

# POLICY SOLUTIONS FOR THE PANDEMIC

POLICY MEMO: BAIL REFORM WILL  
KEEP OUR COMMUNITIES SAFER  
MAY 5, 2020

## The Buckeye Institute's Recommendation

The Ohio Supreme Court's **proposed bail reform rule** will take effect on July 1, 2020, absent action from the General Assembly. The rule takes steps in the right direction, but it can be **improved**. Given the unique health risks that COVID-19 presents to jails, waiting until July 1 is imprudent and the court should enact a temporary bail reform rule to take immediate effect under Ohio's **emergency rulemaking** provision. The emergency rule should include a presumption against cash bail and provisions that ensure that judges base pretrial detention decisions on a defendant's threat to the community and risk of non-appearance for trial. When the General Assembly reconvenes, it should then make these important policy changes permanent.

## Background

As we **explained** in 2017, Ohio's overreliance on cash bail does not make our communities safer. Instead, cash bail creates a two-tiered system in which the wealthy pay their way out of pre-trial detention regardless of the risk they pose to public safety and those without the means to post even nominal bail sit in jail until trial.

Jails struggle to employ adequate social distancing during the current pandemic, and risk exacerbating a public health crisis for inmates and the public at-large. The Ohio Supreme Court should enact emergency bail reform to better care for Ohio's communities and the approximately **19,000 Ohioans** in jail. An emergency rule from the Ohio Supreme Court and permanent reforms by the General Assembly should include: a presumption against cash bail; only allow judges to consider the risk of a defendant's non-appearance if the court imposes cash bail; ensure greater use of validated risk assessment tools; make ability-to-pay determinations transparent; and authorize pretrial detention for defendants who pose a threat to the community.

The economic side effects of the COVID-19 shutdown will cost Ohio significant tax revenue. The proposed bail reforms will help save Ohio money as it tightens its fiscal belt and tries to recover. The Buckeye Institute's **Economic Research Center** estimates, for example, that bail reform could save the state **\$67 million** per year because jail beds cost taxpayers **almost \$65 per day**, whereas supervised release only costs **\$5 per day**.

## Conclusion

During this pandemic, the Ohio Supreme Court should enact an emergency bail reform rule to make our jails safer and our communities more secure. The General Assembly should then make the court's emergency rule permanent in the interests of justice and public safety.