

Illinois Supreme Court Rules 5-2 In Elimination Of Cash Bail Over Objections Of County Prosecutors

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SPRINGFIELD - The Illinois Supreme Court ruled 5-2 on Tuesday that eliminating cash bail for defendants awaiting trial does not violate the Illinois Constitution. This allows a historic change to the criminal justice system to go forward over objections from county prosecutors who challenged the law.

Illinois became the first state in the nation to eliminate cash bail as a condition of pretrial release from jail.

“The Illinois Constitution of 1970 does not mandate that monetary bail is the only means to ensure criminal defendants appear for trials or the only means to protect the public,” Chief Justice Mary Jane Theis wrote in the majority opinion. “Our constitution creates a balance between the individual rights of defendants and the individual rights of crime victims.”

The law eliminating cash bail creates a system “commensurate with that balance,” the court ruled.

The Illinois Supreme Court decision came more than four months after the high court heard arguments in the case in mid-March when a coalition of state's attorneys argued that the legislature overstepped its authority in approving the law.

The court’s decisions split along party lines, with the two Republican justices, David Overstreet and Lisa Holder White, dissenting.

The ruling means judges, prosecutors, attorneys and other court staff across the state will shift how they handle pending criminal cases. The justices gave trial courts 60 days to prepare for the new rules, with cash bail to be eliminated on Sept. 18.

Gov. J.B. Pritzker also released the following statement on the Illinois Supreme Court’s ruling on the Pretrial Fairness Act:

“I’m pleased that the Illinois Supreme Court has upheld the constitutionality of the SAFE-T Act and the elimination of cash bail. We can now move forward with historic reform to ensure pre-trial detainment is determined by the danger an individual poses to the community instead of by their ability to pay their way out of jail. My thanks to Attorney General Raoul’s office and the many people who worked tirelessly over the last months to defend these important reforms. I look forward to continuing to work with the General Assembly and our many other partners as we transition to a more equitable and just Illinois.”

Attorney General Kwame Raoul today released the following statement after the Illinois Supreme Court issued a ruling upholding the SAFE-T Act.

“I am pleased – although not surprised – that the Illinois Supreme Court has upheld the constitutionality of the SAFE-T Act. The court’s decision today holds – as my office has consistently advocated – that the General Assembly had the authority to eliminate cash

bail and replace it with a system in which people are detained pending trial only if they pose a threat to the public or are a flight risk. And it rejects the plaintiffs' argument that courts must retain the authority to set cash bail free of legislative regulation – an argument that would have called into question decades of criminal justice reforms in our state.

“Someone's experience with the criminal justice system should not vary based on their income level. The SAFE-T Act was intended to address pervasive inequalities in the criminal justice system, in particular the fact that individuals who are awaiting criminal trials – who have not been convicted of a crime and are presumed innocent – may spend extended periods of time incarcerated because they cannot afford to pay cash bail. The law ensures that the decision about whether people are detained pending trial is not based on whether they can afford to pay for their release.

“With the court's decision today, the elimination of cash bail will soon take effect. Other parts of the act, not challenged by the plaintiffs, also remain in effect and will have a positive impact within the state. This includes my office's authority to conduct pattern-and-practice investigations of civil rights violations by law enforcement and improvements to the police officer certification process that create uniformity for departments across the state, promote professionalism in law enforcement and increase transparency.

“Attorneys from my office have spent many months defending the SAFE-T Act's constitutionality in courtrooms throughout Illinois against meritless challenges. I am proud of their dedication and appreciate their service to the people of Illinois.”

Rep. Elik Statement on Illinois Supreme Court Ruling in Favor of No-Cash Bail

State Representative Amy Elik (R-Alton) issued the following statement after the Illinois Supreme Court decided Illinois can enact no-cash bail for criminals:

“This ruling will put many detained criminals back on the streets much faster without having to post cash bail. I am disappointed in today's Illinois Supreme Court ruling on the SAFE-T Act which ties the hands of judges and law enforcement and does not support crime victims. I will continue to work with my colleagues in the General Assembly to enact laws that support law enforcement and keep our communities safe.”

Senator Harriss releases statement following SAFE-T Act court ruling

State Senator Erica Harriss (56th-Glen Carbon) has released the below statement following the Illinois Supreme Court's 5-2 decision to uphold the controversial no-cash bail provisions of SAFE-T Act:

“Today’s ruling is not only concerning for our law enforcement community and criminal justice system, but even more so for public safety,” said Senator Harriss. “This Act limits our judges from using their full discretion on determining pre-trial conditions, making it difficult to combat violence within our communities. Ultimately, the poorly written SAFE-T Act is a reckless rewrite of our criminal justice system that puts victims and Illinois citizens at increased risk.”

Illinois FOP statement regarding Illinois Supreme Court ruling

Illinois Fraternal Order of Police (FOP) State Lodge President Chris Southwood has issued the following statement regarding today’s ruling by the Illinois Supreme Court concerning the no cash bail provision of the so-called Safe-T Act passed by the Illinois General Assembly: "Today’s ruling by the Supreme Court confirms Illinois’ status as the state of lawlessness and disorder. The court ignored the pleas of nearly every prosecutor in the state of Illinois, Democrat, and Republican, that the elimination of cash bail will put dangerous criminals back on the street, instead of keeping them in jail or forcing them to post cash bail as they await trial.

"Many of those offenders will commit crimes again within hours of their release. And who will have to arrest those offenders again and again? The police officers whose jobs have been made immeasurably more difficult by all of the new anti-law enforcement measures that are in place. Today’s ruling is a slap in the face to those who enforce our laws and the people those laws are supposed to protect.”

Illinois Democratic Chair Lisa Hernandez Statement In Response To SAFE-T Act Ruling:

CHICAGO – Today, the Illinois Supreme Court ruled the elimination of cash bail constitutional. Democratic Party of Illinois Chair Lisa Hernandez released the following statement in response:

“Today’s ruling by the Illinois Supreme Court is a victory in the fight for a fairer criminal justice system. For too long, our pretrial detention system has prioritized wealth over public safety, and ending cash bail in Illinois is crucial to ending unjust criminalization of poverty. I’m grateful to the governor and attorney general for their unwavering commitment to building a more equitable Illinois for all,” said DPI Chair Lisa Hernandez.

State Representative C.D. Davidsmeyer (R-Murrayville) released the following statement on the Illinois Supreme Court decision released this morning:

“The Illinois Supreme Court ruled on the misnamed SAFE-T Act today. As you look at the majority opinion, you will notice their priorities as they put the CRIMINAL first and the victims last. You will also note that the dissenting opinion focused on caring for victims and the Crime Victims Bill of Rights. Bail is for the protection of the public and takes into account an individual’s ability to pay. While they ignore the Victims Bill of Rights, the Illinois Supreme Court has created the CRIMINALS Bill of Rights.”

The ruling gives trial courts 60 days to prepare for the new rules, with cash bail to be eliminated on September 18, 2023. On that date, bail will no longer be a factor in whether someone is released from jail while awaiting trial.

The full text of this ruling may be found at this link: [Rowe v. Raoul, 2023 IL 129248 \(windows.net\)](#).