

---

---

# *Public Hearing*

before

## SENATE LAW AND PUBLIC SAFETY COMMITTEE

### *Senate Concurrent Resolution 128*

*“Proposes constitutional amendment to authorize, under certain circumstances,  
pre-trial detention of persons in criminal cases”*

---

---

**LOCATION:** Committee Room 10  
State House Annex  
Trenton, New Jersey

**DATE:** July 24, 2014  
10:30 a.m.

#### **MEMBERS OF COMMITTEE PRESENT:**

Senator Donald Norcross, Chair  
Senator Linda R. Greenstein, Vice Chair  
Senator Peter J. Barnes III  
Senator James W. Holzapfel



#### **ALSO PRESENT:**

Wendy S. Whitbeck  
*Office of Legislative Services  
Committee Aide*

Lisa Velasquez  
*Senate Majority  
Committee Aide*

Frank Dominguez  
*Senate Republican  
Committee Aide*

***Hearing Recorded and Transcribed by  
The Office of Legislative Services, Public Information Office,  
Hearing Unit, State House Annex, PO 068, Trenton, New Jersey***

---

---



DONALD NORCROSS  
*Chair*

LINDA R. GREENSTEIN  
*Vice-Chair*

NICHOLAS J. SACCO  
CHRISTOPHER "KIP" BATEMAN  
JAMES W. HOLZAPFEL

WENDY S. WHITBECK  
*Office of Legislative Services  
Committee Aide*  
(609) 847-3870  
(609) 777-2715 fax

**New Jersey State Legislature**  
**SENATE LAW AND PUBLIC SAFETY COMMITTEE**  
STATE HOUSE ANNEX  
PO BOX 068  
TRENTON NJ 08625-0068

**PUBLIC HEARING NOTICE**

**The Senate Law and Public Safety Committee will hold a public hearing on Thursday, July 24, 2014 at 10:30 AM in Committee Room 10, 3rd Floor, State House Annex, Trenton, New Jersey.**

*The public may address comments and questions to Wendy S. Whitbeck, Committee Aide, or make bill status and scheduling inquiries to Debra L. Mayberry, Secretary, at (609)847-3870, fax (609)777-2715, or e-mail: OLSAideSLP@njleg.org. Written and electronic comments, questions and testimony submitted to the committee by the public, as well as recordings and transcripts, if any, of oral testimony, are government records and will be available to the public upon request.*

**The public hearing will be held in accordance with Rule 24:3 of the New Jersey Senate on the following Senate Concurrent Resolution:**

SCR-128 Norcross	Proposes constitutional amendment to authorize, under certain circumstances, pretrial detention of persons in criminal cases.
---------------------	---

Issued 7/17/14

For reasonable accommodation of a disability call the telephone number or fax number above, or TTY for persons with hearing loss 609-777-2744 (toll free in NJ) 800-257-7490. The provision of assistive listening devices requires 24 hours' notice. Real time reporter or sign language interpretation requires 5 days' notice.

For changes in schedule due to snow or other emergencies, call 800-792-8630 (toll-free in NJ) or 609-292-4840.

## TABLE OF CONTENTS

	<u>Page</u>
Richard Todd Edwards Political Action Chairman New Jersey State Conference National Association for the Advancement of Colored People	4
Reva Foster Chair New Jersey Black Issues Convention	7
Reverend Ronald Tuff Second Vice Chair New Jersey Black Issues Convention	8
Roseanne Scotti New Jersey State Director Drug Policy Alliance	8
Daniel Phillips Legislative Liaison Administrative Office of the Courts State of New Jersey	9
Captain Gregory Carlin Police Department City of Camden	10
Jerome C. Harris Jr. Interim President and Chief Executive Officer New Jersey Institute for Social Justice	13
Senator Ronald L. Rice District 28	15
Bernadette Lambe Domestic Violence Response Team Coordinator Camden County Women's Center	24
Akil S. Roper, Esq. Vice President and Assistant General Counsel Legal Services of New Jersey	26

## TABLE OF CONTENTS (continued)

	<b><u>Page</u></b>
Melville D. Miller Jr., Esq. President and General Counsel Legal Services of New Jersey	26
Lynn Nowak, Esq. Representing American Civil Liberties Union of New Jersey	28
Reverend Sara E. Lilja Director Lutheran Office of Governmental Ministry New Jersey Synod-Evangelical Lutheran Church in America	29
Anna Cuqui Rivera Administrative Chair Integrated Justice Alliance	31
Mary Ellen Marino New Jersey Chair Progressive Democrats of America, and President New Jersey Progressive Democratic Caucus	32
Reverend Gregory Bezilla Chaplain Episcopal Campus Ministry at Rutgers	33
Pastor Leroy Scott III Founder Faith Christian Counseling Center, Inc.	34
Reverend Bruno Rodriguez Representing Evangelical Pastors Association of Hudson County	36
Sintra Carrabello Representing Evangelical Pastors Association of Hudson County	36

## **TABLE OF CONTENTS (continued)**

### **APPENDIX (continued)**

	<b><u>Page</u></b>
Gale Muhammad Founder and President Women Who Never Give-Up, Inc.	38
Mustafa Willis Private Citizen	40
Patrick Gallahue Private Citizen	41
<b>APPENDIX:</b>	
Testimony submitted by Roseanne Scotti	1x
Testimony submitted by Jerome C. Harris Jr.	3x
Testimony submitted by Senator Ronald L. Rice	7x
Testimony submitted by Melville D. Miller Jr., Esq. and Akil S. Roper, Esq.	10x
Testimony submitted by Lynn Nowak, Esq.	18x
Testimony submitted by Reverend Sara E. Lilja	19x

## **TABLE OF CONTENTS (continued)**

### **APPENDIX (continued)**

	<b><u>Page</u></b>
Testimony submitted by Anna Cuqui Rivera	20x
Testimony submitted by Mary Ellen Marino	22x
Testimony submitted by Reverend Gregory Bezilla	23x
Testimony submitted by Pastor Leroy Scott III	24x
Testimony submitted by Gale Muhammad	26x
Testimony submitted by Mustafa Willis	27x
Testimony submitted by Patrick Gallahue	28x
Testimony submitted by Vanessa M. Wilson, Esq. Senior Pastor Magnolia Road United Methodist Church, and Chair Commission of Religion and Race Greater New Jersey Conference United Methodist Church	30x

## **TABLE OF CONTENTS (continued)**

### **APPENDIX (continued)**

	<b><u>Page</u></b>
Testimony submitted by Jena Morrow Representing The New Jersey State Bar Association	31x
Testimony submitted by Reverend Doris Glaspy Pastor Roseville Presbyterian Church	32x
Testimony submitted by Reverend Errol Cooper Associate Pastor First Baptist Church of Lincoln Gardens	33x
Testimony submitted by Reverend Karen Hernández-Granzen Pastor/Head of Staff Westminster Presbyterian Church	35x
Testimony submitted by Reverend Craig Hirshberg Executive Director Unitarian Universalist Legislative Ministry of New Jersey	37x
Testimony submitted by Micah Khan Director of Operations Nehemiah Group	38x

## TABLE OF CONTENTS (continued)

### APPENDIX (continued)

	<u>Page</u>
Testimony submitted by James A. Hemm President New Jersey Chapter American Correctional Association	40x
Testimony submitted by Daniel L. Lombardo President and Chief Executive Officer Volunteers of America Delaware Valley	41x
Testimony submitted by Angel M. Perez Executive Director New Jersey Association on Correction	42x
Testimony submitted by Bonnie Kerness Director Prison Watch Program American Friends Service Committee	43x
Testimony submitted by Jean Ross Representing People's Organization for Progress	44x
Testimony submitted by Evan Nison Executive Director NORML New Jersey	45x

## **TABLE OF CONTENTS (continued)**

### **APPENDIX (continued)**

	<b><u>Page</u></b>
Testimony submitted by Jayson Rogers Chairperson Fathers and Men United for a Better Trenton	46x
Testimony submitted by Dorothea R. Hoffner Representing First Presbyterian and Trinity Church of South Orange	48x
Testimony submitted by Avron Stoloff Private Citizen	49x
Testimony submitted by Elise Linden Representing The Anti-Racist Alliance of Northern New Jersey	50x
Testimony submitted by Frank Argote-Freyre President Latino Action Network	51x
Testimony submitted by Charles Brooks, Esq. General Counsel Southern Christian Leadership Conference	53x

**TABLE OF CONTENTS (continued)**

**APPENDIX (continued)**

	<b><u>Page</u></b>
Testimony submitted by Darren M. Gelber President Association of Criminal Defense Lawyers of New Jersey	56x
pnf:1-43	

**SENATOR DONALD NORCROSS (Chair):** Good morning.  
Welcome to the Law and Public Safety hearing on bail.  
Roll call, please.

MS. WHITBECK (Committee Aide): Senator Holzapfel.

SENATOR HOLZAPFEL: Here.

MS. WHITBECK: Senator Barnes.

SENATOR BARNES: Here.

MS. WHITBECK: Senator Greenstein

**SENATOR LINDA R. GREENSTEIN (Vice-Chair):** Here.

MS. WHITBECK: And Senator Norcross.

SENATOR NORCROSS: Here.

MS. WHITBECK: Roll call is concluded.

SENATOR NORCROSS: Thank you.

Welcome to the hearing on SCR-128, which makes much needed changes to our State's bail system.

With regard to the process, this is a hearing for discussion only; we will not be voting on this Bill. Our goal is to hear from stakeholders on all sides of the issue.

To that end, we've had multiple hearings over the course of the last two years discussing both the resolution before the Committee, and the related Bill under consideration by the Legislature.

We held our first public hearing -- meeting on June 4, 2012; our second, June 27, 2013, with extensive participation from interested individuals and organizations, including many you'll hear from today.

We are meeting again here today to consider changes that will strengthen our criminal justice system, keeping the most violent offenders off the street.

Too often, violent offenders with ready access to cash post bail shortly after being arraigned and are back on the streets where they can terrorize their victims, coerce witnesses against them, and threaten the community at large.

In my District, in my home city, we have too many examples of violent offenders returning to the scenes of the crime to reoffend. Just last year, a man out on bail shot a woman who was scheduled to testify against him, nearly killing her. In 2011, a 20-year-old culinary arts student was killed by a man out on bail while awaiting trial for attempted murder. He was initially arrested seven months earlier. Another man killed his sister while out on bail for arson charges. Unfortunately, the list goes on and on.

Over and over again, violent criminals are released into our communities because our current system prioritizes an offender's wallet over his risk. It is time that we give our justice system the ability to weigh the public risk certain offenses pose to keep residents safe when considering bail of dangerous criminals. More to the point, this measure would bring New Jersey in line with the Federal courts, which has allowed judges this discretion since 1984.

Twenty-six other states, as well as the District of Columbia, have enacted the very types of measures that we're considering here today. This resolution acts as a companion Bill, which will allow judges the opportunity to consider non-monetary bail options for low-risk offenders. Forty percent of the state's prison population consists of nonviolent

offenders with rights to bail, but lacking the means to secure their freedom. The average length of stay for these individuals is 10 months before they ever see a trial, with about 1,800 nonviolent offenders each day waiting for trial because they couldn't make bail of \$2,500 or less.

This 10 months on the taxpayers' tab adds up quickly. More importantly, it's unethical to condemn a person to the life-long effects caused by a long prison stay when the only thing they've been found guilty of is being poor.

By giving judges the latitude to provide low-risk offenders with alternatives to pre-trial incarcerations -- such as drug rehabilitation or counseling, job training, or employment responsibilities -- we are empowering them to become tax contributors, not tax burdens.

Today, our job is to discuss SCR-128 and develop a new pre-trial release system -- that frees judges to make commonsense decisions about assigning bail, instead of remaining handcuffed by the rigid formulas that are in place -- by building a bail system that enables judges to put public safety first, understanding that offenders' risk is more important than his wallet.

We want to thank everybody for their participation today and leading up to today.

And now I'd like to call up our first witness to testify -- Mr. Todd Edwards of the NAACP, New Jersey.

Thank you, and welcome.

**RICHARD TODD EDWARDS:** Good morning.

Chairman and members of the State Law and Public Safety Committee, my name is Richard Todd Edwards, and I am the Political Action Chairman for the NAACP New Jersey State Conference.

I bring you greetings on behalf of our State Conference, the officers, Executive Committee, and members.

Founded in 1909, the NAACP is the nation's oldest and largest civil rights organization. From the ballot box to the classrooms, the thousands of dedicated workers, organizers, leaders, and members who make up the NAACP continue to fight for social justice for all Americans.

I bring a special greeting on behalf of our State Conference President, Richard T. Smith, who would have been here but is attending the NAACP 105th Annual National Convention in Las Vegas.

New Jersey's bail system is broken. Three-quarters of the people being warehoused in our jails are there awaiting trial rather than serving a sentence, and their average length of stay is about 10 months. Almost half of these defendants are incarcerated solely because they cannot afford often nominal amounts of bail.

The current system is unfair and unsafe. Those with money can obtain release no matter how serious the crime, or how much of a danger they pose to public safety. Those without money sit in jail for months on end, no matter how minor their offense and no matter that they pose no danger to public safety.

A great deal of work has been done by all involved -- this includes those of the Senate, the Assembly, the NAACP, New Jersey BIC, the Institute of Social Justice, the ACLU, and the Drug Policy Alliance -- just to name a few.

We wholeheartedly commend Senator Ronald Rice and Senator Nia Gill whose insight enabled us to move closer to support the constitutional amendment by their insistence that we more clearly define who a *defendant* is; ensuring that the risk assessment process is fair and equitable; that some explanations in regards to a financial note are included explaining how this legislation will be funded.

We realize that there's a desire to meet the August 4 deadline, and we wholeheartedly respect that. However, we also expect that every effort is made by all parties involved to ensure that the legislative document that will be attached to the proposed constitutional amendment be tight and right.

There is no room for error because people's lives are depending on it -- and on us. These documents are tied together. When we change the Constitution, we must ensure that the implementation instructions are sound, and will in no way be harmful to those who most often have been victimized by the justice system for too long.

The resolution before you is a step forward towards fixing these problems, but is insufficient standing on its own. SCR-128 only allows for pre-trial detention of high-risk defendants; it does implement a mechanism to allow for pre-trial release of low-risk arrestees. For this reason, we will only support this resolution for a constitutional amendment if it is balanced with comprehensive bill reform legislation that moves the current broken bail system away from using money bail and replaces it with a system that bases pre-trial release decisions on risk; however, still allowing a judge the discretion to use bail, if applicable.

Real, comprehensive bail reform promotes both safety and justice. Legislation to enact real, comprehensive bail reform must include several key elements: It must remove money as a primary mechanism of pre-trial release, basing pre-trial release decisions on risk rather than resources while still providing a judge to use bail, if applicable.

It must require the use of risk assessments on arrestees with higher-level charges, and the risk assessment procedures must be fair and equitable and non-discriminatory to people of color.

It must authorize the release of low-risk individuals under the least restrictive conditions possible. It must permit the detention of those who are judged to be truly dangerous. It must include a clear and definitive definition of the word *defendant*. It must include a financial note which will explain how the legislation will be funded. It must include clear and definitive language in regards to a speedy trial and acceptable timeframes that will be adhered to.

SCR-128, paired with a version of A-1910 and S-946 that includes these key elements, would better protect the rights of countless individuals who are incarcerated simply because they cannot afford to pay their way out of jail. It will guarantee safer communities by authorizing the detention of dangerous defendants, and it would benefit the State by mitigating the major financial burdens associated with unnecessary detention and excessive rates of incarceration.

Our support can be had if the legislation addresses the issues and concerns shared in my testimony today. The NAACP is ready and willing to continue to work with all parties involved to make this much-needed reform a reality.

Again, on behalf of our President Richard T. Smith, and the New Jersey State Conference of the NAACP, we thank you for your time and considerations of our concerns and requests.

SENATOR NORCROSS: Thank you.

Any questions from the Committee? (no response)

Seeing none, thank you for your testimony. We appreciate your input.

Next up we have Reva Foster and Reverend Ronald Tuff from New Jersey Black Issues Convention.

Good morning and welcome.

**REVA FOSTER:** Good morning; thank you very much, to the Chair and to the Committee. We're very happy to be here to represent the New Jersey Black Issues Convention, which is an organization of organizations with 40 organizations being represented by the two of us -- Reva Foster and Reverend Tuff, who is a First Vice Chair of the organization.

New Jersey Black Issues Convention supports bail reform -- The 40 organizations, that I mentioned earlier, represents -- and would like to see the bail reform put into effect. We do not want to violate the rights of citizens to due process of the law and we want to ensure that those who are charged with offenses and are arrested maintain their constitutional rights to a speedy trial.

We hope that you will take under consideration these comments that I am making at this time, and we'd also like to thank Senator Nia Gill and also Senator Ron Rice for all of their diligence and work to make sure that we are well aware of exactly the details of the amendments.

Thank you for the opportunity to speak before you for the New Jersey Black Issues Convention.

**REVEREND RONALD TUFF:** My name is Reverend Ronald Tuff and I am the Second Vice Chair of New Jersey Black Issues Convention.

And I would like to support the statements that my president has stated to the Committee this morning.

Thank you.

**SENATOR NORCROSS:** Thank you.

Any questions from the Committee? (no response)

Hearing none, thank you for your testimony.

Next up we have Roseanne Scotti from the Drug Policy Alliance.

**ROSEANNE SCOTTI:** Thank you, Mr. Chairman, and members of the Committee.

I will be very brief. I think the Chairman and other individuals who are going to speak today will discuss the statistics. And I think we all know them; this issue has been vetted for a very long time, at this point.

Suffice it to say that we have a broken bail system. We have a system that no matter how dangerous you are, if you have enough money, you can be released and do damage to all our communities. We have a system that no matter how low-level you are, your offenses, how little danger you pose, you will sit in jail simply because you do not have the resources. The average length of time, as the Chairman said, that people are currently sitting in jail -- and it's 40 percent of the people who are

sitting in jail -- are there simply because they cannot pay bail and they sit there for 10 months.

This is one step towards a comprehensive package. We do support this resolution, as long as it is paired with comprehensive bail reform legislation. We have been in communication with the Chairman, with the Senate President, with members on both sides of the aisle in both houses. We believe that S-946 is very, very close to being exactly what we need to implement real and comprehensive bail reform. And with that being the case, we would support this amendment.

Thank you.

SENATOR NORCROSS: Thank you.

Any questions from the Committee? (no response)

Seeing none, we appreciate your testimony.

Next is Dan Phillips of the Administrative Office of the Courts.

**DANIEL PHILLIPS:** I'll just be very brief.

We do support the resolution. It's consistent with the Chief Justice's Joint Committee on Criminal Justice -- the recommendations. And we appreciate -- very much appreciate the opportunity to participate in the process.

Thank you.

SENATOR NORCROSS: Thank you for your testimony.

Any questions from the Committee? (no response)

Seeing none, from the Camden County Police Department, Captain Greg Carlin.

Welcome back, Captain. It's good to see you.

**CAPTAIN GREGORY CARLIN:** Good morning, Chairman Norcross, members of the Committee.

Thanks again for allowing me the opportunity to testify before you today in support of this important legislation.

My name is Greg Carlin; I am a Captain with the Camden County Police Department. I am proud to say I've worked in Camden City for 20 years now.

During my years of service, I've witnessed and experienced firsthand the difficulties providing public safety in one of the most challenged cities in our country.

A significant shortcoming exists, though, in our State Constitution and State judicial system -- that is, simply, the inability to keep serious offenders in jail while they await trial. Instead, during their time awaiting trial, these individuals are free to reoffend and terrorize the communities we serve.

The Constitution of the State of New Jersey currently entitles individuals charged with a crime the right to bail prior to trial. An amendment to the Constitution is necessary that allows factors such as the nature of the crime, the defendant's criminal history, the protection of the public, flight risk, witness protection, and the likelihood of additional criminal acts being committed by the defendant -- all to be considered before a defendant is eligible for bail.

This change would have a positive impact on law enforcement and public safety statewide, and perhaps even a greater impact in our urban centers such as the City of Camden where there is a "no-snitching" culture that's pervasive. The code is emboldened by the fear of victims and

witnesses to cooperate with the police, only to be answered with violence of the offender who is quickly released on bail. And that is the case with a lot of shooting victims and witnesses; they just won't talk to us knowing that someone is going to be back on the street and there might be retribution.

The victims and witnesses in the City of Camden and the State of New Jersey have little faith in a system that appears to promote the swift release of offenders routinely. I've witnessed scores of offenders arrested for serious offenses only to be released a short time later to commit additional offenses.

Recently in Camden a 28-year-old male named James had an extensive criminal history involving drugs, weapons arrests, and other violence. In April of this year, James was out on bail for his ninth and tenth arrests as an adult.

On April 25, Camden County police officers were walking their beat in the Sycamore Court Apartments. This is an area known for its propensity for violence. The officers engaged a group of suspicious males; James was in the group. Without warning, James broke away from the group and began firing a handgun at officers at close quarters in Sycamore Court Apartments. He continued to do so, while officers scrambled for cover and returned fire. James continued to fire his weapon until it was empty, and fortunately no bystanders or officers were struck, and James only once.

Now, this unfortunate incident that created a substantial public safety hazard could have been avoided had only James been held without bail for his prior offenses until his trial.

This is just one example of many when those who commit serious offenses are allowed to function freely in society, but still pose serious public safety threats. Without an amendment to current law and the ability to exercise prudence before allowing certain offenders to obtain bail -- which is oftentimes dictated by a schedule -- a grave public safety threat for law enforcement and a law enforcement impediment will exist.

This constitutional amendment, as I stated before, is a game changer for law enforcement and public safety in New Jersey. Certainly to amend our Constitution requires an extraordinary issue, whereby no other remedy has worked. Violent offenders having the ability to quickly return to the streets to reoffend is our issue, and I assure you the turnstile bail process that currently exists has failed to keep our citizens safe, time and again.

SENATOR NORCROSS: Thank you, Captain.

Any questions? (no response)

I'd like to point out that the Captain is here on behalf of his Department -- certainly, Chief Thompson -- who came to me probably three-and-a-half years ago to discuss this very issue that we're talking about today. And that was the starting point for many of the discussions. I appreciate you coming out.

Next, I'd like to bring up Jerome Harris.

Welcome.

**J E R O M E C. H A R R I S Jr.:** Thank you, Mr. Chairman and members of the Law and Public Safety Committee.

My name is Jerome Harris, and I am the Interim President and CEO of New Jersey Institute for Social Justice. In our 15-year history, the

Institute has produced research, presented policy analysis, and collaborated with government on reform projects in the areas of criminal justice and juvenile justice to ensure public safety and fiscal responsibility.

The Institute applauds the Legislature for its continuing work on this incredibly important issue, and we want to emphasize that we are, too, committed to see this project through to its completion.

The importance of the comprehensive bail reform is underscored by the testimony that my colleague here to my right -- Scott Welfel -- gave before the Budget and Appropriations Committee on June 5. Scott recounted the story of his client, Mustafa, who had been arrested twice as an adult and, in both cases, the charges were ultimately dismissed. Even though Mustafa was innocent, he was held for many months before he could make bail. He was fired from his job because he could not report to work while in jail, and accrued nearly \$10,000 in bail bondsman fees. This is why we need to work together on bail reform.

I want to thank Senator Rice, Senator Gill, and Senator Norcross and others for their hard work in this area. There are many, many issues, and we've come a substantial way in addressing the language and the requirements of the companion bill, S-946, which will be important to implementing should the constitutional amendment being discussed today be passed.

Turning to SCR-128, we would prefer to see the proposed constitutional amendment include the right to speedy trial in the text of the amendment, while leaving the specific time requirements to be spelled out by legislative statute.

While the companion bill, S-946, includes these proposed speedy trial provisions, we believe the speedy trial principle should be enshrined in a constitutional amendment. This would ensure that the statutory speedy trial provisions could never be eliminated entirely.

We propose the following language be added to the end of the proposed constitutional amendment in SCR-128:

“Every person to whom pre-trial release is denied or who remains incarcerated after money bail is ordered shall be guaranteed the right to speedy proceedings, and the Legislature shall enact legislation to give effect to this right.”

Additionally, our support for SCR-128, authorizing pre-trial detention, is contingent upon enactment of an acceptable version of the implementation bill. We have received the latest version of S-946 as prepared by OLS; we are greatly appreciative of the changes that have been made. After review, we recommend that the following additional provisions be added to S-946 in order for the Institute to extend our full support to the Bill.

One -- and there's specific language provided in my written testimony -- extend speedy trial guarantees to defendants who cannot make bail; two, amend the substantial and unjustifiable risk exception to speedy trial to require a finding that there has not been unreasonable delay by the prosecution; three, to reconsider the maximum period to commence trial from two years to one year; and four, to mandate the risk assessment instrument be evaluated to ensure neutral application and neutral effects.

Finally -- and not related to the statutory matters before us -- I want to take the opportunity to comment that the ability to implement

this legislation, this change, can only occur if the judiciary is fully staffed. Without pointing fingers or assigning blame, we urge the Legislature and the Governor to work together to ensure that judicial vacancies -- both now and in the future -- be filled in order that we have adequate capacity to implement bail reform in New Jersey.

Thank you.

SENATOR NORCROSS: Thank you.

Any questions from the Committee? (no response)

Hearing none, thank you for your testimony.

Next up we have Senator Ron Rice.

Welcome, Senator.

**SENATOR RONALD L. RICE:** Thank you; thank you, Mr. Chairman for giving me an opportunity to speak.

Let me preface my remarks, for those who are here, because a couple of citizens working with the Drug Policy Alliance approached me about doing the right thing. Then when I told them the problem, they knew what I was talking about -- which means that they're just doing what they think is right, or what they're told, with the number of people locked up.

So I need to preface my remarks by indicating that the 6th Amendment of the United States Constitution guarantees a right to a speedy trial; that comes down to us via the 14th Amendment.

And I also want to state to the Committee here and to those folks who are here that those of us in the Legislature, those of us in the New Jersey Legislative Black Caucus, the community, we want the same thing. We commend you, Senator, on your attempt at legislation. This is not the

first bail bill put in; it's the first of its type. Senator Turner has a bill in, I have a bill in, and there are other bills. We get this more so than anyone else because we represent, like you do, these urban cities where this stuff is mostly taking place. So it's nice to hear the Captain talk, but the Captain didn't say anything about the tier underneath the violent crime -- criminals.

And so we want to be clear that we want the same thing, and that is the ability to keep the hard-core violent criminal in detention until there's a trial. We want that. What we do *not* want -- and this needs to be clear to everybody, including the media -- what we do not want is legislation that is well-meaning but violates the constitutional and civil rights of people in this state after years of us fighting and struggling, and in many instances, dying to obtain these rights. That may not be important to a lot of people who are not of color, or who don't understand the Civil Rights movement, but it's important to those of us who are products of that movement and still are fighting those battles today -- not just in New Jersey, but throughout the country.

As civil rights leaders, many of us have argued for years that the bail system, as it has been for years, is unfair and unjust in application for the poor -- and for blacks and minorities, in particular.

We all are aware that we have to fix this injustice, while at the same time give the courts the ability to detain our most vicious criminals who continue to commit violent crimes. I know that; my background is Criminal Justice Administration and Planning. I'm a former cop; I live in the City of Newark; I'm a former Councilman; I'm a former Deputy Mayor. I've been in the Senate for 28 years. I went to law school -- so I get that. And I understand that it's the bail piece of the Constitution that is giving

the judges -- coming about for the judges to hold those individuals that we want held.

But as we move on with this legislation, we're not doing it correctly. Because I'm going to tell you what it means. The way to accomplish all of this is to make sure and make certain that we do not violate the rights of citizens' due process -- because that's a due process issue here: Due process of the law, and to ensure that those who are charged with an offense and are arrested maintain their constitutional right to a speedy trial. As legislators, we have the responsibility to make laws that will not only protect the rights of all citizens today, but must protect the rights of the generations coming behind us and babies not yet born. That's our responsibility. This is what the Civil Rights movement was and still is all about. For those black leaders in this room who represent Civil Rights organizations and clergy -- they need to understand what the Civil Rights movement is all about. And the Civil Rights movement is not dead; it's just operating under another name now.

And so with that said, the reason we're arguing so much to have SCR-128 amended, to have speedy trial language inserted in that amendment, is because if you only do 946 -- regardless of what it says -- and you take bail out of the Constitution -- which is a guaranteed and authorized right, right now, for every citizen -- what it means is that after the sponsors are long gone and the rest of us are long gone, other legislators can come back and change and end that legislation without touching the Constitution -- what speedy trial and bail mean. That's what that is.

And if folks do not understand that -- and for these organizations, including the people who are being paid to come into town

to testify who don't understand that you have to do a legal analysis first as it relates to civil rights and constitutional rights -- you're wrong. Yes, we support what you support -- but there's another side to it.

And to turn back the hands of time to the days of Bill Connor, and George Wallace, and racist advocates of segregation injustice to us is wrong, and should not be tolerated by anyone -- particularly not tolerated by people of color, black civil rights leaders, and black clergy members. What is important, Mr. Chairman and Committee, is to have speedy trial dates in the constitutional amendments as opposed to just the Bill. In fact, to me, and to many of us, there may be a conflict to even have the constitutional amendment saying one thing, and the Bill indicating something else. And there may be challenges to it.

If the speedy trial dates are in the Bill, then there's no certainty from 946, if it's there, that there would be speedy trials. It can be altered, ignored for good cause, and subject to all kinds of changes and modifications.

The speedy trial dates in a bill is akin to a promise to do something. However, the promise can always be altered. For example, an example that we're all familiar with -- it is similar to the pension and benefit issue. We thought a contract had been created, and the Governor was contractually required to make pension payments on time. But the courts said that the contract is trumped by the constitutional requirement to have a balanced budget. Another reason we need it in the Constitution.

We have continued litigation with respect to thorough and efficiency; and that is because it is a general term, and thus subject to all the

whims of government and not fully funding our education -- which you argue about all the time. Because this is statutory stuff.

And if we are amending the Constitution to permit pre-trial detention, then there must be a certainty in the Constitution for specific dates for a speedy trial. If you remove the bail piece, Mr. Chairman and Committee, if we pass this amendment on ballot and you say we're removing the bail, and there's no longer a right for anyone to have bail -- that would give the judges the ability to make the decisions they want to make on the hardcore. But what it also does is to say that our intent to make sure poor people and others who cannot afford to be released -- the intent may not get carried out. Because the analysis done by the ALC (*sic*) and other folks -- we have no fiscal analysis -- we're telling you this Bill is going to cost between \$80 million and \$100 million; that's number one. And we don't know where the Legislature is going to find \$100 million, but we have until 2017 to get it. There are residents who are being sent information to support this Bill thinking that if we pass it in November, that after November some of the folks who are in jail presently, or who get detained, will be able to get out right away and won't be staying in there. That's not true. Those folks will be in jail next year, just like they're in jail this year -- until 2017.

So the question is, what is the rush to move the Bill without getting it right? We can put it on the ballot next year; there's more than enough time. And then if you remove the bail from the Constitution -- so none of us have a right to bail anymore -- someone is going to charge me with something I didn't do, and I'm sitting up in there and I want to go before a judge and have my day in court -- whether I'm pre-detained or out

-- and it's not happening speedily. Then the problem is very simple: What it means is that I don't get a speedy trial because the Constitution doesn't guarantee it. So I have to pay an attorney to go and argue the 6th Amendment, via the 14th Amendment. And if I can't pay for bail, I can't pay for an attorney.

And so there are a lot of problems. No one has looked at the number of judges, county by county, that we're short. No one is looking at the number of prosecutors throughout the state that we're short. No one is looking at the number of prosecutorial investigators that are needed to do the work for the prosecutor to have a good case.

We have not done significantly or substantially enough work. I think that the meetings that Senator Gill, and I, and Assemblywoman Spencer from the Legislative Black Caucus and others have had with all the participants -- their mouths fell open when Senator Gill pointed out the problems, constitutionally and civil rights. And the question was, "How can we fix this?" And as you said, Mr. Chairman, your intent was to deal with the hardcore people, and we need to fix this.

And so to rush this thing out without putting "speedy trial" into the Constitution does not make any sense.

And so, the rest of the testimony you can read. I have real serious problems with this. I have a real serious problem with the way black leaders who represent civil rights are handling this and not paying enough attention. I want to be on record saying that, and we're going to make sure that all of our colleagues understand that there is no rush.

I do a bill, and everybody wants a fiscal note. It may only cost \$100,000, but my bill's a-- "We didn't get a fiscal note." We're talking

about \$100 million -- or something close to that -- that the next Governor's going to have to find. All this Bill does is give the Governor something to run around the country and say we did, and then people are going to be gone, and we are still going to be stuck in jail.

Thank you very much, Mr. Chairman, for giving me the opportunity.

SENATOR NORCROSS: Thank you, Senator.

SENATOR BARNES: Mr. Chairman, I have a question.

SENATOR NORCROSS: Senator Barnes.

SENATOR BARNES: Since I'm new to the-- I'm not new to the Bill, but I'm new to the Committee.

Does this Bill, in any way, affect any charged person's right to bail under the Constitution? I mean, this resolution that we're debating today, and the companion Bill that you've worked very hard on, it seems that the Senator is raising a due process and a constitutional issue. And I just want to make sure--

I have to respectfully disagree with him, first of all; in fact, I would vehemently disagree with him, even though I respect him very much. How does this Bill affect anybody's right to bail? There is still a Federal constitutional right to bail. And just because the resolution doesn't guarantee a person a trial within a certain amount of time -- one year, two years -- because of a lack of judicial resources doesn't mean that there's a due process issue.

So I have to -- and I hate to do it, because it doesn't happen often -- but I have to respectfully disagree with my very esteemed colleague.

There is no -- if I understand the Bill correctly -- there is no due process violation, and there's no violation of any constitutional right to bail.

That's my reading of all the papers; it's my reading of your -- I read your memo, cover to cover.

SENATOR RICE: Mr. Chairman.

SENATOR BARNES: I'd like to have an opinion from the attorney or anybody else who has really been more involved than I have. I don't see any due process violations at all with the matters in front of us.

SENATOR NORCROSS: In all our discussions -- other than the items that Senator Rice is bringing up -- that question has been addressed and the vast majority of those, outside of Senator Rice and Senator Gill, concur with what you're suggesting there. But many of the things that you're talking about right now are going to be in the companion Bill -- the S-946 -- which, obviously, we're going to have a great deal of time to discuss over the course of the next few weeks.

Senator.

SENATOR GREENSTEIN: There really are two things here: one is the right to bail -- which I think we are making changes in that. But the speedy trial part, which is what you want to add in-- As you said, that already exists in the Constitution; there is loads of case law where people are saying, "I didn't get a speedy enough trial," and the courts have ruled on that.

But I'm not totally clear -- and we talked earlier and I've talked to other people since -- I'm not totally clear exactly why you think putting *speedy trial* into the constitutional amendment adds that. I think that

already exists as a constitutional right. I don't know what putting it in here really adds to the situation.

SENATOR BARNES: Not only that, failing to not put it in does not, in my mind, create a due process issue.

SENATOR GREENSTEIN: I agree; I agree, actually, with that.

SENATOR NORCROSS: Any other questions from the Committee? (no response)

Senator Rice, I want to thank you for coming here today, and for your advocacy on behalf of issues that you and I know are very near and dear to us. We may disagree on some of these issues, but the respect for each other, certainly, is there. And regardless of what happens here, I know we'll work together on many issues to move this forward.

SENATOR RICE: Well, Mr. Chairman, I want to thank you, too. I knew what was going to happen here; I respectfully disagree. I know my colleagues disagree with me, and I suspect they're going to disagree on other things, okay?

The reality is that there are issues here, and we're going to have further discussions more about what those issues are. When you talk about speedy trial, you are saying we have these things. You get a speedy trial when you have timeframes, and that's by the Federal government.

But I'll leave; I don't even need a response.

SENATOR NORCROSS: Thank you.

Next up is, from Camden County Women's Center, Bernadette Lambe.

Welcome.

**B E R N A D E T T E L A M B E:** Good morning.

My name is Bernadette Lambe and I work with the Camden County Women's Center. We are Camden County's lead domestic violence agency. We provide victim services to all domestic violence victims in our County. Last year there were 6,500 arrests for domestic violence in our County alone.

Domestic violence victims experience a unique type of victimization. Most crime victims have one traumatic event; our victims have experienced repeated events. They're emotionally, mentally, and physically beaten down repeatedly. Restraining orders, designed for their protection, are violated again, and again, and again.

Currently, the person who commits these repeated crimes is eligible to be released on bail every time. Every time a victim reports a crime and the police arrest the perpetrator, the victim feels a momentary safeness. Then the phone call comes that he's been released on bail -- the roller coaster continues, the trauma continues.

We have one client; she's been my client for 12 years. Her perpetrator has been released on bail eight times. He's terrorized her, stalked her, injured her; he's threatened advocates, judges, therapists -- every time, he's released on bail. Every time, he goes back to her house as soon as he gets out. He's entitled to bail; he isn't a flight risk. He loves to go to court. Court is bonus time for him -- he gets to just go torture her a little bit more.

Had a judge been able to assess the risk of harm to my client, and review the history of this particular defendant, my client may not have had to experience such a horrible, horrible roller coaster ride. Maybe she could have felt safe with our justice system. Maybe she wouldn't have

viewed our justice system as having its hands tied as hers were. Maybe she could've viewed the judicial system as being able to protect her.

Robin's case, although not typical is, sadly, not unusual enough. The proposed amendment will give our judges the information and ability to assess the dangerousness of these defendants, the knowledge that a defendant has totally disregarded previous no-contact provisions to bail, the awareness that money and conditions are rarely enforced and are part of the game that he's playing. The amendment gives the judge the power to say, "Enough."

As a DV victim advocate, I ask that you support this amendment as the first step in comprehensive bail reform, in conjunction with S-946.

Thank you.

SENATOR NORCROSS: Thank you.

Any questions? (no response)

We appreciate your testimony.

Next up we have, from Legal Services of New Jersey, D. Miller, Claudine Langrin, and it looks like Akil Roper. Did I get that right?

**A K I L S. R O P E R, Esq.** (off mike): That's right.

**M E L V I L L E D. M I L L E R Jr., Esq.:** Thank you, Mr. Chairman, and good morning. With me is Akil Roper, Vice President of Legal Services of New Jersey. Ms. Langrin had to leave.

I'll be very, very brief. We appear today to express our strong support for SCR-128, and for the most recent proposed version of the accompanying substantive bail reform legislation -- not on this Committee's agenda today. Together they would constitute the most sweeping and

important improvements in New Jersey's bail and pre-trial incarceration policies in the modern, post-1947 Constitution era.

Just a moment of background: Legal Services opens 50,000 cases -- nearly 50,000 cases, all civil cases, annually. Through that representation and our other activities, we actually provide assistance to hundreds of thousands of individuals in New Jersey every year.

Compared to the general population, the population we serve is significantly disproportionately people of color. People in New Jersey who are in poverty are significantly disproportionately people of color. We are extremely concerned by the insensitivity to the needs of this population.

That disproportion is also mirrored in the makeup of the incarcerated population languishing now, chiefly in county jails, who are awaiting trial. We know from our work on the civil side that the primary reason many of these people are incarcerated -- as you know from the statistics that have been presented to you -- is simply because they cannot afford bail, no matter how low it may be set, not because they present risks to the public.

So we strongly support the combined constitutional amendment and accompanying bail reform legislation because it will redress this wrong. Poverty will no longer be the sole reason for pre-trial incarceration under these changes. This combined initiative, as currently proposed, will both enhance public safety and end a huge injustice that has plagued this state for much too long.

We also just-- As you know, the accompanying legislation contains provisions regarding Legal Services funding; we've made that case many times, before many committees. And we've just attached the most

recent statement about our funding situation to our statements that you have today.

Thank you very much.

SENATOR NORCROSS: Thank you.

Any questions? (no response)

Very good testimony; thanks for your testimony.

Next up, from the ACLU, is Lynn Nowak.

**L Y N N N O W A K, Esq.:** Thank you, Mr. Chairman and members of the Committee.

On behalf of the ACLU of New Jersey, we want to thank you, Mr. Chairman, for your leadership on this issue, your commitment. I also want to thank Senator Barnes for his co-sponsorship.

I do want to apologize on behalf of Alex Shalom, who is the senior legal attorney at the ACLU. He has worked extensively on this issue with you for the past several years. He is on vacation and, I think as you know, he brought a great deal of knowledge and expertise after serving for 10 years as a public defender.

The ACLU today just wants to echo and emphasize what several of the previous speakers -- Mr. Edwards from the NAACP, Roseanne Scotti -- that we support this resolution, but based on the fact that it is coupled with legislation that provides the important substance that's needed in order to give up the right to bail.

And just as this is a public hearing, I'd like to just read one paragraph that the ACLU has been clear on from the beginning of this process: that amending our Constitution is not a step to be taken lightly. In the context of bail reform, we must not amend our Constitution without

accompanying legislation that will fundamentally shift our bail system from a money-based one to a risk-based one, and guarantee a defendant's right to a speedy trial. The proposed constitutional amendment being heard today without an accompanying statute would be unjust and the ACLU would oppose that. But as we're seeing the direction that S-946 is moving, we believe we would support this and support that legislation, and think it would be a true step in the right direction for the citizens of New Jersey.

Thank you.

SENATOR NORCROSS: Thank you.

Any questions from the Committee? (no response)

We appreciate your testimony.

Next up, from the Lutheran Office of Governmental Ministry,  
Reverend Sara--

**R E V E R E N D   S A R A   E.   L I L J A:** Lilja. (indicating pronunciation)

SENATOR NORCROSS: Lilja. Welcome.

REVEREND LILJA: Thank you.

Thank you for the invitation to come and speak, and the opportunity to speak on behalf of the Lutherans here in the State of New Jersey.

But, in fact, the Lutherans across the United States last summer, in Pittsburgh, passed a piece of research and commitment -- social statement -- committed to criminal justice reform throughout the nation. And particularly in that context in New Jersey, the Lutherans here have taken very seriously the pieces of information you've all heard this morning around the unjust numbers of persons of color and persons who are poor

who are incarcerated, and looking deeply at some of the causes of those injustices. The Lutherans believe seriously that all persons have a right to a just life and livelihood; and that they have the right to the same privileges and processes, whether they're wealthy or poor.

And so I'm here today to not debate the legalities and the constitutional law, because that's not my field; but my field is rather to tell you that there are thousands of faithful folks in our state who are terribly concerned that the criminal justice system isn't working well for the citizens; that many people -- 40 percent or more of people are held incarcerated without opportunity for bail because they don't have funds. There's a simple justice issue that resonates with many people of faith, and it's our responsibility to lift that up. It's beyond our understanding of how it is that we can be in this state and pride ourselves in caring for all of the citizens that God has blessed, and yet we have a structure and a system that is fundamentally unfair.

And so we're here today to remind this Committee and this Legislature to do the right thing; to remember that the poor are not evil because they're simply poor. They have a right to a fair trial, they have a right to live their lives in dignity and justice as well.

So thank you for this opportunity to speak. I wish your deliberations well-meaning.

SENATOR NORCROSS: Thank you for your testimony.

Any questions? (no response)

Seeing none--

I just want to note: Pastor Vanessa Wilson of Magnolia Road Church in Pemberton was here to testify in favor, but had to leave.

Next up is Anna Rivera from Integrated Justice Alliance.

Welcome.

**A N N A C U Q U I R I V E R A:** Good morning, Chairman and members of the Senate Law and Public Safety Committee.

Good morning. My name is Anna Cuqui Rivera. I am the Administrative Chair of the Integrated Justice Alliance of New Jersey, founded in 2008. The IJA is a statewide network working toward a fair, effective criminal justice system -- one that provides public safety, the restoration of individuals and families, and protects and safeguards the rights of individuals in custody, promotes transparency, ensures accountability, and spends taxpayers' dollars wisely.

I'm not going to go into the text of the testimony that you have before you in copy, as well, to save us time. I will say that the Integrated Justice Alliance absolutely mirrors the position of the New Jersey Drug Policy Alliance in supporting SCR-128, paired with A-1910 and S-946.

I also would like to say, very briefly, who the members of the Integrated Justice Alliance are, and I will close with two comments.

The ACLU; the American Friends Service Committee; Building One New Jersey; Community Education Centers; Community Education Centers Alumni Association; the Drug Policy Alliance of New Jersey; the International Youth Organization; the Latino Action Network, -- of which I also serve as their Board Secretary -- that has also submitted testimony to you today, with no need to testify, and again mirrors the position of the Drug Policy Alliance; National Council on Alcoholism and Drug Dependence -- NCADD-New Jersey; the Nehemiah Group; the New Jersey Association on Correction; the Institute for Social Justice; the New Jersey

Re-Entry Coalition; the New Jersey Working Families; Urban Renewal Corporation; Volunteers of America Delaware Valley; Women Build Too; Women Who Never Give-Up; and individual members Bonnie Kerness and Jean Ross, Esq.

I will close with saying that neither the Integrated Justice Alliance nor the Latino Action Network has been bought, will never be paid for, and they never will.

Thank you very much.

SENATOR NORCROSS: Thank you.

Any questions? (no response)

Thank you for your testimony.

Next, from the Progressive Democrats of America, Mary Ellen--  
**MARY ELLEN MARINO:** Marino (indicating pronunciation).

SENATOR NORCROSS: Marino, okay. Forgive us; we didn't know if it was a "v" or an "r."

MS. MARINO: That's all right, Chair.

SENATOR NORCROSS: Welcome.

MS. MARINO: I am glad to speak before you, Chairman Norcross, since you are also the bill's sponsor of the bail reform bill.

I have a long history in government, politics, and civil rights -- which is not why I'm here. I'm here because there's a constitutional amendment that you are trying to pass, but at the same time, it needs the Senate bill -- Chairman's Senate Bill S-946 -- in order to provide something for the 40 percent of the people incarcerated in New Jersey right now who are there simply because they can't pay bail.

This is wrong, and so I'm asking you to do both. I'm asking you to pass the amendment but, at the same time, pass the Bill that will fix this serious social problem.

Thank you.

SENATOR NORCROSS: Thank you for your testimony.

Any questions? (no response)

We appreciate it.

Next up, from Rutgers Episcopal Campus Ministry, Reverend Greg Bezilla.

**R E V E R E N D   G R E G O R Y   B E Z I L L A:** Bezilla, yes.  
(indicating pronunciation)

SENATOR NORCROSS: Bezilla.

REVEREND BEZILLA: Thank you, Mr. Chair and members of the Committee.

I'm a priest of the Episcopal Church, a Chaplain at Rutgers University in New Brunswick. Every year students enter into Rutgers University through the Mountain View Program -- from incarceration into higher education. And their presence in our chaplaincy and in our university has made me aware of many injustices in our criminal justice system. And that is part of my presence here this morning.

In the Episcopal Church, when we baptize children and adults we promise, as members of the congregation, to seek justice for all human beings. And so, very simply, I'd like to say that please move the amendment only if it is balanced with comprehensive bail reform that emphasizes risk, not wallet.

And I thank you for all your efforts and urge you to persevere for the sake of justice.

Thank you.

SENATOR NORCROSS: Thank you.

Any questions? (no response)

Hearing none, thank you.

Next up is Faith Christian Counseling Center, Pastor Leroy Scott.

Welcome.

**PASTOR LEROY SCOTT III:** Good morning.

To the honorable members of the Senate Law and Public Safety Committee, my name is Pastor Leroy Scott. I am the founder of Faith Christian Counseling Center, and we provide services in three counties: Mercer, Camden, and Burlington.

New Jersey's bail system is broken. Three-quarters of the people being warehoused in our jails are there awaiting trial rather than serving a sentence. And the average length of stay is about 10 months.

Almost half of these defendants are incarcerated solely because they cannot afford often nominal amounts of bail. The current system is unfair and unsafe. Those with money can obtain release no matter how serious their crime, or how much of a danger they pose to public safety. Those without money sit in jail for months on end, no matter how minor their offense and no matter that they pose no danger to public safety.

The resolution before you is a step towards fixing these problems, but is insufficient standing on its own. SCR-128 only allows for the pre-trial detention of high-risk defendants; it does not implement a

mechanism to allow for pre-trial release of low-risk arrestees. For this reason, I will only support this resolution for a constitutional amendment if it is balanced with comprehensive bail reform legislation that moves the current broken bail system away from using money bail and replaces it with a system that bases pre-trial release decisions on risk.

Real, comprehensive bail reform promotes both safety and justice. Legislation to enact real, comprehensive bail reform must include several key elements: It must remove money as the primary mechanism of pre-trial release, basing pre-trial release decisions on risk rather than resources. It must require the use of risk assessments on arrestees with higher-level charges. It must authorize the release of low-risk individuals under the least restrictive conditions possible. It must permit the detention of those who are judged to be truly dangerous.

SCR-128 -- paired with a version of A-1910 and S-946 that includes these key elements -- would better protect the rights of countless individuals who are incarcerated simply because they cannot afford to pay their way out of jail. It would guarantee safer communities by authorizing the detention of dangerous defendants. It would benefit the State by mitigating the major financial burdens associated with unnecessary detention and excessive rates of incarceration.

I support SCR-128 if it is paired with such legislation.

Thank you.

SENATOR NORCROSS: Questions from the Committee? (no response)

Seeing none, thank you for your testimony.

Next up, from the Evangelical Pastors' Association of Hudson County, Reverend Bruno Rodriguez and Sintra Carrabello.

Welcome.

**REVEREND BRUNO RODRIGUEZ:** Thank you, Mr. Chairman and the Committee.

**SINTRA CARRABELLO:** Yes, good morning. Thank you, Mr. Chairman and members of the Committee.

My name is Sintra Carrabello. I'm replacing Reverend Jose C. Lopez this morning. And I'm also representing the Evangelical Pastors Association of Hudson County.

Chairman and members of the Senate Law and Public Safety Committee, New Jersey's bail system is broken. Three-quarters of the people are being warehoused in our jails are awaiting trial rather than serving a sentence. And their average length of stay is about 10 months.

Almost half of these defendants are incarcerated solely because they cannot afford often nominal amounts of bail. The current system is unfair and unsafe. Those with money can obtain release no matter how serious their crime, or how much of a danger they pose to public safety. Those without money sit in jail for months on end, no matter how minor their offense and no matter that they pose no danger to public safety.

The resolution before you is a step towards fixing these problems, but is insufficient standing on its own. SCR-128 only allows for the pre-trial detention of high-risk defendants; it does not implement a mechanism to allow for pre-trial release of low-risk arrestees. For this reason, we will only support this resolution for a constitutional amendment if it is balanced with comprehensive bail reform legislation that moves the

current broken bail system away from using money bail and replaces it with a system that bases pre-trial release decisions on risk.

Real, comprehensive bail reform promotes both safety and justice. Legislation to enact real, comprehensive bail reform must include several key elements: It must remove money as the primary mechanism of pre-trial release, basing pre-trial release decisions on risk rather than resources. It must require the use of risk assessments on arrestees with higher-level charges. It must authorize the release of low-risk individuals under the least restrictive conditions possible. It must permit the detention of those who are judged to be truly dangerous.

SCR-128 -- paired with a version of A-1910 or S-946 that includes these key elements -- would better protect the rights of countless individuals who are incarcerated simply because they cannot afford to pay their way out of jail. It would guarantee safer communities by authorizing the detention of dangerous defendants. And it would benefit the State by mitigating the major financial burdens associated with unnecessary detention and excessive rates of incarceration.

We support SCR-128 if it is paired with such legislation.

Thank you.

SENATOR NORCROSS: Thank you.

Any questions? (no response)

We appreciate your testimony.

Next we have, from Women Who Never Give-Up, Gale Muhammad.

Welcome.

**GALE MUHAMMAD:** Thank you.

Good afternoon. Thank you for having me.

To the honorable members of the Senate Law and Public Committee, thank you for holding this hearing today.

Women Who Never Give-Up -- WWNJ -- is a New Jersey-based nonprofit organization dedicated to helping families get justice in our criminal justice and prison system. Today we are here to talk about the SCR legislation and the amendments that we want to support to go with that -- Assembly Bill 1910 and Senate Bill 946.

I did want to read my testimony, but there's really-- My heart really led me to talk about Tiya Hudson, a young lady who was shot in Winslow Township in her bed, sleeping; 13 years old. I have been working with our community leaders and officers in the community, and when I was asked to come and testify today on this legislation, I thought what a perfect time to bring Tiya's story to our State House; and why this money bail system has to be fixed, because it is a broken system.

As we, at the grass root level, with our boots-on-the-ground, help our law enforcement officers in trying to find out who these perpetrators are who are shooting guns recklessly in our communities, we're finding out that people are afraid to talk, and one of the reasons is because there's retaliation. These people can pay their bail, and come right back out and harm those who are witnesses.

And so I think it is so, so, so very important for people like Tiya to be able to believe in her criminal justice system; because, at 13 years old and having to recover from a bullet wound that will cause her to have reproductive problems as a women -- just was too close to home. We all put

our children to bed at night thinking that they're safe. And this sleeping child was woken up with a bullet wound in her abdomen.

So I urge you today, please, look at this Bill and make sure that it is not just a money bail bill that hardened criminals -- if they have money in the bank, or wherever they have their money -- can get their money and get out of jail. Meanwhile, people who are poor and low-served in our community have no way of getting out of jail; and for nonviolent crimes a lot of times.

So I just want to emphasize that this is a really important Bill for our State and for the citizens of New Jersey, and for children who we are trying to save in our communities.

So thank you so much for having us here and holding this hearing today.

SENATOR NORCROSS: Thank you.

Questions?

MS. MUHAMMAD: And nobody paid me to come and speak today. (laughter)

SENATOR NORCROSS: Let Tiya know that help is on the way.

MS. MUHAMMAD: Thank you.

SENATOR NORCROSS: Next up, from East Orange, is Mustafa Willis.

**M U S T A F A W I L L I S:** Hello.

SENATOR NORCROSS: Welcome.

MR. WILLIS: My name is Mustafa Willis. I am 28 years old, a native of Newark, New Jersey, and a victim of this failed bail system.

I was arrested in 2010 and 2012; neither of these arrests resulted in any criminal convictions, yet I suffered and continue to endure the consequences of an unjust system.

When I was first arrested in 2010, I sat in jail for four months solely because of my inability to pay \$3,000 guaranteeing my release. In this time I lost my job, I lost a family member, and I lost hope in a broken system that is supposed to protect its citizens.

I was wronged again in 2012 due to a similar arrest. I have to stress again that both cases against me were dismissed. This time my bail was set at \$6,500, which I am still trying to pay off.

My situation is a prime example of how New Jersey's bail system is broken. While unjustly incarcerated, I was treated as less than human; I was subjected to not only mistreatment from the prison personnel, but also unhealthy conditions. My family and I were given the runaround multiple times trying to secure my release, as this depended not only on my ability to pay, but also a paperwork process that is begun at the convenience of the bail bondsman.

Thank you for hearing my testimony today. I support SCR-128 only if moved with an acceptable version of S-946, as stated by the coalition of members that spoke before me.

SENATOR NORCROSS: Thank you for your testimony.

Questions? (no response)

Hearing none, next up is Patrick Gallahue from Weehawken.

Welcome, Patrick.

**PATRICK GALLAHUE:** Thank you very much.

My name is Patrick Gallahue; I'm a supporter of the New Solutions Campaign and a proud resident of Weehawken.

I just want to echo many of the speakers who came before me, such as the Drug Policy Alliance and other members of the New Solutions Campaign.

I applaud the Legislature's effort, and this Committee's effort to reform bail practice in New Jersey. However, SCR-128 must be paired with an acceptable version of Assembly Bill 1910 and S-946 -- that conditions pre-trial release on risk and not the ability to pay.

As a citizen of New Jersey, my top priorities are a system that ensures the safety of my family and one that fundamentally is fair and just. However, a system that puts people in jail for their inability to pay while letting others go free due to their financial well being does neither.

Thank you.

SENATOR NORCROSS: Thank you.

Questions? (no response)

We appreciate your testimony.

Jena from the New Jersey State Bar Association had no need to testify, in favor -- Jena Morrow; from New Jersey Association on Correction, in favor, Helena Tomé, no need to testify; New Jersey State Bar Association, in favor, Todd Sidor, no need to testify; from Rosedale Presbyterian Church in Newark, Reverend Doris Glaspy, no need to testify, in favor; from the First Baptist Church of Lincoln Gardens in Somerset, Reverend Cooper, in favor, no need to testify; from Westminster Presbyterian in Trenton, Reverend Hernandez, no need to testify, in favor; from Unitarian Universalist Legislative Ministry of New Jersey, Reverend

Craig Hirshberg, in favor, no need to testify; from the Nehemiah Group, Micah Khan, in favor, no need to testify; New Jersey Chapter of the American Correctional Association, Mr. James Hemm, President, in favor, no need to testify; VOA, Volunteers of America Delaware Valley, Kate Cruz, in support, no need to testify; from New Jersey Association on Correction, Angel Perez, Director, in favor, no need to testify; from American Friends Services Committee, Prison Watch Program, Bonnie Kerness, Director, in favor, no need to testify; from People's Organization for Progress, Jean Ross, in favor, no need to testify; from NORML New Jersey, Evan Nison, Director, in favor, no need to testify.

From Fathers and Men United for a Better Trenton, Jayson Rogers, President, in favor, no need to testify; bail reform advocate, First Presbyterian and Trinity Church, Dorothea Hoffner, in favor, no need to testify; bail reform advocate, Avron Stoloff, in favor, no need to testify; bail reform advocate, Elise Linden, in favor, no need to testify; from the Latino Action Network, Lazaro Cardenas, Vice President, in favor, no need to testify; and Dr. Charles Brooks, opposed, no need to testify -- he has submitted written testimony.

Is there anyone else here today to give testimony? (no response)

Hearing none, I want to thank the Committee members for coming today.

Hearing no other business, this hearing is adjourned.

**(HEARING CONCLUDED)**