

dailypress.com/news/dp-nws-tamara-bail-0603-20110602,0,311322.column

**dailypress.com**

## **For-profit bail bonds: pretrial injustice**

Tamara Dietrich

9:00 PM EDT, June 2, 2011

Here's something I bet you didn't know:

Our criminal justice system has a routine component we share only with the Philippines, while every other Western country in the world has banished it. Some, like England and Canada, have even criminalized it as "a form of obstruction of justice."

What's the obstruction?

Posting someone else's bail for profit.

This is not music to the ears of the commercial bail bond industry and their insurance underwriters, who are very well-funded, very vocal and very aggressive not just in protecting their turf, but in trying to expand it.

Every year, they stage assaults on laws in various states, often to gut or eliminate publicly funded, immensely cost-effective and highly successfully pretrial services agencies. These agencies assist judges by determining who can be safely released from jail pending trial, often with minimal or no bail, then supervising them on release.

Last year in Virginia, the bond industry tried — and failed — to push the General Assembly to decimate funding for pretrial services in this state, and eliminate the service entirely for all but indigent defendants. This would have increased overcrowding in jails at taxpayer expense, and released more defendants (or not) based on their ability to post bail rather than any risk they posed to the community.

They tried the same thing in Florida this year. Now they're pushing state lawmakers in North Carolina to *forbid* counties to keep funding their own successful pretrial services, even if they want to.

The industry is trying to work its way back into the state of Oregon, one of four states that don't allow them, prompting one lawman to write in the Portland Tribune last month that bondsmen and their bounty hunters "complicate and often endanger the processes of public safety."

advertisement



"There are a number of reasons Oregon kicked bail bondsmen out of our state 40 years ago," Sheriff Daniel Staton of Multnomah County wrote. "And there aren't any credible reasons to let them back in."

Indeed, if other states or municipalities do just fine without them, why not Virginia?

Kentucky outlawed commercial bail bonding almost 25 years ago. Almost 76 percent of defendants are released prior to trial, and nearly all — 97 percent — make it to all court appearances. Ninety-two percent remained arrest-free while on release.

That's comparable to Virginia's excellent pretrial services rates — 96 percent appear for court, and 97 percent remain arrest-free — yet Kentucky manages it without forcing defendants to contract with a commercial bondsman. That's money a defendant will never get back, convicted or not.

And what of those who can't post bond, yet their bail is too low to interest a bondsman? They languish. And we Virginians pay about \$70 a day to keep him there, as opposed to \$4.50 for pretrial supervision.

According to the Bureau of Jail Statistics, about 61 percent of those in local jails are pretrial detainees, about a third of whom won't even be convicted. And those unable to post bail sit there an average of 121 days.

Half a million people behind bars on any given day are charged with nonviolent offenses, but can't afford bail, costing taxpayers \$9 billion a year.

In Virginia, 80 localities have pretrial services that are so effective they're a model for other states. Assessments are based on objective criteria, and recommendations could include things like mental health or addiction treatment, and reducing, increasing or eliminating bail.

In Newport News and Hampton last year, agents screened more than 6,000 men and women; about 1,200 were released to pretrial services without bond, said agency director Andy Warriner.

Each defendant is tracked and reminded of upcoming court dates. Only 2.5 percent failed to appear.

Small wonder that the many fans of objective pretrial assessments include groups like the International Association of the Chiefs of Police, the American Jail Association and the Association of Prosecuting Attorneys.

This week in D.C., the U.S. Department of Justice co-sponsored a national conference on bail and pretrial release, nearly 50 years after then-Attorney General Robert Kennedy convened the first one, calling pretrial justice in American "unsafe, unfair and ineffective."

"That description remains accurate today," Tim Murray, head of the Pretrial Justice Institute, said in a conference call last week. "The current system favors those who have the money to purchase their release pending trial, while it punishes others before their trial — not for what they've been accused of, but because they lack the cash to purchase their freedom."

Sounds like justice obstructed to me.

Contact Dietrich at 757-247-7892 or [tdietrich@dailypress.com](mailto:tdietrich@dailypress.com).

Copyright © 2011, [Newport News, Va., Daily Press](#)