



Illinois Legislative News

Cash bail elimination ruled as constitutional by Illinois Supreme Court

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In a 5-2 decision that followed right along party lines, the Illinois Supreme Court ruled on July 18 that the elimination of cash bail was constitutional. With the new law’s implementation, Illinois becomes the first state in the U.S. to fully eliminate cash bail – and all provisions of the SAFE-T (Safety, Accountability, Fairness and Equity-Today) Act criminal justice reform will have taken full effect.

Taking effect on Sept. 18, 2023, Illinois counties will have 60 days from the date of the ruling to implement the new system.

The court’s decision still allows for the detainment of an individual while awaiting trial, but that decision will be based on the alleged offender’s risk of fleeing or of committing further crimes instead of on the individual’s ability to pay bail.

“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,” read the majority opinion issued by the Illinois Supreme Court.

“Our constitution creates a balance between the individual rights of defendants and the individual rights of crime victims,” it further read. “The act’s pretrial release provisions set forth procedures commensurate with that balance.”

The high court’s two Republican justices dissented.

Justice David Overstreet, of the 5th District in southern Illinois, wrote that he believed the General Assembly’s elimination of cash bail was “in direct violation” of the constitution.

He said that was particularly true in reference to Section 8.1 of the Crime Victims’ Bill of Rights, which notes that a crime victim and their family has a right for their safety to be considered “in denying or fixing the amount of bail, determining whether to release the defendant, and setting conditions of release after arrest and conviction.”

Overstreet argued that eliminating cash bail would “nullify” that right, claiming that in bypassing a constitutional amendment, lawmakers “impermissibly usurped the ultimate sovereign power in this state, i.e., the citizens.”

“Therefore, this court has an absolute obligation to declare the pretrial release provisions of the Act to be invalid and unenforceable no matter how beneficial the abolishment of monetary bail may be,” Overstreet wrote, joined by Justice Lisa Holder White.

Illinois Senate Republican Leader John Curran (R-Downers Grove) has called for a special session to address the SAFE-T Act and the Illinois Supreme Court’s ruling.

“The long divisive court process instigated by the Democrats’ rushed reform of our criminal justice system opposed by nearly all Illinois law enforcement officials and states attorneys has now concluded with a divided Supreme Court Ruling,” said Curran. “The legislature should finally heed the concerns of law enforcement, judges and their communities and immediately return for a special session to properly address the SAFE-T Acts’ negative impact on the public before this ill-conceived statute goes into effect in 60 days.

“While no person should be held in jail or let free because of their economic circumstances, the SAFE-T Act handcuffs law enforcement and judges making it more difficult for them to combat

violent crime,” Curran said further. “It is possible to reform our cash bail system while keeping our communities safe and the legislature should return immediately to ensure that public safety is in no way jeopardized by the implementation of this reckless legislation before it takes effect.”

Madison County State’s Attorney Tom Haine and Sheriff Jeff Connor issued a joint statement following the Illinois Supreme Court ruling, noting both disappointment and disagreement with the Court’s decision:

“We are disappointed by the Supreme Court’s decision, and respectfully disagree with it. But our constitutional structure gives our Illinois Supreme Court the final say in interpreting our State Constitution, and we will continue to uphold and follow its decisions. Thankfully, due to diligent work over the past months and years, Madison County will be prepared for the Sept. 18, 2023, implementation ordered by the court, and will be coordinating the local law enforcement community toward that task in the weeks ahead. While rules may change, the commitment of our offices will not: We will always fight for victims of crime and strive to protect our community from lawbreakers,” Haine and Connor’s statement began.

“We remain convinced that the SAFE-T Act is ill-conceived legislation that will take discretion and tools away from our local judges, impose serious unfunded burdens on local prosecutors, delay justice for victims of crime, and ultimately make our neighborhoods less safe. Obviously, its supporters disagree with that assessment. Now that the Supreme Court has allowed this law to go forward as designed, we will all know soon enough, and time will tell who is right or wrong. Frankly, we hope to be proven wrong,” Haine and Connor further noted.

“We hope that years from now the facts show that the SAFE-T Act’s changes have made us all more safe and secure and have not empowered criminals. But we doubt it. And if negative impacts from the SAFE-T Act’s revolutionary changes become undeniable in communities across this state over the coming years, we would hope the General Assembly and Governor will reverse course and give judges and prosecutors back the tools that this law stripped away from them. Public safety is too important,” concluded the statement from Haine and Connor.

Haine, Connor, and former Sheriff John Lakin were part of a bipartisan group of State’s Attorneys and Sheriffs from over 60 Illinois counties who sued Gov. J.B. Pritzker to block implementation of the SAFE-T Act.

On Dec. 28, 2022, Circuit Judge Thomas Cunningham ruled in their favor, finding that the elimination of cash bail is unconstitutional. The judge ruled that “the appropriateness of bail rests with the authority of the court and may not be determined by legislative fiat.” Pritzker appealed the judge’s ruling to the Illinois Supreme Court, which overturned the Circuit Court and ordered that the SAFE-T Act be implemented on Sept. 18, 2023.

State Representative Amy Elik (R-Alton) weighed in on the Illinois Supreme Court’s July 18 ruling, saying, “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.”

State Senator Erica Harriss (R-Glen Carbon) also shared her thoughts: “Today’s ruling is not only concerning for our law enforcement community and criminal justice system, but even more so for public safety. 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.”

State Representative Kevin Schmidt (R-Millstadt) noted that the ruling was “another example of the culture of corruption in Illinois.” In his official statement, Schmidt noted, “The bail process is clearly outlined in the very first article of our State’s Constitution and the word ‘shall’ is used, but somehow the justices decided the state could ignore the Constitution and unilaterally eliminate cash bail.”

He added that the Illinois Supreme Court’s decision would “only serve to make our communities less safe” while noting that crime had gone up in New York after bail reforms were implemented, and that the law there was recently amended to give judges more discretion. “Our Constitution clearly sets forth provisions for cash bail, but those provisions were ignored in this ruling,” Schmidt summarized.

Following the ruling, Illinois Governor JB Pritzker issued an official statement that read, “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 his-

toric 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.”

Support from the Governor’s party continued:

“Today’s ruling by the Illinois Supreme Court is a victory in the fight for a fairer criminal justice system,” said Lisa Hernandez, chair of the Democratic Party of Illinois. “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.”

State Rep. Jehan Gordon-Booth (D-Peoria) said, “This decision reflects the countless hours of careful consideration that went into every component of the SAFE-T Act. Responsibly modernizing our pretrial procedures will not only create a fairer process, it will help to make our communities safer by basing release decisions on a public safety assessment instead of a defendant’s access to cash.

“Public safety is never a static issue, and today’s Illinois Supreme Court decision is just one part of a larger effort to make our communities safer. I will continue to regularly engage first responders, prosecutors, community advocates and area residents as we work together to comprehensively curb violence,” she added.

• *Capitol News Illinois also contributed to this story.*

Illinois included in \$12.4 million settlement from Raymond James financial entities

Illinois Secretary of State Alexi Giannoulias announced on July 20, 2023, that Illinois is part of a \$12.4 million settlement with Raymond James & Associates, Inc. and Raymond James Financial Services, Inc.

Illinois is among five other states that discovered Raymond James entities had charged unreasonable commissions on trades that have harmed main street investors, including Illinoisans.

As part of the settlement, Raymond James will pay at least \$8.2 million in refunds to clients nationwide and \$4.2 million in penalties and costs to state securities regulators.

“This case will help ensure that investors are treated fairly by broker-dealers and financial services firms,” Giannoulias said. “These companies must comply with protections currently in place. No matter how large or small an investor’s transactions are, the state securities regulators in Illinois will ensure investors are protected.”

Giannoulias noted that Illinois customers will receive \$328,000 in restitution. The Secretary of State’s Securities Department levied a \$75,000 fine and will receive an additional \$25,000 reimbursement for the cost of the investigation.

An investigation by the state securities regulators from Illinois, Alabama, California, Massachusetts, Montana and Washington

concluded that Raymond James charged excessive commissions on over 270,000 low-principal amount equity transactions nationwide.

The investigation found that Raymond James’ commissions on transactions were more than 5% of the principal value, and Raymond James took up to 100% of proceeds from customer sales. Over five years, this amounted to more than \$8,250,000 of excess commissions.

Raymond James agreed to confirm that its policies and procedures have been recently enhanced to ensure that commissions are fair and reasonable. One year after demonstrating its new policies and procedures, Raymond James will conduct a review to confirm they are being properly implemented. The review will be reported to the states involved in the investigation.

Giannoulias encouraged investors to contact the Illinois Secretary of State Securities Department at 800-628-7937 for investment questions or concerns. The Illinois Securities Department ensures that any person offering securities or providing financial services complies with the state’s laws.

The Securities Department licenses and regulates financial services, including investment advisers, loan brokers and business brokers. Information about the Securities Department is available at ilsos.gov.