

115TH CONGRESS
2D SESSION

H. R. 4833

To require that States release persons charged with a misdemeanor on non-monetary conditions only prior to court adjudication.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 18, 2018

Mr. DANNY K. DAVIS of Illinois (for himself, Ms. JACKSON LEE, Mr. EVANS, Mr. RUSH, Ms. KELLY of Illinois, Mr. SCOTT of Virginia, Ms. MOORE, Ms. EDDIE BERNICE JOHNSON of Texas, and Ms. SEWELL of Alabama) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To require that States release persons charged with a misdemeanor on non-monetary conditions only prior to court adjudication.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Bail Fairness Act of
5 2018”.

1 **SEC. 2. NO MONETARY CONDITIONS OF RELEASE TO BE AP-**
2 **PLIED TO PERSONS CHARGED WITH MIS-**
3 **DEMEANORS.**

4 (a) REQUIREMENT REGARDING STATE LAW.—For
5 each fiscal year after the expiration of the period specified
6 in subsection (b)(1) in which a State receives funds for
7 a program referred to in subsection (b)(2), the law of that
8 State shall conform to the following:

9 (1) BAIL FOR MISDEMEANORS.—The law of
10 that State may not provide for monetary conditions
11 of release from custody of a person if that person
12 has not previously been convicted for a criminal of-
13 fense and is held in custody by reason of having
14 been arrested for the commission of a misdemeanor
15 that is not a crime of violence (as such term is de-
16 fined in section 16 of title 18, United States Code).

17 (2) PRE-TRIAL DIVERSION.—The law of that
18 State shall provide for a program under which any
19 criminal charges filed against an offender described
20 in paragraph (1) may be dismissed if—

21 (A) the offender qualifies for and satisfac-
22 torily completes a State-authorized mental
23 health diversion program;

24 (B) the offender qualifies for and satisfac-
25 torily completes a State-authorized drug/alcohol
26 abuse diversion program;

1 (C) the offender qualifies for and satisfac-
2 torily completes a State-authorized community
3 service diversion program; or

4 (D) the offender qualifies for and satisfac-
5 torily completes any other State-authorized di-
6 version program that is appropriate to the age
7 of the offender and the offense charged.

8 (b) COMPLIANCE AND INELIGIBILITY.—

9 (1) COMPLIANCE DATE.—Each State shall have
10 not more than 120 days, beginning on the date of
11 enactment of this Act, to comply with subsection (a),
12 except that—

13 (A) the Attorney General may grant an ad-
14 ditional 120 days to a State that is making
15 good faith efforts to comply with such sub-
16 section; and

17 (B) the Attorney General shall waive the
18 requirements of subsection (a) if compliance
19 with such subsection by a State would be un-
20 constitutional under the constitution of such
21 State.

22 (2) INELIGIBILITY FOR FUNDS.—For any fiscal
23 year after the expiration of the period specified in
24 paragraph (1), a State that fails to comply with sub-
25 section (a), shall be subject to not more than a 20-

1 percent reduction of the funds that would otherwise
2 be allocated for that fiscal year to the State under
3 subpart 1 of part E of title I of the Omnibus Crime
4 Control and Safe Streets Act of 1968 (42 U.S.C.
5 3750 et seq.), whether characterized as the Edward
6 Byrne Memorial State and Local Law Enforcement
7 Assistance Programs, the Local Government Law
8 Enforcement Block Grants Program, the Edward
9 Byrne Memorial Justice Assistance Grant Program,
10 or otherwise.

11 (c) REALLOCATION.—Amounts not allocated under a
12 program referred to in subsection (b)(2) to a State for
13 failure to fully comply with subsection (a) shall be reallo-
14 cated under that program to States that have not failed
15 to comply with such subsection.

16 **SEC. 3. DEPARTMENT OF JUSTICE REVIEW OF RESEARCH**
17 **RELATED TO BAIL REFORM AND PRETRIAL**
18 **RELEASE PROGRAMS.**

19 (a) IN GENERAL.—The Attorney General shall review
20 research and the results of studies which have been com-
21 pleted as of the date of the enactment of this Act related
22 to bail reform and pretrial release programs in order to
23 determine best practices, and shall make such best prac-
24 tices publicly available.

1 (b) PREVENTING WASTE.—Not later than 180 days
2 after completing the review under subsection (a), the At-
3 torney General shall publish guidelines for States related
4 to reducing and preventing the waste of Federal resources
5 in connection with bail reform and pretrial release pro-
6 grams.

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