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How New Jersey's Bail Reform and President Trump's Immigration Policies May Affect Undocumented Immigrants

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In January 2017, bail reform went into effect in New Jersey, turning the system from a resource-based assessment to a risk-based assessment. Indigent defendants, who previously could not post bail for minor crimes committed in the state, are no longer detained just because they cannot afford to pay. However, also in January 2017, President Donald Trump's strict policies against undocumented immigrants went into effect. Since then, the priority to remove people from the country has increased and thus the number of immigration arrests has also increased. Formerly, undocumented immigrants who could not post bail and were convicted of crimes would serve their sentence before the removal process was started. But now, individuals who are released under the reformed bail policy are being picked up by immigration officials and possibly removed from the country before their criminal cases are resolved. This will result in some victims failing to get justice, which is ironic because the president has also created a special office for victims of crimes committed by undocumented immigrants. This issue also puts some undocumented immigrants at a strange, unique advantage over American citizens who have no choice but to face their criminal charges and face the punishment that comes with their conviction.

This note will first discuss the old and new bail systems in New Jersey and explain why there was reform. The second section provides an overview of the deportation process for undocumented immigrants subjected to immigration detainers under both President Obama's and President Trump's enforcement policies. The last section is an analysis of how bail reform and President Trump's immigration policies affects the criminal justice system within the context of undocumented immigrants.

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