



NATIONAL CENTER FOR LESBIAN RIGHTS



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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