

A Resolution Encouraging All Settings of the Southern Conference of the United Church of Christ to Advocate and Act to Change the Cash Bail Bond System to Eliminate Racial and Social Injustices Inherent in the Present System

SUMMARY

This resolution calls on the Southern Conference of the United Church of Christ to advocate and act to change the Cash Bail Bond System in the individual states and United States of America to be more just to the economically disadvantaged.

BIBLICAL AND THEOLOGICAL RATIONALE

Isaiah 42:5-7 “Thus says God, the LORD, who created the heavens and stretched them out, who spread out the earth and what comes from it, who gives breath to the people on it and spirit to those who walk in it: ‘I am the LORD; I have called you in righteousness; I will take you by the hand and keep you; I will give you as a covenant for the people, a light for the nations, to open the eyes that are blind, to bring out the prisoners from the dungeon, from the prison those who sit in darkness.’”

Isaiah 61:1-4, 8-11 “The spirit of the Lord God is upon me, because the Lord has anointed me; has sent me to bring good news to the oppressed, to the brokenhearted, to proclaim liberty to the captives, and release to the prisoners”

Matthew 25: 31-33, 41-46 “When the Son of Man comes in his glory, and all the angels with him, he will sit on his glorious throne. All the nations will be gathered before him, and he will separate the people one from another as a shepherd separates the sheep from the goats. He will put the sheep on his right and the goats on his left. . . . Then he will say to those on his left, ‘Depart from me, you who are cursed, into the eternal fire prepared for the devil and his angels. For . . . I was sick and in prison and you did not look after me. They also will answer, ‘Lord, when did we see you hungry or thirsty or a stranger or needing clothes or sick or in prison, and did not help you? He will reply, ‘Truly I tell you, whatever you did not do for one of the least of these, you did not do for me.’ Then they will go away to eternal punishment, but the righteous to eternal life.”

Hebrews 13:3 “Remember those who are in prison, as though you were in prison with them; those who are being tortured, as though you yourselves were being tortured;”

HISTORICAL GROUNDING

1. Empirical evidence shows that the cash bail system is corrupt, unfair and ineffective. The cash bail system requires pretrial defendants to pay hundreds to thousands of dollars to the courts, as secured through bail bondsmen, and usually requires low income individuals to agree to usurious terms for borrowing such funds. Lacking such funds, individuals are subject to incarceration prior to their trials, which then costs the state up to one hundred dollars per day for each individual. As such, several municipalities and states throughout the U.S. have successfully enacted other approaches to pretrial requirements for defendants accused of misdemeanors and some lesser felonies (1).

2. The United Church of Christ has a long record of advocating reform of the cash bail bond system.
 - a. Forty-six years ago (1973), the United Church of Christ's Advising Body of the General Synod adopted the following CRIMINAL JUSTICE-PENAL REFORM statement as amended on Excessive Bail (73-GS-38)
 - i. "The Ninth General Synod of the United Church of Christ:
 - I. Denounces the practice of setting excessive bail, especially in the case of political activists
 - II. Calls upon the Criminal Justice Priority Team of the United Church of Christ to develop viable revisions and alternatives to cash bail and transmit those to our membership, to congressmen, and legislators.
 - III. Make available staff consultative and financial support for local programs which share this goal, and for Conferences which in cooperation with other agencies are working toward this goal; said support may come in the form of a pilot project in one or more conferences."
 - b. Forty-eight years ago (1971), the United Church of Christ endorsed the following goals and objectives: "The Eighth General Synod adopts the following Goals and Objectives for the priority, Racial Justice. To urge enactment of state and federal laws reforming the bail system. It should be provided that those defendants who would ordinarily purchase corporate bail will deposit their money with the court and they will recover 90% of this money after the completion of their cases. The acceptance to this nominal bail or personal recognizance bonding should be encouraged, especially where the defendants are employed. The court shall give priority to the trials of all cases where the defendants have failed to post bail. No person should be held in prison without bail longer than sixty days after indictment or the termination of the first term of criminal court after his indictment."
3. The Episcopal Diocese of North Carolina has adopted a resolution asking for cash bail bond reform:
 - a. The 203rd Annual Convention of the Episcopal Diocese of North Carolina Act 2018-12 Resolution 203.12 "**On examining the need for bail reform within the criminal justice system:** Resolved, the 203rd Annual Convention of the Diocese of North Carolina supports actions to reform, and commits to examine, current judicial pretrial release procedures within our own state. The consideration of current pretrial release practices will be conducted in partnership with organizations currently engaged in the study of the money-bail system and steps will be taken in support of needed reforms. Pretrial-release practices will be considered for consistency with the teachings of Jesus concerning the equitable treatment of all people. Further, this consideration of the money-bail system of pretrial release is in keeping with the mandate of our baptismal covenant to strive for justice and peace among all people, and respect the dignity of every human being."
4. States and jurisdictions across the country have changed or are investigating the ability to change bail bond systems toward systems that do not punish individuals for poverty itself. Results indicate that financial savings are available for individuals and the legal system, and defendants continue to appear for their court days (2).

- a. A recent study reports results of reform to the cash bail bond system in Philadelphia, PA (over the 2018 year) as successful and has been outlined by Jessica Smith, W.R. Kenan, Jr. Distinguished Professor of Public Law and Government at UNC School of government, on her blog posting (3).
- b. In a previous posting Ms. Smith lists the need for a change to pretrial adjudication being based on four main problems: public safety (wealthier individuals can buy their way out of incarceration); costs to taxpayers; fairness; and racial and ethnic disparities.
5. A comprehensive compilation of the research on pretrial alternatives to cash bail, based on nationwide research with ensuing recommendations for states, was published in February, 2019 by the Harvard Law School. This Guide to bail reform warns against the use of risk assessment tests that are too general, and often have inherent racial and economic biases. Instead, risk assessments which are validated for each location-specific population, and which are developed by an entity who will not profit from the use of algorithm is advised as necessary (4).
 - a. More than 100 civil rights, faith, labor, legal and data science groups released a shared statement of concerns about the use risk assessments (5).
6. An earlier set of cash bail guidelines for NC were published in 2016 (6):

RESOLUTION

WHEREAS, the U.S. has the highest rate of incarceration in the world and African Americans, Latinos, Latinas, and indigenous peoples are disproportionately incarcerated in the United States (7);

WHEREAS, since 2000, the vast majority of the jail population increase was caused by the detention of individuals prior to trial (pretrial) of which 60 to 70% were classified nonviolent minimum-security (8);

WHEREAS, cash bail bonding is an over 2-billion-dollar industry (9);

WHEREAS, the inability to make cash bail extracts an untold human cost on the accused due to their loss of employment, housing and, often times, family support (10);

WHEREAS, there are proven instances of inadequate health care for incarcerated persons, death and injury suffered by incarcerated persons (11);

WHEREAS, at least 70% of inmates in local jails are not convicted of any crime (8, 12);

WHEREAS, persons who cannot make bail are poor and four times more likely to receive jail time with sentences three times longer than those who do make bail (13, 14);

WHEREAS, bail set for people of color exceeds that for whites by 35% and Latinos by 19% (1, 15);

WHEREAS, three out of four criminal cases in state trial courts are for misdemeanors that, if proved, would result in fines and/or less than a year in jail (16);

WHEREAS, political contributions made by the Bail Industry in between 2002 and 2016 exceeded \$5,000,000 (17);

WHEREAS, money-based systems release nearly half of the most dangerous defendants with little to no meaningful supervision (18);

WHEREAS, the US is the only nation besides the Philippines to have a legal commercial bail bond industry;

WHEREAS, corporate and/or systemic structures, or individuals which derive profit from the imprisonment of human beings serve to perpetuate the legacy of slavery, oppression and heartless greed which the United Church of Christ has long sought to expose and correct;

WHEREAS, we are admonished as followers of Christ to “Remember those who are in prison, as though you were in prison with them; those who are being tortured, as though you yourselves were being tortured;” (Hebrews 13:3)

THEREFORE, BE IT RESOLVED, that the delegates to the 55th Annual Gathering The Southern Conference of the United Church of Christ encourage the reform of the bail bond systems within individual states and the United States in order to eliminate the racial and social injustices inherent in the present cash bail bond systems; and

BE IT FURTHER RESOLVED, that we encourage all settings of the church to raise their consciousness of the theological, social, racial, ethnic and economic inequities which make possible the existence of the unfair and unjust bail bond systems; and

BE IT FURTHER RESOLVED, that to accomplish these goals, we encourage all settings of the church to seek partnerships with other organizations also working toward the goals; and

BE IT FINALLY RESOLVED, that the delegates to the 55th Annual Gathering The Southern Conference of the United Church of Christ calls upon the U.S. Congress and state legislatures to reform the cash bail bond systems to be more just and humane.

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