

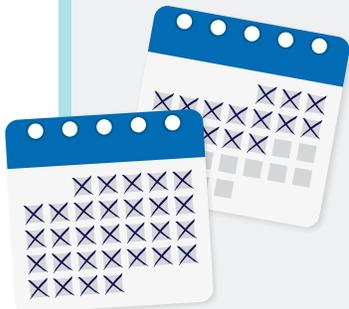
# HB 46: PROTECTING DUE PROCESS & THE RIGHT TO A SPEEDY TRIAL

## THE PROBLEM

Right now if you are arrested in Louisiana, you can sit in jail for months before a prosecutor even looks at evidence, speaks to witnesses, or reviews police reports. You can legally spend months away from work and family while waiting for the state to consider whether you should be charged with a crime at all. Most people don't have a lawyer during this time. This is all long before any trial. Usually, there is not even a hearing where you can talk to a judge. The timeline during this period is controlled entirely by the district attorney.

Louisiana has the highest pretrial incarceration rate in the country, jailing thousands of people without charge or conviction. Our extraordinary pretrial delays are one reason we are a national outlier.

State law is what enables these unnecessarily long jail stays. It costs taxpayers hundreds of millions of dollars, ruins people's livelihoods, and has no discernible public safety benefit.



Under current law, the state may jail a person up to 120 days (4 months) before deciding whether to file charges, **including 45 days for people accused of misdemeanors**. Many people are eventually released without charge. Because the Sixth Amendment Right to Counsel does not apply before arraignment, people are stuck in limbo for months with no way to challenge their confinement.

## THE SOLUTION

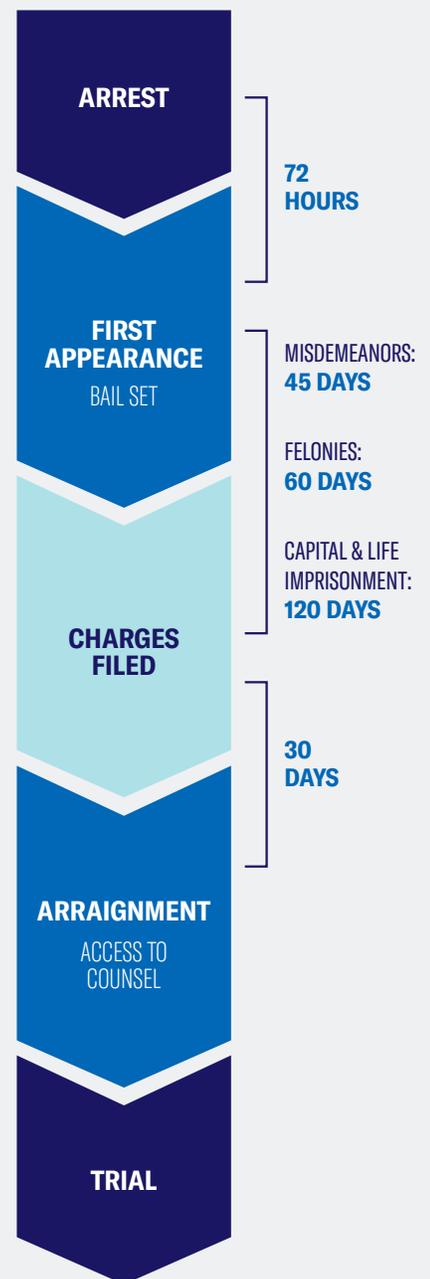
**House Bill 46 would protect Louisianans' constitutional rights and improve the functioning of the justice system by limiting the amount of time the state may jail a person without criminal charge.**

The bill shortens the period to 5 days for most charges, 30 days for more serious offenses, and codifies the right to counsel at the preliminary hearing. This legislation would also save millions of taxpayer dollars by reducing the total number of days spent in jail.

This bill has **no effect** on a prosecutor's ability to make bond recommendations or a judge's ability to set bail. The bill only affects the amount of time that a presumptively innocent person can be locked in jail before the state decides whether to prosecute. This legislation was filed as **HB 120** and **HB 567** by Chairman Ted James during the 2020 Regular Session.

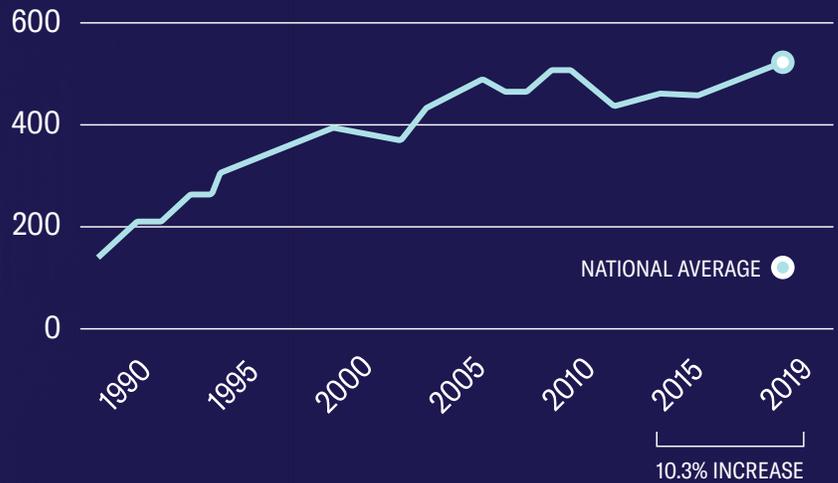
## OVERVIEW OF THE PRETRIAL PROCESS

UNDER CURRENT LAW



## PRETRIAL INCARCERATION RATE

PER 100,000 RESIDENTS



## KEY DATA & RESEARCH

- **Louisiana’s pretrial incarceration rate is the highest in the nation and growing.** In recent years, the rate has swelled by 10.3%. Taxpayers pay an average of \$52.29 per person per day in jail, and \$290 million annually.
- **This wasn’t always the case.** Since the 1980s, the number of people in jail pretrial has nearly quadrupled nationwide.
- **Louisiana’s pretrial incarceration rate is driven by low-level arrests,** unaffordable bail, and unnecessarily long jail stays. Almost 60% of people jailed pretrial are arrested for non-violent offenses, like minor drug possession and unpaid citations.
- **Even a few days in jail derails people’s lives.** People lose their jobs, get evicted, become homeless, and have even lost custody of their children. Research indicates that even 24 hours in jail makes low-risk defendants more likely to commit a new crime than those not held in jail.
- **Long jail stays distort the presumption of innocence by pressuring people to plead guilty to go home.** Research has shown that people held in jail pretrial are more likely to be convicted and more likely to plead guilty than those not incarcerated.
- **There are vast racial disparities in Louisiana’s pretrial incarceration system.** Black people are 2.3 times more likely than white people to be jailed following arrest. Black people are also held in jail about 36% longer than white detainees.
- **Louisiana District Attorneys have led reforms:** In 2019, East Baton Rouge DA Hillar Moore implemented a 3-day charging period. In just 8 weeks, the process improved appearance rates from 50% to 95%, saved the parish \$400,000, and reduced the parish prison population by 154. Nineteen percent of defendants (225 people) who ordinarily would have spent 8 weeks in jail were instead released without charge within three days.

### Sources:

1. ACLU of Louisiana, “Justice Can’t Wait: An Indictment of Louisiana’s Pretrial System.” March 2020.
2. La. C.Cr.P. 701.
3. East Baton Rouge Parish District Attorney’s Office, Press release, Dec. 2019.
4. Joshua Allen, “Era of Mass Expansion: Why State Officials Should Fight Jail Growth.” Prison Policy Initiative. May 31, 2017.
5. Paul Heaton, Sandra Mayson, & Megan Stevenson, “The Downstream Consequences of Misdemeanor Pretrial Detention,” 4. 2016; Christopher T. Lowenkamp, Marie VanNostrand, Ph.D., Alexander Holsinger, Ph.D., “The Hidden Costs of Pretrial Detention,” 3. Laura and John Arnold Foundation. November 2013.
6. Megan T Stevenson, “Distortion of Justice: How the Inability to Pay Bail Affects Case Outcomes,” at 511-542. The Journal of Law, Economics, and Organization, Volume 34, Issue 4. November 2018.