

New Jersey bail and discovery reforms sharply cut jail population without increase in violent crime

By [Graham Rayman](#)

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Judge Glenn A. Grant at a New Jersey Senate budget committee. (Mel Evans/AP)

Just across the river in New Jersey, where an experiment in criminal justice reform is in its third year, the jail population has been nearly cut in half without an increase in crime or chaos in the court system, court officials told the Daily News. Similar reforms will start in New York on Jan. 1, and authorities predict that when it happens about 88% people arrested for misdemeanors and most non-violent felonies will be released without bail. Discovery reforms will require all evidence to be turned over to defense attorneys within 15 days. That includes grand jury evidence, witness names and contact information, among other things.

With the passage of the new laws, come new worries. Police and prosecutors are concerned about the safety of victims and witnesses, the potential for blown court dates and increased recidivism. All of which, they say could cripple the ability to comply with accelerated discovery requirements and endanger cases.

In New Jersey, those gloom and doom predictions haven't come to pass since the bail and speedy trial laws went into effect on Jan. 1, 2017, according to court statistics.

"There was a lot of consternation, a lot of Chicken Little 'the sky is falling,'" said Elie Honig, a former federal prosecutor and New Jersey public safety director. "We've ended up with a system of locking up fewer people, but more dangerous people. Defendants are not supposed to be taken by surprise. They should see the evidence and not make ill-informed pleas."

The biggest Garden State change reduced the emphasis on setting cash bail as a condition of release. Now, judges use a algorithm combined with discretion to determine who can be set free between court dates. Several factors used in making the determination include a person's age, criminal record and the nature of the arrest. Jurists have 48 hours to come up with a decision.

"In the past, the prosecutor would review whether to release someone on bail in two or three weeks," explained Judge Glenn Grant, administrative director of the New Jersey courts. "By then, the defendant may lose his job, his housing, custody of his children. Now, it's 48 hours. The focus has to be who has the most risk."

The crime wave anticipated by critics of the reforms has not materialized. In fact, violent crimes in New Jersey have declined — from 21,914 in 2016 to 18,357 in 2018, according to the Federal Bureau of Investigation.

"Absolutely, it's working," said Grant. "If you wanted to have the safest community you just would lock up everybody, but we are looking to try to balance presumptions of innocence versus public safety."

Defendants who are released, are monitored through programs paired to the offense they are accused of committing.

The number of those arrested while free between court dates crept up 1% after the reforms kicked in. In 2014, 13% of people were busted on pretrial release, in 2017 it was 14%, court records show.

Tighter timelines to take people from arrest to indictment, and indictment to trial were also imposed as part of the Jersey revamp.

The slight uptick in the number of people who have missed court appearances since the laws went into effect — from 7% in 2014 to 11% in 2017 — appears to have a minimal impact on the length of the justice process, state statistics reveal. Five years ago, 80% of cases were resolved in under 22 months. In the first year of the reforms, 78% were settled in that time frame, court officials said.

As a result of the new bail rules, the New Jersey jail population has declined by nearly to 45%, court records show. Those who are sent to jail pretrial are

spending less time there. The average fell from seven days in 2014 to four days in 2017, according to state documents.

"The old system was such a rotten system that preyed on poor people and just extracted wealth," said Alexander Shalom of the New Jersey American Civil Liberties Union. "The current system, though far from perfect, is far better than what it replaced."

This story is the seventh in a series about upcoming criminal justice reforms that will change how people are prosecuted and detained for crimes.