short. No one is looking at the number of prosecutors throughout the state that we're short. No one is looking at the number of prosecutorial investigators that are needed to do the work for the prosecutor to have a good case.

We have not done significantly or substantially enough work. I think that the meetings that Senator Gill, and I, and Assemblywoman Spencer from the Legislative Black Caucus and others have had with all the participants -- their mouths fell open when Senator Gill pointed out the problems, constitutionally and civil rights. And the question was, "How can we fix this?" And as you said, Mr. Chairman, your intent was to deal with the hardcore people, and we need to fix this.

And so to rush this thing out without putting "speedy trial" into the Constitution does not make any sense.

And so, the rest of the testimony you can read. I have real serious problems with this. I have a real serious problem with the way black leaders who represent civil rights are handling this and not paying enough attention. I want to be on record saying that, and we're going to make sure that all of our colleagues understand that there is no rush.

I do a bill, and everybody wants a fiscal note. It may only cost \$100,000, but my bill's a-- "We didn't get a fiscal note." We're talking

about \$100 million -- or something close to that -- that the next Governor's going to have to find. All this Bill does is give the Governor something to run around the country and say we did, and then people are going to be gone, and we are still going to be stuck in jail.

Thank you very much, Mr. Chairman, for giving me the opportunity.

SENATOR NORCROSS: Thank you, Senator.

SENATOR BARNES: Mr. Chairman, I have a question.

SENATOR NORCROSS: Senator Barnes.

SENATOR BARNES: Since I'm new to the-- I'm not new to the Bill, but I'm new to the Committee.

Does this Bill, in any way, affect any charged person's right to bail under the Constitution? I mean, this resolution that we're debating today, and the companion Bill that you've worked very hard on, it seems that the Senator is raising a due process and a constitutional issue. And I just want to make sure--

I have to respectfully disagree with him, first of all; in fact, I would vehemently disagree with him, even though I respect him very much. How does this Bill affect anybody's right to bail? There is still a Federal constitutional right to bail. And just because the resolution doesn't guarantee a person a trial within a certain amount of time -- one year, two years -- because of a lack of judicial resources doesn't mean that there's a due process issue.

So I have to -- and I hate to do it, because it doesn't happen often -- but I have to respectfully disagree with my very esteemed colleague.

There is no -- if I understand the Bill correctly -- there is no due process violation, and there's no violation of any constitutional right to bail.

That's my reading of all the papers; it's my reading of your -- I read your memo, cover to cover.

SENATOR RICE: Mr. Chairman.

SENATOR BARNES: I'd like to have an opinion from the attorney or anybody else who has really been more involved than I have. I don't see any due process violations at all with the matters in front of us.

SENATOR NORCROSS: In all our discussions -- other than the items that Senator Rice is bringing up -- that question has been addressed and the vast majority of those, outside of Senator Rice and Senator Gill, concur with what you're suggesting there. But many of the things that you're talking about right now are going to be in the companion Bill -- the S-946 -- which, obviously, we're going to have a great deal of time to discuss over the course of the next few weeks.

Senator.

SENATOR GREENSTEIN: There really are two things here: one is the right to bail -- which I think we are making changes in that. But the speedy trial part, which is what you want to add in-- As you said, that already exists in the Constitution; there is loads of case law where people are saying, "I didn't get a speedy enough trial," and the courts have ruled on that.

But I'm not totally clear -- and we talked earlier and I've talked to other people since -- I'm not totally clear exactly why you think putting *speedy trial* into the constitutional amendment adds that. I think that

already exists as a constitutional right. I don't know what putting it in here really adds to the situation.

SENATOR BARNES: Not only that, failing to not put it in does not, in my mind, create a due process issue.

SENATOR GREENSTEIN: I agree; I agree, actually, with that.

SENATOR NORCROSS: Any other questions from the Committee? (no response)

Senator Rice, I want to thank you for coming here today, and for your advocacy on behalf of issues that you and I know are very near and dear to us. We may disagree on some of these issues, but the respect for each other, certainly, is there. And regardless of what happens here, I know we'll work together on many issues to move this forward.

SENATOR RICE: Well, Mr. Chairman, I want to thank you, too. I knew what was going to happen here; I respectfully disagree. I know my colleagues disagree with me, and I suspect they're going to disagree on other things, okay?

The reality is that there are issues here, and we're going to have further discussions more about what those issues are. When you talk about speedy trial, you are saying we have these things. You get a speedy trial when you have timeframes, and that's by the Federal government.

But I'll leave; I don't even need a response.

SENATOR NORCROSS: Thank you.

Next up is, from Camden County Women's Center, Bernadette Lambe.

Welcome.

B E R N A D E T T E L A M B E: Good morning.

My name is Bernadette Lambe and I work with the Camden County Women's Center. We are Camden County's lead domestic violence agency. We provide victim services to all domestic violence victims in our County. Last year there were 6,500 arrests for domestic violence in our County alone.

Domestic violence victims experience a unique type of victimization. Most crime victims have one traumatic event; our victims have experienced repeated events. They're emotionally, mentally, and physically beaten down repeatedly. Restraining orders, designed for their protection, are violated again, and again, and again.

Currently, the person who commits these repeated crimes is eligible to be released on bail every time. Every time a victim reports a crime and the police arrest the perpetrator, the victim feels a momentary safeness. Then the phone call comes that he's been released on bail -- the roller coaster continues, the trauma continues.

We have one client; she's been my client for 12 years. Her perpetrator has been released on bail eight times. He's terrorized her, stalked her, injured her; he's threatened advocates, judges, therapists -- every time, he's released on bail. Every time, he goes back to her house as soon as he gets out. He's entitled to bail; he isn't a flight risk. He loves to go to court. Court is bonus time for him -- he gets to just go torture her a little bit more.

Had a judge been able to assess the risk of harm to my client, and review the history of this particular defendant, my client may not have had to experience such a horrible, horrible roller coaster ride. Maybe she could have felt safe with our justice system. Maybe she wouldn't have

viewed our justice system as having its hands tied as hers were. Maybe she could've viewed the judicial system as being able to protect her.

Robin's case, although not typical is, sadly, not unusual enough. The proposed amendment will give our judges the information and ability to assess the dangerousness of these defendants, the knowledge that a defendant has totally disregarded previous no-contact provisions to bail, the awareness that money and conditions are rarely enforced and are part of the game that he's playing. The amendment gives the judge the power to say, "Enough."

As a DV victim advocate, I ask that you support this amendment as the first step in comprehensive bail reform, in conjunction with S-946.

Thank you.

SENATOR NORCROSS: Thank you.

Any questions? (no response)

We appreciate your testimony.

Next up we have, from Legal Services of New Jersey, D. Miller, Claudine Langrin, and it looks like Akil Roper. Did I get that right?

A K I L S. R O P E R, Esq. (off mike): That's right.

M E L V I L L E D. M I L L E R Jr., Esq.: Thank you, Mr. Chairman, and good morning. With me is Akil Roper, Vice President of Legal Services of New Jersey. Ms. Langrin had to leave.

I'll be very, very brief. We appear today to express our strong support for SCR-128, and for the most recent proposed version of the accompanying substantive bail reform legislation -- not on this Committee's agenda today. Together they would constitute the most sweeping and

important improvements in New Jersey's bail and pre-trial incarceration policies in the modern, post-1947 Constitution era.

Just a moment of background: Legal Services opens 50,000 cases -- nearly 50,000 cases, all civil cases, annually. Through that representation and our other activities, we actually provide assistance to hundreds of thousands of individuals in New Jersey every year.

Compared to the general population, the population we serve is significantly disproportionately people of color. People in New Jersey who are in poverty are significantly disproportionately people of color. We are extremely concerned by the insensitivity to the needs of this population.

That disproportion is also mirrored in the makeup of the incarcerated population languishing now, chiefly in county jails, who are awaiting trial. We know from our work on the civil side that the primary reason many of these people are incarcerated -- as you know from the statistics that have been presented to you -- is simply because they cannot afford bail, no matter how low it may be set, not because they present risks to the public.

So we strongly support the combined constitutional amendment and accompanying bail reform legislation because it will redress this wrong. Poverty will no longer be the sole reason for pre-trial incarceration under these changes. This combined initiative, as currently proposed, will both enhance public safety and end a huge injustice that has plagued this state for much too long.

We also just-- As you know, the accompanying legislation contains provisions regarding Legal Services funding; we've made that case many times, before many committees. And we've just attached the most

recent statement about our funding situation to our statements that you have today.

Thank you very much.

SENATOR NORCROSS: Thank you.

Any questions? (no response)

Very good testimony; thanks for your testimony.

Next up, from the ACLU, is Lynn Nowak.

L Y N N N O W A K, Esq.: Thank you, Mr. Chairman and members of the Committee.

On behalf of the ACLU of New Jersey, we want to thank you, Mr. Chairman, for your leadership on this issue, your commitment. I also want to thank Senator Barnes for his co-sponsorship.

I do want to apologize on behalf of Alex Shalom, who is the senior legal attorney at the ACLU. He has worked extensively on this issue with you for the past several years. He is on vacation and, I think as you know, he brought a great deal of knowledge and expertise after serving for 10 years as a public defender.

The ACLU today just wants to echo and emphasize what several of the previous speakers -- Mr. Edwards from the NAACP, Roseanne Scotti -- that we support this resolution, but based on the fact that it is coupled with legislation that provides the important substance that's needed in order to give up the right to bail.

And just as this is a public hearing, I'd like to just read one paragraph that the ACLU has been clear on from the beginning of this process: that amending our Constitution is not a step to be taken lightly. In the context of bail reform, we must not amend our Constitution without

accompanying legislation that will fundamentally shift our bail system from a money-based one to a risk-based one, and guarantee a defendant's right to a speedy trial. The proposed constitutional amendment being heard today without an accompanying statute would be unjust and the ACLU would oppose that. But as we're seeing the direction that S-946 is moving, we believe we would support this and support that legislation, and think it would be a true step in the right direction for the citizens of New Jersey.

Thank you.

SENATOR NORCROSS: Thank you.

Any questions from the Committee? (no response)

We appreciate your testimony.

Next up, from the Lutheran Office of Governmental Ministry,
Reverend Sara--

R E V E R E N D S A R A E. L I L J A: Lilja. (indicating pronunciation)

SENATOR NORCROSS: Lilja. Welcome.

REVEREND LILJA: Thank you.

Thank you for the invitation to come and speak, and the opportunity to speak on behalf of the Lutherans here in the State of New Jersey.

But, in fact, the Lutherans across the United States last summer, in Pittsburgh, passed a piece of research and commitment -- social statement -- committed to criminal justice reform throughout the nation. And particularly in that context in New Jersey, the Lutherans here have taken very seriously the pieces of information you've all heard this morning around the unjust numbers of persons of color and persons who are poor

who are incarcerated, and looking deeply at some of the causes of those injustices. The Lutherans believe seriously that all persons have a right to a just life and livelihood; and that they have the right to the same privileges and processes, whether they're wealthy or poor.

And so I'm here today to not debate the legalities and the constitutional law, because that's not my field; but my field is rather to tell you that there are thousands of faithful folks in our state who are terribly concerned that the criminal justice system isn't working well for the citizens; that many people -- 40 percent or more of people are held incarcerated without opportunity for bail because they don't have funds. There's a simple justice issue that resonates with many people of faith, and it's our responsibility to lift that up. It's beyond our understanding of how it is that we can be in this state and pride ourselves in caring for all of the citizens that God has blessed, and yet we have a structure and a system that is fundamentally unfair.

And so we're here today to remind this Committee and this Legislature to do the right thing; to remember that the poor are not evil because they're simply poor. They have a right to a fair trial, they have a right to live their lives in dignity and justice as well.

So thank you for this opportunity to speak. I wish your deliberations well-meaning.

SENATOR NORCROSS: Thank you for your testimony.

Any questions? (no response)

Seeing none--

I just want to note: Pastor Vanessa Wilson of Magnolia Road Church in Pemberton was here to testify in favor, but had to leave.

Next up is Anna Rivera from Integrated Justice Alliance.

Welcome.

A N N A C U Q U I R I V E R A: Good morning, Chairman and members of the Senate Law and Public Safety Committee.

Good morning. My name is Anna Cuqui Rivera. I am the Administrative Chair of the Integrated Justice Alliance of New Jersey, founded in 2008. The IJA is a statewide network working toward a fair, effective criminal justice system -- one that provides public safety, the restoration of individuals and families, and protects and safeguards the rights of individuals in custody, promotes transparency, ensures accountability, and spends taxpayers' dollars wisely.

I'm not going to go into the text of the testimony that you have before you in copy, as well, to save us time. I will say that the Integrated Justice Alliance absolutely mirrors the position of the New Jersey Drug Policy Alliance in supporting SCR-128, paired with A-1910 and S-946.

I also would like to say, very briefly, who the members of the Integrated Justice Alliance are, and I will close with two comments.

The ACLU; the American Friends Service Committee; Building One New Jersey; Community Education Centers; Community Education Centers Alumni Association; the Drug Policy Alliance of New Jersey; the International Youth Organization; the Latino Action Network, -- of which I also serve as their Board Secretary -- that has also submitted testimony to you today, with no need to testify, and again mirrors the position of the Drug Policy Alliance; National Council on Alcoholism and Drug Dependence -- NCADD-New Jersey; the Nehemiah Group; the New Jersey Association on Correction; the Institute for Social Justice; the New Jersey

Re-Entry Coalition; the New Jersey Working Families; Urban Renewal Corporation; Volunteers of America Delaware Valley; Women Build Too; Women Who Never Give-Up; and individual members Bonnie Kerness and Jean Ross, Esq.

I will close with saying that neither the Integrated Justice Alliance nor the Latino Action Network has been bought, will never be paid for, and they never will.

Thank you very much.

SENATOR NORCROSS: Thank you.

Any questions? (no response)

Thank you for your testimony.

Next, from the Progressive Democrats of America, Mary Ellen--
MARY ELLEN MARINO: Marino (indicating pronunciation).

SENATOR NORCROSS: Marino, okay. Forgive us; we didn't know if it was a "v" or an "r."

MS. MARINO: That's all right, Chair.

SENATOR NORCROSS: Welcome.

MS. MARINO: I am glad to speak before you, Chairman Norcross, since you are also the bill's sponsor of the bail reform bill.

I have a long history in government, politics, and civil rights -- which is not why I'm here. I'm here because there's a constitutional amendment that you are trying to pass, but at the same time, it needs the Senate bill -- Chairman's Senate Bill S-946 -- in order to provide something for the 40 percent of the people incarcerated in New Jersey right now who are there simply because they can't pay bail.

This is wrong, and so I'm asking you to do both. I'm asking you to pass the amendment but, at the same time, pass the Bill that will fix this serious social problem.

Thank you.

SENATOR NORCROSS: Thank you for your testimony.

Any questions? (no response)

We appreciate it.

Next up, from Rutgers Episcopal Campus Ministry, Reverend Greg Bezilla.

R E V E R E N D G R E G O R Y B E Z I L L A: Bezilla, yes.
(indicating pronunciation)

SENATOR NORCROSS: Bezilla.

REVEREND BEZILLA: Thank you, Mr. Chair and members of the Committee.

I'm a priest of the Episcopal Church, a Chaplain at Rutgers University in New Brunswick. Every year students enter into Rutgers University through the Mountain View Program -- from incarceration into higher education. And their presence in our chaplaincy and in our university has made me aware of many injustices in our criminal justice system. And that is part of my presence here this morning.

In the Episcopal Church, when we baptize children and adults we promise, as members of the congregation, to seek justice for all human beings. And so, very simply, I'd like to say that please move the amendment only if it is balanced with comprehensive bail reform that emphasizes risk, not wallet.

And I thank you for all your efforts and urge you to persevere for the sake of justice.

Thank you.

SENATOR NORCROSS: Thank you.

Any questions? (no response)

Hearing none, thank you.

Next up is Faith Christian Counseling Center, Pastor Leroy Scott.

Welcome.

PASTOR LEROY SCOTT III: Good morning.

To the honorable members of the Senate Law and Public Safety Committee, my name is Pastor Leroy Scott. I am the founder of Faith Christian Counseling Center, and we provide services in three counties: Mercer, Camden, and Burlington.

New Jersey's bail system is broken. Three-quarters of the people being warehoused in our jails are there awaiting trial rather than serving a sentence. And the average length of stay is about 10 months.

Almost half of these defendants are incarcerated solely because they cannot afford often nominal amounts of bail. The current system is unfair and unsafe. Those with money can obtain release no matter how serious their crime, or how much of a danger they pose to public safety. Those without money sit in jail for months on end, no matter how minor their offense and no matter that they pose no danger to public safety.

The resolution before you is a step towards fixing these problems, but is insufficient standing on its own. SCR-128 only allows for the pre-trial detention of high-risk defendants; it does not implement a

mechanism to allow for pre-trial release of low-risk arrestees. For this reason, I will only support this resolution for a constitutional amendment if it is balanced with comprehensive bail reform legislation that moves the current broken bail system away from using money bail and replaces it with a system that bases pre-trial release decisions on risk.

Real, comprehensive bail reform promotes both safety and justice. Legislation to enact real, comprehensive bail reform must include several key elements: It must remove money as the primary mechanism of pre-trial release, basing pre-trial release decisions on risk rather than resources. It must require the use of risk assessments on arrestees with higher-level charges. It must authorize the release of low-risk individuals under the least restrictive conditions possible. It must permit the detention of those who are judged to be truly dangerous.

SCR-128 -- paired with a version of A-1910 and S-946 that includes these key elements -- would better protect the rights of countless individuals who are incarcerated simply because they cannot afford to pay their way out of jail. It would guarantee safer communities by authorizing the detention of dangerous defendants. It would benefit the State by mitigating the major financial burdens associated with unnecessary detention and excessive rates of incarceration.

I support SCR-128 if it is paired with such legislation.

Thank you.

SENATOR NORCROSS: Questions from the Committee? (no response)

Seeing none, thank you for your testimony.

Next up, from the Evangelical Pastors' Association of Hudson County, Reverend Bruno Rodriguez and Sintra Carrabello.

Welcome.

REVEREND BRUNO RODRIGUEZ: Thank you, Mr. Chairman and the Committee.

SINTRA CARRABELLO: Yes, good morning. Thank you, Mr. Chairman and members of the Committee.

My name is Sintra Carrabello. I'm replacing Reverend Jose C. Lopez this morning. And I'm also representing the Evangelical Pastors Association of Hudson County.

Chairman and members of the Senate Law and Public Safety Committee, New Jersey's bail system is broken. Three-quarters of the people are being warehoused in our jails are awaiting trial rather than serving a sentence. And their average length of stay is about 10 months.

Almost half of these defendants are incarcerated solely because they cannot afford often nominal amounts of bail. The current system is unfair and unsafe. Those with money can obtain release no matter how serious their crime, or how much of a danger they pose to public safety. Those without money sit in jail for months on end, no matter how minor their offense and no matter that they pose no danger to public safety.

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We support SCR-128 if it is paired with such legislation.

Thank you.

SENATOR NORCROSS: Thank you.

Any questions? (no response)

We appreciate your testimony.

Next we have, from Women Who Never Give-Up, Gale Muhammad.

Welcome.

GALE MUHAMMAD: Thank you.

Good afternoon. Thank you for having me.

To the honorable members of the Senate Law and Public Committee, thank you for holding this hearing today.

Women Who Never Give-Up -- WWNJ -- is a New Jersey-based nonprofit organization dedicated to helping families get justice in our criminal justice and prison system. Today we are here to talk about the SCR legislation and the amendments that we want to support to go with that -- Assembly Bill 1910 and Senate Bill 946.

I did want to read my testimony, but there's really-- My heart really led me to talk about Tiya Hudson, a young lady who was shot in Winslow Township in her bed, sleeping; 13 years old. I have been working with our community leaders and officers in the community, and when I was asked to come and testify today on this legislation, I thought what a perfect time to bring Tiya's story to our State House; and why this money bail system has to be fixed, because it is a broken system.

As we, at the grass root level, with our boots-on-the-ground, help our law enforcement officers in trying to find out who these perpetrators are who are shooting guns recklessly in our communities, we're finding out that people are afraid to talk, and one of the reasons is because there's retaliation. These people can pay their bail, and come right back out and harm those who are witnesses.

And so I think it is so, so, so very important for people like Tiya to be able to believe in her criminal justice system; because, at 13 years old and having to recover from a bullet wound that will cause her to have reproductive problems as a women -- just was too close to home. We all put

our children to bed at night thinking that they're safe. And this sleeping child was woken up with a bullet wound in her abdomen.

So I urge you today, please, look at this Bill and make sure that it is not just a money bail bill that hardened criminals -- if they have money in the bank, or wherever they have their money -- can get their money and get out of jail. Meanwhile, people who are poor and low-served in our community have no way of getting out of jail; and for nonviolent crimes a lot of times.

So I just want to emphasize that this is a really important Bill for our State and for the citizens of New Jersey, and for children who we are trying to save in our communities.

So thank you so much for having us here and holding this hearing today.

SENATOR NORCROSS: Thank you.

Questions?

MS. MUHAMMAD: And nobody paid me to come and speak today. (laughter)

SENATOR NORCROSS: Let Tiya know that help is on the way.

MS. MUHAMMAD: Thank you.

SENATOR NORCROSS: Next up, from East Orange, is Mustafa Willis.

M U S T A F A W I L L I S: Hello.

SENATOR NORCROSS: Welcome.

MR. WILLIS: My name is Mustafa Willis. I am 28 years old, a native of Newark, New Jersey, and a victim of this failed bail system.

I was arrested in 2010 and 2012; neither of these arrests resulted in any criminal convictions, yet I suffered and continue to endure the consequences of an unjust system.

When I was first arrested in 2010, I sat in jail for four months solely because of my inability to pay \$3,000 guaranteeing my release. In this time I lost my job, I lost a family member, and I lost hope in a broken system that is supposed to protect its citizens.

I was wronged again in 2012 due to a similar arrest. I have to stress again that both cases against me were dismissed. This time my bail was set at \$6,500, which I am still trying to pay off.

My situation is a prime example of how New Jersey's bail system is broken. While unjustly incarcerated, I was treated as less than human; I was subjected to not only mistreatment from the prison personnel, but also unhealthy conditions. My family and I were given the runaround multiple times trying to secure my release, as this depended not only on my ability to pay, but also a paperwork process that is begun at the convenience of the bail bondsman.

Thank you for hearing my testimony today. I support SCR-128 only if moved with an acceptable version of S-946, as stated by the coalition of members that spoke before me.

SENATOR NORCROSS: Thank you for your testimony.

Questions? (no response)

Hearing none, next up is Patrick Gallahue from Weehawken.

Welcome, Patrick.

PATRICK GALLAHUE: Thank you very much.

My name is Patrick Gallahue; I'm a supporter of the New Solutions Campaign and a proud resident of Weehawken.

I just want to echo many of the speakers who came before me, such as the Drug Policy Alliance and other members of the New Solutions Campaign.

I applaud the Legislature's effort, and this Committee's effort to reform bail practice in New Jersey. However, SCR-128 must be paired with an acceptable version of Assembly Bill 1910 and S-946 -- that conditions pre-trial release on risk and not the ability to pay.

As a citizen of New Jersey, my top priorities are a system that ensures the safety of my family and one that fundamentally is fair and just. However, a system that puts people in jail for their inability to pay while letting others go free due to their financial well being does neither.

Thank you.

SENATOR NORCROSS: Thank you.

Questions? (no response)

We appreciate your testimony.

Jena from the New Jersey State Bar Association had no need to testify, in favor -- Jena Morrow; from New Jersey Association on Correction, in favor, Helena Tomé, no need to testify; New Jersey State Bar Association, in favor, Todd Sidor, no need to testify; from Rosedale Presbyterian Church in Newark, Reverend Doris Glaspy, no need to testify, in favor; from the First Baptist Church of Lincoln Gardens in Somerset, Reverend Cooper, in favor, no need to testify; from Westminster Presbyterian in Trenton, Reverend Hernandez, no need to testify, in favor; from Unitarian Universalist Legislative Ministry of New Jersey, Reverend

Craig Hirshberg, in favor, no need to testify; from the Nehemiah Group, Micah Khan, in favor, no need to testify; New Jersey Chapter of the American Correctional Association, Mr. James Hemm, President, in favor, no need to testify; VOA, Volunteers of America Delaware Valley, Kate Cruz, in support, no need to testify; from New Jersey Association on Correction, Angel Perez, Director, in favor, no need to testify; from American Friends Services Committee, Prison Watch Program, Bonnie Kerness, Director, in favor, no need to testify; from People's Organization for Progress, Jean Ross, in favor, no need to testify; from NORML New Jersey, Evan Nison, Director, in favor, no need to testify.

From Fathers and Men United for a Better Trenton, Jayson Rogers, President, in favor, no need to testify; bail reform advocate, First Presbyterian and Trinity Church, Dorothea Hoffner, in favor, no need to testify; bail reform advocate, Avron Stoloff, in favor, no need to testify; bail reform advocate, Elise Linden, in favor, no need to testify; from the Latino Action Network, Lazaro Cardenas, Vice President, in favor, no need to testify; and Dr. Charles Brooks, opposed, no need to testify -- he has submitted written testimony.

Is there anyone else here today to give testimony? (no response)

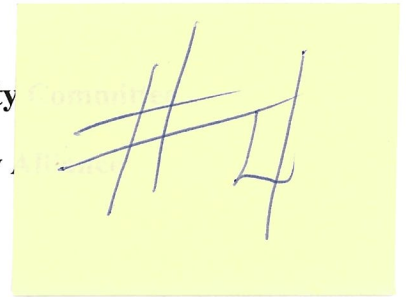
Hearing none, I want to thank the Committee members for coming today.

Hearing no other business, this hearing is adjourned.

(HEARING CONCLUDED)

APPENDIX

TO: Honorable Members of the Senate Law and Public Safety
FROM: Roseanne Scotti, New Jersey State Director, Drug Policy
DATE: July 24, 2010
RE: SCR128



Drug Policy Alliance strongly supports the move to reform New Jersey's broken bail system. New Jersey's jails are packed with individuals who are incarcerated solely because they cannot afford their often nominal bail amounts. On any given day, nearly seventy-five percent of the 15,000 individuals in New Jersey jails are awaiting trial rather than serving a sentence. The average length of incarceration for pretrial inmates is more than ten months. Nearly forty percent of the total jail population has the option to post bail but lacks the financial resources to do so. More than ten percent of individuals could secure their release pending trial with \$2,500 or less. More than half of these individuals are being held on nonviolent charges.

It makes no sense, morally or economically, to warehouse thousands of individuals for months on end while they await trial if they pose no risk to the community. It costs New Jersey taxpayers around \$30,000 to keep one individual incarcerated for ten months while awaiting trial. Thus, the inability of an individual to pay a few hundred dollars bail can cost New Jersey taxpayers tens of thousands of dollars. In addition, the jailed person is separated from his or her family physically, emotionally and financially, further exacerbating the challenges this individual and family face.

As the system currently operates, those with money can obtain release no matter how serious their crime or how much of a danger they pose to public safety. Those without money sit in jail for months on end no matter how minor their offense and no matter that they pose no danger to public safety. This system helps no one and hurts us all.

SCR128 is a step towards fixing these problems but is insufficient standing on its own—SCR128 addresses one piece of the problem by allowing for the pretrial detention of high-risk defendants. This resolution must move forward with legislation that implements comprehensive bail reform. Real comprehensive bail reform includes:

- Removing money as the primary mechanism of pretrial release and basing pretrial release decisions on risk rather than resources.
- Requiring the use of risk assessments on arrestees with higher level charges.
- Authorizing the release of low-risk individuals under the least restrictive conditions possible.

- Permitting the detention of those who are judged to be truly dangerous.

For this reason, Drug Policy Alliance will only support SCR128 if it is balanced with comprehensive bail reform legislation that moves the current broken bail system away from using money bail and replaces it with a system that bases pretrial release decisions on risk.

We have been working with the chairman who is the sponsor of Senate Bill 946 and believe that we are very close to a version of that bill that includes these key elements. If S946 does include these elements and does encompass real reform--and it is moved along with SCR128 we support this resolution as part of a comprehensive bail reform package. Thank you.

Statement of Jerome C. Harris, Jr.
Interim President and CEO, New Jersey Institute for Social Justice
on
SENATE CONCURRENT RESOLUTION NO. 128
before the
SENATE LAW AND PUBLIC SAFETY COMMITTEE
Committee Room 10, 3rd Floor, State House Annex, Trenton
July 24, 2014, 10:30 AM

Thank you, Chairman Norcross and other Honored Members of the Law and Public Safety Committee. My name is Jerome C. Harris, Jr., and I am the Interim President and CEO of the New Jersey Institute for Social Justice, a social justice “think and do tank.” In our fifteen year history, the Institute has produced research, presented policy analysis, and collaborated with government on reform projects in areas of criminal and juvenile justice to ensure public safety and fiscal responsibility. We also run model programs aimed at expanding employment opportunities for vulnerable populations, including individuals with criminal records. I know, based on the work the Institute does every day, that comprehensive bail reform is an important part of ensuring safe communities and reducing the negative economic impact of the criminal justice system on those who are presumed innocent. The Institute applauds the Legislature for its continuing work on this incredibly important issue, and we want to emphasize that we too are committed to seeing this project through to its completion.

The importance of comprehensive bail reform is underscored by the testimony that my colleague, Scott Welfel, gave before the Budget and Appropriations Committee on June 5. Scott recounted the story of his client Mustafa, who has only been arrested twice as an adult, and in both cases the charges were ultimately dismissed. Even though Mustafa was innocent, he was held for many months before he could make bail, was fired from his job because he could not report to work while in jail, and accrued nearly \$10,000 in bail bondsman fees. This is why we need to work together to get bail reform done.

I would like to thank Senator Rice and Senator Gill for pushing to ensure that the final constitutional amendment and implementation bill are crafted to provide the greatest possible protection for New Jersey’s low income communities and people of color. Their work and advocacy have led to several recent, significant improvements in S946, for which we are grateful.

Proposed Modification of Senate Concurrent Resolution 128

Turning to SCR 128, we would prefer to see the proposed constitutional amendment include the right to a speedy trial in the text of the amendment, while leaving the specific time requirements to be spelled out by the Legislature in a statute. We recognize that the New Jersey Supreme Court acknowledged in *State v. Szima*¹ that New Jersey defendants have a right to a speedy trial guaranteed by the due process clause of the Fourteenth Amendment of the U.S. Constitution, and that New Jersey Court Rule 3:25-3 allows for dismissing a case if there is unreasonable delay. However, these protections do not specify the number of days or months within which a trial must commence. Amending the New Jersey Constitution to allow for pretrial detention requires that the Legislature enact speedy trial

¹ 70 N.J. 196 (1976).

guarantees that are more specific than the vague constitutional principles. While S946 includes these proposed speedy trial provisions, we believe the speedy trial principle should be enshrined in the constitutional amendment; this would ensure that the statutory speedy trial provisions could never be eliminated entirely.

We propose the following language be added to the end of the proposed constitutional amendment in SCR 128:

“Every person to whom pretrial release is denied or who remains incarcerated after monetary bail is ordered shall be guaranteed the right to speedy proceedings, and the Legislature shall enact legislation to give effect to this right.”²

Proposed Amendments to SCR 128

Additionally, our support of SCR 128, authorizing pretrial detention, is contingent upon the enactment of an acceptable version of the implementation bill. We have reviewed the latest version of S946 as prepared by the Office of Legislative Service³ (document attached hereto). We are greatly appreciative of the changes that have been made in response to the concerns raised by Senators Rice and Gill, particularly with respect to the definition of “eligible defendant” and the language regarding the risk assessment instrument. After review, we recommend that the following additional revisions to S946 be adopted in order for the Institute to extend our full support to the bill:

1. Extend Speedy Trial Guarantees to Defendants Who Cannot Make Bail

While S946 is structured to attempt to prevent anyone from remaining in jail pretrial due to an inability to make bail, it is likely that there will continue to be some number of defendants who cannot make bail. We believe that these defendants should also be guaranteed a speedy trial, as there is no principled reason to argue that defendants who are subject to pretrial detention deserve speedy proceedings while those who are held because of an inability to afford bail do not. In sum, the speedy trial mandate should apply to all defendants behind bars. To implement this suggestion, we recommend that the first sentence in Section 2.a. be amended to apply both to a defendant subject to pretrial detention as well as to a defendant *who remains incarcerated after monetary bail is ordered*.⁴

² Thus, the entire language of the proposed amendment would read as follows:

11. No person shall, after acquittal, be tried for the same offense. All persons shall, before conviction, be [bailable by sufficient sureties, except for capital offenses when the proof is evident or presumption great] eligible for pretrial release. Pretrial release may be denied to a person if the court finds that no amount of monetary bail, non-monetary conditions of pretrial release, or combination of monetary bail and non-monetary conditions would reasonably assure the person's appearance in court when required, or protect the safety of any other person or the community, or prevent the person from obstructing or attempting to obstruct the criminal justice process. It shall be lawful for the Legislature to establish by law procedures, terms, and conditions applicable to pretrial release and the denial thereof authorized under this provision. Every person to whom pretrial release is denied or who remains incarcerated after monetary bail is ordered shall be guaranteed the right to speedy proceedings, and the Legislature shall enact legislation to give effect to this right.

(cf: Art. I, par. 11)

³ File: G:\Cmujud\J207\Bills\Bills 2014-2015\J207_0046-BOLD-D.doc.

⁴ Thus, we recommend that the entirety of the first sentence in Section 2.a. read as follows: “Concerning an eligible defendant subject to pretrial detention as ordered by a court pursuant to sections 5 and 6 of P.L. , c. (C.) (pending before the Legislature as this bill) or who remains incarcerated after monetary bail is ordered.”

2. Amend the “Substantial and Unjustifiable Risk” Exception to Speedy Trial to Require a Finding that There Has Not Been Unreasonable Delay by the Prosecution

We remain concerned about the extent to which S946’s current speedy trial provisions will be able to actually guarantee swift process for the majority of New Jersey defendants due to the numerous exclusions from the calculation of speedy trial time as well as the “substantial and unjustifiable risk” exception to the speedy trial protections. We are concerned for the potential overuse of the “substantial and unjustifiable risk” exception. Given the fact that an order of pretrial detention will in most cases include a finding that releasing the defendant, even subject to conditions of release, would present a risk to the safety of the community or a risk of obstruction of justice, it seems a small leap for a judge to subsequently conclude later that later release of the defendant under the speedy trial provision would result in “a substantial and unjustifiable risk to the safety of any other person or the community or the obstruction of the criminal justice process.” As such, we recommend that the language of the exceptions to speedy trial protection be amended to require a finding by the court “that the failure to indict the defendant or commence trial within the specified time period is *not* due to unreasonable delay by the prosecution.”⁵

3. Decrease the Maximum Period to Commence Trial from Two Years to One Year

In the face of the “substantial and unjustifiable risk” exception to the speedy trial provisions, we were glad to see the addition of a time limit to this exception. If the court grants an exception to the speedy indictment provision, the prosecution gets a maximum of an additional 45 days to indict. If the court grants an exception to the speedy trial provision, the prosecution must still begin trial within 2 years of the initial pretrial detention order.

While we appreciate the addition of these upper limits, the two year time period still strikes us as too long. We have not seen any data on which the two year limit was based, and would like to request an explanation of the origin of this number. While we acknowledge that we have incomplete information on this specific provision, we propose that the Legislature consider a maximum time limit of one year between the initial pretrial detention order and the commencing of trial.

4. Mandate the Risk Assessment Instrument Be Evaluated to Ensure Neutral Application And Neutral Effect

While we applaud the addition of subsection c.(2) to Section 11, specifying that “[t]he approved risk assessment instrument may not include as a factor race, ethnicity, gender, financial resources or socio-economic status,” we are concerned with the possibility that the Risk Assessment Instrument will assign greater risk based on these impermissible factors, even if unintentionally, or could be applied unevenly to defendants based on their race, ethnicity, gender, financial resources or socio-economic status. Thus, we recommend that the triennial evaluation of the risk assessment instrument include an

⁵ Thus, the full language of the exceptions in subsections (1)(a) and (2)(a) of Section 2 would read as follows:
“If the [eligible defendant is not indicted/trial does not commence] within that period of time, the eligible defendant shall be released from jail upon motion of the defendant or on the court’s own motion, unless the court finds that a substantial and unjustifiable risk to the safety of any other person or the community or the obstruction of the criminal justice process would result from the eligible defendant’s release from custody, so that no appropriate conditions for the eligible defendant’s release could reasonably address that risk, and that the failure to indict the defendant/commence trial within the specified time period is *not* due to unreasonable delay by the prosecution.”

evaluation of whether the instrument is being applied neutrally to defendants and whether these impermissible factors are exerting inappropriate influence in the assignment of risk.

Recommendation to Fully Staff Courts to Ensure Their Ability to Fulfill Speedy Trial Provisions

Finally, as a point separate from the statutory language, there are concerns about the courts' ability to meet the speedy trial provisions without a fully staffed judiciary. Without pointing fingers or assigning blame, we urge the Legislature and the Governor to work together to ensure that judicial vacancies, both now and in the future, be filled forthwith.

New Jersey State Senator Ronald L. Rice – 28th Legislative District

Statement to the Senate Law and Public Safety Committee

Dear Colleagues:

THE SIXTH AMENDMENT OF THE UNITED STATE CONSTITUTION – GUARANTEE RIGHT TO A SPEEDY TRIAL

I want to preface my remarks by stating that most of us in the legislature and the community want the same thing, that is, the ability to keep the hard core violent criminal in detention until there is a trial. What we do not want is legislation that is well meaning but violates the constitutional and civil rights of people in this state after years of fighting, struggling and in many instances dying to obtain the rights.

As civil rights leaders many of us have argued for years that the bail system as it has been for years is unfair and unjust in application for the poor and for blacks and minorities in particular. We all are aware that we have to fix this injustice while at the same time give the courts the ability to detain our most vicious criminals who continue to commit violent crimes.

The way to accomplish this goal is to make certain that we do not violate the right of citizens to due process of the law and to ensure that those who are charged with an offense and are arrested maintain their constitutional right to a speedy trial.

As legislators we have the responsibility to make laws that would not only protect the rights of all citizens today but must protect the rights of the generations coming behind us and babies not yet born. This is what the civil rights movement was and still is all about.

Speedy Trial amendments to SCR 128

To turn back the hands of time to the days of Bull Connor, George Wallace, racist advocates of segregation and injustice is wrong and should not be tolerated by any one, particularly not tolerated by people of color, black civil rights leaders and black clergy members.

Why is it important to have speedy trial dates in the constitutional amendment as opposed to the bill?

- The answer is enforcement. If the **constitution amendment** (SCR 128) requires specific dates for speedy trial, then those dates must be abided by. In other words, the specific dates for speedy trial in the constitution amendment, **establishes certainty** and those **dates can not be changed** unless the constitution is repealed by another constitutional amendment.

- If the speedy trial dates are in the **bill** (S 9⁷6) then there is **no certainty** and the speedy trial dates can be altered “ignored” for good cause and subjected to all kinds of changes and modifications. The speedy trial dates in a bill is akin to a promise to do something, however, that promise can always be altered. For example, it is similar to the pension and benefits issue. We thought that a contract had been created and the Governor was contractually required to make pension payments on time. But, the court said that the contract is trumped by the constitutional requirement to have a balanced budget.
- The reason we have continued litigation with respect to thorough and efficiency is because it is a general term and thus subject to all the whims of government and not fully funding education.
- If we are amending the constitution to **permit** pretrial detention then there must be a certainty in the constitution for specified dates for speedy trial.

Speedy Trial for All

Track the Language of the Supreme Court Task Force.

Asking us to support a SCR 128 as written would intentionally create two tiers, one tier has the right of speedy trial and the other doesn't. This is such a clear denial of equal protection..

There is no need to rush ... the need is to continue to work on the legislation to get it right! Nothing can happen before 2017.

“Bail Reform” legislation should not be fast - tracked through the Legislature to satisfy the special interest groups when the constitutional amendment as written will violate the constitutional and civil rights of citizens in general and blacks and other ethnic minorities in particular who are detained or released on a charged due to a complaint filed in the court.

There have been several meetings with the sponsors of the Bail Reform bills in both houses of the Legislature, Glen Grant and staff from the Administrative Office of the Courts, Civil Rights Leaders and with the special interest groups that are pushing for the reform to explain and to get them to understand that there are **serious constitutional, civil rights and fiscal** problems with the legislation as initially written and presented to members of the legislature and public.

There have also been informal conversations with **clergy** members who said that they were not aware of the **constitutional and civil rights** issues because the “Alliance” (mainly the Drug Policy Alliance) members who asked them to support the legislation never brought the issues to their attention. They were only asked to testify to the fact that there are more blacks in jail who cannot make bail and are being treated unjustly more so than any other ethnic groups, which is a true statement. They said that individually and organizationally there was **no legal analysis done** for constitutional and civil rights violations because they relied on and assumed that it was done by those of us in the Legislature. As one civil rights leaders stated “he was presented with a cake that looked real good out side until he cut it and looked at the inside, only to find that it was bad.

There is no fiscal note and/or means indentified to pay for "Bail Reform" at this time. To remove the constitutional right and authorization for bail and speedy trial from the constitution without the **ability to pay for the reform** changes not only would violate citizens constitutional rights, it would also over-populate unnecessarily and maybe unintended our jail cells that are presently already over-crowded . Members of the Legislature and the public have a right to know what the cost is going to be and how we are going to fund it. The cost we believe will be **\$80 million to \$100 million** or more. The next Governor under the legislation would be stuck with raising the money to pay for the program.

I want to thank Senator Nia Gill and Assemblywoman L. Grace Spencer for taking time out of their busy schedules to attend meetings to educate the sponsors and others about the problems that the bills have as written. Senator Gill has gone far and beyond, even while on vacation working with me at night and on the weekend to draft the language necessary to correct the issues in the bills that negatively impacts the constitutional and civil rights of people who are entitled to release from pre-trial detention, entitled to a speedy trial and entitled to due process of the law.

The amendments reflects the concerns and recommendations raised in the **"Joint Committee on Criminal Justice"** report and those raised by Chief Justice Stuart Rabner regarding speedy trial, (setting strict time frames for moving cases along to indictments and then to trial). **The right to a speedy trial must be afforded to everyone.**

According to the time-frame in the legislation, **there is no need to rush this legislation** through to get on the ballot this year. However, regardless of what year the ballot question is presented to the voters, it cannot and should not be supported with a vote by the members of the Legislature until such time the amendments guaranteeing the constitutional right to all citizens a speedy trial.



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STATEMENT OF LEGAL SERVICES OF NEW JERSEY TO THE SENATE LAW AND PUBLIC SAFETY COMMITTEE CONCERNING SCR128

Presented by:

Melville D. Miller, Jr.
President and General Counsel

Accompanied by:

Claudine M. Langrin
Senior Vice President

Akil S. Roper
Vice President

July 24, 2014

We appear today to express our support for SCR128, and for the current version of the accompanying substantive bail reform legislation, not on this Committee's agenda today. Together they would constitute the most sweeping and important improvements in New Jersey's bail and pretrial incarceration policies in the modern, post-1947 era.

Legal Services opens nearly 50,000 new civil cases annually, and through that representation and our other activities provides legal assistance and information to several hundred thousand low-income New Jerseyans each year. Compared to the general population, a significantly disproportionate number of people in poverty in New Jersey are people of color, a disproportion mirrored in Legal Services' caseloads.

This disproportion is also mirrored in the makeup of the incarcerated pretrial population, languishing chiefly in county jails. We know, from our own work on the civil side, that the primary reason most of these people remain incarcerated while awaiting trial is their financial inability to make bail, no

matter how low it may be set, and not because they present risks to public safety.

We strongly support the combined constitutional amendment and accompanying bail reform legislation because it will redress this wrong. Poverty will no longer be the sole reason for pretrial incarceration. The combined amendment and legislation initiative, as currently proposed, will both enhance public safety and end a *huge injustice* that harms people living in poverty – people who are disproportionately of color. Regardless of whatever differences may exist on other aspects of the legislation, this consequence alone compels passage of this current bail package, including the amendment under consideration today.

We attach to this statement our prior recent testimony to the Senate Appropriations Committee, concerning the overall status of Legal Services funding. This funding is also a subject addressed in the companion bail legislation.



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STATEMENT OF LEGAL SERVICES OF NEW JERSEY TO THE SENATE BUDGET AND APPROPRIATIONS COMMITTEE CONCERNING S.946

Presented by:

**Melville D. Miller, Jr.
President**

June 5, 2014

We appreciate the opportunity to appear today to offer perspectives on S.946, and to update you on the current status and funding situation of the Legal Services of New Jersey (LSNJ) statewide civil legal assistance delivery network. As most term Committee members well know, for nearly 48 years Legal Services has been the system through which New Jersey residents unable to afford an attorney can obtain legal help in civil cases. Within the limits of available funding, and as appropriate to the particular case, Legal Services provides telephone advice through its statewide Hotline, 1-800-LSNJLAW (1-800-576-5529), limited service, and full representation. In 2013 we handled nearly 48,000 cases, with a direct effect on over 140,000 New Jerseyans who were our clients and their family and household members. In addition, over 450,000 New Jerseyans received help through the legal information accessible through our public websites. These cases involve the most critical of legal cases, involving shelter, food, physical safety, health care, education, and other basic human needs.

As impressive and important as these numbers are, it is the limits on our funding and capacity that we want to emphasize to you today. As context, in 2008 Legal Services of New Jersey had over \$70 million in total funding,

handled nearly 70,000 cases annually, and had over 700 staff state wide. Today, it has lost \$15 million (50%) in state funding, \$34 million (85%) in IOLTA (Interest on Lawyer Trust Accounts) funding, and more than half of its staff. Still more layoffs, now of critically experienced staff, will occur in July, if the funding decline is not immediately reversed and some restoration begun.

The legislation you consider today would begin that restoration process. The filing fee increases authorized in this bill would support \$10.1 million for Legal Services of New Jersey. This amount will not come close to fully closing the civil legal assistance gap facing those who live in poverty: 2.1 million New Jerseyans live below 200% of the federal poverty level, and under any measure are unable to afford to hire a lawyer on their own. They experience over 800,000 legal problems a year. Legal Services can provide representation for less than one-tenth of the cases in which legal assistance is needed. That said, an appropriation supported under this bill will provide an *essential first step* in restoring our capacity, enabling Legal Services to handle significantly more of the most critical cases.

Legal Services fully supports in concept the bail reform and electronic filing also addressed in this legislation. We do, however, caution that unlike

these other two important purposes, Legal Services has an immediate need for – and can promptly put to excellent use – the \$10.1 million. Indeed, immediate availability of funding on July 1 is necessary to stave off yet another wave of layoffs – another 10% of Legal Services' most experienced and proficient staff, roughly 40 people – starting this July. We need an appropriation of \$10.1 million in the FY 2015 budget, supported by this filing fee increase, to avoid further crippling staff losses and client service cuts.

There is clear precedent. In very similar circumstances in 1996, the Legislature passed and Governor Whitman signed a bill authorizing a filing fee increase, with an accompanying \$8 million Legal Services appropriation in the FY 1997 budget, to create immediate availability of the funds for Legal Services and the Judiciary.

To conclude: unlike the criminal justice system, there is no right to a lawyer in civil matters. Yet for people with lower incomes, civil cases frequently present life-altering issues: can those involved keep their home; will they have enough to eat or buy clothes; will they be able to get essential health care; can they be safe from domestic abusers? These are the types of issues making up a Legal Services caseload. Far too often, lower income people must

face them without the help of a lawyer. There is great urgency, and injustice, here. This legislation can begin to reverse that situation.



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TESTIMONY ON SENATE CONCURRENT RESOLUTION 128

SENATE LAW AND PUBLIC SAFETY COMMITTEE

submitted by the

AMERICAN CIVIL LIBERTIES UNION OF NEW JERSEY

July 24, 2014

The American Civil Liberties Union of New Jersey (ACLU-NJ) has long supported comprehensive reform of New Jersey's broken bail system that would end discrimination against poor people. As Chief Justice Rabner's Joint Committee on Criminal Justice found, our current bail system is unjust and results in many New Jerseyans, particularly black and Latino New Jerseyans, being kept in jail for months or years because they cannot afford to pay even low bail amounts of \$2,500 or less. This is an injustice that must not continue; being poor is not a crime. Comprehensive bail reform would be a tremendous civil rights advance for our state, and end an injustice disproportionately faced by communities of color.

The ACLU-NJ has been clear from the beginning of this process: amending our Constitution is not a step to be taken lightly. In the context of bail reform, we must not amend our constitution without accompanying legislation that will fundamentally shift our bail system from a money-based one to a risk-based one, and guarantee a defendant's right to a speedy trial. The proposed constitutional amendment being heard today, without such an accompanying statute, would be unjust and the ACLU-NJ would vigorously oppose it if it passed on its own.

However, if the most recent version of the bail reform legislation that the ACLU-NJ has seen, S946, is passed without significant change, the ACLU-NJ is prepared to support passage of this constitutional amendment. That version of the legislation, coupled with the Amendment, will transform our bail system and make our entire criminal justice system fairer while improving public safety. It deserves our complete support. That being said, without passage of strong bail reform legislation, we will seek defeat of the proposed Amendment. We thank all of the stakeholders for their commitment to this issue and for working to make sure that New Jersey's criminal justice system gives everyone a fair shot, regardless of their financial status.



New Jersey Synod

Evangelical Lutheran Church in America

God's work. Our hands.

Lutheran Office of Governmental Ministry, and its 186 Lutheran congregations are committed to building up all of God's people by providing opportunities for meaningful work and possibilities for a life in community. Individuals impacted by the criminal justice system often experience a lifetime of discrimination.

New Jersey's bail system is broken. Over half of the people being warehoused in our jails are there awaiting trial rather than serving a sentence, and their average length of stay is about ten months. Almost half of these defendants are incarcerated solely because they cannot afford often nominal amounts of bail.

The current system is unfair and unsafe. Those with money can obtain release no matter how serious their crime or how much of a danger they pose to public safety. Those without money sit in jail for months on end no matter how minor their offense and no matter that they pose no danger to public safety. We as Lutherans believe that all persons should be treated with the same standard.

The resolution before you is a step towards fixing these problems but is insufficient standing on its own—SCR128 only allows for the pretrial detention of high-risk defendants; it does not implement a mechanism to allow for pretrial release of low-risk arrestees.

For this reason, we support this resolution for a constitutional amendment when it is balanced with comprehensive bail reform legislation that moves the current broken bail system away from using money bail and replaces it with a system that bases pretrial release decisions on risk.

Real, comprehensive bail reform promotes both safety and justice.

SCR128, paired with a version of A1910/S946 that includes these key elements, would better protect the rights of countless individuals who are incarcerated simply because they cannot afford to pay their way out of jail. It would guarantee safer communities by authorizing the detention of dangerous defendants. And it would benefit the state by mitigating the major financial burdens associated with unnecessary detention and excessive rates of incarceration.

We support SCR128 if it is paired with such legislation.

Sincerely,

A handwritten signature in blue ink, reading "Sara E Lilja". The signature is fluid and cursive, with the first name "Sara" being more prominent than the last name "Lilja".

The Rev. Sara E Lilja, Director
Lutheran Office of Governmental Ministry
New Jersey Synod- ELCA

July 24, 2014

Re: SCR128 and S946

Chairman and Members of the Senate Law and Public Safety Committee,

Good morning. My name is Anna Cuqui Rivera and I am the Administrative Chair of the Integrated Justice Alliance. Founded in 2008, the IJA is a statewide network working toward a fair, effective criminal justice system: one that promotes public safety, the restoration of individuals and families, protects and safeguards the rights of individuals in custody, promotes transparency, ensures accountability and spends taxpayer dollars wisely.

As we are well aware, New Jersey's bail system is broken. Three quarters of the people being held in our jails today are there awaiting trial rather than serving a sentence. We know their average length of stay is 10 months, but for many it is much longer. Almost half of these defendants are in jail solely because they cannot afford a nominal sum of money bail.

The current system is both unfair and unsafe. Those with money can obtain release no matter how serious their crime; those without money sit in jail for months on end even though they pose no danger to public safety.

The resolution before you is one step towards fixing these problems, but it is insufficient standing on its own—SCR128 only allows for the pretrial detention of high-risk defendants; it does not implement a mechanism to allow for the pretrial release of low-risk arrestees.

For this reason, the IJA and its member organizations will **only** support this resolution for a constitutional amendment **if** it is balanced with comprehensive bail reform legislation that moves the current broken bail system away from using money bail and replaces it with a system of pretrial release based on risk.

Real, comprehensive bail reform promotes both safety and justice. We urge you to enact real, comprehensive bail reform that includes the following key elements.

- It must remove money as the primary mechanism of pretrial release, basing pretrial release decisions on risk rather than resources.
- It must require the use of risk assessments on arrestees with higher-level charges.
- It must authorize the release of low-risk individuals under the least restrictive conditions possible.
- It must permit the detention of those who are judged to be truly dangerous.

SCR128, paired with a version of A1910/S946 that includes these key elements, would much better protect the rights of countless individuals who are incarcerated simply because they cannot afford to pay their way out of jail. It would guarantee safer communities by authorizing the detention of dangerous defendants. And it would benefit the state by mitigating the major financial burdens associated with unnecessary detention and excessive rates of incarceration. We support SCR128 only **if** it is paired with such legislation.

STEERING COMMITTEE MEMBERS (2014)

Organizational Members:

American Civil Liberties Union
American Friends Service Committee
Building One New Jersey
Community Education Centers
Community Education Centers Alumni Association
Drug Policy Alliance of New Jersey
International Youth Organization
Latino Action Network
National Council on Alcoholism and Drug Dependence (NCADD-NJ)
Nehemiah Group
New Jersey Association on Correction
New Jersey Institute for Social Justice
New Jersey Re-Entry Coalition
New Jersey Working Families
Urban Renewal Corporation
Volunteers of America Delaware Valley
Women Build Too
Women Who Never Give Up

Individual Members:

Bonnie Kerness
Jean Ross Esq.





July 24, 2014

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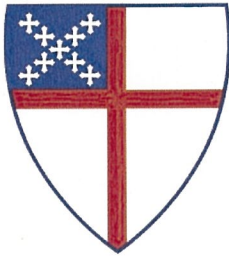
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We support SCR128 **if** it is paired with such legislation.

Mary Ellen Marino
NJ Chair of Progressive Democrats of America
President of New Jersey Progressive Democratic Caucus



**THE EPISCOPAL CAMPUS
MINISTRY AT RUTGERS**

Canterbury House
5 Mine Street
New Brunswick, NJ 08901

T 7329321278
bezilla@rci.rutgers.edu

RUCanterbury.org

July 24, 2014

To the Honorable Members of the Senate Law and Public Safety Committee:

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We support SCR128 **if** it is paired with such legislation

Faithfully,
The Reverend Gregory Bezilla+
Episcopal Chaplain to Rutgers



Faith Christian Counseling Center Inc.

704 Cooper Street

Beverly NJ 08010

609- 880-3025

Email: faith.counseling@hotmail.com

Fax: 888-397-1415

July 24, 2014

To the Honorable Members of the Senate Law and Public Safety Committee:

My name is Pastor Leroy Scott; I run the Faith Christian Counseling Center based in Beverly. Our center serves Burlington, Camden, and Mercer counties, providing comprehensive and effective services which are life enriching, and wholly integrated and consistent with positive beliefs and values. We service all people regardless of age, race, sex, religion, ethnicity, or socio-economic status and treat each client with respect, empathy, and acceptance.

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I support SCR128 if it is paired with such legislation.



July 24, 2014

To the Honorable Members of the Senate Law and Public Safety Committee:

Women Who Never Give-Up (WWNG) is a New Jersey based non-profit organization dedicated to helping families get justice in our criminal justice and prison system. Our board, officers and members have countless years of experience working on issues such as: prison health care, prison conditions, prisoner treatment, prisoner jobs, training and education, parole and reentry issues and sentencing reform.

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We support SCR128 **if** it is paired with such legislation.

Alex

July 24, 2014

RE: SCR128/S946

To the Honorable Members of the Senate Law and Public Safety Committee:

My name is Mustafa Willis, I am a twenty-eight year old native of Newark, New Jersey and a victim of its failed bail system. I here today advocating for support of pretrial justice reform and S946/A1910 with the amendments proposed by the Drug Policy Alliance and the New Solutions Campaign coalition.

I was arrested in 2010 and 2012. Neither of these arrests resulted in any criminal convictions, yet I suffered and continue to endure the consequences of an unjust system. When I was first arrested in 2010, I sat in jail for four months solely because of my inability to pay a bail of \$3,000 guaranteeing my release. In this time, I lost my job, I lost a family member, and I lost hope in a broken system that is supposed to protect its citizens. I was wronged again in 2012 due to a similar arrest. *I have to stress again that both cases against me were dismissed!* This time, my bail was set at \$6,500 (of which I am still trying to pay off). My situation is a prime example of how New Jersey's bail system is broken. While unjustly incarcerated, I was treated as less than human. I was subjected to not only mistreatment from the prison personnel, but also unhealthy conditions. My family and I were given the run around multiple times trying to secure my release; as this depended not only on my ability to pay, but also an arduous paperwork process that is begun at the convenience of the bail bondsman.

In 2013, the Drug Policy Alliance released a report in partnership with Luminosity that shows that the state's prisons are overpopulated by individuals who cannot afford to post bail. I'm not just speaking on behalf of myself, because the same is true for the majority of other incarcerated people throughout the state. Thousands of people in New Jersey are subject the harsh consequences of unfair laws: unnecessary time spent in jail, loss of and difficulty to find employment, and loss of financial support. The countless burdens that were placed on myself and my family are practically irreparable. We are victims, too. My cases were dismissed, one by way of videotaped evidence that proved my innocence! I was never convicted of any criminal charges; and yet, I am (literally and figuratively) paying for the consequences of an action I did not commit. This is inexcusable.

The state's bail system needs more sensible and responsible reform. Nonviolent, and otherwise law abiding citizens should not be subject to unfair treatment. New Jersey should focus on risk over resources in terms of criminal justice.

Patrick Gallahue
29 Fulton St.
Weehawken NJ, 07086

July 24, 2014

My name is Patrick Gallahue and I am a supporter of the New Solutions Campaign and a proud resident of Weehawken. I want to thank the Chairman and Members of the Judiciary Committee for considering the incredibly important issue of bail reform and for giving me the opportunity to speak today.

Our current bail system is broken and unfair. Whether intended or not, it disproportionately leads to the detention of people based on their class rather than the severity of the offense for which they are charged. The impact of this system is clearly discriminatory, with minorities bearing the brunt of our state's current policy. It needs to change.

For this reason, I applaud the legislature's efforts to reform bail practice in New Jersey.

However, I want to want to echo the concerns of the Drug Policy Alliance and other members of the New Solutions Campaign. This proposal must be matched with Assembly bill 1910 to help us depart from a bail system that uses money as the primary instrument of ensuring pretrial release. If this is not part of the bill, it will fail to address the biggest problem with the current system. Our ineffective and dangerous resource-based bail system exacerbates the disproportionate impact of the pretrial system on poor people.

Defendants are not identical and imposing a table of values to their alleged offenses grossly oversimplifies what is just and proper case-by-case analysis requires. What we need are individualized determinations of whether monetary release is necessary in order to further public safety or guarantee an individual's appearance in court.

In other words, what is supposed to matter is whether a person is likely to show up for court or if they present a public safety risk. But currently it is frankly only about someone's ability to pay.

For my peace of mind, I want to know that a person who presents a danger to me and my family is in custody. But I take no solace in knowing that poor, low-level drug offenders are in detention because they cannot afford bail. The time spent in jail comes with incredible costs to person's family and his or her community. Apartments are lost. Families may be broken apart. This unjust system comes with extraordinary costs. Some suffer immensely. Some feel this system in small ways. But everyone pays in some way.

You have a chance to fix that.

A risk-assessment on all arrestees, would steer dangerous individuals into custody, while establishing a pretrial services agency to monitor low- and moderate-risk defendants who are released pending trial.

SRC128 must be paired with an acceptable version of A1910/S946 that conditions pretrial release on risk, not the ability to pay. As a citizen of New Jersey, my top priorities are a system that ensures the safety of

my family and that remains fundamentally fair and just. However, a system that puts people in jail for their inability to pay—while letting others go free due to their financial wellbeing—does neither.

Thank you.

Patrick Gallahue



Magnolia Road Church

A United Methodist Congregation

RE: SCR128

My name is Vanessa Wilson and I am the Senior Pastor of Magnolia Road United Methodist Church in Pemberton, New Jersey. I have served in this capacity since July 1, 2013. I also serve as the Chair of the Commission of Religion and Race of the Greater New Jersey Conference of the United Methodist Church. Prior serving as a Pastor, I have over 20 years' experience in executive leadership in higher education in New Jersey and non-profit organizations.

New Jersey's bail system is broken. Three quarters of the people being warehoused in our jails are there awaiting trial rather than serving a sentence, and their average length of stay is about ten months. Almost half of these defendants are incarcerated solely because they cannot afford often nominal amounts of bail.

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For this reason, I will only support this resolution for a constitutional amendment if it is balanced with comprehensive bail reform legislation that moves the current broken bail system away from using money bail and replaces it with a system that bases pretrial release decisions on risk.

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I support SCR128 if it is paired with such legislation.

Respectfully submitted,

Vanessa M. Wilson, J.D.
Senior Pastor, Magnolia Road U.M.C.

229 Magnolia Road • Pemberton, New Jersey 08068 • (609) 894-0770

www.magnoliaroadumc.org
welcome@magnoliaroadumc.org

20~

Whitbeck, Wendy

From: Jena Morrow [jmorrow@njsba.com]
Sent: Wednesday, July 23, 2014 5:01 PM
To: Dominguez, Frank; senbatement@njleg.org; Greenstein, Sen. D.O.; Holzapfel, Sen. D.O.; Norcross, Sen. D.O.; Sacco, Sen. D.O.; Velasquez, Lisa; Whitbeck, Wendy
Cc: William J. Maer; Patrick Stewart; D. Todd Sidor; Charles Hollenbeck, Esq.; Sharon Balsamo; Barbara Straczynski; Kate Coscarelli
Subject: The NJSBA Respectfully Supports SCR-128
Importance: High

**THE NEW JERSEY STATE BAR ASSOCIATION SUPPORTS SCR-128 WHICH PROPOSES A CONSTITUTIONAL AMENDMENT TO
AUTHORIZE, UNDER CERTAIN CIRCUMSTANCES, PRETRIAL DETENTION OF PERSONS IN CRIMINAL CASES.**

The New Jersey State Bar Association respectfully supports SCR-128 (Norcross) which proposes a constitutional amendment to authorize, under certain circumstances, pretrial detention of persons in criminal cases.

The New Jersey State Bar Association supports this legislation because it provides a balanced approach to reforming New Jersey's bail system which is long overdue. However, the Association urges that this approach be holistic in nature requiring simultaneous enactment of implementing legislation which specifically enumerates the crimes where a defendant would not be eligible for pretrial release, the adoption of a speedy trial statute, and full funding for not only the courts to create a pretrial release system, but also county prosecutor offices and state and county public defender offices who must deal with the procedural requirements attendant to this amendment's adoption.

For the reasons set forth above, the New Jersey State Bar Association supports this bill.



ROSEVILLE PRESBYTERIAN CHURCH

36 Roseville Avenue, Newark, NJ 07107

Tel. 973-483-3361 ~ Fax. 973-485-1785

Email- roseville@verizon.net

Reverend Doris Glaspy, Pastor

July 24, 2014

RE: SCR128

My name is Doris Glaspy; I am a Pastor at Roseville Presbyterian Church in Newark.

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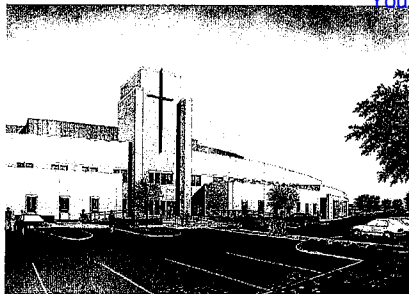
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I support SCR128 if it is paired with such legislation.



First Baptist Church of Lincoln Gardens
727 Franklin Blvd., Suite 3
Somerset, New Jersey 08873

Office: (732) 828-2009

Fax: (732) 828-6688

Deacon Mason Powell
Chairman of the Deacon Board

DeForest B. Soaries, Jr.
Senior Pastor

Trustee Charles Corpening
Chairman of the Trustee Board

TO: Members of the Senate Law and Public Safety Committee
FROM: Rev. Errol Cooper, First Baptist Church of Lincoln Gardens
DATE: July 24th
RE: SCR128

My name is Errol Cooper. I am an Associate Pastor at First Baptist Church of Lincoln Gardens located in Somerset, NJ. I also lead our re-entry ministry, a faith-based program that mentors incarcerated individuals and those returning to communities in Somerset and Middlesex counties by providing support, resources and guidance to succeed following their term of incarceration.

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WORSHIP, STEWARDSHIP, FELLOWSHIP, DISCIPLESHIP, CARE AND NURTURE

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WESTMINSTER PRESBYTERIAN CHURCH

609.695-8025 | P.O. BOX 3719 | TRENTON, NJ 08629 | WPCTRENTON@WPCTRENTON.ORG
1140 GREENWOOD AVENUE | TRENTON, NJ 08609 | WWW.WPCTrenton.org
Tax ID: 210-745536

July 24, 2014

Chairman and Members of the Senate Law and Public Safety Committee,

I am the pastor of Westminster Presbyterian Church; we have been serving the city of Trenton for over 115 years by converting our worship space into an educational facility. Westminster is only one block from the historic Hedgepeth-Williams Elementary School (HWS), named in honor of two African American mothers who sued Trenton's Board of Education over racial discrimination against their children. In 1944 the Supreme Court of New Jersey ruled in their favor and abolished segregation in the state. A decade later, the US Supreme Court cited the Hedgepeth-Williams case in the famed *Brown v. Board of Education* decision to overturn the doctrine of "separate but equal."

Since the 70's we have dedicated our classrooms to education i.e. early childhood education, after school, and summer programming, parenting skills, English classes, and Spanish classes. For almost 20 years, I been supporting the parents of our children who have been incarcerated. I have witnessed firsthand that the New Jersey's bail system is broken! The negative impact that it has had on our innocent children from low income families is deplorable and a scandal to our "so called" justice system.

Three quarters of the people being warehoused in our jails are there awaiting trial rather than serving a sentence and their average length of stay is about ten months. Almost half of these defendants are incarcerated solely because they cannot afford often nominal amounts of bail.

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We support SCR128 if it is paired with such legislation.

Seeking the Shalom of the City & the Nation,

Karen Hernández-Granzen

Rev. Karen Hernández-Granzen
Pastor/Head of Staff

Westminster Presbyterian Church
A House of Prayer and Praise for People of All Nations



Westminster Community Life Center
1140 Greenwood Avenue, Trenton, NJ 08609
(1 block from East Trenton Police Department)



**Unitarian Universalist
Legislative Ministry
of New Jersey**

A voice for justice, equality and compassion in New Jersey

**Testimony to Senate Law and Public Safety Committee Concerning Support of SCR128
July 24, 2014**

Honorable members of the Senate Law and Public Safety Committee, thank you for considering very important and needed changes in bail reform. My name is Rev. Craig Hirshberg, and I am the Executive Director of the Unitarian Universalist Legislative Ministry of New Jersey, representing Unitarian Universalist congregations throughout our state. I am here to express conditional support for SCR128.

Thousands of such prisoners are being held for non-violent offenses and would otherwise be released on bail at no risk to the community were it not for their inability to pay even relatively small bail amounts. Since ability to pay is the existing overriding standard in granting stipulated bail, many high risk offenders with access to financial resources may be released and those who pose little risk to society are forced to remain incarcerated on an average of ten months, due simply to a lack of funds.

New Jersey's bail system is broken. Three quarters of the people being warehoused in our jails are awaiting trial rather than serving a sentence. SCR128 is a step in the right direction. However, to have the full support of our NJ congregations it must do two things. It must clearly articulate the intention of the constitutional amendment and it must clearly continue to protect the rights of the accused under the law. Changing the New Jersey Constitution with this amendment has long term implications and can lead to abuse without specific wording in the amendment that clearly states that all persons shall, before conviction, be entitled to be released from custody pending trial under the least restrictive conditions as possible that will reasonably assure the person's appearance before the court as required, protect the safety of any person or of the community, or prevent the defendant from obstructing or attempting to obstruct the criminal justice process.

In the absence of such wording in SCR128, we will support this amendment only if it is paired with comprehensive bail reform legislation that addresses necessary protections under the law and that moves the current broken bail system away from using money bail and replaces it with a real comprehensive reform system that bases pretrial release decisions on risk. Essential comprehensive bail reform includes the following elements:

- It must remove money as the primary mechanism of pretrial release, basing pretrial release decisions on risk rather than resources.
- It must require the use of risk assessments on arrestees with higher level charges.
- It must authorize the release of low-risk individuals under the least restrictive conditions possible.
- It must permit the detention of those who are judged to be truly dangerous.

SCR128, paired with a version of A1910/S946 that includes these key elements, would define and clarify the intention of the general language of this constitutional amendment. It would better protect the rights of countless individuals who are incarcerated simply because they cannot afford to pay bail. It would guarantee safer communities by authorizing the detention of dangerous defendants. *Our Unitarian Universalist faith communities would only support this resolution with these stipulations in order to bring about a more fair and just bail system*



Nehemiah Group

"Rebuilding the walls, one person, one family, one community at a time".

July 23, 2014

Honorable Members of the Senate Law and Public Safety Committee:

The Nehemiah Group is a non-profit community development and social service organization based in south Jersey committed to serving the underserved and empowering the underprivileged.

New Jersey's bail system is broken. Three quarters of the people being warehoused in our jails are there awaiting trial rather than serving a sentence, and their average length of stay is about ten months. Almost half of these defendants are incarcerated solely because they cannot afford often nominal amounts of bail.

The current system is unfair and unsafe. Those with money can obtain release no matter how serious their crime or how much of a danger they pose to public safety. Those without money sit in jail for months on end no matter how minor their offense and no matter that they pose no danger to public safety.

The resolution before you is a step towards fixing these problems but is insufficient standing on its own—SCR128 only allows for the pretrial detention of high-risk defendants; it does not implement a mechanism to allow for pretrial release of low-risk arrestees.

For this reason, we will **only** support this resolution for a constitutional amendment **if** it is balanced with comprehensive bail reform legislation that moves the current broken bail system away from using money bail and replaces it with a system that bases pretrial release decisions on risk.

Real, comprehensive bail reform promotes both safety and justice. Legislation to enact real, comprehensive bail reform must include several key elements.

- It must remove money as the primary mechanism of pretrial release, basing pretrial release decisions on risk rather than resources.
- It must require the use of risk assessments on arrestees with higher level charges.
- It must authorize the release of low-risk individuals under the least restrictive conditions possible.
- It must permit the detention of those who are judged to be truly dangerous.

SCR128, paired with a version of A1910/S946 that includes these key elements, would better protect the rights of countless individuals who are incarcerated simply because they cannot afford to pay their way out of jail. It would guarantee safer communities by authorizing the detention of dangerous defendants. And it would benefit the state by mitigating the major financial burdens associated with unnecessary detention and excessive rates of incarceration.

We support SCR128 if it is paired with such legislation.

Sincerely,

Micah Khan

Micah Khan

Director of Operations

www.nehemiahgroup.org

**NEW
JERSEY
CHAPTER** **NJ** **AMERICAN
CORRECTIONAL
ASSOCIATION**

July 22, 2014
Senate Law & Public Safety Committee
RE: SCR128

Dear Senate Members

I am writing as President of the New Jersey Chapter of the American Correctional Association. The mission of the chapter is to provide to criminal justice system personnel throughout New Jersey, information, training and a forum for professional networking that supports sharing exemplary practices and promotes individual growth, organizational effectiveness and interagency cooperation.

Our current bail system is broken; three quarters of our county jail inmates are awaiting trial and on the average spend ten months in those jails. Fifty percent of them are there because they lack the financial resources to meet minimum bail requirements. That translates to over 5000 people on the average day.

The current system is both unfair and a public safety issue. Those who potentially present serious public safety concerns can be released if they have the financial resources. Many of the others, who present little or no threat to public safety, sit there at a tremendous financial cost to the taxpayer because they cannot afford their bail.

SCR128 is a partial step in resolving these issues but an incomplete one. It detains high risk offenders but fails to provide an appropriate means of developing a system for the non monetary release of the low risk offender.

Our organization can only support the constitutional amendment if it is balanced with bail reform legislation that replaces the dependence on money with a risk assessment system that bases release on public safety risks. Real bail reform will promote both justice and public safety.

Bail reform should include removing money as the primary method of release and base it on risk rather than resources. It needs to use risk assessments prior to release. It needs to release low risk offenders with community supervision that matches their risk factors. And it detains the truly dangerous.

SCR128 paired with a version of A1010/S946 that includes these elements would better protect the rights of low risk offenders while maintaining public safety through the selective detention of high risk detainees.

Sincerely,

James A. Hemm, President



Daniel L. Lombardo
President/CEO

Fred J. Abbate, Ph.D.
Board Chairman

**Testimony of Daniel Lombardo
President and Chief Executive Officer
Volunteers of America Delaware Valley
July 24, 2014**

Chairman and Members of the Senate Law and Public Safety Committee,

Thank you for the opportunity to testify in regards to SCR 128, which is a step toward bail reform in the state of New Jersey. This resolution however, is insufficient on its own and only allows for the pretrial detention of high-risk defendants and does not implement the critical mechanism to allow for pretrial release of low-risk arrestees.

Since 1896 and each day since then, our staff and volunteers have worked directly with the community and with county, municipal, and state governments to develop services and programs that provide immediate and long-term benefit to those most in need. We currently operate 43 separate programs serving individuals living with chronic mental illness and intellectual disabilities, experiencing homelessness, seeking permanent housing, struggling with addictive behavior, and returning to our communities from the criminal justice system.

As we have previously testified, pretrial detention wastes taxpayer dollars and unfairly penalizes individuals with little to no resources. Under our current money bail system, individuals who cannot afford to make bail typically languish behind bars for a year awaiting trial costing an average of \$30,000 per person. Ironically, confinement comes at a much greater financial cost to the state than the cash benefit that their often small bail amounts would provide. Therefore, we can only support SCR128 if it is balanced with comprehensive bail reform legislation that moves the current broken bail system away from using money bail and replaces it with a system that bases pretrial release on risk.

True reform of the bail system includes the removal of money as the primary mechanism of pretrial release, instead basing release decisions on risk rather than monetary resources. Bail reform must also require the use of risk assessments and authorizes the release of low-risk individuals under the least restrictive conditions possible.

For these reasons I urge you to pair SCR 128 with a version of A1910/S946 that includes these very important elements.

If you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "DLombardo", written over a horizontal line.

Daniel L. Lombardo

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TRENTON, NEW JERSEY 08611
WWW.NJACONLINE.ORG
PHONE: 609-396-8900 FAX: 609-396-8999

July 24, 2014

Chairman and Members of the Senate Law and Public Safety Committee,

The New Jersey Association on Correction (NJAC), established in 1961, is a private not-for-profit organization whose mission is to enable social justice and human dignity to be manifest in the policies and institutions governing victims of crime and offenders through rehabilitative, educational, and legislative programs. NJAC's program locations range from Camden to Paterson, with numerous sites in between.

New Jersey's bail system is broken. Three quarters of the people being warehoused in our jails are there awaiting trial rather than serving a sentence, and their average length of stay is about ten months. Almost half of these defendants are incarcerated solely because they cannot afford often nominal amounts of bail.

The current system is unfair and unsafe. Those with money can obtain release no matter how serious their crime or how much of a danger they pose to public safety. Those without money sit in jail for months on end no matter how minor their offense and no matter that they pose no danger to public safety.

The resolution before you is a step towards fixing these problems but is insufficient standing on its own—SCR128 only allows for the pretrial detention of high-risk defendants; it does not implement a mechanism to allow for pretrial release of low-risk arrestees.

For this reason, I will only support this resolution for a constitutional amendment if it is balanced with comprehensive bail reform legislation that moves the current broken bail system away from using money bail and replaces it with a system that bases pretrial release decisions on risk.

Real, comprehensive bail reform promotes both safety and justice. Legislation to enact real, comprehensive bail reform must include several key elements.

- It must remove money as the primary mechanism of pretrial release, basing pretrial release decisions on risk rather than resources.
- It must require the use of risk assessments on arrestees with higher level charges.
- It must authorize the release of low-risk individuals under the least restrictive conditions possible.
- It must permit the detention of those who are judged to be truly dangerous.

SCR128, paired with a version of A1910/S946 that includes these key elements, would better protect the rights of countless individuals who are incarcerated simply because they cannot afford to pay their way out of jail. It would guarantee safer communities by authorizing the detention of dangerous defendants. And it would benefit the state by mitigating the major financial burdens associated with unnecessary detention and excessive rates of incarceration.

I support SCR128 if it is paired with such legislation.

Sincerely,

Angel M. Perez, Executive Director

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American Friends Service Committee

Newark Area Office

89 Market Street, 6th Floor · Newark, NJ 07102 · 973/643-1924 · fax 973/643-8924 · www.afsc.org

Chairman and Honorable Members of the Law and Public Safety Committee:

New Jersey's bail system is broken. Three quarters of the people being warehoused in our jails are there awaiting trial rather than serving a sentence, and their average length of stay is about ten months. Almost half of these defendants are incarcerated solely because they cannot afford often nominal amounts of bail.

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For this reason, we will **only** support this resolution for a constitutional amendment **if** it is balanced with comprehensive bail reform legislation that moves the current broken bail system away from using money bail and replaces it with a system that bases pretrial release decisions on risk.

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We support SCR128 **if** it is paired with such legislation

Sincerely,

Bonnie Kerness, MSW
Director
Prison Watch Program
973-643-3192



To: Honorable Members of the Senate Law and Public Safety Committee
From: People's Organization for Progress (POP)
Date: July 24, 2014
Re: SCR128

POP is an independent, Newark-based, human and civil rights organization, with chapters in other northern communities of New Jersey. We work with like-minded groups for the improvement of conditions in our communities, and for racial, social, political and economic justice. We are highly critical of the conditions in our state's jails and prisons, and gravely concerned about the negative impacts of these institutions on individuals, families and the low-income communities whose residents fill their cells.

Therefore, we strongly support bail reform in our state. It is clear to us that money bail discriminates against the low-income people we serve, and further marginalizes already-struggling families and communities. We see that our county jails are overflowing with individuals who would not pose a risk to others, but are incarcerated solely because they cannot afford even nominal bail amounts. Moreover, predicated per-trial release on wealth rather than risk, exposes people in the crime-ridden communities we serve, to further violations of the law, during the extended periods between arrest and resolution of a criminal case.

New Jersey's bail system is broken. Three quarters of the people being warehoused in our jails are there awaiting trial rather than serving a sentence, and their average length of stay is about ten months. Almost half of these defendants are incarcerated solely because they cannot afford often nominal amounts of bail.

The current system is unfair and unsafe. Those with money can obtain release no matter how serious their crime or how much of a danger they pose to public safety. Those without money sit in jail for months on end no matter how minor their offense and no matter that they pose no danger to public safety.

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For this reason, we will only support this resolution for a constitutional amendment if it is balanced with comprehensive bail reform legislation that moves the current broken bail system away from using money bail and replaces it with a system that bases pretrial release decisions on risk.

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SCR128, paired with a version of A1910/S946 that includes these key elements, would better protect the rights of countless individuals who are incarcerated simply because they cannot afford to pay their way out of jail. It would guarantee safer communities by authorizing the detention of dangerous defendants. And it would benefit the state by mitigating the major financial burdens associated with unnecessary detention and excessive rates of incarceration. **Therefore, we support SCR128 if it is paired with such legislation.**



Evan Nison, Executive Director
(908) 817-0473
evan@normnj.org
www.normnj.org

July 24, 2014

RE: SCR128

New Jersey's bail system is broken. Three quarters of the people being warehoused in our jails are there awaiting trial rather than serving a sentence, and their average length of stay is about ten months. Almost half of these defendants are incarcerated solely because they cannot afford often nominal amounts of bail.

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We support SCR128 if it is paired with such legislation.

Sincerely,

Evan Nison
Executive Director, NORML New Jersey

45x

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Sherman Mc Gilberry-Co-Chairperson

Earl Lester-Secretary

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P.O. BOX 23065

TRENTON, NEW JERSEY 08607

Founders

Wayne Council

Raymond Young

Bishop Ravenell, Spiritual Advisor

July 24, 2014

RE: SCR128

To the Honorable Members of the Senate Law and Public Safety Committee:

We greet you in Love and in the name of our Lord and Savior Jesus Christ. Fathers and Men United for a Better Trenton strongly supports real, comprehensive bail reform for many reasons. As a faith-based grassroots organization, we have seen the devastating impact that the current pretrial process can have on families and communities.

New Jersey's bail system is broken. Three quarters of the people being warehoused in our jails are there awaiting trial rather than serving a sentence, and their average length of stay is about ten months. Almost half of these defendants are incarcerated solely because they cannot afford often nominal amounts of bail.

The current system is unfair and unsafe. Those with money can obtain release no matter how serious their crime or how much of a danger they pose to public safety. Those without money sit in jail for months on end no matter how minor their offense and no matter that they pose no danger to public safety.

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- It must require the use of risk assessments on arrestees with higher level charges.
- It must authorize the release of low-risk individuals under the least restrictive conditions possible.
- It must permit the detention of those who are judged to be truly dangerous.

SCR128, paired with a version of A1910/S946 that includes these key elements, would better protect the rights of countless individuals who are incarcerated simply because they cannot afford to pay their way

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Lee Hood-Treasurer

Haywood Mc Kenzie-Sgt of Arms

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Founders

Wayne Council

Raymond Young

Bishop Ravenell, Spiritual Advisor

out of jail. It would guarantee safer communities by authorizing the detention of dangerous defendants. And it would benefit the state by mitigating the major financial burdens associated with unnecessary detention and excessive rates of incarceration.

We support SCR128 if it is paired with such legislation.

Prayerfully Submitted:

Jayson Rodgers

July 24, 2014

Chairman and Members of the Senate Law and Public Safety Committee,

My name is Dorothea Hoffner. I regret that I cannot appear in person to present my testimony. I am a member of the Church and Society Committee of First Presbyterian and Trinity Church in South Orange, NJ. We strongly support REAL BAIL REFORM, meaning we will ONLY support the resolution for a constitutional amendment IF it is paired with legislation that moves the current system away from using money bail and replaces it with a system that bases pretrial release on risk.

The resolution before you is a step towards fixing these problems but is insufficient standing on its own—SCR128 only allows for the pretrial detention of high-risk defendants; it does not implement a mechanism to allow for pretrial release of low-risk arrestees.

Real, comprehensive bail reform promotes both safety and justice. Legislation to enact real, comprehensive bail reform must include several key elements.

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SCR128, paired with a version of A1910/S946 that includes these key elements, would better protect the rights of countless individuals who are incarcerated simply because they cannot afford to pay their way out of jail. It would guarantee safer communities by authorizing the detention of dangerous defendants. And it would benefit the state by mitigating the major financial burdens associated with unnecessary detention and excessive rates of incarceration.

We support SCR128 if it is paired with such legislation. Thank you or all you do.

Dr. Dorothea R. Hoffner

358 Montrose Ave.

South Orange, NJ 07079

TO: The Honorable Members of the Senate Law and Public Safety Committee

FROM: Avron Stoloff, Verona

RE: SCR128

DATE: July 24, 2014

My name is Avron Stoloff and I am a member of the Unitarian Congregation at Montclair, part of the larger UULMNJ that has many members testifying before you.

I began working on bail reform earlier this year when I attended a service the Sunday before Martin Luther King Day at Bethany Baptist Church in Newark. During the sermon, the Reverend Howard enlightened the congregation about the problems with the current bail system. I subsequently attended a work session in April, working on coming up with an action plan to educate more people about the issues and to effect change through legislation.

While I am thrilled that the legislature is trying to address bail reform, the bill that came out of Assembly Appropriations Committee was not even close to the same one that came out of earlier committee sessions. The current form of the bill does NOT reform bail in meaningful ways because it maintains monetary bail as the primary mechanism of pretrial release. In order for me to support SCR128, it needs to be paired with a better version of A1910/S946.

The only group that believes monetary bail is good for justice is the bail lobby. Please don't give in to their pressure - remove monetary bail, which only benefits those wealthy enough to afford it and doesn't consider risk sufficiently. Risk assessments and supervised release for low-risk individuals under the least restrictive conditions possible are better for all involved and would save the state money, as it is far more expensive to keep people in jail. Please note that Attorney General Holder also supports the reforms mentioned above and has urged states to adopt them to help reduce overcrowding of our prisons and jails and provide real justice.

I can only support SCR128 if it is paired with a version of A1910/S946 that replaces the current resource-based system with one based on risk. Thank you for your interest in this important issue.

Avron Stoloff
102 Fairway Ave.
Verona, NJ 07044-1013

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Elise Linden, LCSW

236 Central Avenue
West Caldwell, NJ 07006
201-739-4031

Testimony to the Senate Law and Public Safety Committee on SCR 128
July 24, 2014

Honorable members of the Senate Law and Public Safety Committee, my name is Elise Linden and I am submitting my testimony as a Licensed Clinical Social Worker, a Drug Policy Alliance advocate and representative of the Anti-Racist Alliance of Northern New Jersey. I live and work in Essex County. As a social worker I practice under a Code of Ethics that guides my work, a codification that includes a core Value of social justice and a Principal that social workers challenge social injustice. To that end, I am compelled to testify on behalf of real, comprehensive bail reform.

Resolution SCR128 is a step towards fixing the current bail system; however, on its own it is insufficient. Therefore, I support resolution SCR 128 for a constitutional amendment only if it is paired with a version of A1910/S946 that moves away from money as a primary mechanism and instead uses risk assessment to determine pretrial release decisions. Our current bail system uses money as the primary mechanism for pretrial release without assessment for risk and danger. We need to fix our bail system, making it safe and just.

Every resident in New Jersey does not have access to the same amount of money. Every arrestee does not carry the same level of charges. Being detained in jail because of inability to pay one's way out is not indicative of guilt, it is indicative of poverty. Thus, if you are poor in the State of New Jersey, your punishment begins upon arrest. In addition, statistics indicate that persons of color are disproportionately represented in our jails, intensifying the injustice of our current bail system. Detainees who can pay their way out do so regardless of the dangerousness of their behavior, growing unsafe conditions in our communities. We need bail reform that authorizes the release of low-risk individuals under the least restrictive conditions possible while permitting the detention of those who have been assessed to be truly dangerous.

Having a system that uses money as the primary mechanism of pretrial release is unfair. We must stop punishing people for being poor. We must stop systems that perpetuate racial disparity. Having a system that does not assess for risk is unsafe. Real, comprehensive bail reform will help New Jersey to be a State that provides equity for its citizens rather than a State that perpetuates inequity and injustice. Real, comprehensive bail reform protects our individuals, our families and our communities. Real comprehensive bail reform promotes social justice and is good for our State.



LATINO ACTION NETWORK

www.Latinoactionnetwork.org

TESTIMONY TO THE SENATE LAW AND PUBLIC SAFETY COMMITTEE

July 24, 2014

To the Honorable Members of the Senate Law and Public Safety Committee:

The Latino Action Network is a 501c4 organization with a Steering Committee comprised of Latino leaders from across the State, including unions, community organizations, academia and professional backgrounds. Our testimony and other documents can be accessed at our website and on our Facebook page.

New Jersey's bail system is broken. Three quarters of the people being warehoused in our jails are there awaiting trial rather than serving a sentence, and their average length of stay is about ten months. Almost half of these defendants are incarcerated solely because they cannot afford often nominal amounts of bail.

The current system is unfair and unsafe. Those with money can obtain release no matter how serious their crime or how much of a danger they pose to public safety. Those without money sit in jail for months on end no matter how minor their offense and no matter that they pose no danger to public safety.

The resolution before you is a step towards fixing these problems but is insufficient standing on its own—SCR128 only allows for the pretrial detention of high-risk defendants; it does not implement a mechanism to allow for pretrial release of low-risk arrestees.

For this reason, we will only support this resolution for a constitutional amendment if it is balanced with comprehensive bail reform legislation that moves the current broken bail system away from using money bail and replaces it with a system that bases pretrial release decisions on risk.

Real, comprehensive bail reform promotes both safety and justice. Legislation to enact real, comprehensive bail reform must include several key elements.

- It must remove money as the primary mechanism of pretrial release, basing pretrial release decisions on risk rather than resources.
- It must require the use of risk assessments on arrestees with higher level charges.
- It must authorize the release of low-risk individuals under the least restrictive conditions possible.



LATINO ACTION NETWORK

- It must permit the detention of those who are judged to be truly dangerous.

SCR128, paired with a version of A1910/S946 that includes these key elements, would better protect the rights of countless individuals who are incarcerated simply because they cannot afford to pay their way out of jail. It would guarantee safer communities by authorizing the detention of dangerous defendants. And it would benefit the state by mitigating the major financial burdens associated with unnecessary detention and excessive rates of incarceration.

We support SCR128 if it is paired with such legislation.

Presented by Frank Argote-Freyre, President
Latino Action Network, PO Box 943, Freehold, NJ 07728



Southern Christian Leadership Conference

Dr. Martin Luther King Jr
Founding President

Dr. Charles Steele Jr
President/CEO

Rev. Bernard LaFayette Jr
Chairman of the Board

July 23, 2014

Senator Ronald Rice
New Jersey State Senate
New Jersey State Capital
West State Street
Trenton NJ

Re. **Unlawful Passage of Preventive Detention
Constitutional Amendment**

Senator Rice;

It has been brought to my attention that there is an effort to pass the newly introduced constitutional amendment identified as Senate Concurrent Resolution 128 and Assembly Concurrent Resolution 177. Upon review of the language of these documents, the language fails to include the provisions for a timely trial for those persons subject to detention as has been previously identified on a number of occasions. Further, the provisions of these proposed amendments allows for a person to be detained for *ANY* crime, which has been a primary point of contention of the Southern Christian Leadership Conference since the inception of our involvement in the bail reform discussion in New Jersey.

Since it is clear that the language of these amendments has reverted to a form that is unacceptable to SCLC due to the widespread disparate impact this language will have on minorities and poor people, I am compelled to identify a concern regarding the legality or rather the illegality of this attempt at final passage. Below follows my analysis and argument, after consultation with local counsel.

SCR 128 was introduced in the Senate on July 10, 2014, where it received first reading and an assignment to committee. On July 11, 2014, SCR 128 was placed on the desks of the members of both the Assembly and the Senate, having never received any further treatment in the Senate, either in committee or as a matter of second reading upon the Senate Floor.

On July 11, 2014, as has been reported by the New Jersey Star Ledger and subsequently confirmed by discussions with our contacts in New Jersey, the Assembly was recessed for the summer. However, despite this recess, a quorum call was issued and ACR 177 was introduced. Moreover, SCR 128 was laid on the desk of the Assembly members in an *open* meeting through such a quorum call.

It is my understanding that to change the New Jersey Constitution certain, mandatory procedures need to be followed by the Legislature. Prior to any vote, three conditions must be satisfied. Firstly, the proposed amendment must be printed and placed on the desks of members of each house. Second, at least "twenty calendar days" must pass. Finally, a public hearing must be held on the actual language of the proposed amendment.

According to my reading of the Rules of the Senate and consultation with local Counsel. Amendments to the New Jersey Constitution that originate in the Senate are required to be introduced as a concurrent resolution. After second reading of a concurrent resolution the Senate "shall" place a copy of the proposed language of the amendment to be considered on the Senators' desks, in an open meeting, which shall be noted in the "Journal." See e.g. *Rules of the Senate of the State of New Jersey, Rule 24:2*. This rule specifically states, *inter alia*:

Copies of the concurrent resolution *shall* be forwarded by the Secretary to the General Assembly with the request that they be placed on the desks of the members of that House in an *open meeting*.

SCR 128 has not received Second Reading and thus, should not have been placed on the desks of the Senators. However, even assuming that such requirement is arguable, it is inarguable that SCR 128 should have been referred to the General Assembly in an *open meeting*. This has not been done.

Pursuant to the Rules of the General Assembly of New Jersey as enacted this year, in order for a quorum to be present 41 of the Assembly's 80 members are required to be present. See *Rules of the General Assembly, Rule 2:2 Quorum*. This rule specifically states, *inter alia*:

"[members] *must be in the Chamber* to answer the quorum call and vote on any question."

On July 11, 2014, the New Jersey Star Ledger reported that only one (1) member of the assembly was physical present in the Chamber; Assemblyman Reed Gusciora (D-Mercer). Also reported was that unnamed, unknown and unelected legislative staffers walked through the empty chamber to vote "present" for the absent members. Despite only one member being physically present as per the rules, a recorded "present vote" for seventy (70) members was taken. According to the Star Ledger, Assemblyman Declan O'Scanlon (R-Monmouth) and Assembly Tom Giblin (D-Essex) had not given permission to anyone to cast a vote for them.

James Wilson, assistant legislative counsel for the nonpartisan Office of Legislative Services the Assembly, has been quoted by the Star Ledger as stating that the Assembly, "need[s] 41 or more members actually there to constitute a quorum to do business." This could be construed as an admission that the rules of the Legislature were not followed, specifically that the proposed SCR 128 be laid upon the desks of both houses in an *open meeting*.

The method of the legislature in moving this particular proposal is troubling. Even more troubling is that there seems to be a sense to get this proposal on the ballot for this November at all costs, even if it means ignoring the concerns of the Black Caucus, the rules governing the Senate and the Assembly and the opinions of my organization. I am deeply troubled by this information and believe that any amendment to the New Jersey Constitution that is adopted in violation of the rules of the legislature is a violation of the constitution itself and must be stricken. It appears to be a lot of effort for naught.

Respectfully Submitted;

Charles Brooks, Esquire
General Counsel, SCLC

PRELIMINARY POSITION STATEMENT OF THE
ASSOCIATION OF CRIMINAL DEFENSE LAWYERS OF NEW JERSEY
REGARDING JUDICIAL AND LEGISLATIVE PROPOSALS FOR
BAIL REFORM

The Association of Criminal Defense Lawyers of New Jersey (ACDL-NJ), an organization founded for the primary purposes of providing a collective voice for the criminal defense bar and protecting the individual rights of those charged with criminal offenses, respectfully submits these comments in response to recent calls for fundamental changes to the criminal justice system in New Jersey.

The ACDL-NJ has reviewed the March 10, 2014 Report of the New Jersey Supreme Court Joint Committee on Criminal Justice, tasked with exploring issues relating to bail and delays in bringing criminal cases to trial. The ACDL-NJ is also aware of proposed pending legislation, including a proposed constitutional amendment, that advocates sweeping alteration of the pre-trial process in this State, particularly the principles and procedures governing pre-trial detention and release.

All stakeholders in our criminal justice system have identified the common goal of relieving the scourge in this State of incarcerating poor and indigent defendants, who present virtually no risk of flight or to the community, due solely to their financial inability to make bail. The ACDL-NJ shares that concern and joins in the call for change. Change, however, must come in a narrowly-tailored form that addresses that important issue without unnecessarily colliding with the fundamental constitutional protections afforded to every individual faced with criminal prosecution in this State. The ACDL-NJ staunchly opposes any measure or proposal that eliminates, alters, or erodes in any way the absolute and fundamental constitutional right to bail guaranteed to each and every individual under the New Jersey Constitution.

That pretrial incarceration exacts harsh consequences for those facing the threat of criminal prosecution is undeniable, as the Committee on Criminal Justice report cogently observes. These individuals, still presumed innocent, are separated from their homes, their families, and their livelihoods, and forced to live without freedom under sometimes dangerous conditions. Further, pretrial incarceration hampers severely an accused's ability to effectively prepare a defense. Defendants jailed before and during trial are convicted more frequently and receive harsher sentences than those released pretrial. Perhaps even more disturbing is the reality that prolonged pretrial detention often leads incarcerated defendants to abandon previous claims of innocence, and enter guilty pleas simply to escape their

necessity, assess risk to others.² Thus, safety concerns can be addressed under the present framework without a costly whole-scale revision of the pretrial release system. Detaining an accused without bail based on the filing of a charge is antithetical to bedrock principles of justice in this state.

The ACDL-NJ harbors no doubt that the list of offenses and offenders who will be subject to pretrial detention without bail will inevitably expand. One need only look to a sampling of the pending legislation to understand the expansive scope of offenses for which preventive detention will likely be authorized. For example, the broad list of offenses enumerated in Assembly Bill A1910 encompasses virtually every first or second degree crime. It reaches any charge in which a minor is the alleged victim. When the court or prosecutor deems the defendant a risk, the legislation would require hearings based on evaluations through use of yet-to-be-determined risk assessment tools utilized by a yet-to-be-created agency. Strikingly absent from A1910 is any speedy trial component that provides for relief in the predictable event an accused languishes in pretrial confinement. Equally disturbing is the proposed constitutional amendment (ACR 22), placing unfettered control in the legislature to set the standard and parameters for preventive detention. The legislation is self-described as proposing a "constitutional amendment to provide that release on bail may be denied to certain offenders." This will be the pitch to garner the public support needed to pass a constitutional amendment abolishing the right to bail – a pitch which will be silent as to the monumental cost to liberty and to taxpayers.

² Rule 3:26-1(a), codifying the factors set forth by the New Jersey Supreme Court in State v. Johnson, 61 N.J. 351, 364-65 (1972), enumerates bail considerations as follows:

(a) Persons Entitled; Standards for Fixing. All persons, except those charged with crimes punishable by death when the prosecutor presents proof that there is a likelihood of conviction and reasonable grounds to believe that the death penalty may be imposed, shall be bailable before conviction on such terms as, in the judgment of the court, will ensure their presence in court when required. The factors to be considered in setting bail are: (1) the seriousness of the crime charged against defendant, the apparent likelihood of conviction, and the extent of the punishment prescribed by the Legislature; (2) defendant's criminal record, if any, and previous record on bail, if any; (3) defendant's reputation, and mental condition; (4) the length of defendant's residence in the community; (5) defendant's family ties and relationships; (6) defendant's employment status, record of employment, and financial condition; (7) the identity of responsible members of the community who would vouch for defendant's reliability; (8) any other factors indicating defendant's mode of life, or ties to the community or bearing on the risk of failure to appear, and, particularly, the general policy against unnecessary sureties and detention. In its discretion the court may order the release of a person on that person's own recognizance. The court may also impose terms or conditions appropriate to the defendant's release including conditions necessary to protect persons in the community. When a defendant is charged with a crime or offense involving domestic violence, the court authorizing the release may, as a condition of release, prohibit the defendant from having any contact with the victim. The court may impose any additional limitations upon contact as otherwise authorized by N.J.S.A. 2C:25-26.

more pressing issue of the pretrial detention of those of modest economic means facing low-level criminal charges.

Our model jury charges instruct juries that “the indictment is not evidence of the defendant's guilt on the charge(s). An indictment is a step in the procedure to bring the matter before the court and jury for the jury's ultimate determination as to whether the defendant is guilty or not guilty on the charge(s) stated in it.” The ACDL-NJ cannot subscribe to a process that allows for a potentially lengthy period of incarceration to be based on the allegations of a charge, untested by the rigors of the adversarial process of a trial. A detention hearing conducted shortly after the filing of the charges is no substitute.

It is beyond the scope of this preliminary position statement to address the specific procedures recommended in the Joint Committee Report or the proposed legislation as we oppose the imposition of a system that includes preventive detention. Clearly, any such system would necessitate meaningful speedy trial requirements for those detained before trial and conviction. Such mandates, however, should be crafted for the benefit of the incarcerated defendants and carve out exceptions only as they relate to the overwhelming limitations and impediments that attend preparing a defense while confined.

Dated: May 19, 2014



DARREN M. GELBER, President
Association of Criminal Defense
Lawyers of New Jersey

