

February 4, 2022

100 N Capitol Ave
Lansing, MI 48933

Dear Honorable Member of the Legislature,

Pretrial justice systems honor human dignity when guided by values of liberty, justice, and public safety. Our undersigned faith organizations urge you and your colleagues to review and advance pretrial justice reform in the Michigan legislative session.

As faith leaders, we believe all Michiganders, including those facing criminal charges, have innate, God-given dignity. Pretrial liberty honors this dignity by allowing defendants to responsibly await trial in their communities, where they can provide for their families, maintain honorable employment, and communicate with their legal representatives. For this reason, the American legal tradition has sought to uphold pretrial freedom using the least restrictive conditions necessary to address public safety and flight risk. Detention before trial can serve legitimate public safety needs, but overuse has grave consequences. Pretrial detention is frequently caused by the design of monetary bail systems, in which low-income defendants who could responsibly await trial in the community cannot afford to pay cash bail and remain incarcerated.¹ As Christians, we are called to correct a practice that shows “favoritism to the great” (Leviticus 19:15) and neglects the “rights of the poor and needy” (Proverbs 31:9).

Michigan can better advance liberty, public safety, and justice in its pretrial justice system. Wide geographic variation across the state in pretrial practices undermines access to consistent and impartial outcomes.² Between 1976 and 2016, the state’s pretrial incarcerated population increased by 300 percent.³ This heightened detention—primarily caused by the inability to pay monetary bail—has significant risks for Michigan communities. Research has found pretrial incarceration increases crime and unemployment, raises community poverty rates, and results

¹ Patrick Liu, et al., The Economics of Bail and Pretrial Detention, The Hamilton Project (December 2018), https://www.hamiltonproject.org/assets/files/BailFineReform_EA_121818_6PM.pdf.

² Michigan Taskforce on Jail and Pretrial Incarceration, Report and Recommendations (January 10, 2020), <https://www.courts.michigan.gov/48e562/siteassets/committees,-boards-special-initiatves/jails/jails-task-force-final-report-and-recommendations.pdf>; Kathryn Riley, How Bail Works in Michigan and Recommendations for Reform, Mackinac Center for Public Policy (October 17, 2018), <https://www.mackinac.org/archives/2018/s2018-06.pdf>.

³ Michigan Taskforce on Jail and Pretrial Incarceration, Summary of Jails Task Force Pretrial Policies (March 2021), <https://www.courts.michigan.gov/493abf/siteassets/committees,-boards-special-initiatves/jails/summary-of-jails-tf-pretrial-policies.pdf>.

in more punitive sentences.⁴ Even a brief stay in jail can cause a spiral into addiction, upend the family unit, or lead to a loss in health care or work.⁵

The recent package of pretrial justice reforms will help Michigan better reflect faith-informed values in its criminal justice system. Thanks to the proposed reforms, increased use of nonmonetary conditions appropriate to each case will allow more defendants to return responsibly and safely to court—but without the negative consequences of monetary bail for families and communities. Monetary bail would be retained as an acceptable pretrial order for select offenses and upon consideration of ability to pay. Although the state’s use of “interim bonds” would be more targeted and economically fair under these reforms, we believe the underlying practice raises key due process concerns.⁶ Additionally, the package’s shift from monetary to nonmonetary release conditions should be complemented by sustained investment in pretrial services, particularly in rural and less well-resourced communities.

Our criminal justice system should recognize the importance of pretrial liberty and be mindful of the risks of excessive incarceration before trial for defendants, families, and communities. We urge you and your colleagues to swiftly review and advance pretrial justice reform in Michigan.

Respectfully,

Keith den Hollander
Chairman
Christian Coalition of Michigan

Nate Johnson
Advocacy and Engagement Strategist
Fresh Coast Alliance

Heather Rice-Minus
Senior Vice President of Advocacy and Church Mobilization
Prison Fellowship

Joe Whalen
Executive Director
Fresh Coast Alliance

⁴ Christopher T. Lowenkamp, et al., Investigating the Impact of Pretrial Detention on Sentencing Outcomes, Laura and John Arnold Foundation (November 2013), https://craftmediabucket.s3.amazonaws.com/uploads/PDFs/LJAF_Report_state-sentencing_FNL.pdf; Will Dobbie & Crystal Yang, The Economic Costs of Pretrial Detention, Brookings Papers on Economic Activity (March 2021), https://www.brookings.edu/wp-content/uploads/2021/03/BPEASP21_Dobbie-Yang_conf-draft.pdf; Arpit Gupta, Christopher Hansman, & Ethan Frenchman, The Heavy Costs of High Bail: Evidence from Judge Randomization, The Journal of Legal Studies (June 2016), <https://www.journals.uchicago.edu/doi/abs/10.1086/688907>.

⁵ Prison Fellowship, Pretrial Detention: Bail and Bond, Prison Fellowship (2021), <https://www.prisonfellowship.org/resources/advocacy/pretrial/pretrial-detention-bail-and-bond/>.

⁶ Riley, *supra* note, 9.