

How Will the Pretrial Fairness Act Impact Survivors of Domestic and Sexual Violence



ILLINOIS COALITION
AGAINST DOMESTIC VIOLENCE



Survivors of domestic and sexual violence are oftentimes left feeling unsafe and dissatisfied with the criminal legal system. This is especially true of the pretrial legal system where access to wealth has historically been the main factor determining who is jailed and who is released while awaiting trial.

The Pretrial Fairness Act ends the use of money bond and ensures that release decisions are focused on the safety of survivors and not the size of someone's bank account. However, due to [misinformation](#), survivors might have concerns about the new law and how it might impact their safety.



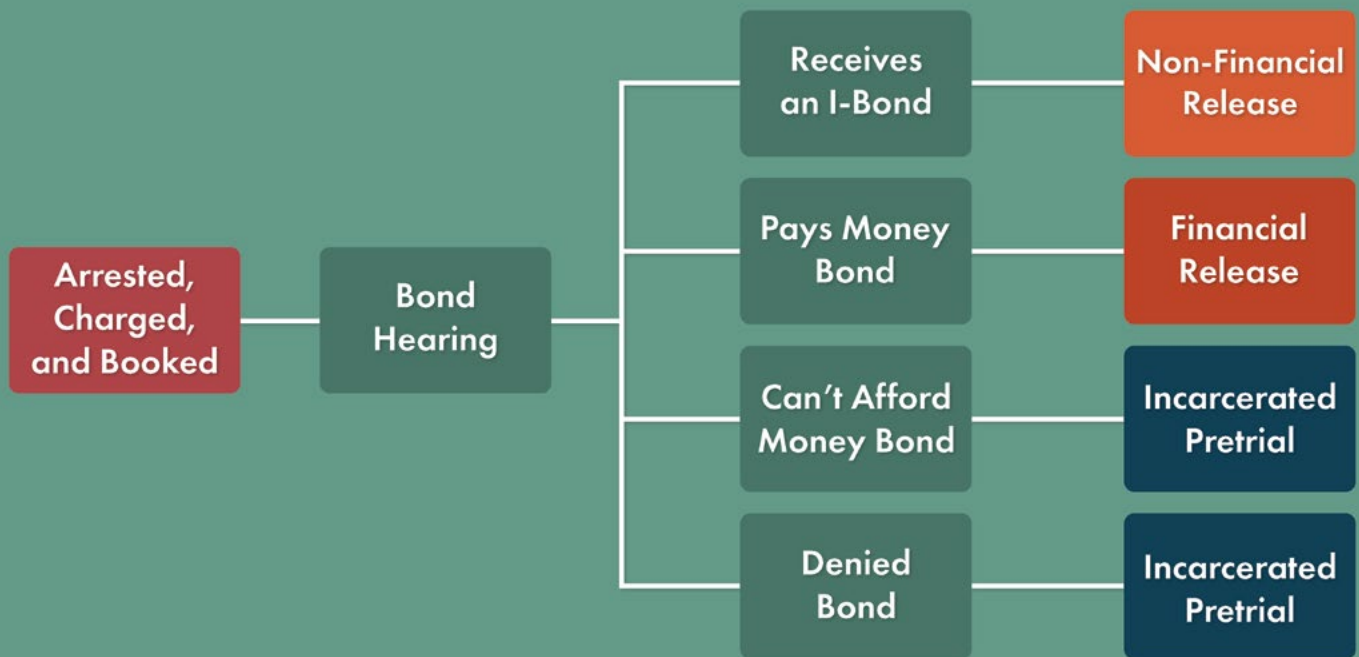
Does the end of money bond mean my abuser will be released from jail?

The Pretrial Fairness Act does not grant people that are currently incarcerated the ability to be immediately released. Under a money bond system, most people charged with felonies and misdemeanors can secure their release by paying bond regardless of their risk to someone they harmed or threatened to harm. Even after the Pretrial Fairness Act goes into effect, people charged with certain felonies and misdemeanors such as domestic battery can still be jailed while awaiting trial.

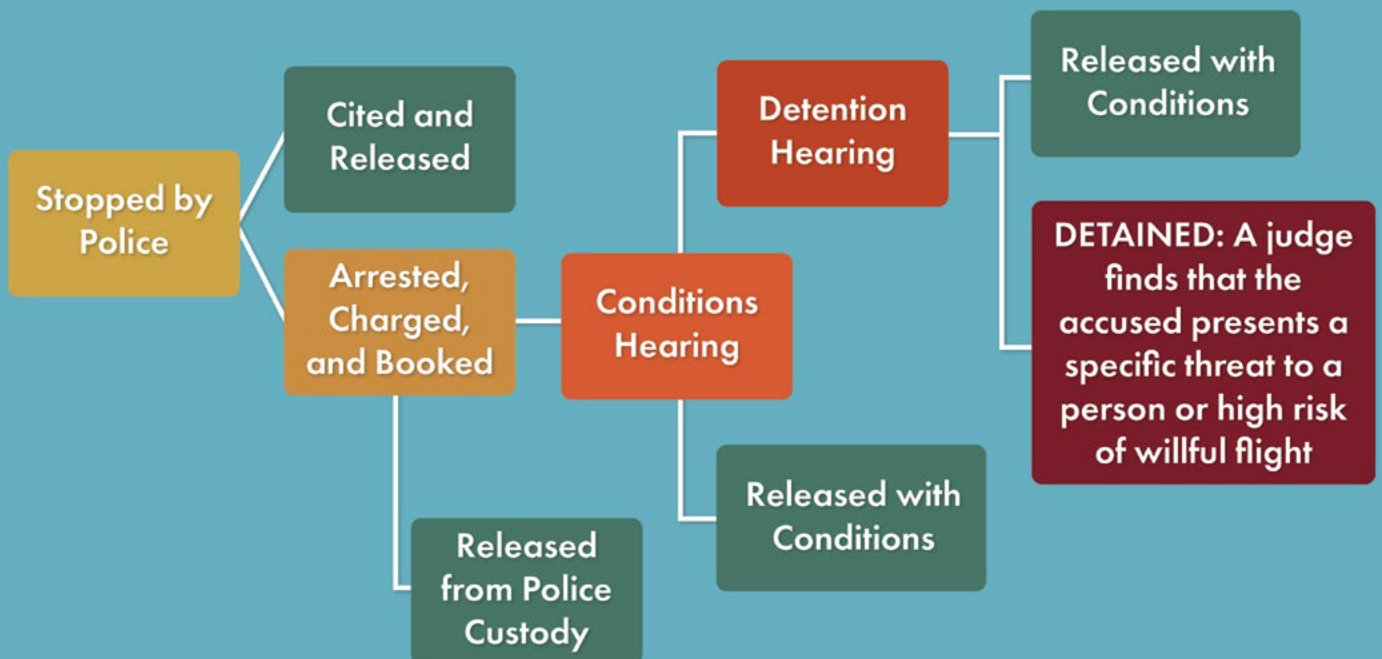
After money bond is abolished, people who are currently detained awaiting trial will have the opportunity to appear in front of a judge who could reevaluate their case. Prosecutors will have the opportunity to request that people in jail remain there as long as they are charged with certain crimes including domestic violence and sexual offenses. In addition, victims will have better opportunities to ask for special conditions (such as protective orders like orders of protection, civil no-contact orders, or stalking no-contact orders) at every step of the pretrial process. Victims also have the right to be notified of each hearing, including initial hearings, detention or sanction hearings.



How the Current System Works



How the Pretrial Fairness Act Works



2

How will risk be assessed in hearings related to the release of my abuser?

Decisions on whether or not to detain someone accused of domestic or sexual violence are significant and come with emotional and physical risks. Safety risks are central to the judge's decision and will be assessed by looking at the facts of every case and every accused person. Prosecutors can work with survivors to explain circumstances of a domestic violence incident or sex offense to the judge to inform their decision about whether to detain or release someone. Judges will now spend more time evaluating each case. This enhanced process benefits survivors by giving them more agency to present their experience and influence release and detention decisions.

Under the money bond system, pretrial release decisions are made in a few short minutes. In most cases, the main factor determining whether or not a person is released is whether or not they can afford to pay a money bond. People experiencing sexual and/or domestic violence not only deserve to have their cases heard, but also deserve to have their safety prioritized over money.

3

If my abuser is found not to be a threat to a survivor or others, how will I be notified of release?

The Pretrial Fairness Act requires prosecutors to notify survivors when a person accused of domestic or sexual violence has their initial court date. The State's Attorney may work alongside other programs including law enforcement and domestic violence or rape crisis advocates or victims' rights attorneys and agencies to notify survivors of hearings. Survivors are allowed to be present during the initial hearing and any additional hearings, and will be notified at the first court date whether the abuser will be released or whether there will be a hearing to determine if they will be detained.

Under the existing money bond system, survivors are not regularly notified about the initial hearing for their case and possibly about the release of their abuser. This practice has caused distress to survivors and put their safety at risk. With the Pretrial Fairness Act, survivors should have more certainty about when or if their perpetrator is being released as a result of the judge's decision at the detention hearing.



4

Will the Pretrial Fairness Act affect no-contact orders with survivors?

If an abuser violates a protective order (such as an order of protection, a civil no-contact order, a stalking no-contact order) by contacting a survivor while they have a pending case involving that survivor, the prosecutor must ask the judge to revoke the person's pretrial release and have them jailed until trial. A judge will then decide if the person will be jailed.

The Pretrial Fairness Act also gives survivors better opportunities to ask for a protective order by requiring judges to offer the ability to petition for a protective order at key court dates when the survivor is present, including the initial appearance in court.

5

Do I have to be present during detention hearings?

Survivors can choose whether or not to attend any court hearing. In certain very rare situations where a judge determines that a survivor's testimony is necessary to make a decision about whether to detain someone and there is no other way to get the information the court needs, the survivor might be subpoenaed to testify. *This is also true under the previous money bond system*, and the Pretrial Fairness Act actually creates a higher bar before a survivor can be forced to testify.

6

Advocates for the Pretrial Fairness Act stress that the new law allows time for safety planning; how can I start safety planning?

Every person who is charged with domestic violence or sex offenses will appear before a judge to determine release. Before the Pretrial Fairness Act, some people accused of domestic violence misdemeanors could be released by police without even seeing a judge. The Pretrial Fairness Act also creates new notification requirements so that victims know when their abuser appears in court for the first time.



Creating a Safety Plan

Safety planning is defined by the [Safety Planning and Intimate Partner Toolkit](#) as “the process of identifying risks, mapping out resources, and assessing options in order to increase safety for people surviving abuse.” This process can feel overwhelming if someone is experiencing ongoing domestic violence. There are no right or wrong ways to make a safety plan. The National Domestic Violence Hotline has this [interactive safety plan](#) that can help people get started on thinking about different possible aspects of safety for consideration including logistical, emotional, and physical safety.

Additionally, the Illinois Domestic Violence Hotline is open 24 hours and offered in over 240 languages. Read more about what to expect when you call the hotline and other ways to connect by visiting the Network’s [webpage](#).

The Illinois Coalition Against Sexual Assault has rape crisis centers with advocates, and each center has a 24-hour hotline. Staff and volunteers provide counseling, education and advocacy for victims and their families regardless of age, race or income. The national sexual assault hotline can direct you to your local center: 800-656-HOPE (4673).

All victims of crime have the right to retain their own attorney in a criminal case to represent their [rights](#) at all stages of a criminal case – from initially reporting to police, to a case moving to trial all the way to sentencing. Read more about how a victims’ rights attorney can assist you by visiting the Chicago Alliance Against Sexual Exploitation’s (CAASE) [webpage](#).

There are anti-domestic violence service providers outside Cook County that provide safety planning. Survivors locate their closest provider through ilcadv.org/map or by contacting ICADV directly at 217-728-2830.

In addition to the resources outlined above, the below resources are available to help people in their safety planning. This includes information on supporting a loved one and specific resources on housing and more. Resources including online chats are also anonymous to ensure survivors’ confidentiality.



Safety Planning Resources:

- [Accessing Reasonable Accommodations in Your Housing](#)
- [Resource Library at The Network](#)
- [Pod Mapping Guide and Worksheet](#)
- [Supporting Loved Ones Experiencing Abuse](#)
- [The CLARA Method of De-Escalation](#)



What if I am arrested for defending myself against my abuser? Will I be incarcerated while awaiting trial, even if I'm currently being abused?

Survivors of domestic violence are often criminalized for choosing to live. It's important to remember that there are no perfect victims of domestic violence. The money bond system does not acknowledge that survivors are oftentimes experiencing multiple forms of abuse that lead to their criminalization for self-defense in the context of other resources for safety.

With the new comprehensive process for release and detention hearings, survivors will have an increased opportunity to have their lawyer share their side of the story about the events leading to their arrest. With more thorough hearings that focus on safety—instead of short hearings just focused on money—victims have the chance to not only share their story but also avoid pretrial incarceration and hopefully begin to heal from abuse.



How to Get Help:

The [Illinois Domestic Violence Hotline](#) operates 24 hours a day and is a confidential, free resource for those experiencing domestic violence and their loved ones.

The [YWCA of Chicago](#) operates a Chicago area rape crisis hotline, and is a confidential resource for those who've experienced sexual assault: 888-293-2080.

Text and chat services through the YWCA are also available: Monday-Friday, 3:00 pm – 11:00 pm CST. To use the English chat, users must be 13 years or older. No cost to the user, only standard messaging rates apply. Servicios de Texto y Chat disponibles: Lunes a Viernes, 3:00 pm – 11:00 pm (CST). Para utilizar el chat en español, los usuarios deben tener 13 años o más. Sin costo para el usuario, solo se aplican tarifas de mensajería estándar.

Find a [service provider](#) in your area through the Illinois Coalition Against Domestic Violence.

Find a [service provider](#) in your area through the Illinois Coalition Against Sexual Assault.

Find [additional services](#), including LGBTQ+ and/or culturally specific services, counseling or mental health, health care, and more through the [CAASE Resource Guide](#).

Chat anonymously with a domestic violence advocate for referrals, crisis support, and emergency housing support.

Learn More:

- [Pretrial Fairness Act as Passed \(policy audience\)](#)
- [Dispelling Myths: Pretrial Fairness Act and Domestic Violence](#)
- [Judge says Safe-T Act builds on laws supporting domestic violence survivors](#)

