The impact of cash bail on LGBTQ people and people living with HIV

What is cash bail?
Cash bail is when a judge determines the amount of money for an accused individual’s pre-trial release. All too often the bail amount imposed by the courts does not take into account the defendant’s financial situation. This means that despite not being convicted of a crime, people sit in jail merely because they cannot afford to pay bail.

In fact, 60% of the U.S. jail population has not been convicted of any wrongdoing, but are simply awaiting trial. Disturbingly, a person who is held in jail pretrial is significantly more likely to be convicted than someone who is not, due to bias against incarcerated persons. No person who has not been convicted of a crime should be held in jail based solely on their financial status.

Cash bail, LGBTQ people, and people living with HIV

- LGBTQ individuals disproportionately interact with the criminal justice system and are often the victims of this cash bail system. LGBTQ people are more likely to be assessed a higher bail than others because they are seen as greater flight risks and more likely to be a danger to the community based on stereotypes and perceptions that LGBTQ people are not connected to families or communities.

- A staggering 74% of those surveyed by Black and Pink’s National LGBTQ Prisoner Survey were held in jail pre-trial because they could not afford the bail assessed by their judge. More than half of those incarcerated pre-trial were held for a year or even longer.
• In addition to issues of fairness and equality, incarcerating those who cannot afford bail costs county systems upwards of $9 billion while the individuals wait for their court dates.

• Violence against incarcerated LGBTQ individuals is already high; increasing the time in which these individuals are in jail only creates more possibilities for harm.

• Pre-trial detention often interrupts care for people living with HIV (PLHIV), which can lead to an increase in viral load and a decrease in CD4 count.

• Transgender individuals held pre-trial often have a very difficult time accessing basic medical care, such as hormone replacement therapy.

• Jails regularly house transgender women in men’s facilities, which is a dangerous practice that places those women at risk for violence, sexual harassment, and sexual assault.

How to get involved

• First and most crucially, urge lawmakers to pass legislation that abolishes cash bail, such as the Pretrial Integrity and Safety Act of 2017.

• Support and donate to bail funds like Southerners on New Ground, Washington Square Legal Services, Massachusetts Bail Fund, and others that have created working donation funds to provide bail for those in need all across the country. Every donation helps!

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