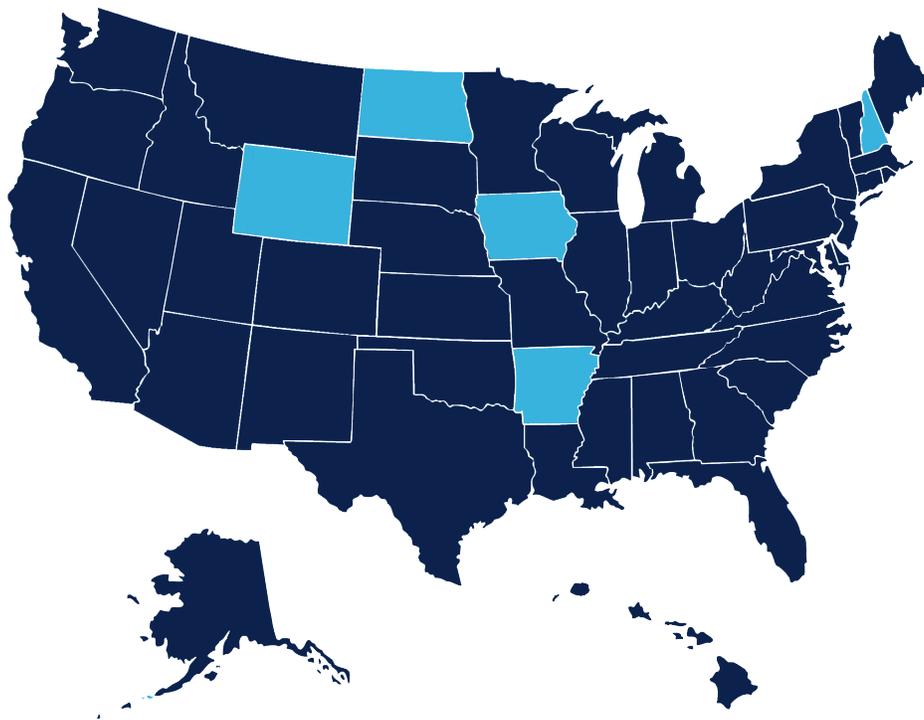


# Where Pretrial Improvements are Happening

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**PRETRIAL JUSTICE  
INSTITUTE**

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## Introduction

Efforts to improve pretrial justice are underway across the country, from small towns that seek to lower jail populations to Congress, where legislation has been introduced that would restrict federal funding to states that continue to rely on money bail. This document is intended to help readers understand the variety of pretrial improvements underway and where they are happening.

The pages below provide brief descriptions of a range of work currently happening or recently accomplished, organized by the following categories: Changing Practice, Judiciary-led Change, Litigation, Legislation, Executive Branch-led Change, and Community & Grassroots-led Change. A state-by-state table is provided at the end of the document for quick reference.

The Pretrial Justice Institute updates this publication on a quarterly basis.

## Changing Practice

There are many ways jurisdictions can improve pretrial systems and the outcomes they produce without introducing new laws or amending state constitutions. Simply changing practice within existing legal structures can create immediate and positive results. For example, some jurisdictions have seen success in diverting people with mental health or substance use disorders away from the criminal justice system and into treatment. Other places have chosen to issue non-custodial citations or summonses to people accused of low-level offenses, avoiding the harms of unnecessary detention. This section describes that work, and more.

## Pre-booking Deflection and Diversion

Many jurisdictions are pursuing diversion or deflection projects that keep people away from jail booking when a custodial arrest would be unnecessary or even harmful. In March 2017, the [Center for Health and Justice at the Treatment Alternatives for Safe Communities \(TASC\)](#) and the [Civil Citation Network](#) co-convened the first-ever [National Deflection Summit](#) in Alexandria, Virginia. Participants—including police, prosecutors, treatment and clinical experts, researchers, and representatives from national law enforcement and behavioral health associations—discussed alternatives to arrest for low-level offenses and for people with behavioral health needs. One outcome was a commitment to forming a deflection collaborative that will provide vision and leadership to the field, in part by reframing the relationship between law enforcement and treatment.

[STEER \(Stop, Triage, Engage, Educate, and Rehabilitate\)](#) is a project of **Montgomery County, MD** connecting people who have substance use treatment needs with community services instead of arresting them. In what is called the Montgomery Model, law enforcement officers who recognize a person’s potential as a STEER candidate connect them to community service providers, rather than merely recommending them. In the first six months of the program, 86 individuals were referred and 32 have been successfully engaged in treatment.

The Law Enforcement Assisted Diversion (LEAD) program began in **King County, WA** in 2011 and has demonstrated positive results. LEAD diverts eligible people at the pre-booking stage, away from deeper justice system contact and toward community-based treatment and

support services. The model has been replicated, in varying forms in **Albany, NY; Atlanta, GA; Baltimore, MD; Bangor, ME; Camden, NJ; Canton, OH; Fayetteville, NC; Huntington, WV; Los Angeles, CA; Milwaukee, WI; Montgomery County, MD; Philadelphia, PA; and Santa Fe, NM.**

King County LEAD participants were

- 89% more likely to obtain permanent housing,
- 46% more likely to find stable employment,
- 33% more likely to have stable income or benefits,
- 60% less likely to be re-arrested,
- 39% less likely to have a subsequent felony charge,
- Jailed for 39 fewer days per year than prior to the program,
- 87% less likely to receive a prison sentence, and
- Cost \$2,100 less to the local justice and legal system.

A [pre-booking diversion program](#) in **Florida** (Tallahassee and Leon counties) has reported a 6% recidivism rate of participants, compared to an estimated 40-45% rate for similar individuals not enrolled in the program.

[Open Society Foundations](#) has a pre-booking diversion grant program that promotes alternatives to jail for drug use and addiction in **Los Angeles; Atlanta; Bangor, ME; Fayetteville, NC; Camden, NJ; Philadelphia; and Milwaukee, WI.** Funding for the planning phase of this work has ended. Several of the 2016 sites will be seeking implementation funding.

## Citations in Lieu of Arrest

The [International Association of Chiefs of Police](#) (IACP) reports that 87% of law enforcement agencies use citations as an alternative to custodial booking, cutting processing time by more than two-thirds (85.8 minutes to 24.2 minutes). There is, however, no aggregate data on how many people have been affected by this practice, and more study is needed to determine if and how citations can lead to reduced jail crowding, improved community relations, and other benefits.

The National Conference of State Legislatures maintains a [50-state chart](#) describing each state's statutory allowances for citations in lieu of arrest.

Some counties—like **Mesa County, CO** and **Eau Claire County, WI**—have begun testing and using a “proxy tool” to inform officers’ decision making for when to issue citations in lieu of custodial arrests. The jurisdictions are collecting data to measure the success of the effort.

## General Changes to Practice

Guam, Illinois, and Connecticut have officially enrolled in the Pretrial Justice Institute’s [3DaysCount™](#) campaign. Through 3DaysCount, PJI will work with up to 20 states (and territories) to achieve three main goals by 2020:

- 1) reduce arrests,
- 2) replace money-based pretrial practices with risk-based practices, and
- 3) restrict pretrial detention to those who pose unmanageable risks if released.

Strategies to achieve these goals include improving state statutes, court rules, and state constitutions; implementing statewide evidence-based tools; and empowering and mobilizing communities to advocate for system improvements.

In early 2017 [New York City announced](#) an 18% decline in its jail population over two years. The mayor’s office credits the reductions to diversion and deflection strategies and increased use of non-financial pretrial release. Key findings include

- More than 70% of defendants in New York City are released without any conditions after their first appearance before a judge.
- A supervised release program has diverted over 3,000 people from jail since the program was launched in March 2016, allowing eligible, low-risk defendants to remain at home with their families and to continue working while waiting for trial.

New York City mayor Bill de Blasio committed to closing the Rikers Island jail facility in ten years just as an independent commission issued a [report](#) outlining necessary steps, which include eliminating money bail.

In February 2017 the National Association of Counties (NACo) [adopted a policy](#) resolution urging the Department of Justice (DOJ) to “continue efforts to advise state, county and municipal courts to acknowledge that the principles of due process and equal protection require that courts not employ bail and bond practices that cause indigent defendants to remain incarcerated even for a few days solely because they cannot afford to pay for their release.”

The [John D. and Catherine T. MacArthur Foundation’s Safety and Justice Challenge](#) (SJC) is a \$75 million initiative to support 20 jurisdictions—ten Core Sites and ten Partner Sites—to change the way they use their jails. SJC includes strategies for safely reducing the number of arrested people who are brought to jail

and increasing the use of evidence-based tools, such as risk assessment instruments, in pretrial decision making.

*Safety and Justice Challenge Sites*

*Core Sites*

- Pima County, AZ
- Connecticut (unified court system)
- New Orleans, LA
- St. Louis County, MO
- New York, NY
- Lucas County, OH
- Philadelphia, PA
- Charleston County, SC
- Harris County, TX
- Spokane County, WA
- Milwaukee County, WI

*Partner Sites*

- Los Angeles County, CA
- Mesa County, CO
- Palm Beach County, FL
- Ada County, ID
- Cook County, IL
- Mecklenburg County, NC
- Multnomah County, OR
- Pennington County, SD
- Shelby County, TN



Additionally, 20 SJC [Innovation Sites](#) will receive short-term funding to test innovative approaches to justice improvement. One of these, [Buncombe County, NC](#), will launch a two-month pilot program that enhances pretrial supervision to manage defendants in the community, when appropriate, and reserves jail resources for those who pose unmanageable risks.

The [Laura and John Arnold Foundation](#) has developed and piloted the Public Safety Assessment-Court (PSA) tool. It is now in use statewide in **Arizona, Kentucky, and New Jersey**, and in approximately 30 local jurisdictions, including **Santa Cruz County, CA; Volusia County, FL; Cook County and two other counties in Illinois; Mecklenburg County, NC; Lucas County, OH; Allegheny County, PA; Yakima County, WA; and Milwaukee County, WI**. Additionally, three states—**Iowa, Rhode Island, and Utah**—are beginning to implement the tool, as are the following counties: **Dane County, WI; Harris County, TX; Bernalillo County, NM; Minnehaha County, SD; Pennington County, SD; and the City of Cleveland, OH**.

**Kentucky's** implementation of the Public Safety Assessment-Court (PSA) pretrial risk assessment tool, developed by the Laura and John Arnold Foundation, led to an increase in pretrial release, higher court appearance rates, and fewer crimes committed by people on pretrial release. The arrest rate for people released before trial fell from 10% to 8.5%, representing a 15% decrease in overall pretrial crime. The tool is able to accurately identify the small number of individuals (just 6% of the study cohort) who pose a high risk of violence if released.

## HOT SPOT: Lucas County, Ohio

Lucas County, OH, has implemented the Laura and John Arnold Foundation's Public Safety Assessment (PSA) tool into a federal court order to manage the jail population and local release and detention decisions. Previously, emergency release policies were charge-based and driven by the length of time in custody. Making risk-based decisions, with a consideration of the charge, has resulted in higher court appearance rates and lower rates of new criminal activity. Initial results include:

**The number of non-financial releases nearly doubled.** The percentage of pretrial defendants released by the court on their own recognizance increased to almost 28 percent from 14 percent before PSA use began.

**Court appearance rates increased from 59 percent to 71 percent.**

**The percentage of pretrial defendants arrested on new charges while out on release has been cut in half.** Only 10 percent of released defendants were arrested for new offenses compared to 20 percent before the county began using the PSA. Also, the percentage of pretrial defendants arrested for violent crimes while out on release decreased from 5 percent to 3 percent.

The National Criminal Justice Association (NCJA) and National Governors Association (NGA) have launched the National Criminal Justice Reform Project (NCJRP), an initiative to support sustainable system-wide criminal justice improvements. Funded by the Laura and John Arnold Foundation, the NCJRP will assist five states—**Arizona, Delaware, Illinois, Oregon, Vermont**—in planning and implementing data-driven, evidence-based improvements focused on one or more areas of state policy and practice. Vermont has specifically named pretrial justice as a main focus of its work in the project.

The Council of State Governments, the American Psychiatric Association Foundation, and the National Association of Counties are jointly leading the Stepping Up Initiative to reduce the number of people with mental illness in jail. More than 300 counties have already “Stepped Up,” passing resolutions in support of the initiative. **Ohio, California, and North Carolina** are among several states that are exploring how to support participating counties in this work.

The National Center for State Courts (NCSC) has supported jurisdictions in exploring pretrial justice improvements through extensive planning activities. Court representatives from **Arizona, Idaho, Indiana, and Wisconsin** took part in a Pretrial Justice Policy Forum and are working on action plans they developed during the forum.

In 2016, the State Justice Institute (SJI) awarded a Strategic Initiatives Grant to **PJI** and **NCSC** to conduct a national Pretrial Justice and the State Courts Initiative. The initiative will provide technical assistance to competitively selected sites and will be guided by an advisory committee of chief justices, state court administrators, judges, court managers, and pretrial service agency directors, with input from other key stakeholders.

The ACLU of **Nebraska** released a report detailing information about Nebraska’s bail practices and use of fines and fees. The authors found that people charged with a crime in the state spend, on average, 48 days detained pretrial, and that detained individuals account for more than half of the county jail population. The report provides recommendations to state stakeholders and policymakers based on methods proven in other jurisdictions.

## Judiciary-led Change

Judiciaries in some states have conducted studies to explore pretrial justice issues in depth and have adopted court rules and procedures that seek to reduce money-based detention and implement risk-based practices. This section covers pretrial improvement work initiated and enacted by the courts.

Lawmakers, practitioners, and advocates have researched and debated the money bail system in **Maryland** for many years, generating several reports by special committees and philanthropic organizations. Each report has recommended a major overhaul to the state’s pretrial system, eliminating secured money bail, implementing pretrial risk assessment, and better enabling preventive detention (with full due process).

In 2016, Attorney General Brian E. Frosh issued a letter to lawmakers stating his office’s opinion that current pretrial practice in Maryland was likely unconstitutional. Following that, Chief District Court Judge John P. Morrissey ordered judges in his courts to release most arrested people on their own recognizance or to impose the least onerous release conditions. After hearing arguments in January 2017—including testimony by former U.S. Attorney General Eric Holder

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## Where Pretrial Improvements are Happening

in support of change—the Maryland Court of Appeals [adopted new court rules](#) that encourage the use of financial release conditions as a last alternative when the court can show that no other conditions will assure court appearance or public safety. (See Legislation for more about Maryland.)

The **Arizona** state judiciary’s Task Force on Fair Justice for All issued a [report and recommendations](#) on court-ordered fines, penalties, fees, and pretrial release in late 2016. The recommendations were adopted by the Arizona Judicial Council in October 2016.

Several court rule revisions have been proposed based on the Task Force recommendations. These include defining the various types of money bond to include unsecured bond, deposit bond, secured bond, and cash bond and requiring the court to impose the least onerous type of bond necessary. The court is also urged to avoid imposing monetary conditions that result in unnecessary pretrial incarceration solely because the person is unable to pay the bond. Another rule is pending to clarify and define procedural requirements for exercising risk-based preventive detention.

The **Texas** Judicial Council and the Public Policy Research Institute published [Liberty and Justice: Pretrial Practices in Texas](#), an in-depth exploration of the state’s pretrial justice system. The report describes how using pretrial risk assessment can save money, strengthen public safety, and improve outcomes for defendants. According to the report, about one-quarter of the state’s 41,000 prisoners pose a low risk to public safety and could safely be released prior to trial. Legislation has been introduced based on the findings of the *Liberty and Justice* study (see Pretrial Legislation section below).

Texas Chief Justice Nathan L. Hecht referenced *Liberty and Justice* in his [State of the Judiciary](#) address, stating, “liberty, and common sense, demand reform.”

**Missouri** Chief Justice Patricia Breckenridge announced the formation of a Supreme Court Task Force on Pretrial in her [State of Judiciary](#) address. Concerning the pretrial issue, Justice Breckenridge said,

“Our cities and counties incur costs for pretrial incarcerations of people who simply are poor. There are individual and societal consequences from these unwarranted pretrial incarcerations. The consequences impact the defendants, their families and, ultimately, the state. Defendants lose not only their freedom but also their ability to earn a living and to provide for loved ones. Children may even come into state custody, because incarcerated parents are not home to care for them. And—after only three days in jail—the likelihood that an individual will commit future crimes also increases.”

**Denver** recently eliminated the use of a bail schedule for felony offenses, ensuring that release conditions, financial or otherwise, are based on the unique characteristics of the person arrested and the case.

Led by its Chief Justice, **Nevada** is piloting a pretrial risk assessment tool in Clark, Ely and Washoe counties.

In 2016, the **Indiana** Supreme Court adopted new court rules to promote non-financial pretrial release, the use of evidence-based risk assessment and, when money bail is required, more flexible payment options.

The **Michigan** Supreme Court convened an informal working group in 2016 to explore ways to improve the state’s pretrial release system. The group includes judges, court officials, and local and national justice advocates.

## Litigation

In recent years, the constitutionality of existing pretrial practice has been challenged in lawsuits against counties and cities. Many of these cases have been settled, with jurisdictions agreeing to change practices that treat people differently because of their access to money. Some initial rulings have been appealed and these challenges continue to make their way through the courts.

The non-profit civil rights law firms Civil Rights Corps (CRC) and Equal Justice Under Law (EJUL) have been successfully challenging the constitutionality of secured money bail derived from bail schedules. Their lawsuits have led to changes in pretrial release practices in **Alabama, Georgia, Louisiana, Missouri, Mississippi, Tennessee, and Texas** including, in some cases, the elimination of bail schedules and money bail in certain courts and for specified offense categories. An overview of their work can be found [here](#).

In 2016, a U.S. District Court entered a preliminary injunction requiring the **City of Calhoun, GA**, to release indigent defendants before trial on unsecured bond or on their own recognizance (Walker v. [City of Calhoun, Georgia](#)). Calhoun appealed the case and on March 9, 2017, the U.S. Court of Appeals in the Eleventh Circuit vacated the injunction and remanded the case to the district court for further proceedings.

A suit brought against **Harris County, TX** ([O’Donnell v. Harris County](#)) by CRC, the Texas Fair Defense Project, and local attorneys went to trial in March 2017 after months of intense countywide and statewide debate and more than \$1 million dollars spent by the county to fight the litigation.

In February 2017 the **Arizona** Supreme Court [struck down a constitutional provision](#) and laws that allow for the charge-based detention of certain defendants, specifically people accused of various sex offenses. [The Court wrote](#), “Under our reading of [United States v.] Salerno, the state may deny bail categorically for crimes that inherently demonstrate future dangerousness, when the proof is evident or presumption great that the defendant committed the crime. What it may not do, consistent with due process, is deny bail categorically for those accused of crimes that do not inherently predict future dangerousness.”

Under this narrow ruling, the court then declared that the various sex offenses being reviewed were not the kinds of offenses that could be relied on to provide inherent risk of danger to the community, and thus they required more to detain than a mere finding of “proof evident or presumption great.”

With assistance from CRC, the Southern Poverty Law Center built upon successful litigation in **Alabama** to convince [50 cities](#)—accounting for 40 percent of the state’s population—to change some money bail practices. Cities that agreed to the changes will cease imposing money bail on people accused of minor offenses in city courts or, when money bail is set, will take into account each person’s ability to pay.

## Legislation

State and federal lawmakers have proposed numerous bills aimed at reducing the use of money in pretrial systems, increasing the use of pretrial risk assessment tools, and limiting the number of people who are held in jail before trial. **New Jersey's** successful legislation in 2014, which went into effect in January 2017, is one example of how pretrial systems can be improved through legislation. This section provides an overview of currently pending pretrial legislation.

### Most Recent

In **Arizona** a pending bill ([House Bill 2500](#)) would require courts to release people accused of “bailable” offenses without financial conditions unless it can be shown that no other conditions can assure court appearance and public safety. The bill would also require the use of pretrial risk assessment statewide and a pretrial services program to implement and manage the assessment and recommendation process.

**California** saw the introduction of the California Money Bail Reform Act of 2017—Senate Bill 10 and Assembly Bill 42—which would move the state away from money bail by requiring courts to judge each case individually before setting the terms of release. Also, U.S. Representative Ted Lieu (CA-33) introduced the [No Money Bail Act of 2017](#) (H.R.1437), **federal** legislation which discourages “the use of payment of money as a condition of pretrial release in criminal cases” and would withhold some federal funding to jurisdictions that continue to use money bail.

In February, **Connecticut** Governor Dannel Malloy submitted a bill ([Governor's Bill 7044](#)) that would eliminate financial release conditions for people accused of misdemeanor offenses,

allow payment of 10% of the full bond to the court in all money bond cases, require the court to assess a person's ability to pay before imposing financial conditions, and require more frequent bail redetermination hearings for those who cannot pay bail immediately, among other changes.

A pending bill in **Indiana** ([Senate Bill 228](#)) would require the state's supreme court to adopt rules establishing a pretrial risk assessment system before 2020. The purpose of the risk assessment system is to assist courts in assessing an arrested person's likelihood of failing to appear in court or committing a new criminal offense while awaiting trial.

In the first quarter of 2017 more than a dozen bills related to pretrial justice were proposed in the **Maryland** legislature, some building on the new court rules (see Judiciary-led Change) and others designed to counteract the new rules. The for-profit bail bonding industry was very active through lobbying and donations to industry-friendly legislators. However, when the session closed in early April no new legislation had passed, allowing the Court of Appeals' rule change to go into effect as intended this summer.

**New York** Assemblymember Michael Simanowitz introduced [A01161](#), which would allow for the detention of arrested people before trial without the opportunity for release if the court can demonstrate the individual poses a clear and convincing risk to public safety if released.

**Montana** lawmakers are considering [Senate Bill 59](#), which would develop a validated pretrial risk assessment tool and encourage its use by local jurisdictions in the pretrial release decision process.

[Legislative Bill 395](#), introduced in **Nebraska** in January, would require courts to consider all forms of pretrial release and to assign the least onerous conditions to assure court appearance. The bill also would require courts to consider a defendant's ability to pay if financial release conditions are used.

A pending bill in **Pennsylvania** ([House Bill 123](#)) seeks to seize bail money paid by people convicted of crimes—regardless if they successfully attended all court dates—to apply to the payment of fines, fees, and restitution. [Critics of the bill assert](#) that the legislation constitutes a breach of the bail contract and may make some defendants less likely to post bail, thereby increasing detention and conviction rates. A similar bill ([HB305](#)) is under consideration in **Hawaii**.

Pending legislation in **Texas** ([SB 271 and companion HB 567](#)) would ban custodial arrests for non-jailable offenses—like the failure to signal a lane change charge for which [Sandra Bland](#) was arrested. These bills would also require police officers to inform motorists that they can't be arrested for such offenses.

Also in **Texas**, bills (SB 1338 and [HB 3011](#)) introduced by Senator John Whitmire and Representative Andrew Murr would require the use of pretrial risk assessment, the imposition of the least restrictive release conditions to assure court appearance, and allow for the detention without bond when the court finds no conditions can assure court appearance or public safety. The proposed changes are based on findings from the report issued by the Texas Judicial Council and Public Policy Research Institute (listed above in Judiciary-led Change).

## From Previous Sessions

In January 2017, the **New Orleans** City Council unanimously passed an ordinance eliminating the use of money bail for most non-felony violations of city ordinances. The bill ensures that no one in New Orleans municipal court is kept in jail simply because he or she cannot afford money bail.

In 2016, voters in **New Mexico** approved an amendment to allow for preventive detention of people who are deemed at a high risk for pretrial failure. In so doing, the state has joined **Washington, DC, and New Jersey** as the only jurisdictions in the U.S. with the legal framework to detain people based on their pretrial risk in addition to their charge.

In **California**, the [Santa Clara County Board of Supervisors](#) approved a plan that would greatly reduce the number of people who are jailed before trial due to unmet money bail conditions. The changes will also make it easier for arrested people to pay money bail themselves rather than having to hire a for-profit bail bonding company. Santa Clara arrived at recommendations for improving pretrial justice after a long and thorough examination of research and public comment. Once implemented, the county will be at the forefront of pretrial justice in California

In **Alaska**, the [state legislature](#) passed, and the governor signed into law, a comprehensive justice reform package (SB91 and HB205) that, among other things, promotes pretrial risk assessment in guiding release decisions, reduces the severity of some drug possession offenses and promotes the use of citations in lieu of arrest.

**California** [Assemblymember Rob Bonta](#) and [Senator Bob Hertzberg](#) have introduced [The California Money Bail Act of 2017](#) that clarifies

the need to improve the state's pretrial system and proposes a framework for evidence-based improvements.

## Reclassification

Some jurisdictions have [reclassified certain “non-serious” offenses](#) from felonies to misdemeanors to reduce the severity of sentences. This move has also increased the number of charges that are eligible for citation in lieu of arrest. **California** has led in this area, prompting several other states to follow suit.

For example, in 2016, voters in **Oklahoma** approved [State Question 780](#), reclassifying some felony drug possession and property offenses as misdemeanors. This work was the culmination of several years of work in the Bureau of Justice Assistance-funded Justice Reinvestment Initiative.

## Executive Branch-led Change

Executive branch pretrial improvements can include actions taken by governors, attorneys general, or county commissioners, as well as by groups that utilize funding provided through government agencies such as the Bureau of Justice Assistance.

In **Harris County, TX**, county commissioners voted to develop a pilot program to make public defenders present at bail hearings. The program is intended to help reduce the unnecessary detention of thousands of arrested people simply because they cannot afford money bail or are unfamiliar with the legal process.

In **Wisconsin**, the state's Department of Justice supports the [TAD \(Treatment and Diversion\) Program](#), which provides funding for pretrial diversion initiatives coordinated through local district attorneys' offices. In many of these programs, district attorneys agree to not prosecute current charges if arrested people agree to training or treatment.

The [Bureau of Justice Assistance \(BJA\)](#) funds numerous initiatives and programs that seek to improve justice systems from a variety of angles, including the pretrial system.

BJA supports the Council of State Governments (CSG) to coordinate [Mental Health Court Learning Sites](#). These are jurisdictions that embody core principles of handling people with mental health needs in the criminal justice system and provide guidance to other jurisdictions. Currently, Learning Sites include **Bonneville County, ID; Ramsey County, MN; Dougherty County, GA; and New York City**.

The Justice Center at CSG, also with assistance from BJA, is supporting several initiatives focused on reducing the number of people with mental health needs in jail, including those being held before trial. These initiatives are located in **Rhode Island; Indianapolis; Douglas County, KS; Cumberland County, ME; Montgomery County, MD; and Rockdale County, GA**.

BJA has several initiatives that address “front-end” justice improvements. The [Smart Defense](#) initiative supports jurisdictions to improve access to counsel and evidence-based advocacy in **Alameda County, CA; Kentucky; New York City; Texas; and Wisconsin**.

BJA's [Smart Pretrial Demonstration Initiative](#) is supporting the **City and County of Denver**; **the State of Delaware**; and **Yakima County, WA** in implementing validated pretrial risk assessment and risk-based supervision strategies, among other system improvements. In 2016, these three sites began the sustainability phase of their work. In 2017, an additional five sites will be competitively selected to receive technical assistance.

BJA's [Justice Reinvestment Initiative \(JRI\)](#) has done work to improve pretrial risk assessment in various jurisdictions, including **Washington State, Hawaii, Rhode Island**, and **Alachua County, FL**. JRI has also provided funding for technical assistance in seven **California** counties, three **South Dakota** counties, **Johnson County, Kansas**, and **New York State** to improve pretrial systems through data and process analyses.

For nearly a decade, the [National Institute of Corrections' Evidence-Based Decision Making \(EBDM\)](#) initiative has supported numerous sites to implement evidence-based justice practices, including those related to the pretrial stage. Currently, the initiative has three state sites and 16 local sites, and many have identified the pretrial decision point as a change target. These include sites in **Colorado, Virginia, Wisconsin, Indiana** and **Oregon**. Also, **Nevada** is one of three sites that has received technical assistance to implement pretrial risk assessment through the state judiciary.

## Community & Grassroots-led Change

Community organizations have been working to improve pretrial justice—often without the

benefit of traditional approaches and funding streams. For example, groups like the [Texas Jail Project](#) and [Silicon Valley De-Bug](#) have been drawing attention to the injustices of current pretrial practice in their communities through storytelling, videos, and photographs.

Another community-based approach with a long history being increasingly utilized is the community bail fund. Community bail funds post money bail for eligible people who cannot afford to do so themselves. When defendants show up in court, the money returns to the fund to be used again for other people. These funds are an important short-term response to the problem of money bail. They eliminate unnecessary detention and the pay-off that motivates for-profit bail bondsmen, and also demonstrate how unnecessary money bail actually is. The [Bronx Freedom Fund](#), for example, reports a 96% court appearance rate for its clients—some for more than a dozen dates in a row. In 62% of its cases, charges were dismissed. By comparison, more than 90% of people who do not pay money bail accept a plea in order to be released. The [Brooklyn Community Bail Fund](#) has demonstrated similar results and hosts the National Bail Fund Network, an organization devoted to providing information and guidance to other bail funds or to communities interested in starting one.

In the past few years, the number of community bail funds has increased. They can now be found in **New York, Chicago, Massachusetts, Nashville**, and **Seattle**. Temporary bail funds have also been set up to support people arrested in association with the Occupy, Black Lives Matter, and Dakota Access Pipeline protest movements.

## HOT SPOT: Washington, DC No Money Bond Good Outcomes

The District of Columbia (DC) is widely recognized as a high-functioning pretrial justice system. The District employs several strategies at the point of police contact to avoid unnecessary jailhouse bookings, including health- and treatment-related diversions and citations in lieu of arrest. It runs a robust Pretrial Services Agency that assesses all booked individuals and recommends appropriate supervision conditions for those released (including, in most cases, no supervision at all) and detention for those who pose risks that cannot be managed.

DC law has two important provisions that allow its pretrial system to operate the way it does. First, it states that no one can be held in jail before trial because of a lack of money. Because of this, money bond is nearly non-existent. Second, DC laws state that a person who is determined to be a high risk for pretrial failure may be preventively detained if no condition or set of conditions can assure pretrial success. DC detains roughly 12% of arrested people and all others are released without financial conditions. The District has high court appearance rates (88%) and public safety rates (89%). Only 12% of the district's jail population is pretrial, compared to the national rate of 63%.

## Activity by Region and State

Following is a list presenting the major pretrial improvements described above as of March 2017, organized by state and geographical region.

### *Eastern and Midwestern States*

**Connecticut**—SJC (statewide)

**Delaware**—BJA Smart Pretrial (statewide)

**Illinois**—3DaysCount-PJI (statewide); SJC (Cook County); Arnold Foundation PSA tool (multiple counties); Bail fund (Chicago); NCJRP (statewide)

**Indiana**—Court rules (statewide); CSG mental health diversion (Indianapolis); EBDM initiative (statewide); NCSC planning (statewide); piloting pretrial risk assessment (Clark, Ely & Washoe counties)

**Kansas**—CSG mental health diversion (Douglas County); BJA JRI (Johnson County)

**Maine**—OSF Pre-Booking Diversion/LEAD (Bangor); CSG mental health diversion (Cumberland County)

**Maryland**—AG/Courts (statewide); CSG mental health diversion (Montgomery County); STEER (Montgomery County); LEAD (Baltimore)

**Massachusetts**—Bail fund (Suffolk, Essex, Worcester, Middlesex and Plymouth counties)

**Michigan**—NCJA (statewide); Courts (statewide)

**Minnesota**—BJA/CSG (Ramsey County)

**Missouri**—SJC (St. Louis County); CRC (Ferguson and Jennings)

**Nebraska**—ACLU Report (statewide)

**New Jersey**—Courts (statewide); OSF Pre-Book-

ing Diversion/LEAD (Camden); Arnold Foundation PSA tool (statewide)

**New York**—Governor (statewide); NYC Mayor—expanding supervised release (New York City); SJC (New York City); BJA Smart Defense (New York City); BJA JRI (New York City); Bail fund (Brooklyn, Bronx); LEAD (Albany)

**Ohio**—SJC (Lucas County); Arnold Foundation PSA tool (Lucas and Cuyahoga Counties); LEAD (Canton); Arnold Foundation PSA tool (Cleveland)

**Pennsylvania**—SJC (Philadelphia); OSF Pre-Booking Diversion/LEAD (Philadelphia); Arnold Foundation PSA tool (Allegheny County)

**Rhode Island**—CSG mental health diversion (statewide); BJA JRI (statewide); Arnold Foundation PSA tool (statewide)

**South Dakota**—SJC (Pennington County); BJA JRI mental health diversion (statewide); Arnold Foundation PSA tool (Minnehaha and Pennington counties)

**Vermont**—Arnold Foundation planning summit (statewide)

**West Virginia**—LEAD (Huntington)

**Wisconsin**—SJC (Milwaukee County); OSF Pre-Booking Diversion/LEAD (Milwaukee); EBDM initiative (statewide); Arnold Foundation PSA tool (Milwaukee & Dane counties); NCSC planning (statewide); BJA Smart Defense (statewide); citation “proxy tool” (Eau Claire County)

*Southern States*

**Alabama**—CRC (City of Clanton); SPLC (50 cities)

**Florida**—SJC (Palm Beach County); Arnold Foundation PSA tool (Volusia County); BJA JRI (Alachua County); Pre-arrest diversion “PAD” (Tallahassee & Leon counties)

**Georgia**—OSF Pre-Booking Diversion/LEAD (Atlanta); CSG mental health diversion (Rockdale County); CRC (City of Calhoun); BJA/CSG (Dougherty County)

**Kentucky**—BJA Smart Defense (Alameda County); Arnold Foundation PSA tool (statewide)

**Louisiana**—SJC (New Orleans); CRC (New Orleans); City Council ordinance (New Orleans)

**Mississippi**—CRC (Jackson)

**North Carolina**—SJC (Mecklenburg County); OSF Pre-Booking Diversion/LEAD (Fayetteville); Arnold Foundation PSA tool (Mecklenburg County)

**Oklahoma**—JRI (statewide)

**South Carolina**—SJC (Charleston County)

**Tennessee**—SJC (Shelby County); CRC (Rutherford County); Bail fund (Nashville)

**Texas**—CRC (Harris County); SJC (Harris County); BJA Smart Defense (statewide); Arnold Foundation PSA tool (Harris County)

**Virginia**—Revalidation of VPRAI, now ensuring racial and gender neutrality (statewide); EBDM initiative (statewide)

*Western States*

**Alaska**—Legislation (statewide)

**Arizona**—SJC (Pima County); Arnold Foundation PSA tool (statewide); NCJRP (statewide); NCSC planning (statewide); Supreme Court—Task

Force report & legislative summit (statewide)

**California**—Proposed legislation (statewide); County Supervisors passed broad reform package (Santa Clara County); State Court established pretrial working group (statewide); EJUL (San Francisco, Sacramento County); SJC (Los Angeles County); OSF Pre-Booking Diversion/LEAD (Los Angeles); CJI risk assessment and release (multiple counties); Arnold Foundation PSA tool (Santa Cruz County); BJA Smart Defense (Alameda County); BJA JRI (Santa Cruz, San Francisco and Yolo Counties )

**Colorado**—SJC (Mesa County); EBDM initiative (statewide); BJA Smart Pretrial (City & County of Denver); citation “proxy tool” (Mesa County); eliminated bail schedule for felony offenses (Denver)

**Guam**—3DaysCount PJI (statewide)

**Hawaii**—BJA JRI (statewide)

**Idaho**—SJC (Ada County); NCSC planning; BJA/CSG (Bonneville County)

**Montana**—Pending legislation (statewide)

**Nevada**—Courts (Clark, Ely, Washoe counties); EBDM initiative (select counties)

**New Mexico**—Constitutional amendment (statewide); LEAD (Santa Fe); Arnold Foundation PSA tool (Bernalillo County)

**Oregon**—SJC (Multnomah County); EBDM initiative (Yamhill County); NCJRP (statewide)

**Utah**—Courts have active pretrial committee (statewide)

**Washington**—SJC (Spokane County); Arnold Foundation PSA tool (Yakima County); BJA Smart Pretrial (Yakima County); BJA JRI (statewide); Bail fund (Seattle); LEAD (King County)

## List of acronyms

BJA	Bureau of Justice Assistance
CRC	Civil Rights Corps
CSG	Center for State Governments
EBDM	Evidence-Based Decision-Making
EJUL	Equal Justice Under Law
IACP	International Association of Chiefs of Police
JRI	Justice Reinvestment Initiative (BJA-funded)
LEAD	Law Enforcement Assisted Diversion
NACo	National Association of Counties
NCJA	National Criminal Justice Association
NCJRP	National Criminal Justice Reform Project
NCSC	National Center for State Courts
NGA	National Governors Association
NIC	National Institute of Corrections
OSF	Open Society Foundations
PJI	Pretrial Justice Institute
PSA	Public Safety Assessment
SJC	Safety and Justice Challenge (MacArthur Foundation)
SPLC	Southern Poverty Law Center
STEER	Stop, Triage, Engage, Educate, and Rehabilitate
TAD	Treatment and Diversion
TASC	Treatment Alternatives for Safe Communities