Most States Given Lousy Pretrial Justice Grades

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New Jersey received the only A. The national average is a D. Comprehensive reform makes the difference.

Only New Jersey's pretrial justice system received an "A" grade on its 2017 [state report card](#) released Wednesday by the [Pretrial Justice Institute](#), which cited "comprehensive reforms" establishing validated pretrial assessment in every county and effectively ending secured money bail.

Pretrial justice refers to the period between a person's arrest and trial, other state systems earning eight Bs, 10 Cs, 13 Ds, and 17 Fs—with Delaware getting an incomplete for unavailable pretrial detention rate data—for a D national average.

In 2014, New Jersey passed legislation establishing pretrial services agencies statewide, as well as a constitutional amendment permitting pretrial detention at court discretion. Both took effect in January.

The state's jails saw a 15 percent decrease in the number of people held pretrial in the first six months, although the number of unconvicted held already dropped 34.1 percent since mid-2015. New Jersey violent and overall crime is down from 2016 levels, and less than 30 people have had to pay money prior to their release.

"That's what's really great about working on this issue, is that it's a problem that's easy to diagnose and easy to treat," Cherise Fanno Burdeen, PJI's CEO, told *Route Fifty* by phone.

Results By State

	Pretrial Detention Rate	Use of Validated Pretrial Assessment	Elimination of Money Bail	Bonus Point	Grade
Alabama	◑	⊙	⊙	⊙	F
Alaska	⊙	⊙	⊙	⊙	F
Arizona	◑	●	⊙	⊙	B
Arkansas	◑	⊙	⊙	⊙	F
California	◑	◐	⊙	⊙	D
Colorado	◑	●	⊙	⊙	B
Connecticut	◑	●	⊙	⊙	B
Delaware	–	⊙	⊙	⊙	I
Florida	◑	◐	⊙	⊙	D
Georgia	◑	⊙	⊙	⊙	F
Hawaii	●	⊙	⊙	⊙	D
Idaho	◑	⊙	⊙	⊙	F
Illinois	◑	◑	⊙	⊙	C
Indiana	◑	⊙	⊙	⊙	F
Iowa	●	⊙	⊙	⊙	D
Kansas	◑	◐	⊙	⊙	D
Kentucky	◑	●	⊙	⊙	B

	Pretrial Detention Rate	Use of Validated Pretrial Assessment	Elimination of Money Bail	Bonus Point	Grade
Louisiana	⊙	◔	⊙	⊙	F
Maine	●	⊙	⊙	⊙	D
Maryland	◑	◑	⊙	⊙	C
Massachusetts	●	⊙	⊙	⊙	D
Michigan	●	◑	⊙	⊙	C
Minnesota	●	◔	⊙	⊙	C
Mississippi	◑	⊙	⊙	⊙	F
Missouri	◑	⊙	⊙	⊙	F
Montana	◑	⊙	⊙	⊙	F
Nebraska	◑	⊙	⊙	⊙	F
Nevada	◑	●	⊙	⊙	B
New Hampshire	●	⊙	⊙	⊙	D
New Jersey	◑	●	●	●	A
New Mexico	⊙	◑	⊙	⊙	D
New York	●	◑	⊙	⊙	C
North Carolina	◑	◔	⊙	⊙	D
North Dakota	◑	⊙	⊙	⊙	F
Ohio	●	◑	⊙	⊙	C
Oklahoma	◑	⊙	⊙	⊙	F
Oregon	●	◔	⊙	⊙	C
Pennsylvania	◑	◔	⊙	⊙	D
Rhode Island	●	●	⊙	⊙	B
South Carolina	◑	⊙	⊙	⊙	F
South Dakota	◑	◑	⊙	⊙	C
Tennessee	◑	⊙	⊙	⊙	F
Texas	◑	◔	⊙	⊙	D
Utah	●	●	⊙	⊙	B
Vermont	●	⊙	⊙	⊙	D
Virginia	◑	●	⊙	⊙	B
Washington	●	◔	⊙	⊙	C
West Virginia	◑	⊙	⊙	⊙	F
Wisconsin	◑	◑	⊙	⊙	C

Pretrial Detention Rate: < 10 = ● ; 10 to 20 = ◑ ; 21 + = ⊙
Pretrial Assessment: 76-100% = ● ; 51-75% = ◕ ; 26-50% = ◑ ; 1-25% = ◔ ; 0% = ⊙
Eliminated Money Bail: 100% = ● ; 0% = ⊙
Bonus Point: Yes = ● ; No = ⊙

States were scored on three bellwethers: their pretrial detention rates, use of validated pretrial assessments and elimination of money bail.

A state with a pretrial detention rate 21 percent or higher received no points, while a state with a rate less than 10 percent received a high of 2 points. Those without

any jurisdictions using validated pretrial assessments received no points, while those with 76 to 100 percent of the system using them received a maximum 4 points. An additional point was awarded if money bail was deemed functionally eliminated, as was a bonus point if both that and 100 percent usage of validated pretrial assessments was true for the state.

Only New Jersey received that bonus point and the full 7 points needed for an A.

While the report is intended to advocate "a new national standard of pretrial justice," it recognizes states have come a long way:

"The silver lining is that these results would have been far worse had this report card been produced in 2007 rather than 2017. Viewed this way, the current grade distribution may be seen as encouraging. We are in the midst of what has been called the 'third generation' of bail reform, spurred by a demand for practices that are shown to be effective and fair."

Four years ago, New Jersey saw money bond used in 100 percent of cases and would have received an F grade.

Fanno Burdeen advises states trying to improve their grades to start by looking at who their detainees are, how long they're jailed and why. More often than not, they're pretrial defendants who pose no public safety risk but are held on money bond they simply can't meet.

Meanwhile, the few people released by their courts are often those they tried to immobilize with a bond to keep them detained but failed.

"One of the quickest things jurisdictions can do if their state statute allows it, and most do, is implement the use of unsecured bonds," Fanno Burdeen said.

Instead of needing a deposit or having to buy a bond from a bondsman, the person being released on bail promises to pay in the event of a failure to appear rather than sacrificing collateral.

Secondly, states should procure a single validated pretrial assessment tool like Kentucky and Virginia, and later New Jersey, pioneered to streamline the process.

States that do both witness an almost immediate 30 percent reduction in their jail populations, Fanno Burdeen said.

Some are surprised to learn state grades defy regional trends, and that's perhaps because it's no longer "political suicide to be talking about being smart on crime," she added.

One trend Fanno Burdeen is on the lookout for is whether neighboring states to New Jersey looking at pretrial justice reform, like New York and Pennsylvania, act in a spirit of friendly competition.

"I'll be curious to see whether a local neighbor producing good outcomes will have an impact," she said. "Because this is a nonpartisan issue, and whether you're motivated by cost savings or the human element there are plenty of reasons to support this work."

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