

**PROPOSED SUBSTITUTE TO FILE 16-6051
(County Board Agenda 10-26-16)**

PROPOSED RESOLUTION

Sponsored by: JESÚS G. GARCÍA, LUIS ARROYO JR., RICHARD R. BOYKIN, JOHN FRITCHEY, LARRY SUFFREDIN and PETER N. SILVESTRI, Cook County Board of Commissioners

RESOLUTION CALLING FOR A PUBLIC HEARING ON PRE-TRIAL DETENTION AND THE OPERATION OF BOND COURT

WHEREAS, Illinois' Bail Statute, 725 ILCS 5/110-1, *et seq*, mandates that the amount of bail shall be considerate of the financial ability of the accused; and

WHEREAS, a class action lawsuit was filed on October 14, 2016 alleging that release-eligible arrestees are detained pretrial at Cook County jail solely because they are unable to pay the amount of money fixed as a financial condition of their release; and

WHEREAS, the class action lawsuit also alleges that reliance on monetary bond results in a disparate impact on African Americans that constitutes illegal race discrimination in violation of the Illinois Civil Rights Act; and

WHEREAS, Cook County jail receives over 70,000 admissions every year; and

WHEREAS, 8,248 individuals were being detained at Cook County Jail as of October 17, 2016; and

WHEREAS, Cook County spends \$330 million yearly to maintain jail operations; and

WHEREAS, approximately 90% of those detained in Cook County jail have not yet been convicted of a crime and are awaiting a trial; and

WHEREAS, the average length of stay in Cook County jail is 59 days; and

WHEREAS, 271 individuals were detained solely due to their inability to post a bond of \$1,000 or less as of October 17, 2016; and

WHEREAS, 1,024 “turnarounds” were held in Cook County jail last year — individuals who spent so much time in custody that, once they were sentenced to state prison, they already had served every day of their prison sentence, on average each serving 2½ months of extra time; and

WHEREAS, a 2013 evaluation of Cook County Criminal justice data showed that 63% of detainees are unable to post bond; and

WHEREAS, Cook County spends an estimated \$143 per day to house the average pre-trial detainee in Cook County jail, with higher costs associated with detaining individuals requiring mental health treatment; and

WHEREAS, studies have shown that pre-trial detention is more expensive than the pre-trial supervision programs that allow individuals to return to their communities and continue working; and

WHEREAS, judges have the discretion to set bond based on individual factors and these decisions determine whether an individual will remain in the community and continue to work and attend school, or remain incarcerated; and

WHEREAS, judges are required by the Code of Criminal Procedure to consider more than 30 statutory factors pertaining to the nature of the charge(s) against the defendant, his or her criminal history, prior instances of failure to appear, and the defendant's home and community information, such as place of residence, family ties, employment, education, character, and mental condition; and

WHEREAS, judicial decisions on bonds and release conditions varies considerably by judge; and

WHEREAS, judges spend approximately 37 seconds and sometimes as few as 10 seconds listening to information on the charged arrest and any mitigating factors before determining bond; and

WHEREAS, as a matter of practice, judges impose financial conditions without making an inquiry into and findings concerning a defendant's ability to pay the amount ordered; and,

WHEREAS, the average bond amounts set by judges are out of reach for the majority of pre-trial detainees; and

WHEREAS, the average monetary bond was \$71,878, yet the median household income in Cook County is \$54,648; and

WHEREAS, African Americans are disproportionately detained on monetary bonds through their pretrial period; and

WHEREAS, between the years 2011 and 2013, only 15.8% of African Americans charged with a Class 4 felony were released on bond, while 32.4% of non-African Americans charged with a Class 4 felony were released on bond; and

WHEREAS, other jurisdictions, such as Washington D.C., have successfully ended the reliance on monetary bond and have established non-monetary alternatives; and

WHEREAS, a number of other jurisdictions do not detain arrestees prior to trial solely on lack of ability to pay and instead employ pre-trial supervision programs that often achieve court-appearance rates of over 90%; and,

WHEREAS, mounting research has shown alternatives to detention such as text message reminder systems, drug and mental health treatment, unsecured bond and supervised release successfully ensure future court appearances; and

WHEREAS, in Washington, D.C., where nearly 90 percent of defendants are released without monetary bond, 88 percent make all of their court appearances and 89 percent do not have any new arrests during the pretrial phase; and,

WHEREAS, a 2013 study of 2,000 criminal cases in Colorado found that defendants released on personal recognizance are just as likely to return to court and just as likely to reoffend as those with monetary bonds; and,

WHEREAS, the Federal court system ended reliance on monetary bond in 1966; and,

WHEREAS, since 2015, five federal courts have found that their local bond systems are unconstitutional; and,

WHEREAS, the U.S. Department of Justice recognized in a 2015 friend of the court brief that, “incarcerating individuals solely because of their inability to pay for their release...violates the Equal Protection Clause of the Fourteenth Amendment.”

NOW THEREFORE, BE IT RESOLVED, that the President and the Cook County Board of Commissioners do hereby request that a hearing of the Criminal Justice Committee be convened to call on experts to provide statistical data and evidence of unconstitutional practices as well as information on alternatives to monetary bond.