



Navigating Bail Reform in America:

A State-by-State Overview




Policymakers should move past the divisive and emotional aspects of bail reform to focus on balanced, common-sense solutions.

The research presented in this study was funded in part by the MacArthur Foundation. The R Street Institute thanks them for their support.

Table of Contents

Executive Summary	1
Introduction	2
Definitions	3
History of Bail	5
Current Political Landscape	7
Study Purpose and Methodology	9
Analysis of the 50 States	12
Key Themes	63
The Future of Bail	66
Conclusion	68
About the Author	69



Achieving meaningful change in the bail system will require careful consideration, bipartisan dialogue, and a commitment to addressing the multifaceted challenges within the U.S. pretrial justice system.

Executive Summary

The practical application of the U.S. bail system is a complex issue that intersects with overcrowded jails, socioeconomic disparities, and public safety concerns. To better understand how these issues vary from state to state and to observe trends and areas of opportunities, we undertook a comprehensive analysis of bail reform laws across all 50 states. This analysis sheds light on the landscape of pretrial justice in the United States, outlines current trends in bail reform, and explores how states can expect bail discussions to progress moving forward.

Several key areas of opportunity emerged in our analysis, including expanding immediate-release options, defining time limits for setting bail, using pretrial risk assessments, and encouraging the presumption of unsecured release. Some important secondary issues also emerged, including considering a defendant's ability to pay bail, emphasizing the need for statewide pretrial services, and expanding the types of offenses that are eligible for preventive detention. Additional opportunities for improvement include integrating needs assessments and pretrial support. Collectively, these themes suggest that there is value in shifting away from the traditional cash bail system and moving toward a more equitable, efficient, and data-driven pretrial justice framework.

Although these themes provide a guide for reform, the path to a more effective bail system will likely face challenges driven by political dynamics and evolving public sentiment. To navigate this landscape, policymakers should strive for balanced, common-sense solutions, drawing inspiration from data and successful models in other states. Achieving meaningful change in the bail system will require careful consideration, bipartisan dialogue, and a commitment to addressing the multifaceted challenges within the U.S. pretrial justice system.

Introduction

As discussions around criminal justice reform intensify nationwide, nothing has gained more traction than the consequences and complexities of pretrial detention and release. Bail—the process of detaining or permitting the release of an individual before trial—is a tool used to balance freedom, accountability, and safety within our criminal justice system. While the U.S. Constitution provides guardrails around the use of bail, the specifics of its implementation largely fall to each state.¹ As a result, bail laws are a vast patchwork of different approaches stretching across the nation, influenced by many different political landscapes. This patchwork makes it difficult for experts and policymakers to accurately compare laws or understand how new legislation or proposed reforms may affect communities.

The diverse approaches and political landscapes of individual states also means that bail reform debates vary wildly from one jurisdiction to another. Views range from calls to dismantle an unjust system to concerns that pretrial release is causing a surge in crime.² Public sentiment, law enforcement perspectives, politics, and current events all contribute to shaping these local discussions. Some states have enacted comprehensive reforms, whereas others continue to grapple with specific issues.³ The political dimension of the debate is especially significant, with some stakeholders resisting reforms that could impact their interests or be perceived as “soft on crime.”⁴

Ultimately, bail reform is both a legal and a deeply political issue. To support discussions around bail system changes and pretrial success, it is essential to understand the current state of bail laws across the United States. This study analyzes constitution, statutory laws, and court rules in effect, beginning by defining key terms, then by building key arguments: First, by outlining a brief history of bail in the United States as a precondition of understanding how issues have changed over time. Next, we highlight important stances in the current political landscape around bail reform and drawing these disparate narratives alongside one another to demonstrate the need for comprehensive and thoughtful reform efforts that focus on the principals of justice and safety. Next, in performing a one of a kind state-by-state analysis of bail practices, we breakdown pretrial laws and provide an easy to use comparison to help legislators, state officials and researchers learn from each state’s tools and tactics. After shedding light on current practices, this paper concludes by highlighting common themes to promote fairness and effectiveness as well as areas of opportunity moving forward.

1. “Pretrial Release: State Constitutional Right to Bail,” National Conference of State Legislatures, June 20, 2022. <https://www.ncsl.org/civil-and-criminal-justice/pretrial-release-state-constitutional-right-to-bail>.
2. Allie Preston, “The Case for Cash Bail Reform,” Center for American Progress, Aug. 9, 2023. <https://www.americanprogress.org/article/the-case-for-cash-bail-reform>; Jim Quinn, “Bail ‘reform’ increased crime – and misleading studies don’t prove otherwise,” *New York Post*, March 16, 2023. <https://nypost.com/2023/03/16/bail-reform-increased-crime-and-misleading-studies-dont-prove-otherwise>.
3. Isabella Jorgensen and Sandra Susan Smith, “The Current State of Bail Reform in the United States: Results of a Landscape Analysis of Bail Reforms Across All 50 States,” Harvard Kennedy School, December 2021. <https://www.hks.harvard.edu/publications/current-state-bail-reform-united-states-results-landscape-analysis-bail-reforms-across>.
4. Wendy Sawyer, “All profit, no risk: How the bail industry exploits the legal system,” Prison Policy Initiative, October 2022. <https://www.prisonpolicy.org/reports/bail.html>; Maysoon Khan and Michael Hill, “NY judges will get more power in setting bail, governor says,” *Associated Press*, April 27, 2023. <https://apnews.com/article/new-york-bail-reform-budget-b2d60e56d9f460b46aa2fc7a6e3e98d7>.

Definitions

Ability to Pay:

The financial capacity of an individual to afford a monetary condition of bail.⁵

Arrest Warrant (Warrant):

A court order, based on probable cause, requiring the arrest of an individual alleged to have committed a crime.⁶

Bail or Bond:

Although these terms are often used interchangeably, bail generally refers to the process of release, whereas bond refers to the mechanism used to ensure defendants will show up for court to face the charges against them and other state identified purposes.⁷

Bail Risk Factors (Bail Factors):

Various characteristics and circumstances—such as the severity of the alleged crime and the defendant’s criminal history and ties to the community—that are considered when determining pretrial release and the conditions of that release.⁸

Bond Schedule:

A predetermined list of monetary bail conditions or amounts set for specific criminal offenses. Bond schedules are generally based on the level of offense alone, but the term will be expanded herein to include other tools used to create predetermined bail conditions, such bail matrices that include other bail risk factors.⁹

Cash Bail:

A type of secured bond or monetary condition that can be posted by the defendant themselves or by someone on their behalf. For purposes of this paper, “cash bail” will be included in the definition of “secured bond.”

Citation or Summons:

An appearance ticket issued to notify someone of their court date, often used in lieu of arrest or continued custody.¹⁰

Commercial Bond:

A for-profit entity providing surety for a defendant’s bond. Generally, these entities receive a nonrefundable, 10 to 15 percent portion of the bond amount set by the court.¹¹

Delegated Release:

When the court grants authority to another entity—such as law enforcement, bond commissioners or court clerks—to set bond before a defendant’s first appearance in court.¹²

Failure to Appear (FTA):

When a person fails to attend a scheduled court hearing as required by court order, potentially leading to legal consequences such as an arrest.

First Appearance (aka Initial Appearance):

The initial hearing in court when a defendant is informed of the charges against them and their rights. This is generally when pretrial release decisions are made.¹³

Least Onerous Conditions:

The requisite of imposing the least burdensome conditions on a defendant’s release to reasonably ensure their court appearance and/or uphold public safety.¹⁴

Least Restrictive Condition:

The principle of imposing the minimum necessary conditions or limitations on a defendant’s freedom while reasonably ensuring their appearance in court and/or upholding safety to the public.¹⁵

Monetary Conditions:

The requirement of paying a specified amount of money to the court to secure release from custody before trial. This could be in the form of a secured or unsecured bond.¹⁶

Nonmonetary Conditions:

Court-imposed requirements, such as travel restrictions or mandatory check-ins, imposed on a defendant’s release that do not involve posting money as collateral.¹⁷

5. Lisel Petis, “Tools for Safe and Smart Bail System Changes: Bail Determinants,” R Street Institute, July 27, 2023. <https://www.rstreet.org/commentary/tools-for-safe-and-smart-bail-system-changes-bail-determinants>.
6. “Glossary of Terms and Phrases Relating to Bail and the Pretrial Release or Detention Decision,” Pretrial Justice Institute, July 2015, p. 29. <https://archive.ncsl.org/Portals/1/Documents/cj/Glossary-of-Terms-PJI-2015.pdf>.
7. “Glossary of Terms and Phrases Relating to Bail and the Pretrial Release or Detention Decision,” p. 2. <https://archive.ncsl.org/Portals/1/Documents/cj/Glossary-of-Terms-PJI-2015.pdf>.
8. Petis. <https://www.rstreet.org/commentary/tools-for-safe-and-smart-bail-system-changes-bail-determinants>.
9. Ibid.
10. “Citation Definition & Legal Meaning,” The Law Dictionary, last accessed Sept. 25, 2023. <https://thelawdictionary.org/citation>.
11. Cynthia A. Mammalian, “State of the Science of Pretrial Risk Assessment,” Pretrial Justice Institute, March 2011, p. 6. https://bja.ojp.gov/sites/g/files/xyckuh186/files/Publications/PJI_PretrialRiskAssessment.pdf.
12. “Glossary of Terms and Phrases Relating to Bail and the Pretrial Release or Detention Decision,” p. 7. <https://archive.ncsl.org/Portals/1/Documents/cj/Glossary-of-Terms-PJI-2015.pdf>.
13. “Glossary of Terms and Phrases Relating to Bail and the Pretrial Release or Detention Decision,” p. 12. <https://archive.ncsl.org/Portals/1/Documents/cj/Glossary-of-Terms-PJI-2015.pdf>.
14. John S. Goldkamp, “Danger and Detention: A Second Generation of Bail Reform,” *Journal of Criminal Law and Criminology* 76:1 (1985), p. 14. <https://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?article=6469&context=jclc>.
15. “Glossary of Terms and Phrases Relating to Bail and the Pretrial Release or Detention Decision,” p. 15. <https://archive.ncsl.org/Portals/1/Documents/cj/Glossary-of-Terms-PJI-2015.pdf>.
16. William M. Carlucci, “Death of a Bail Bondsman: The Implementation and Successes of Nonmonetary, Risk-Based Bail Systems,” *Emory Law Journal* 69:6 (2020), pp. 1212-1213. <https://scholarlycommons.law.emory.edu/cgi/viewcontent.cgi?article=1396&context=elj>.
17. “Bail Reform: What to Know and Where to Go for More,” The Center for Just Journalism, last accessed Sept. 27, 2023. <https://justjournalism.org/page/bail-reform>.

Definitions (continued)

Partially Secured Bond:

A bond that is partially secured and partially unsecured. Under this type of bond, a defendant can pay a percentage of the monetary bail set as a deposit with the court—typically 10 percent—and is responsible only for the remainder of the bail amount if they fail to appear or break another condition of bail.¹⁸

Pretrial Risk Assessment:

A tool to determine a defendant’s likelihood of appearing in court or committing a criminal offense if released. These tools aim to make bail decisions more data-driven and objective.¹⁹

Pretrial Services or Supervision:

A program that can provide risk assessments or oversee the supervision of a defendant on pretrial release. For the purposes of this paper, pretrial services will refer to the supervision on release.²⁰

Pretrial Support:

Various services and resources provided to defendants who are on pretrial release, aiming to help them address underlying issues, such as behavioral health challenges or basic needs, to increase compliance with bond conditions and achieve successful pretrial outcomes.²¹

Preventive Detention:

Holding a defendant in jail before trial without the opportunity to post bail, generally because of concerns about flight or safety risk.²²

Presumption:

A legal inference that a court can make unless other facts lead them to the contrary.²³

Rebuttable Presumption:

A legal assumption that something must be true unless proven otherwise with evidence, placing the burden of proof on the opposing party to provide contradictory evidence, which, if not presented satisfactorily, results in the presumption being accepted.²⁴

Release on Recognizance (ROR) (aka Personal Recognizance or Own Recognizance):

Release from custody based on a promise to appear in court, without the need to post a secured or unsecured bond.²⁵

Secured Bond:

A type of bail where the defendant or someone on their behalf provides the court with a specified amount of money or property as a guarantee that the defendant will return for their scheduled court appearances and comply with any other conditions set by the court. If the accused complies with all the court requirements and attends all the necessary court hearings, the bail amount is returned at the conclusion of the case. Although commercial bond is a type of secured bond, for purposes of this paper, it will be labeled separately as “commercial bond.”²⁶

Standard of Proof (Standard):

The degree or level of evidence and persuasion required to establish a fact or claim in a legal proceeding. It varies depending on the decision, with “beyond a reasonable doubt” being the highest standard in criminal cases and “preponderance of the evidence” meaning more likely than not.²⁷

Unsecured Bond:

A defendant’s promise to pay a specified amount if they fail to appear in court, without requiring an upfront payment or collateral.²⁸

18. Joanna Weill et al., “Reducing Felony Case Delay in Brooklyn,” Center for Court Innovation, March 2021, p. 7. https://www.innovatingjustice.org/sites/default/files/media/document/2021/Brooklyn_Project_Evaluation_Appendices_0.pdf.

19. Lisel Petis, “Tools for Safe and Smart Bail System Changes: Pretrial Assessments,” R Street Institute, July 19, 2023. <https://www.rstreet.org/commentary/tools-for-safe-and-smart-bail-system-changes-pretrial-assessments>.

20. Lisel Petis, “Tools for Safe and Smart Bail System Changes: Pretrial Support,” R Street Institute, Sept. 15, 2023. <https://www.rstreet.org/commentary/tools-for-safe-and-smart-bail-system-changes-pretrial-support>.

21. Ibid.

22. “Glossary of Terms and Phrases Relating to Bail and the Pretrial Release or Detention Decision,” p. 22. <https://archive.ncsl.org/Portals/1/Documents/cj/Glossary-of-Terms-PJI-2015.pdf>.

23. “Presumption,” Cornell Law School Legal Information Institute, last accessed Sept. 27, 2023. <https://www.law.cornell.edu/wex/presumption>.

24. “Rebuttable Presumption,” Thompson Reuters Practical Law, last accessed Sept. 26, 2023. <https://content.next.westlaw.com/practical-law/document/Id50051c0e1b011e698dc8b09b4f043e0/Rebuttable-presumption>.

25. “Release on Own Recognizance Definition and Legal Meaning,” The Law Dictionary, last accessed Sept. 25, 2023. <https://thelawdictionary.org/release-on-own-recognizance>.

26. Jordan Gross, “Devil Take The Hindmost: Reform Considerations for States with a Constitutional Right to Bail,” *Akron Law Journals* 52:4 (July 2019), p. 1072. <https://ideaexchange.uakron.edu/cgi/viewcontent.cgi?article=2483&context=akronlawreview>.

27. “Standard of Proof,” FindLaw, last accessed Sept. 26, 2023. <https://dictionary.findlaw.com/definition/standard-of-proof.html>.

28. Gross. <https://ideaexchange.uakron.edu/cgi/viewcontent.cgi?article=2483&context=akronlawreview>.

History of Bail

The concept of bail has evolved over the centuries, shaped by changes in legal paradigms and societal values. Its history sheds light on the intersection between individual rights, public safety, and the presumption of innocence.

The American bail system is derived from English common law, which developed a system to ensure defendants would show up for court and emphasized the principle that pretrial detention should be the exception rather than the rule.²⁹ This principle found its way into colonial America, where early American colonies adopted English bail practices, as they reflected the value of safeguarding individual liberty unless a person posed a genuine risk.³⁰

In the late 18th century, shortly after the inception of the U.S. Constitution, the Eighth Amendment was ratified with broad support.³¹ It prohibited excessive bail, cementing the importance of reasonable bail conditions.³² This highlighted the country's commitment to protecting the inherent right of individuals to be presumed innocent until proven guilty.³³ In 1868, the Fourteenth Amendment extended the protection of these rights to state governments, and many states memorialized these concepts in their state constitutions as well.³⁴ However, the U.S. Supreme Court later clarified that there is no absolute right to bail.³⁵

As the 20th century unfolded, the U.S. bail system encountered new challenges. The rise of commercial bail bond businesses introduced financial interests into the equation, and there was growing criticism of the frequent and unnecessary detention of individuals who could not afford monetary bail conditions.³⁶

29. John-Michael Seibler and Jason Snead, "The History of Cash Bail," The Heritage Foundation, Aug. 25, 2017. <https://www.heritage.org/courts/report/the-history-cash-bail>.

30. Ibid.

31. Ibid.

32. Ibid.

33. Rebekah Durham, "Innocent Until Suspected Guilty," *University of Cincinnati Law Review* 90:2 (December 2021), p. 648. <https://scholarship.law.uc.edu/cgi/viewcontent.cgi?article=1429&context=uclr>.

34. National Conference of State Legislatures. <https://www.ncsl.org/civil-and-criminal-justice/pretrial-release-state-constitutional-right-to-bail>.

35. Seibler and Snead. <https://www.heritage.org/courts/report/the-history-cash-bail>; *United States v. Salerno*, 481 U.S. 739, 754-55 (1987).

36. Ibid; Marion C. Katzive, "New Areas for Bail Reform: A Report on the Manhattan Bail Reevaluation Project, June 1966 – August 1967," Vera Institute for Justice, February 1968, p. 1. <https://vera.org/downloads/publications/1497.pdf>.

History of Bail (continued)

To address these issues, reforms like the 1966 Bail Reform Act aimed to shift the focus from financial means to risk assessment, seeking a fairer and more equitable approach.³⁷ Although the act only affected federal bail, it created pressure on states and localities to follow suit.³⁸ A groundbreaking initiative known as the Manhattan Bail Project also launched in the early 1960s.³⁹ This project pioneered a new approach to pretrial release by assessing individuals' risk factors more holistically.⁴⁰ It also sought to provide nonfinancial alternatives to detention.⁴¹ The project's innovative strategies paved the way for a broader conversation about balancing the rights of the accused with the need for public safety.

In the 21st century, the echoes of these historical transformations continue to resonate in the ongoing bail reform movement. Across the United States, jurisdictions are reevaluating bail systems to align with fairness, equity, and the presumption of innocence.⁴² Some stakeholders are calling to remove monetary conditions of bail in favor of a system that no longer bases release or detention solely on one's ability to pay.⁴³ This reexamination of the fairness of the bail system has resulted in efforts to dismantle the class-based structure inherent in the current system. Notable examples include the implementation of evidence-based risk assessment tools, the exploration of alternatives to cash bail, and Illinois's revolutionary Pretrial Fairness Act that eliminated cash bail.⁴⁴ Conversely, a counterforce is emerging, fueled by concerns over gun violence and frustrations regarding repeat offenders, making some elected officials feel compelled to succumb to pressure to adopt a "tough on crime" stance.⁴⁵



Across the United States, jurisdictions are reevaluating bail systems to align with fairness, equity, and the presumption of innocence. Conversely, a counterforce is emerging, fueled by concerns over gun violence and frustrations regarding repeat offenders and some elected officials feel compelled to succumb to pressure to adopt a "tough on crime" stance.

37. Warren L. Miller, "The Bail Reform Act of 1966: Need for Reform in 1969," *Catholic University Law Review* 19:24 (1970), p. 24. <https://scholarship.law.edu/lawreview/vol19/iss1/2>.

38. Ibid.

39. Katzive, p. 1. <https://vera.org/downloads/publications/1497.pdf>.

40. Ibid.

41. Ibid.

42. Jorgensen and Smith. <https://www.hks.harvard.edu/publications/current-state-bail-reform-united-states-results-landscape-analysis-bail-reforms-across>.

43. "Prosecutors and Law Enforcement Leaders Call for an End to Cash Bail in California," Fair and Just Prosecution, Oct. 9, 2018. <https://www.fairandjustprosecution.org/staging/wp-content/uploads/2018/10/Humphrey-Press-Release-FINAL.pdf>.

44. Allie Preston, "The Case for Cash Bail Reform," Center for American Progress, Aug. 9, 2023. <https://www.americanprogress.org/article/the-case-for-cash-bail-reform>.

45. Ibid.

Current Political Landscape

The current political discourse on bail reform encompasses a range of issues, touching on individual rights, public safety, and socioeconomic disparities. Proponents of bail reform argue that the current cash bail system disproportionately affects low-income individuals, subjecting them to pretrial detention based solely on an inability to access resources.⁴⁶ This emphasizes the need to address socioeconomic disparities and ensure that pretrial release is untethered from financial means. This issue is further exacerbated by documented practices in which defendants accept plea deals solely to secure release, even when they maintain that they are innocent.⁴⁷ These realities contradict the presumption of innocence and the prohibition against excessive bail while also exposing the unconstitutional nature of the current system.

While some advocates push for the complete abolishment of cash bail, others focus on minimizing its use as they work to implement tools to uphold public safety.⁴⁸ The commonalities in these two approaches to bail reform have led to increases in pretrial assessments, pretrial programs, and legislative guidelines for release.⁴⁹ These changes promise more effective ways to ensure defendants appear in court and mitigate public safety risk without unnecessary incarceration.⁵⁰ However, even some of these approaches have caused debate.

Opponents of bail reform express concerns about releasing individuals who do not have a financial stake in their court appearance, particularly those accused of serious offenses or with repeated criminal behavior.⁵¹ They argue that removing cash bail may increase risks to public safety.⁵²

Because it is unconstitutional to impose excessive bail to detain someone, the crux of the debate must center on whether monetary bail serves as an effective deterrent to flight, or impacts an individual's safety risk status.⁵³ Research shows that financial incentives resulting from monetary bail conditions do little to curb the risk of flight or improve safety.⁵⁴ Critics of such incentives argue that risk assessments can more accurately evaluate the potential danger posed by a defendant, irrespective of their financial situation.⁵⁵ Further, nonmonetary conditions—such as electronic monitoring or court notifications—or pretrial support can more effectively ensure an individual's court appearance without penalizing those who cannot afford bail.⁵⁶

46. Bernadette Rabuy and Daniel Kopf, "Detaining the Poor: How money bail perpetuates an endless cycle of poverty and jail time," Prison Policy Initiative, May 10, 2016. <https://www.prisonpolicy.org/reports/incomejails.html>.

47. Desmond Mantle, "Fixing the plea bargaining process is an essential criminal justice reform," Reason Foundation, March 3, 2022. <https://reason.org/commentary/fixing-the-plea-bargaining-process-is-an-essential-criminal-justice-reform>.

48. Jessica Brand and Jessica Pishko, "Bail Reform: Explained," The Appeal, June 14, 2018. <https://theappeal.org/bail-reform-explained-4abb73dd2e8a>.

49. "State Pretrial Reforms," National Association of Criminal Defense Lawyers, Jan. 23, 2020. <https://www.nacdl.org/Content/Legislation-and-State-Practices>.

50. Jorgensen and Smith. <https://www.hks.harvard.edu/publications/current-state-bail-reform-united-states-results-landscape-analysis-bail-reforms-across>.

51. "Effectiveness and Cost," American Bail Coalition, last accessed Sept. 26, 2023. <https://ambailcoalition.org/effectiveness-and-cost>.

52. Ibid.

53. "Eighth Amendment," Constitution Annotated, last accessed Sept. 2, 2023. <https://constitution.congress.gov/constitution/amendment-8>.

54. Aurélie Ouss and Megan Stevenson, "Does Cash Bail Deter Misconduct?" *American Economic Journal: Applied Economics* 15:3 (July 2023), pp. 150-182. <https://www.aeaweb.org/articles?id=10.1257/app.20210349>.

55. Bureau of Justice Assistance, "What Is Risk Assessment," U.S. Department of Justice, last accessed Sept. 26, 2023. <https://bja.ojp.gov/program/psrac/basics/what-is-risk-assessment>; Timothy R. Schnacke, "Money as a Criminal Justice Stakeholder: The Judge's Decision to Release or Detain a Defendant Pretrial," National Institute of Corrections, September 2014, pp. 49-60. https://www.ncsc.org/_data/assets/pdf_file/0021/26670/schnacke-2014-money-as-a-criminal-justice-stakeholder.pdf.

56. Petis, "Pretrial Support." <https://www.rstreet.org/commentary/tools-for-safe-and-smart-bail-system-changes-pretrial-support>.

Other arguments against alternatives to pretrial detention and use of cash bail focus on potential strains on court resources and the logistical challenges of setting up new systems.⁵⁷ Yet proponents of such reforms contend that these measures can streamline court processes and reduce the cost and negative outcomes of unnecessary detention.⁵⁸

The extent and nature of the bail reform debate varies by jurisdiction, with some states taking action and others refusing to take part in the discussion. Bail bond companies and some law enforcement agencies add a layer of complexity to the discourse, as they are often depicted as resisting reforms that could disrupt their revenue streams or loosen their control over defendants.⁵⁹ Policymakers, while recognizing the merits of reform, sometimes grapple with concerns about appearing “soft on crime,” contributing to the political dimension of the debate.⁶⁰

These conversations have become more nuanced in recent years as they expand to include the potential for inherent discrimination in pretrial risk assessments, where critics worry that certain factors used in these assessments might inadvertently perpetuate biases or inequalities in the criminal justice system.⁶¹ Furthermore, debate has ensued over the best entity to operate pretrial supervision programs and how oversight might influence the effectiveness and impartiality of programs.⁶² Finally, there is a growing debate regarding the types of offenses that should be eligible for preventive detention or personal recognizance, with stakeholders deliberating over where to draw the line between public safety and individual liberty.⁶³

Examples of the scope and breadth of these debates can be seen across the nation. California’s Supreme Court mandated that courts consider an individual’s ability to pay bail—a factor absent in California law or court rules.⁶⁴ In contrast, Delaware’s high court upheld the pretrial detention of an individual who could not afford bail, despite the state’s constitution permitting preventive detention solely for capital offenses.⁶⁵ In Iowa, the governor rejected an effort to implement pretrial risk assessments.⁶⁶ In Louisiana, defendants are entitled to attorneys at their first appearance but rarely get them.⁶⁷ Meanwhile, in states like Indiana, actions by the legislature to change constitutional bail provisions is still pending approval by the voters, reflecting the complex and multilayered nature of bail system changes.⁶⁸

In this complex landscape, comprehensive and thoughtful reform efforts are essential to address the myriad issues associated with the bail system and their impact on individual rights, public safety, and socioeconomic disparities. The ongoing debate underscores the importance of finding a balanced and smart solution that respects the principles of justice and equality upon which the legal system is built.

57. Wendy R. Calaway and Jennifer M. Kinsley, “Rethinking Bail Reform,” *University of Richmond Law Review* 52:4 (May 2022), pp. 795-830. <https://lawreview.richmond.edu/files/2018/10/CalKin-AC-542.pdf>.

58. “Pretrial Release and Detention in the Federal Judiciary,” United States Courts, last accessed Nov. 1, 2023. <https://www.uscourts.gov/services-forms/probation-and-pretrial-services/supervision/pretrial-risk-assessment/pretrial-release>.

59. Wendy Sawyer, “All profit, no risk: How the bail industry exploits the legal system,” Prison Policy Initiative, October 2022. <https://www.prisonpolicy.org/reports/bail.html>.

60. Glenn C. Altschuler, “Bail reform, crime waves and the fake news about them,” *The Hill*, May 2023. <https://thehill.com/opinion/criminal-justice/4012841-bail-reform-crime-waves-and-the-fake-news-about-them>.

61. “The Case Against Pretrial Risk Assessments,” Pretrial Justice Institute, Nov. 17, 2020. <https://www.pretrial.org/resources/the-case-against-pretrial-risk-assessments>.

62. Sandra G. Mayson, “Bias In, Bias Out,” *The Yale Law Journal* 128:8 (June 2019), pp. 2122-2473. <https://www.yalelawjournal.org/article/bias-in-bias-out>.

63. “Pretrial Preventive Detention,” National Center for State Courts, February 2020. https://www.ncsc.org/_data/assets/pdf_file/0026/63665/Pretrial-Preventive-Detention-White-Paper-4.24.2020.pdf.

64. Maria Dinzeo, “Bail Cannot Be Imposed Without Considering Ability to Pay, CA High Court Rules,” Courthouse News Service, March 25, 2021. <https://www.courthousenews.com/bail-cannot-be-imposed-without-considering-ability-to-pay-ca-high-court-rules>.

65. Debra Cassens Weiss, “Top state court upholds unaffordable bail for ‘putative gun-toting drug dealer,’” *ABA Journal* (Sept. 1, 2023). <https://www.abajournal.com/web/article/top-state-court-upholds-unaffordable-bail-for-putative-gun-toting-drug-dealer>.

66. “Iowa: Vindication for Governor Reynolds on Pretrial Risk Assessments,” American Bail Coalition, Aug. 6, 2018. <https://ambailcoalition.org/iowa-vindication-for-governor-reynolds-on-pretrial-risk-assessments>.

67. “Report on the Louisiana Bail System,” Louisiana State Bar Association, August 2018, p. 12. <http://files.lsba.org/documents/CJC/LSBACJCReportonBail.pdf>.

68. Ryan Martin, “How a proposed amendment to Indiana’s constitution would cut the right to bail,” State Affairs, April 12, 2023. <https://stateaffairs.com/indiana/justice-civil-rights/indiana-bail-amendment-constitution>.

Study Purpose and Methodology

To support the discussions around safe bail system changes, a current understanding of bail laws from state to state is necessary. By examining bail laws across different states, policymakers and legal experts can identify best practices and successful strategies for pretrial release. The comparative analysis contained herein is designed to help states learn from one another’s initiatives and outcomes and consider policies that have proven effective in ensuring both public safety and fairness. It can also help states avoid potential pitfalls and unintended consequences. By examining what has not worked in other jurisdictions, states can make informed decisions to avoid implementing policies that may lead to excessive detention or compromise individual rights.

For this analysis, we have included statutory laws that are in effect or that have been enacted with future effective dates after Oct. 1, 2023 and court rules. Notably, some states rely heavily on statute to direct their pretrial process, whereas others rely on court rules. Court cases creating legal precedent were not included in this analysis; however, this analysis attempts to note any state laws that a given state’s supreme court found unconstitutional. This analysis was not able to capture details and nuances in their full complexity of that law. Please reference the cited statute for specifics about each law.

To facilitate the comparison of laws state-to-state, we have devised the following rubric to classify the statutes and rules.

Category	Description
State Population	2022 estimated populations from the U.S. Census
Pretrial Detention Population	2019 jail population and percentage of individuals held pretrial from the most recent Census of Jails
Purpose of Bail	Reasons for bail will be categorized as follows, and any designated “primary purpose” will be noted: <ul style="list-style-type: none"> • Court appearance • Safety of another (includes victim, witness, or others) • Safety of the public • Safety of the defendant • Prevent obstruction of justice (includes intimidation of a witness, destruction of evidence, etc.) • Judicial integrity
Release Before First Appearance	The ability of a defendant to be released before their first appearance with a judge will be categorized as: <ul style="list-style-type: none"> • Bond schedule • Delegated release • Police interim bond • Cite and release • Must/may be fixed on warrant <p>If release authority is expressly limited, it will be noted.</p>

Category	Description
Time Limits	Any time requirements for setting bail by the court after the time of arrest (nonbailable offenses may not be included)
Bail Factors Considered	Factors to be considered by the court when setting bail will be categorized as: <ul style="list-style-type: none"> • Must/may consider any relevant factors • Must/may consider specific factors • Limits on factors • No direction
Pretrial Risk Assessments	Whether a pretrial risk assessment is used as a part of pretrial release decisions will be categorized as: <ul style="list-style-type: none"> • Required • Must/may consider, if available • Use limited • No direction
Type of Bail Available	Types of bail available to be issued by the court will be categorized as: (all available will be included) <ul style="list-style-type: none"> • Personal recognizance • Unsecured bond • Partially secured bond • Secured bond • Commercial bond
Limits on Types of Bail	Limits on the types of bail used by the court will be categorized as: <ul style="list-style-type: none"> • Mandatory (ROR, unsecured, or secured bond) • Mandatory ROR/unsecured bond subject to court discretion of flight or safety risk • Rebuttable presumption of (ROR, unsecured, or secured bond) • Limit on use of (ROR, unsecured, or secured bond) • No direction The crimes that the limit applies to will be categorized as: <ul style="list-style-type: none"> • Murder • Serious offenses (generally first-degree felony crimes) • Violent offenses (generally felonies that include physical harm against a person) • Sex offenses • Domestic violence (DV) (with or without previous conviction) • Felonies (all) • Misdemeanors (all) • Currently under supervision or on bail • Prior felony conviction(s) • Prior bail violation • Other specific offenses
Bail Conditions	Limits on the bail conditions that can be imposed by the court will be categorized as: <ul style="list-style-type: none"> • Least restrictive • Least onerous • Individualized • Reasonably necessary to ensure • Must follow list of progressive conditions



Category	Description
Pretrial Services	Whether pretrial is an available option as a bond condition will be categorized as: <ul style="list-style-type: none"> • Available statewide • As available • Limited use • No direction
Special Considerations	Any other unique considerations or limits
Ability to Pay Considered	Whether a defendant’s ability to pay is considered will be categorized as: <ul style="list-style-type: none"> • Must use calculation • Must consider ability to pay – requiring an assessment of defendant’s resources in relation to the potential amount of a monetary bond condition • Must consider financial resources – requiring only that a defendant’s access to financials be considered, but not necessarily in relation to whether or not they can afford a specific amount monetary condition to be released on bail • May consider • No direction
Preventive Detention	Constitution and statutes will be listed separately if different Types of offenses eligible for preventive detention will be categorized as: <ul style="list-style-type: none"> • None • Capital offenses • Life imprisonment offenses • Treason • Serious offenses • Violent offenses • Sex offenses • DV • Other specific offenses • Any felony • Any crime • Currently under supervision • Currently on bail • Prior felony conviction(s) • Prior bail violation The standard of proof to invoke preventive detention will be categorized as: <ul style="list-style-type: none"> • Proof evident and presumption great • Proof evident or presumption great • Clear and convincing • Preponderance of the evidence • Rebuttable presumption The standard of proof may include other standards such as “no other condition of release reasonably ensures court appearance or safety” Note, if a state does not allow the death penalty, then preventive detention for capital offenses may not be applicable
Bail Reconsideration (if still in custody)	Whether bail is reconsidered after a specified time frame or upon request if an individual remains incarcerated due to an inability to pay

Analysis of the 50 States

Alabama	13
Alaska	14
Arizona	15
Arkansas	16
California	17
Colorado	18
Connecticut	19
Delaware	20
Florida	21
Georgia	22
Hawaii	23
Idaho	24
Illinois	25
Indiana	26
Iowa	27
Kansas	28
Kentucky	29
Louisiana	30
Maine	31
Maryland	32
Massachusetts	33
Michigan	34
Minnesota	35
Mississippi	36
Missouri	37
Montana	38
Nebraska	39
Nevada	40
New Hampshire	41
New Jersey	42
New Mexico	43
New York	44
North Carolina	45
North Dakota	46
Ohio	47
Oklahoma	48
Oregon	49
Pennsylvania	50
Rhode Island	51
South Carolina	52
South Dakota	53
Tennessee	54
Texas	55
Utah	56
Vermont	57
Virginia	58
Washington	59
West Virginia	60
Wisconsin	61
Wyoming	62



Alabama



State Population

5,074,296

2022 National and State
Population Estimates



Pretrial Detention Population

73.7% of 14,589

persons in jail

Census of Jails, 2019



Purpose of Bail

Court appearance (primary purpose)

Safety of another

Safety of the public

[Ala. Code § 15-13-102](#)

[Ala. R. Crim. P. Rule 7.2](#)

Release Before First Appearance	Bond schedule Delegated release Cite and release Must be fixed on warrant	Ala. R. Crim. P. Rule 4.3 Ala. Code § 15-13-104 Ala. Code § 15-13-105
Time Limits	Within 24 hours	Ala. Code § 15-13-106
Bail Factors Considered	May consider specific factors	Ala. R. Crim. P. Rule 7.2
Pretrial Risk Assessment	No direction	
Type of Bail Available	Personal recognizance Secured bond Commercial bond	Ala. Code § 15-13-111
Limits on Types of Bail	Mandatory secured bond: <ul style="list-style-type: none"> • Murder • Sex offenses • Prior felony conviction(s) • Currently under supervision or on bail • Prior bail violation • Other specific offenses 	Ala. R. Crim. P. Rule 7.2
Bond Conditions	Least restrictive Reasonably necessary to ensure	Ala. Code § 15-13-146 Ala. R. Crim. P. Rule 7.2 Ala. R. Crim. P. Rule 7.3
Pretrial Services	No direction	
Special Considerations	N/a	
Ability to Pay	No direction	
Preventive Detention Eligible	Serious offenses → Standard: Clear and convincing	Ala. Const. Art. I, Sec. 16 Ala. Code § 15-13-3
Bail Reconsideration	90 days	Ala. R. Crim. P. Rule 7.4



State Population

733,583

2022 National and State
Population Estimates



Pretrial Detention Population

N/a

Census of Jails, 2019



Purpose of Bail

Court appearance
Safety of another
Safety of the public

Alaska Stat. § 12.30.011

Release Before First Appearance	Bond schedule (limited)	Alaska R. Crim. Proc. 41
Time Limits	Without unnecessary delay (within 24 hours)	Alaska R. Crim. Proc. 5 Alaska Stat. § 12.25.150
Bail Factors Considered	Must consider any relevant factors	Alaska Stat. § 12.30.011
Pretrial Risk Assessment	Required	Alaska Stat. § 12.30.011 Alaska Stat. § 33.07.010
Type of Bail Available	Personal recognizance Unsecured bond Partially secured bond Secured bond Commercial bond	Alaska R. Crim. Proc. 41 Alaska Stat. § 12.30.011
Limits on Types of Bail	Mandatory ROR/unsecured bond subject to court discretion of flight or safety risk Rebuttable presumption of secured bond for: <ul style="list-style-type: none"> • Serious offenses • Sex offenses • Prior felony conviction • Currently under supervision or on bail • DV with previous conviction • Other specific offenses 	Alaska Stat. § 12.30.011
Bail Conditions Limits	Least restrictive Reasonably necessary to ensure	Alaska Stat. § 12.30.011
Pretrial Services	Available statewide	Alaska Stat. § 12.30.011 Alaska Stat. § 33.07.010
Special Considerations	N/a	
Ability to Pay Considered	Must consider ability to pay	Alaska Stat. § 12.30.011
Preventive Detention	Capital offenses → Standard: Proof evident or presumption great	Alaska Const. Art. I, § 11
Bail Reconsideration	48 hours	Alaska Stat. § 12.30.006



State Population

7,359,197

2022 National and State
Population Estimates



Pretrial Detention Population

79.6% of 13,248

persons in jail

Census of Jails, 2019



Purpose of Bail

Court appearance
Safety of another
Safety of the public
Prevent obstruction of justice

Ariz. Rev. Stat. § 13-3961

Release Before First Appearance	Cite and release (misdemeanor only)	Ariz. Rev. Stat. § 13-3903
Time Limits	Without unnecessary delay (within 24 hours)	Ariz. Rev. Stat. § 13-3897 Ariz. Rev. Stat. § 13-3898
Bail Factors Considered	Must consider specific factors	Ariz. Rev. Stat. § 13-3967 Ariz. R. Crim. P. 7.2
Pretrial Risk Assessment	Must consider, if available	Ariz. R. Crim. P. 7.2 Ariz. R. Crim. P. 7.3
Type of Bail Available	Personal recognizance Unsecured bond Partially secured bond Secured bond Commercial bond	Ariz. R. Crim. P. 7.1 Ariz. R. Crim. P. 7.3 Ariz. Rev. Stat. § 20-1534
Limits on Types of Bail	No direction	Ariz. Rev. Stat. § 13-3967
Bail Conditions	Least onerous Individualized Reasonably necessary to ensure	Ariz. Rev. Stat. § 13-3967 Ariz. Rev. Stat. § 13-3972 Ariz. R. Crim. P. 7.2 Ariz. R. Crim. P. 7.3
Pretrial Services	As available	Ariz. R. Crim. P. 7.3
Special Considerations	Felony sex offenses—shall impose electronic monitoring when released	Ariz. Rev. Stat. § 13-3967
Ability to Pay Considered	Must consider ability to pay	Ariz. R. Crim. P. 7.3
Preventive Detention	Capital offenses Sex offenses Serious offenses (by undocumented immigrant only) → Standard: Proof evident or presumption great Any felony → Standard: Proof evident or presumption great AND clear and convincing evidence of substantial danger Other specific offenses → Standard: Proof evident or presumption great AND no condition will reasonably ensure safety	Ariz. Rev. Stat. § 13-3961 Ariz. R. Crim. P. 7.2 Ariz. Const. Art. II, § 22
Bail Reconsideration	10 days (misdemeanor only) Upon request (felony)	Ariz. R. Crim. P. 7.4



State Population

3,045,637

2022 National and State
Population Estimates



Pretrial Detention Population

66.5% of 8,842

persons in jail

Census of Jails, 2019



Purpose of Bail

Court appearance

Ark. R. Crim. P. 9.2

Release Before First Appearance	Cite and release (misdemeanor only)	Ark. R. Crim. P. 5.2
Time Limits	Without unnecessary delay	Ark. R. Crim. P. 8.1
Bail Factors	Must consider any relevant factors (appearance only)	Ark. R. Crim. P. 8.5 Ark. R. Crim. P. 9.2
Pretrial Risk Assessments	No direction	
Type of Bail Available	Personal recognizance Unsecured bond Partially secured bond Secured bond Commercial Bond	Ark. R. Crim. P. 9.1 Ark. R. Crim. P. 9.2 Ark. R. Crim. § 17-19-110
Limits on Types of Bail	Secured/unsecured bond, limit on use of monetary conditions: to ensure appearance only	Ark. R. Crim. P. 9.2
Bail Condition Limits	Reasonably necessary to ensure	Ark. R. Crim. P. 9.1
Pretrial Services	As available	Ark. R. Crim. P. 9.1 Ark. R. Crim. P. 9.3
Special Considerations	Human trafficking—must agree to electronic home monitor, secured bond, and other protections for the victim	Ark. Code Ann. § 16-84-117
Ability to Pay Considered	May consider financial resources	Ark. R. Crim. P. 9.2
Preventive Detention	Capital offenses → Standard: Proof evident or presumption great	Ark. Const. Art. 2, § 8
Bail Reconsideration	No direction	



California



State Population

39,029,342

2022 National and State
Population Estimates



Pretrial Detention Population

59.2% of 80,215

persons in jail

Census of Jails, 2019



Purpose of Bail

Court appearance

Safety of another

Safety of the public (primary purpose)

Cal. Pen. Code § 1275

Cal. Const. Art. I, § 28

Release Before First Appearance	Bond schedule Must be fixed on warrant Cite and release (misdemeanors)	Cal. Pen. Code § 1269b Cal. Pen. Code § 815a Cal. Pen. Code § 836.5
Time Limits	Without unnecessary delay (within 48 hours)	Cal. Pen. Code § 825
Bail Factors	Must consider specific factors	Cal. Pen. Code § 1275
Pretrial Risk Assessments	May consider, if available Use limited	Cal. Pen. Code § 1275 Cal. Pen. Code § 1318.1 Cal. Pen. Code § 1320.35
Type of Bail Available	Personal recognizance Secured bond Commercial bond	Cal. Pen. Code § 1270 Cal. Ins. Code § 1810 Cal. Pen. Code § 1269
Limits on Types of Bail	Mandatory ROR for misdemeanors subject to court discretion of flight or safety risk Presumption of secured bond—serious felony and violent offenses and violations of protection orders → Standard: “Unusual circumstances”	Cal. Pen. Code § 1269c Cal. Pen. Code § 1270.1 Cal. Pen. Code § 1275
Bail Condition Limits	Reasonably necessary to ensure	Cal. Pen. Code § 1270
Pretrial Services	Available statewide	Budget Act of 2022
Special Considerations	N/a	
Ability to Pay Considered	No direction	
Preventive Detention	Capital crimes (mandatory) → Standard: Proof evident or presumption great Violent offenses, sex offenses → Standard: Proof evident or presumption great AND clear and convincing evidence of substantial likelihood release would result in great bodily harm to others Any felony → Standard: Proof evident or presumption great AND clear and convincing evidence person threatened another with great bodily harm and substantial likelihood of such harm if released	Cal. Const. Art. I, § 12 Cal. Pen. Code § 1270.5
Bail Reconsideration	Five days	Cal. Pen. Code § 1270.2



Colorado



State Population

5,839,926

2022 National and State
Population Estimates



Pretrial Detention Population

59.8% of 13,811

persons in jail

Census of Jails, 2019



Purpose of Bail

Court appearance

Safety of another

Safety of the public

Colo. Rev. Stat. § 16-4-103

Release Before First Appearance	Bond schedule Cite and release (non-DV misdemeanors only) Must be fixed on warrant	Colo. Rev. Stat. § 16-4-103 Colo. Rev. Stat. § 16-3-105 Colo. R. Crim. P. 4
Time Limits	Without unnecessary delay (within 48 hours)	Colo. Rev. Stat. § 16-4-102
Bail Factors	May consider specific factors	Colo. Rev. Stat. § 16-4-103
Pretrial Risk Assessment	Must consider, if available	Colo. Rev. Stat. § 16-4-103
Type of Bail Available	Personal recognizance Unsecured bond Secured bond Commercial bond	Colo. Rev. Stat. § 16-4-104
Limits on Types of Bail	Mandatory secured bond if: <ul style="list-style-type: none"> • Currently on bail • Previous conviction (with time limit) • Previous FTA (with time limit) Mandatory ROR if low-level misdemeanor, unless flight or safety risk identified by specific factors	Colo. Rev. Stat. § 16-4-104 Colo. Rev. Stat. § 16-4-113
Bail Conditions	Least restrictive Reasonably necessary to ensure Individualized Tailored to address specific concerns	Colo. Rev. Stat. § 16-4-103
Pretrial Services	As available	Colo. Rev. Stat. § 16-4-105 Colo. Rev. Stat. § 16-4-106
Special Considerations	Court shall consider the defendant's pregnancy or postpartum status when setting bond	Colo. Rev. Stat. § 16-4-103
Ability to Pay Considered	Must consider financial resources	Colo. Rev. Stat. § 16-4-103
Preventive Detention Eligible	Capital offenses → Standard: Proof evident or presumption great Violent crime while under supervision for a violent crime, on bail for violent crime, or prior felony convictions → Standard: Proof evident or presumption great AND public would be placed in significant peril if released	Colo. Const. Art. II, § 19 Colo. Rev. Stat. § 16-4-101
Bail Reconsideration	After seven days	Colo. Rev. Stat. § 16-4-107



Connecticut



State Population

3,626,205

2022 National and State
Population Estimates



Pretrial Detention Population

N/a

Census of Jails, 2019



Purpose of Bail

Court appearance
Safety of another person
Safety of the public

Conn. Gen. Stat. § 54-64a

Release Before First Appearance	Delegated release Must be fixed on warrant	Conn. Gen. Stat. § 54-63c Conn. Practice Book § 36-3 Conn. Practice Book § 38-2
Time Limits	Without undue delay	Conn. Gen. Stat. § 54-63c Conn. Practice Book § 38-1
Bail Factors	Must consider specific factors	Conn. Gen. Stat. § 54-63b
Pretrial Risk Assessment	Required	Conn. Gen. Stat. § 54-63b
Type of Bail Available	Personal recognizance Partially secured bond Secured bond Commercial bond	Conn. Gen. Stat. § 54-63d Conn. Practice Book § 38-3 Conn. Practice Book § 38-8
Limits on Types of Bail	Mandatory unsecured bond for misdemeanor unless DV or flight or safety risk Mandatory secured bond for DV offense with firearm	Conn. Gen. Stat. § 54-63c Conn. Gen. Stat. § 54-63d Conn. Gen. Stat. § 54-64a Conn. Practice Book § 38-3
Bail Conditions	Least restrictive Reasonably necessary to ensure	Conn. Gen. Stat. § 54-63b Conn. Gen. Stat. § 54-64a Conn. Practice Book § 38-3
Pretrial Services	As available	Conn. Gen. Stat. § 54-63d
Special Considerations	N/a	
Ability to Pay Considered	Must consider financial resources	Conn. Gen. Stat. § 54-64a
Preventive Detention	Capital offenses → Standard: Proof evident or presumption great	Conn. Const. Art. I., § 8 Conn. Gen. Stat. § 54-53
Bail Reconsideration	14 days (misdemeanor) 30 days (low-level felony) or 45 days (high-level felonies)	Conn. Gen. Stat. § 54-53a



State Population

1,018,396

2022 National and State
Population Estimates



Pretrial Detention Population

N/a

Census of Jails, 2019



Purpose of Bail

Court appearance
Safety of another
Safety of the public
Compliance with conditions
Judicial integrity

Del. J. P. Ct. Crim. R. 46

Del. Super. Ct. Crim. R. Appx., Special Rules, R. 5.2

Del. Code tit. 11, § 2101

Release Before First Appearance	Cite and release (misdemeanor only)	Del. Code tit. 11, § 1908
Time Limits	Without unnecessary delay (within 24 hours)	Del. Code tit. 11, § 1909
Bail Factors	Must consider specific factors	Del. Code tit. 11, § 2105
Pretrial Risk Assessment	Must consider, if available	Del. Code tit. 11, § 2104 Del. Super. Ct. Crim. R. Appx., Special Rules, R. 5.2
Type of Bail Available	Personal recognizance Unsecured bond Secured bond Commercial Bond	Del. Code tit. 11, § 2104 Del. Super. Ct. Crim. R. Appx., Special Rules, R. 5.2 Del. Code tit. 18, § 4332
Limits on Types of Bail	Presumption of secured bond for: <ul style="list-style-type: none"> • Serious offenses • Violent offenses • Sex offenses • DV • Others 	Del. Code tit. 11, § 2107 Del. Code tit. 11, § 2105
Bail Conditions	Reasonably necessary to ensure Least restrictive	Del. Code tit. 11, § 2104 Del. Code tit. 11, § 2108 Del. Super. Ct. Crim. R. Appx., Special Rules, R. 5.2
Pretrial Services	As available	Del. Super. Ct. Crim. R. Appx., Special Rules, R. 5.2 Del. Code tit. 11, § 2108
Special Considerations	N/a	
Ability to Pay Considered	Must consider ability to pay	Del. Super. Ct. Crim. R. Appx., Special Rules, R. 5.2
Preventive Detention	Capital offenses → Standard: Proof positive or presumption great Other specific offenses (General Assembly has not expressly prescribed) → Standard: Proof positive or presumption great AND clear and convincing that no condition will reasonably ensure purpose of bail	Del. Code tit. 11, § 2103 Del. Const. Art. I, § 12
Reconsideration of Bail	72 hours, review shall occur within 10 days	Del. Code tit. 11, § 2110 Del. Super. Ct. Crim. R. Appx., Special Rules, R. 5.3



State Population

22,244,823

2022 National and State
Population Estimates



Pretrial Detention Population

58.4% of 61,413

persons in jail

Census of Jails, 2019



Purpose of Bail

Court appearance

Safety of the public

Judicial Integrity

[Fla. Stat. § 903.046](#)

[Fla. Const. Art. I, § 14](#)

Release Before First Appearance	Bond schedule	Fla. Stat. § 903.011
Time Limits	Within 24 hours	Fla. R. Crim. P. 3.132
Bail Factors	Must consider any relevant factors	Fla. Stat. § 903.046 Fla. R. Crim. P. 3.131
Pretrial Risk Assessment	Required (for specific circumstances only)	Fla. Stat. § 907.041
Type of Bail Available	Personal recognizance Unsecured bond Secured bond Commercial bond	Fla. R. Crim. P. 3.131 Fla. Stat. § 648.42
Limits Types of Bail	Presumption of unsecured bond unless “dangerous crime” Mandatory secured bond at first appearance <ul style="list-style-type: none"> • Serious offenses • Violent offenses • Sexual offenses • Previous FTA • Other 	Fla. R. Crim. P. 3.131 Fla. Stat. § 907.041 Fla. Stat. § 903.046
Bail Conditions	Reasonably necessary to ensure Must follow list of progressive conditions	Fla. Stat. § 903.047 Fla. R. Crim. P. 3.131
Pretrial Service	As available	Fla. Stat. § 903.047
Special Considerations	Courts should consider the street value of the drugs when considering whether substantial bail is needed in drug cases	Fla. Stat. § 903.046
Ability to Pay Considered	Must consider financial resources	Fla. Stat. § 903.046
Preventive Detention	CONSTITUTION & RULE Capital offense or life imprisonment offenses → Standard: Proof evident or presumption great Any crime if no conditions of release can reasonably ensure safety or court appearance LIMITED BY STATUTE Violent offenses; other specific offenses prior bail violation; prior bail violation; currently under supervision or on bail; other specific factors → Standard: Substantial probability that the defendant committed the offense AND no condition can reasonably ensure safety or court appearance	Fla. Stat. § 907.041 Fla. Const. Art. I, § 14 Fla. R. Crim. P. 3.131
Bail Reconsideration	No direction	



State Population

10,912,876

2022 National and State Population Estimates



Pretrial Detention Population

59.2% of 42,357

persons in jail

Census of Jails, 2019



Purpose of Bail

- Court appearance
- Safety to another
- Safety to the public
- Prevent obstruction of justice

Ga. Code Ann. § 17-6-1

Release Before First Appearance	Bond schedule	Ga. Code Ann. § 17-6-1
Time Limits	Within 72 hours	Ga. Code Ann. § 17-4-26 Ga. Unif. Super. Ct. R. 26.1
Bail Factors	Must consider any relevant factor	Ga. Code Ann. § 17-6-1
Pretrial Risk Assessment	No direction	
Type of Bail Available	Personal recognizance Secured bond Commercial bond	Ga. Unif. Super. Ct. R. 27.4 Ga. Code Ann. § 17-6-12
Limits on Types of Bail	Mandatory secured bail if: <ul style="list-style-type: none"> • Serious offenses • Sexual offenses • Violent offense • DV • Violation of bail (with time limit) • FTA (with time limit) • Other 	Ga. Code Ann. § 17-6-12
Bail Conditions	Reasonably necessary to ensure (misdemeanor) Individualized	Ga. Code Ann. § 17-6-1
Pretrial Services	As available	Ga. Code Ann. § 17-6-1.1 Ga. Unif. Super. Ct. R. 27
Special Considerations	N/a	
Ability to Pay Considered	Must consider financial resources	Ga. Code Ann. § 17-6-1
Preventive Detention	Any felony with significant risk of flight or safety risk Rebuttable presumption of detention if serious violent felony and prior serious violent felony	Ga. Code Ann. § 17-6-1
Bail Reconsideration	30 days, and hearing within 30 days	Ga. Code Ann. § 17-6-1



State Population

1,440,196

2022 National and State Population Estimates



Pretrial Detention Population

N/a

Census of Jails, 2019



Purpose of Bail

Court appearance
Safety of the public

Haw. Rev. Stat. § 804-4

Haw. Rev. Stat. § 804-5

Release Before First Appearance	Delegated release	Haw. Rev. Stat. § 804-7
Time Limits	Without unnecessary delay	Haw. R. Penal P. Rule 5
Bail Factors	May consider any relevant factors	Haw. Rev. Stat. § 804-9 Haw. Rev. Stat. § 804-9.5
Pretrial Risk Assessment	Required	Haw. Rev. Stat. § 353-10 Haw. Rev. Stat. § 804-9.5
Type of Bail Available	Unsecured bond Partially secured bond Secured bond Commercial bond	Haw. Rev. Stat. § 804-9.5 Haw. Rev. Stat. § 804-11.5
Limits on Types of Bail	No direction	
Bail Conditions	Least restrictive Reasonably necessary to ensure	Haw. Rev. Stat. § 804-4 Haw. Rev. Stat. § 804-5 Haw. Rev. Stat. § 804-9.5
Pretrial Services	Available statewide	Haw. Rev. Stat. § 353-6
Special Considerations	Any person who violates bail restrictions shall have bail revoked after hearing and shall be imprisoned	Haw. Rev. Stat. § 804-4
Ability to Pay Considered	Must consider ability to pay	Haw. Rev. Stat. § 804-9
Preventive Detention	Serious felonies and serious risk of flight or safety Rebuttable presumption of serious risk of flight with a life imprisonment offense Rebuttable presumption of serious danger when: <ul style="list-style-type: none"> • Prior conviction of a serious violent crime (with time limit) • On bail for violent felony • Under supervision for a serious violent crime 	Haw. Rev. Stat. § 804-3
Bail Reconsideration	At least every 3 months	Haw. Rev. Stat. § 353-6.2



State Population

1,939,033

2022 National and State
Population Estimates



Pretrial Detention Population

48.3% of 5,562

persons in jail

Census of Jails, 2019



Purpose of Bail

Court appearance
Safety of another
Safety of the public
Judicial integrity

Idaho Code Ann. § 19-2902

Idaho Code Ann. § 19-2904

Release Before First Appearance	Bond schedule (misdemeanor)	Idaho M.C.R. Rule 13
Time Limits	Without unnecessary delay (within 24 hours)	I.C.R. Rule 5
Bail Factors	May consider specific factors	I.C.R. Rule 46
Pretrial Risk Assessment	May consider, if available	Idaho Code Ann. § 19-1910
Type of Bail Available	Personal recognizance Secured bond Commercial bond	I.C.R. Rule 46
Limit on Types of Bail	No direction	
Bail Conditions	Reasonably necessary to ensure	I.C.R. Rule 46
Pretrial Services	As available	Idaho Code Ann. § 31-3201J
Special Considerations	N/a	
Ability to Pay Considered	May consider financial resources	I.C.R. Rule 46
Preventive Detention	Capital offenses → Standard: Proof evident or presumption great	Idaho Const. Art. I, § 6 Idaho Code Ann. § 19-2903 I.C.R. Rule 46
Bail Reconsideration	Upon request only	I.C.R. Rule 46



Illinois



State Population

12,582,032

2022 National and State Population Estimates



Pretrial Detention Population

77.1% of 19,014

persons in jail

Census of Jails, 2019



Purpose of Bail

- Court appearance
- Safety of another
- Safety of the public
- Prevent obstruction of justice
- Compliance with conditions

725 Ill. Comp. Stat. § 5/110-2

Release Before First Appearance	Delegated release	725 Ill. Comp. Stat. § 5/109-1
Time Limits	Without unnecessary delay (within 48 hours)	725 Ill. Comp. Stat. § 5/109-1
Bail Factors	May consider any relevant factors (release) Must consider specific factors (condition)	725 Ill. Comp. Stat. § 5/110-6.1 725 Ill. Comp. Stat. § 5/110-5
Pretrial Risk Assessment	May consider Use limited	725 Ill. Comp. Stat. § 5/110-6.4 725 Ill. Comp. Stat. § 5/110-5 725 Ill. Comp. Stat. § 185/7
Type of Bail Available	Personal recognizance	725 Ill. Comp. Stat. § 5/110-1.5
Limits on Types of Bail	Presumption of release	725 Ill. Comp. Stat. § 5/110-2
Bail Conditions	Reasonably necessary to ensure → Standard: Clear and convincing Least restrictive Individualized Directly tied to the risk	725 Ill. Comp. Stat. § 5/110-2 725 Ill. Comp. Stat. § 5/110-10
Pretrial Services	Available statewide	725 Ill. Comp. Stat. § 185/1
Special Considerations	<ul style="list-style-type: none"> Alternatives to custody must be explored for pregnant detainees Limitations on use for failure to appear as a factor Citation required in lieu of arrest for low-level misdemeanor unless (i) risk of safety, (ii) persistent criminal activity or (iii) risk to self Electronic monitoring or home confinement must be reviewed every 60 days 	725 Ill. Comp. Stat. § 5/110-5.2 725 Ill. Comp. Stat. § 5/110-3 725 Ill. Comp. Stat. § 5/109-1 725 Ill. Comp. Stat. § 5/110-5
Ability to Pay Considered	N/a	
Preventive Detention	<p>CONSTITUTION Capital offenses; life imprisonment offenses; and felony offenses requiring prison when risk of safety to another → Standard: Proof evident or presumption great</p> <p>LIMITED BY STATUTE Serious offenses, stalking, DV, gun offenses, other specific offenses → Standard: Proof evident or presumption great AND clear and convincing evidence of risk of flight or safety</p>	Ill. Const. Art. I, § 9 725 Ill. Comp. Stat. § 5/110-2 725 Ill. Comp. Stat. § 5/110-6.1 Ill. Const., Art. I, § 8.1
Bail Reconsideration	48 hours	725 Ill. Comp. Stat. § 5/110-5



Indiana



State Population

6,833,037

2022 National and State Population Estimates



Pretrial Detention Population

64.7% of 19,928

persons in jail

Census of Jails, 2019



Purpose of Bail

Court appearance

Safety of another

Safety of the public

Ind. Code Ann. § 35-33-8-1

Release Before First Appearance	May be fixed on warrant	Ind. Code Ann. § 35-33-2-2
Time Limits	Promptly Without unnecessary delay	Ind. Code Ann. § 35-33-7-1 Ind. Code Ann. § 35-33-7-4 Ind. Code Ann. § 35-33-2-2
Bail Factors	May consider any relevant factors	Ind. Code Ann. § 35-33-8-3.8 Ind. R. Crim. P. 2.6
Pretrial Risk Assessment	Required	Ind. Code Ann. § 35-33-8-3.2 Ind. Code Ann. § 35-33-8-3.8 Ind. Code Ann. § 35-33-8-0. Ind. R. Crim. P. 2.6
Type of Bail Available	Personal recognizance Partially secured bond Secured bond Commercial bond	Ind. Code Ann. § 35-33-8-3.2 Ind. Code Ann. § 35-33-8-3.9 Ind. R. Crim. P. 2.6
Limits on Types of Bail	Presumption of ROR unless preponderance of the evidence of flight or safety risk Mandatory secured bond: <ul style="list-style-type: none"> • Murder or treason • On bond • On supervision 	Ind. Code Ann. § 35-33-8-3.2 Ind. R. Crim. P. 2.6 Ind. Code Ann. § 35-33-8-3.8
Bail Conditions	Necessary to ensure (court appearance) → Standard: Clear and convincing	Ind. Code Ann. § 35-33-8-3.2
Pretrial Services	As available	Ind. Code Ann. § 35-33-8-3.2 Ind. Code Ann. § 35-33-8-3.3
Special Considerations	May detain individual on supervision for up to 15 days	Ind. Code Ann. § 35-33-8-6
Ability to Pay Considered	Must consider ability to pay	Ind. Code Ann. § 35-33-8-4
Preventive Detention	Murder or treason → Standard: Preponderance of the evidence that proof evident or presumption strong	Ind. Const. Art. 1, § 17 Ind. Code Ann. § 35-33-8-2
Bail Reconsideration	Upon request	Ind. Code Ann. § 35-33-8-5



State Population

3,200,517

2022 National and State
Population Estimates



Pretrial Detention Population

74.2% of 5,009

persons in jail

Census of Jails, 2019



Purpose of Bail

Court appearance

Safety to another

Iowa Code § 811.2

Release Before First Appearance	Bond schedule/guidelines (limited) Must be fixed on warrant Cite and release	Iowa Code § 804.21 Iowa Code § 805.1 Iowa Code § 804.22
Time Limits	Without unnecessary delay	Iowa Code § 804.21 Iowa Code § 804.22
Bail Factors	Must consider specific factors	Iowa Code § 811.2
Pretrial Risk Assessment	No direction	
Type of Bail Available	Personal recognizance Unsecured bond Secured bond Commercial Bond	Iowa Code § 811.2 Iowa Code § 811.12
Limit on Types of Bail	Mandatory ROR/unsecured bond subject to court discretion of flight or safety risk	Iowa Code § 811.2
Bail Conditions	Reasonably necessary to ensure Must follow list of progressive conditions	Iowa Code § 811.2
Pretrial Services	As available	Iowa Code § 811.2
Special Considerations	N/a	
Ability to Pay Considered	Must consider financial resources	Iowa Code § 811.2
Preventive Detention	CONSTITUTION Capital offenses → Standard: Proof evident or presumption great LIMITED BY STATUTE All are bailable (except after guilty plea)	Iowa Const. Art. I, § 12 Iowa Code § 811.1
Amending Bail	Upon request	Iowa Code § 811.2



Kansas



State Population

2,937,150

2022 National and State
Population Estimates



Pretrial Detention Population

68.4% of 7,881

persons in jail

Census of Jails, 2019



Purpose of Bail

Court appearance

Safety of the public

Kan. Stat. Ann. § 22-2802

Release Before First Appearance	Must be fixed on warrant	Kan. Stat. Ann. § 22-2304
Time Limits	Without unnecessary delay	Kan. Stat. Ann. § 22-2901
Bail Factors	Must consider specific factors	Kan. Stat. Ann. § 22-2802
Pretrial Risk Assessment	Required	Kan. Stat. Ann. § 22-2815 Kan. Stat. Ann. § 22-2816
Type of Bail Available	Personal recognizance Unsecured bond Secured bond Commercial bond	Kan. Stat. Ann. § 22-2802 Kan. Stat. Ann. § 22-2809b
Limits on Types of Bail	No direction	
Bail Conditions	Reasonably necessary to ensure	Kan. Stat. Ann. § 22-2802
Pretrial Services	As available	Kan. Stat. Ann. § 22-2814 Kan. Stat. Ann. § 22-2816 Kan. Stat. Ann. § 22-2802
Special Considerations	Trespass with restraining order violation may not post bond for 48 hours after arrest	Kan. Stat. Ann. § 22-2901
Ability to Pay Considered	Must consider financial resources	Kan. Stat. Ann. § 22-2802
Preventive Detention	Capital offenses → Standard: Proof evident or presumption great	Kan. Const. B. of R. § 9
Bail Reconsideration	Upon request	Kan. Stat. Ann. § 22-2802



State Population

4,512,310

2022 National and State Population Estimates



Pretrial Detention Population

44.0% of 25,506

persons in jail

Census of Jails, 2019



Purpose of Bail

Court appearance

Safety to another

Ky. Rev. Stat. Ann. § 431.520

Ky. Rev. Stat. Ann. § 431.066

Release Before First Appearance	Bond schedule (limited) Must be fixed on warrant	Ky. Rev. Stat. Ann. § 431.540 Ky. RCr Rule 4.20 Ky. RCr Rule 2.06
Time Limits	Without unnecessary delay	Ky. RCr Rule 3.02
Bail Factors	Must consider specific factors	Ky. RCr Rule 4.16 Ky. Rev. Stat. Ann. § 431.525
Pretrial Risk Assessment	Required	Ky. RCr Rule 4.06 Ky. RCr Rule 4.10 Ky. Rev. Stat. Ann. § 431.515 Ky. Rev. Stat. Ann. § 431.066
Type of Bail Available	Personal recognizance Unsecured bond Partially secured bond Secured bond	Ky. Rev. Stat. Ann. § 431.520 Ky. RCr Rule 4.04
Limits on Types of Bail	Mandatory unsecured bond or ROR if low flight or safety risk Mandatory unsecured bond or ROR with potential nonmonetary conditions if moderate flight or safety risk	Ky. Rev. Stat. Ann. § 431.066
Bail Conditions	Reasonably necessary to ensure Least onerous	Ky. Rev. Stat. Ann. § 431.520 Ky. RCr Rule 4.12 Ky. RCr Rule 4.10
Pretrial Services	Available statewide	KRS § 431.515
Special Considerations	The court shall credit the defendant \$100 per day served pretrial detention as a payment toward the bail amount set, unless defendant is found to present a flight or safety risk	Ky. Rev. Stat. Ann. § 431.066
Ability to Pay Considered	Must consider ability to pay	Ky. Rev. Stat. Ann. § 431.525 Ky. RCr Rule 4.16
Preventive Detention	Capital offenses → Standard: Proof evident or presumption great	Ky. Const. § 16 Ky. RCr Rule 4.02
Bail Reconsideration	24 hours	Ky. RCr Rule 4.38 Ky. Rev. Stat. Ann. § 431.520



State Population

4,590,241

2022 National and State
Population Estimates



Pretrial Detention Population

49.2% of 29,488

persons in jail

Census of Jails, 2019



Purpose of Bail

Court appearance

Safety of another

Safety of the public

La. C.Cr.P. Art. 316

La. C.Cr.P. Art. 320

Release Before First Appearance	Bond schedule	La. C.Cr.P. Art. 315
Time Limits	Promptly (within 72 hours)	La. C.Cr.P. Art. 230.1
Bail Factors	Must consider specific factors	La. C.Cr.P. Art. 316 La. C.Cr.P. Art. 320
Pretrial Risk Assessment	No direction	
Type of Bail Available	Personal recognizance Unsecured bond Secured bond Commercial bond	La. C.Cr.P. Art. 321
Limits on Types of Bail	Mandatory secured bail for: Violent crimes, sex offenses, DV, serious offenses, distribution of drugs, others	La. C.Cr.P. Art. 321
Bail Conditions	Reasonably related to ensure	La. C.Cr.P. Art. 320
Pretrial Services	No direction	
Special Considerations	N/a	
Ability to Pay Considered	Must consider ability to pay	La. C.Cr.P. Art. 316
Preventive Detention	CONSTITUTION Capital offense → Standard: Proof evident and presumption great Other violent crimes or distribution of drugs → Standard: Proof evident and presumption great AND clear and convincing evidence of substantial risk of flight or safety LIMITED BY STATUTE DV, sex offenses, other specific offenses → Standard: Clear and convincing evidence of risk of flight or safety Violent crimes or distribution of drugs if only FTA Capital offense	La. Const. Art. I, § 18 La. C.Cr.P. Art. 313 La. C.Cr.P. Art. 312
Bail Reconsideration	No direction	



Maine



State Population

1,385,340

2022 National and State
Population Estimates



Pretrial Detention Population

62.5% of 1,620

persons in jail

Census of Jails, 2019



Purpose of Bail

Court appearance
Safety of another
Safety of the public
Judicial integrity

Me. Stat. tit. 15, § 1002

Release Before First Appearance	May be fixed on warrant	Me. R. U. Crim. P. Rule 4
Time Limits	Without unnecessary delay (within 48 hours)	Me. R. U. Crim. P. Rule 5
Bail Factors	Must consider specific factors	Me. Stat. tit. 15, § 1026
Pretrial Risk Assessment	Must consider DV assessment	Me. Stat. tit. 15, § 1026
Type of Bail Available	Personal recognizance Unsecured bond Secured bond Commercial bond	Me. Stat. tit. 15, § 1026 Me. Stat. tit. 15, § 1072
Limits on Types of Bail	Mandatory ROR or unsecured bond for low-level, nonviolent felonies and misdemeanors (unless prior bail violations)	Me. Stat. tit. 15, § 1026
Bail Conditions	Least restrictive Reasonably necessary to ensure	Me. Stat. tit. 15, § 1002 Me. Stat. tit. 15, § 1026
Pretrial Services	As available	Me. Stat. tit. 15, § 1026
Special Considerations	N/a	
Ability to Pay Considered	Must consider ability to pay	Me. Stat. tit. 15, § 1026
Preventive Detention	CONSTITUTION Current or former capital offenses → Standard: Proof evident or presumption great LIMITED BY STATUTE Former capital offenses → Standard: Probable cause of offense AND clear and convincing evidence of substantial risk of flight or safety	Me. Const. Art. I, § 10 Me. Stat. tit. 15, § 1027
Bail Reconsideration	48 hours	Me. Stat. tit. 15, § 1028



State Population

6,164,660

2022 National and State Population Estimates



Pretrial Detention Population

51.0% of 11,868

persons in jail

Census of Jails, 2019



Purpose of Bail

- Court appearance
- Safety to another
- Safety to the public
- Judicial integrity

Md. Rule 4-216.1

Release Before First Appearance	No direction	
Time Limits	Without unnecessary delay (within 24 hours)	Md. Rule 4-212
Bail Factors	Must consider specific factors	Md. Rule 4-216.1
Pretrial Risk Assessment	Required (validation required)	Md. Rule 4-216.1 Md. Code Ann., Crim. Proc. § 5-103
Type of Bail Available	Personal recognizance Unsecured bond Partially secured bond	Secured bond Commercial bond Md. Rule 4-216.1 Md. Rule 4-217 Md. Code Ann., Crim. Proc. § 5-205
Limits on Types of Bail	Mandatory ROR/unsecured bond subject to court discretion of flight or safety risk, except for serious and violent offenses Mandatory secured bond if: <ul style="list-style-type: none"> • Serious or violent crime and prior conviction of serious or violent crime • Serious or violent crime and on bail for serious or violent crime • Life imprisonment offenses Presumption of secured bond if: <ul style="list-style-type: none"> • Gun crime and prior violent or gun crime • Sex offender Monetary conditions may only ensure appearance, not used solely to prevent future crime, protect safety, punish the defendant, or placate the public	Md. Rule 4-216.1 Md. Code Ann., Crim. Proc. § 5-101 Md. Code Ann., Crim. Proc. § 5-202
Bail Conditions	Least onerous Reasonably ensure	Individualized Md. Rule 4-216.1
Pretrial Services	As available	Md. Rule 4-216.1
Special Considerations	Predetermined bond schedule of amounts fixed according to the nature of the charge are not allowed To eliminate unnecessary detention, court shall supervise pretrial detention, requiring a weekly jail report listing all pretrial defendants in custody for more than seven days	Md. Rule 4-216.1 Md. Rule 4-216.3
Ability to Pay Considered	Must consider ability to pay	Md. Rule 4-216.1
Preventive Detention	Any offense Rebuttable presumption for detention: <ul style="list-style-type: none"> • Violent crime and prior conviction for violent crime • Gun crime and prior conviction for violent or gun crime • Serious or violent offense and on bail for serious or violent offense • Other specific offenses 	Md. Code Ann., Crim. Proc. § 5-202 Md. Rule 4-216
Bail Reconsideration	Immediately, or as soon as court is in session	Md. Rule 4-216.2



State Population

6,981,974

2022 National and State Population Estimates



Pretrial Detention Population

58.4% of 9,382

persons in jail

Census of Jails, 2019



Purpose of Bail

Court appearance

Safety of another

Safety to the public

Mass. Gen. Laws ch. 276, § 57

Mass. Gen. Laws ch. 276, § 58

Release Before First Appearance	No direction	
Time Limits	When court is next in session	ALM R. Crim. P. Rule 7
Bail Factors	Must consider specific factors	Mass. Gen. Laws ch. 276, § 57 Mass. Gen. Laws ch. 276, § 58 Mass. Gen. Laws ch. 276, § 58A
Pretrial Risk Assessment	No direction	
Type of Bail Available	Personal recognizance Secured bond Commercial bond	Mass. Gen. Laws 276, § 58A
Limits on Types of Bail	Mandatory secured bond for election law violations	Mass. Gen. Laws ch. 276, § 57
Bail Conditions	Reasonably necessary to ensure Least restrictive	Mass. Gen. Laws ch. 276, § 57 Mass. Gen. Laws ch. 276, § 58 Mass. Gen. Laws ch. 276, § 58A
Pretrial Services	As available	Mass. Gen. Laws ch. 276, § 58A
Special Considerations	Shall not be admitted to bail sooner than six hours after arrest, except by a judge in open court Must maintain a separate awaiting-trial unit for females	Mass. Gen. Laws ch. 276, § 42A Mass. Gen. Laws ch. 125, § 16
Ability to Pay Considered	Must consider ability to pay	Mass. Gen. Laws ch. 276, § 57 Mass. Gen. Laws ch. 276, § 58
Preventive Detention	Capital offenses Violent felony or other specified offenses → Standard: Clear and convincing evidence that no condition will reasonably ensure safety	Mass. Gen. Laws ch. 276, § 58A
Bail Reconsideration	Upon request	Mass. Gen. Laws ch. 276, § 58



State Population

10,034,113

2022 National and State Population Estimates



Pretrial Detention Population

53.9% of 16,776

persons in jail

Census of Jails, 2019



Purpose of Bail

Court appearance

Safety to the public

Mich. Comp. Laws Serv. § 765.6

Release Before First Appearance	May be fixed on warrant Police interim bond	MCR 6.102 Mich. Comp. Laws Serv. § 780.581
Time Limits	Without unnecessary delay	MCR 6.104
Bail Factors	Must consider any relevant factors	MCR 6.106 Mich. Comp. Laws Serv. § 765.6
Pretrial Risk Assessment	No direction	
Type of Bail Eligible	Personal recognizance Unsecured bond Partially secured bond Secured bond Commercial bond	MCR 6.106 Mich. Comp. Laws Serv. § 765.6
Limits on Types of Bail	Mandatory secured bond: <ul style="list-style-type: none"> • Currently on bail • Prior felony conviction(s) (with time limit) 	Mich. Comp. Laws Serv. § 765.6a
Bail Conditions	Reasonably necessary to ensure	MCR 6.106 Mich. Comp. Laws Serv. § 765.6b
Pretrial Services	No direction	
Special Considerations	N/a	
Ability to Pay Considered	Must consider ability to pay	MCR 6.106
Preventive Detention	Murder, treason, serious offenses (with limits), violent felony with priors (time limited), or while under supervision or bail → Standard: Proof evident or presumption great	Mich. Comp. Laws Serv. § 765.5 (found unconstitutional) MCR 6.106 Mich. Const. Art. I, § 15
Bail Reconsideration	Upon request only	



State Population

5,717,184

2022 National and State Population Estimates



Pretrial Detention Population

66.9% of 6,950

persons in jail

Census of Jails, 2019



Purpose of Bail

Court appearance

Safety to the public

Minn. R. Crim. P. 6.02

Release Before First Appearance	Cite and release	Minn. R. Crim. P. 6.01
Time Limits	Without unnecessary delay (within 36 hours)	Minn. R. Crim. P. 4.02
Bail Factors	Must consider specific factors	Minn. R. Crim. P. 6.02
Pretrial Risk Assessment	May consider, required in specific cases	Minn. R. Crim. P. 6.02 Minn. Stat. § 629.74
Type of Bail Available	Personal recognizance Unsecured bond Secured bond Commercial bond	Minn. R. Crim. P. 6.02 Minn. Stat. § 629.70
Limits on Types of Bail	Mandatory PR/unsecured bond subject to court discretion of flight or safety risk	Minn. R. Crim. P. 6.02
Bail Conditions	Reasonably ensure Must follow list of progressive conditions	Minn. R. Crim. P. 6.02
Pretrial Services	As available	Minn. R. Crim. P. 6.02
Special Considerations	A peace officer who willfully delays taking an arrested person before a judge is guilty of a gross misdemeanor Limit on amount of secured bail for misdemeanors	Minn. Stat. § 629.401 Minn. Stat. § 629.471
Ability to Pay Considered	Must consider financial resources	Minn. R. Crim. P. 6.02
Preventive Detention	Capital offenses → Standard: Proof evident or presumption great	Minn. Const. Art. I, § 7
Bail Reconsideration	No direction	



State Population

2,940,057

2022 National and State Population Estimates



Pretrial Detention Population

46.9% of 13,582

persons in jail

Census of Jails, 2019



Purpose of Bail

- Court appearance
- Safety of another
- Safety of the public

Miss. Code Ann. § 99-5-11
MRCrP 8.2

Release Before First Appearance	Cite and release (misdemeanor) Bond schedule May be fixed on warrant	Miss. Code Ann. § 99-5-11 Miss. Code Ann. § 99-3-18 MRCrP 3.2 MRCrP 5.1
Time Limits	Without unnecessary delay (within 48 hours)	Miss. Code Ann. § 99-3-17 MRCrP 5.2 MRCrP 5.1
Bail Factors	Must consider any relevant factor	MRCrP 8.2
Pretrial Risk Assessment	No direction	
Type of Bail Available	Personal recognizance Unsecured bond Partially secured bond Secured bond Commercial bond	MRCrP 8.1 MRCrP 8.4 Miss. Code Ann. § 99-5-9
Limits on Types of Bail	No direction	
Bail Conditions	Reasonably necessary to ensure Least onerous	MRCrP 8.2 MRCrP 8.4 Miss. Code Ann. § 99-5-11
Pretrial Services	As available	MRCrP 8.4
Special Considerations	DV: Upon setting bail, the judge may impose a holding period not to exceed 24 hours Twice mistrialed on capital offense, shall be entitled to bail	Miss. Code Ann. § 99-5-37 Miss. Code Ann. § 99-5-35
Ability to Pay Considered	Must consider financial resources	MRCrP 8.2 Miss. Code Ann. § 99-5-11
Preventive Detention	Capital offenses Prior serious felony conviction → Standard: Proof evident or presumption great Felony and on bail for felony → Standard: Mandatory upon indictment or finding of probable cause Serious offense → Standard: Proof evident or presumption great and release of the person would constitute a special danger to another or the public or no condition can ensure appearance	Miss. Const. Art. 3, § 29
Bail Reconsideration	Upon request (ruled on within 48 hours) Automatic—90 days	Miss. Code Ann. § 99-5-11 MRCrP 8.5



State Population

6,177,957

2022 National and State
Population Estimates



Pretrial Detention Population

77.8% of 11,439

persons in jail

Census of Jails, 2019



Purpose of Bail

Court appearance
Safety of another
Safety of the public
Prevent obstruction of justice
Comply with conditions

Mo. Sup. Ct. R. 33.01

Mo. Rev. Stat. § 544.453

Release Before First Appearance	Must be fixed on warrant	Mo. Sup. Ct. R. 33.02 Mo. Sup. Ct. R. 22.05
Time Limits	Within 48 hours	Mo. Sup. Ct. R. 21.09 Mo. Sup. Ct. R. 22.07
Bail Factors	Must consider specific factors	Mo. Sup. Ct. R. 33.01 Mo. Rev. Stat. § 544.453
Pretrial Risk Assessment	Must consider, if available	Mo. Sup. Ct. R. 33.01
Type of Bail Available	Personal recognizance Unsecured bond Partially secured bond Secured bond Commercial bond	Mo. Sup. Ct. R. 33.01 Mo. Rev. Stat. § 544.455 Mo. Rev. Stat. § 374.700
Limits on Types of Bail	Mandatory ROR/unsecured bond subject to court discretion of flight or safety risk	Mo. Sup. Ct. R. 33.01
Bail Conditions	Least restrictive Individualized Reasonably necessary First consider nonmonetary	Mo. Sup. Ct. R. 33.01 Mo. Rev. Stat. § 544.455
Pretrial Services	As available	Mo. Sup. Ct. R. 33.01 Mo. Rev. Stat. § 544.455
Special Considerations	Any person who intentionally refuses to release a defendant entitled to release or refuses to permit a defendant to consult with counsel, is guilty of a misdemeanor	Mo. Rev. Stat. § 544.170
Ability to Pay Considered	Must consider ability to pay	Mo. Sup. Ct. R. 33.01
Preventive Detention	Capital offenses → Standard: Proof evident or presumption great Any defendant who poses a danger to a crime victim, the community, or any other person	Mo. Const. Art. I, § 20 Mo. Const. Art. I, § 32 Mo. Sup. Ct. R. 33.01 Mo. Rev. Stat. § 544.457
Bail Reconsideration	24 hours (upon request) (hearing within seven days)	Mo. Rev. Stat. § 544.455 Mo. Sup. Ct. R. 33.05



State Population

1,122,867

2022 National and State Population Estimates



Pretrial Detention Population

57.0% of 2,437

persons in jail

Census of Jails, 2019



Purpose of Bail

Court appearance

Safety of another

Safety of the public

Mont. Code Ann. § 46-9-106

Release Before First Appearance	Bond schedule (limited) May be fixed on warrant	Mont. Code Ann. § 46-9-302 Mont. Code Ann. § 46-9-302
Time Limits	Without unnecessary delay	Mont. Code Ann. § 46-7-101
Bail Factors	Must consider specific factors	Mont. Code Ann. § 46-9-301 Mont. Code Ann. § 46-9-109
Pretrial Risk Assessment	May consider	Mont. Code Ann. § 46-9-109 Mont. Code Ann. § 3-1-708
Type of Bail Available	Personal recognizance Secured bond Commercial bond	Mont. Code Ann. § 46-9-401 Mont. Code Ann. § 46-9-111
Limits on Types of Bail	No direction	
Bail Conditions	Reasonably necessary to ensure Least restrictive	Mont. Code Ann. § 46-9-106 Mont. Code Ann. § 46-9-108 Mont. Code Ann. § 46-9-301
Pretrial Services	Available statewide	Mont. Code Ann. § 46-9-108 Mont. Code Ann. § 3-1-708
Special Considerations	Rebuttable presumption for electronic monitoring for: <ul style="list-style-type: none"> • Felony assault or strangulation on a partner or family member • Felony stalking • Felony violation of a protection order 	Mont. Code Ann. § 46-9-108
Ability to Pay Considered	Must consider financial resources	Mont. Code Ann. § 46-9-301 Mont. Code Ann. § 46-9-109
Preventive Detention	CONSTITUTION Capital offenses → Standard: Proof evident or presumption great LIMITED BY STATUTE Capital offenses → Standard: Proof evident presumption great, probable cause AND adequate safeguards are not available to ensure appearance and safety	Mont. Const. Art. II, § 21 Mont. Code Ann. § 46-9-102 Mont. Code Ann. § 46-9-106
Bail Reconsideration	Upon request	Mont. Code Ann. § 46-9-311



State Population

1,967,923

2022 National and State Population Estimates



Pretrial Detention Population

73.7% of 4,210

persons in jail

Census of Jails, 2019



Purpose of Bail

- Court appearance
- Safety of another
- Safety of the public
- Prevent obstruction of justice

Neb. Rev. Stat. § 29-901

Neb. Rev. Stat. § 29-901.01

Release Before First Appearance	Bond schedule (limited) Cite and release (misdemeanor only)	Neb. Ct. R. § 6-1416 Neb. Rev. Stat. § 29-901.05 Neb. Rev. Stat. § 29-422
Time Limits	No direction	
Bail Factors	May consider specific factors	Neb. Rev. Stat. § 29-901.01
Pretrial Risk Assessment	May consider, as available	Neb. Rev. Stat. § 29-903 Neb. Rev. Stat. § 29-909
Type of Bail Available	Personal recognizance Secured bond Partially secured bond	Neb. Rev. Stat. § 29-901 Neb. R. Crim P. 46.1
Limit on Types of Bail	Mandatory ROR or unsecured bond for low-level misdemeanors, unless: <ul style="list-style-type: none"> • DV • DUI • FTA (with time limit) • Flight or safety risk 	Neb. Rev. Stat. § 29-901
Bail Conditions	Reasonably ensure Least onerous	Neb. Rev. Stat. § 29-901 Neb. Rev. Stat. § 29-901.01
Pretrial Services	If available	Neb. Rev. Stat. § 29-901 Neb. Rev. Stat. § 29-903 Neb. Rev. Stat. § 29-909
Special Considerations	N/a	
Ability to Pay Considered	Must consider ability to pay	Neb. Rev. Stat. § 29-901 Neb. Rev. Stat. § 29-901.01
Preventive Detention	Treason, some sexual offenses, and murder → Standard: Proof evident or presumption great	Neb. Const. Art. I, § 9
Bail Reconsideration	24 hours (upon request)	Neb. Rev. Stat. § 29-901.03



Nevada



State Population

3,177,772

2022 National and State
Population Estimates



Pretrial Detention Population

64.1% of 8,395

persons in jail

Census of Jails, 2019



Purpose of Bail

Court appearance

Safety of the public

[Nev. Rev. Stat. Ann. § 178.4851](#)

Release Before First Appearance	May be fixed on warrant Delegated release (misdemeanor)	Nev. Rev. Stat. Ann. § 173.155 Nev. Rev. Stat. Ann. § 178.4847
Time Limits	Without unnecessary delay (within 48 hours)	Nev. Rev. Stat. Ann. § 178.4849 Nev. Rev. Stat. Ann. § 171.178 (72 hours found unconstitutional)
Bail Factors	Must consider specific factors	Nev. Rev. Stat. Ann. § 178.4853 Nev. Rev. Stat. Ann. § 178.498
Pretrial Risk Assessment	Required	2019 ADKT 0539 Supreme Court Order
Type of Bail Available	Personal recognizance Secured bond Commercial bond	Nev. Rev. Stat. Ann. § 178.4851 Nev. Rev. Stat. Ann. § 697.040
Limits on Types of Bail	Presumption of ROR unless clear and convincing evidence monetary condition is necessary to protect against flight or safety risk	Nev. Rev. Stat. Ann. § 178.4851
Bail Conditions	Least restrictive Necessary to ensure	Nev. Rev. Stat. Ann. § 178.4851
Pretrial Services	No direction	
Special Considerations	DV—may not be admitted to bail before 12 hours after arrest or must follow statutory requirements for secured bail	Nev. Rev. Stat. Ann. § 178.484
Ability to Pay Considered	Must consider ability to pay	Nev. Rev. Stat. Ann. § 178.498
Preventive Detention	CONSTITUTION Capital offenses or life imprisonment offenses → Standard: Proof evident or presumption great LIMITED BY STATUTE Murder in the first degree → Standard: Proof evident or presumption great Felony offense and currently under supervision	Nev. Const. Art. 1, § 7 Nev. Rev. Stat. Ann. § 178.4851 Nev. Rev. Stat. Ann. § 178.484
Bail Reconsideration	Upon request	N.R.Cr.P. 5



New Hampshire



State Population

1,395,231

2022 National and State
Population Estimates



Pretrial Detention Population

43.3% of 1,987

persons in jail

Census of Jails, 2019



Purpose of Bail

Court appearance

Safety of the public

Safety of the defendant

N.H. Rev. Stat. Ann. § 597:2

Release Before First Appearance	Delegated release	N.H. Rev. Stat. Ann. § 597:18
Time Limits	Without unreasonable delay (no later than 24-36 hours)	N.H. Rev. Stat. Ann. § 594:19-a N.H. Rev. Stat. Ann. § 594:20-a N.H. R. Crim. Proc. Rule 4
Bail Factors	May consider all relevant factors	N.H. Rev. Stat. Ann. § 597:2
Pretrial Risk Assessment	No direction	
Type of Bail Available	Personal recognizance Unsecured bond Secured bond Commercial bond	N.H. Rev. Stat. Ann. § 597:2
Limits on Types of Bail	Presumption of ROR or unsecured bond → Standard: Unless, preponderance of the evidence risk of flight if released Rebuttable presumption of secured bond if preponderance of the evidence previous FTA (with time limits and occurrence threshold)	N.H. Rev. Stat. Ann. § 597:2
Bail Conditions	Reasonably ensure	N.H. Rev. Stat. Ann. § 597:2
Pretrial Services	No direction	
Special Considerations	Rebuttable presumption that an alleged victim of the crime shall not be required to testify at the bail hearing	N.H. Rev. Stat. Ann. § 597:2
Ability to Pay Considered	Must consider ability to pay	N.H. Rev. Stat. Ann. § 597:2
Preventive Detention	Life imprisonment offenses → Standard: Proof evident or presumption great Presumption of detention for serious offenses, sexual offenses, and under supervision for violent offense → Standard: Preponderance of the evidence no condition will ensure court appearance and safety DV → Standard: Clear and convincing evidence that release will endanger the safety of that person or the public	N.H. Rev. Stat. Ann. § 597:1-c N.H. Rev. Stat. Ann. § 597:2 N.H. Rev. Stat. Ann. § 597:1-d
Bail Reconsideration	36 hours	N.H. Rev. Stat. Ann. § 597:2



State Population

9,261,699

2022 National and State
Population Estimates



Pretrial Detention Population

57.3% of 8,568

persons in jail

Census of Jails, 2019



Purpose of Bail

Court appearance

Safety of another

Safety of the public

Prevent obstruction of justice

Comply with conditions

N.J. Stat. § 2A:162-15

Release Before First Appearance	Cite and release	N.J. Court Rules, R. 3:4-1
Time Limits	Without unnecessary delay (within 48 hours)	N.J. Stat. § 2A:162-17 N.J. Court Rules, R. 3:4-2
Bail Factors	May consider specific factors (detention) May consider any relevant factors (conditions)	N.J. Stat. § 2A:162-20 N.J. Stat. § 2A:162-17
Pretrial Risk Assessment	Required	N.J. Stat. § 2A:162-20 N.J. Stat. § 2A:162-25 N.J. Stat. § 2A:162-16
Type of Bail Available	Personal recognizance Unsecured bond Secured bond Commercial bond	N.J. Stat. § 2A:162-16 N.J. Stat. § 17:31-13
Limits on Types of Bail	Limit on use of monetary conditions: to ensure appearance only	N.J. Stat. § 2A:162-15 N.J. Stat. § 2A:162-17
Bail Conditions	Reasonably ensure Least restrictive	N.J. Stat. § 2A:162-16 N.J. Stat. § 2A:162-20
Pretrial Services	Available statewide	N.J. Stat. § 2A:162-25
Special Considerations	Restrictions on type of secured bond used for specific offenses	N.J. Stat. § 2A:162-12
Ability to Pay Considered	May consider	N.J. Stat. § 2A:162-20
Preventive Detention	CONSTITUTION/COURT RULE Any crime → Standard: Clear and convincing evidence that no condition can reasonably ensure appearance or safety LIMITED BY STATUTE Serious crimes, two or more prior convictions of serious crimes, other specific offenses, or poses a flight or safety risk Presumption of detention when: • Murder, life imprisonment offenses or serious crime with specific limits → Standard: Preponderance of the evidence	N.J. Const. Art. I, Para. 11 N.J. Stat. § 2A:162-15 N.J. Stat. § 2A:162-20
Bail Reconsideration	90 days	N.J. Stat. § 2A:162-22

New Mexico



State Population

2,113,344

2022 National and State
Population Estimates



Pretrial Detention Population

74.8% of 7,139

persons in jail

Census of Jails, 2019



Purpose of Bail

Court appearance

Safety of another

Safety of the public

5-401 NMRA

Release Before First Appearance	Delegated release Bond schedule (based on PRA)	5-408 NMRA
Time Limits	Without unnecessary delay	N.M. Stat. Ann. § 31-1-5 5-210 NMRA
Bail Factors	May consider specific factors	5-401 NMRA
Pretrial Risk Assessment	Must consider, if available	5-401 NMRA
Type of Bail Available	Personal recognizance Unsecured bond Partially secured bond Secured bond Commercial bond	5-401 NMRA
Limits on Types of Bail	Presumption of ROR or unsecured bond Mandatory ROR before first appearance (unless exceptional circumstances) for: <ul style="list-style-type: none"> • Nonviolent misdemeanors and not under supervision • Based on risk assessment 	5-408 NMRA 5-401 NMRA
Bail Conditions	Particularized reasons Reasonably ensure Least restrictive	5-401 NMRA
Pretrial Services	As available	5-401 NMRA
Special Considerations	Secured bond shall not be set by reference to a predetermined schedule of monetary amounts based on the nature of the charge	5-401 NMRA
Ability to Pay Considered	Must consider ability to pay	N.M. Const. Art. II, § 13 5-401 NMRA
Preventive Detention	Capital offenses → Standard: Proof evident or presumption great Any felony → Standard: Clear and convincing evidence that no release conditions will reasonably protect the safety	N.M. Const. Art. II, § 13 5-401 NMRA 5-409 NMRA
Bail Reconsideration	24 hours (hearing within five days)	5-401 NMRA



State Population

19,677,151

2022 National and State
Population Estimates



Pretrial Detention Population

66.3% of 19,055

persons in jail

Census of Jails, 2019



Purpose of Bail

Court appearance

N.Y. CLS CPL § 510.10

Release Before First Appearance	Cite and release (limited warrant and for low-level offenses)	N.Y. CLS CPL § 140.27
Time Limits	Without unnecessary delay	N.Y. CLS CPL § 120.90 N.Y. CLS CPL § 140.27
Bail Factors	Must consider specific factors	N.Y. CLS CPL § 510.10
Pretrial Risk Assessment	May use, if available (validation and nondiscriminatory requirements)	N.Y. CLS CPL § 510.45
Type of Bail Available	Personal recognizance Unsecured bond Partially secured bond Secured bond Commercial bond	N.Y. CLS CPL § 520.10
Limits on Types of Bail	Mandatory ROR subject to court discretion of flight risk, except for serious offenses, violent offenses, sexual offenses, felony while under supervision and other specific offenses	N.Y. CLS CPL § 510.10
Bail Conditions	Individualized Reasonably ensure appearance	N.Y. CLS CPL § 510.10
Pretrial Services	As available	N.Y. CLS CPL § 510.45
Special Considerations	Requiring citation instead of arrest in certain low-level offenses	N.Y. CLS CPL § 150.20
Ability to Pay Considered	Must consider financial resources	N.Y. CLS CPL § 510.10
Preventive Detention	Murder Serious offenses Violent offenses Specific sex offenses Felony while on supervision Other specific offenses → Standard: Court's discretion	N.Y. CLS CPL § 510.10
Bail Reconsideration	Upon request	N.Y. CLS CPL § 510.20



State Population

10,698,973

2022 National and State
Population Estimates



Pretrial Detention Population

82.2% of 20,181

persons in jail

Census of Jails, 2019



Purpose of Bail

Court appearance

Safety to another

Prevent obstruction of justice

N.C. Gen. Stat. § 15A-534

Release Before First Appearance	No direction	
Time Limits	Without unnecessary delay (within 48 hours)	N.C. Gen. Stat. § 15A-501 N.C. Gen. Stat. § 15A-533
Bail Factors	Must consider any relevant factors	N.C. Gen. Stat. § 15A-534
Pretrial Risk Assessment	Must consider, if available	N.C. Gen. Stat. § 15A-533
Type of Bail Available	Personal recognizance Unsecured bond Secured bond Commercial bond	N.C. Gen. Stat. § 15A-534 N.C. Gen. Stat. § 58-71-1
Limits on Types of Bail	Rebuttable presumption of secured bond or EHM if on bail, prior similar offense (with time limit) or other specified offenses Rebuttable presumption of secured bond or EHM if offense involving a firearm and: <ul style="list-style-type: none"> • On bail for offense involving firearm • Prior offense involving firearm (with time limits) 	N.C. Gen. Stat. § 15A-533 N.C. Gen. Stat. § 15A-534
Bail Conditions	Reasonably ensure	N.C. Gen. Stat. § 15A-533
Pretrial Services	No direction	
Special Considerations	N/a	
Ability to Pay Considered	Must consider financial resources	N.C. Gen. Stat. § 15A-534
Preventive Detention	Any crime after involuntary commitment in a mental health facility Capital offenses, serious offenses, sexual offenses, offenses with firearms	N.C. Gen. Stat. § 15A-533
Bail Reconsideration	No direction	



North Dakota



State Population

779,261

2022 National and State
Population Estimates



Pretrial Detention Population

74.2% of 1,499

persons in jail

Census of Jails, 2019



Purpose of Bail

Court appearance

N.D.R. Crim. P. Rule 46

Release Before First Appearance	Bond schedule May be fixed on warrant	N.D. Cent. Code, § 29-0 N.D.R. Crim. P. Rule 48-03.1
Time Limits	Without unnecessary delay	N.D.R. Crim. P. Rule 5 N.D. Cent. Code, § 29-06-06
Bail Factors	Must consider specific factors	N.D.R. Crim. P. Rule 46
Pretrial Risk Assessment	No direction	
Type of Bail Available	Personal recognizance Unsecured bond Partially secured bond Secured bond Commercial bond	N.D.R. Crim. P. Rule 46 N.D. Cent. Code, § 26.1-26.6-01
Limits on Types of Bail	Mandatory ROR/unsecured bond subject to court discretion of flight risk	N.D.R. Crim. P. Rule 46
Bail Conditions	Reasonably ensure (appearance) Discretion	N.D.R. Crim. P. Rule 46
Pretrial Services	As available	N.D.R. Crim. P. Rule 46
Special Considerations	N/a	
Ability to Pay Considered	Must consider financial resources	N.D.R. Crim. P. Rule 46
Preventive Detention	Capital offenses → Standard: Proof evident or presumption great	N.D. Const. Art. I, § 11
Bail Reconsideration	48 hours (upon request)	N.D.R. Crim. P. Rule 46



State Population

11,756,058

2022 National and State Population Estimates



Pretrial Detention Population

64.9% of 19,103

persons in jail

Census of Jails, 2019



Purpose of Bail

- Court appearance
 - Safety of another
 - Safety of the public
 - Prevent obstruction of justice
- Ohio Rev. Code Ann. § 2937.011

Release Before First Appearance	Bond schedule (misdemeanor only) May be fixed on warrant	Ohio Rev. Code Ann. § 2937.011 Ohio Rev. Code Ann. § 2935.15
Time Limits	By the second court day following arrest	Ohio Rev. Code Ann. § 2937.011
Bail Factors	Must consider specific factors	Ohio Const. Art. I, § 9 Ohio Rev. Code Ann. § 2937.011 Ohio Rev. Code Ann. § 2937.23
Pretrial Risk Assessment	No direction	
Type of Bail Available	Personal recognizance Unsecured bond Secured bond Commercial bond	Ohio Rev. Code Ann. § 2937.011
Limits on Types of Bail	No direction	
Bail Conditions	Least restrictive Reasonably ensure	Ohio Rev. Code Ann. § 2937.011
Pretrial Services	No direction	
Special Considerations	N/a	
Ability to Pay Considered	Must consider financial resources	Ohio Rev. Code Ann. § 2937.011
Preventive Detention	CONSTITUTION Capital offense → Standard: Proof evident or presumption great Any felony → Standard: Proof evident or presumption great AND substantial risk of serious physical harm LIMITED BY STATUTE Murder, serious offenses or other specified offenses → Standard: Clear and convincing evidence of proof evident or presumption AND no condition can ensure court appearance or safety	Ohio Const. Art. I, § 9 Ohio Rev. Code Ann. § 2937.222
Bail Reconsideration	Second court day following the initial bail hearing (if not previously represented by counsel)	Ohio Rev. Code Ann. § 2937.011



Oklahoma



State Population

4,019,800

2022 National and State
Population Estimates



Pretrial Detention Population

75.5% of 10,468

persons in jail

Census of Jails, 2019



Purpose of Bail

Court appearance

Safety of the public

Okla. Stat. tit. 22, § 1105.3

Release Before First Appearance	Bond schedule (limited) Delegated release (limited)	Okla. Stat. tit. 22, § 1105 Okla. Stat. tit. 22, § 1105.2 Okla. Stat. tit. 22, § 1105.3
Time Limits	Without unnecessary delay	Okla. Stat. tit. 22, § 181
Bail Factors	Must consider specific factors	Okla. Stat. tit. 22, § 1105
Pretrial Risk Assessment	Must consider, if available	Okla. Stat. tit. 22, § 1105.3
Type of Bail Available	Personal recognizance Unsecured bond Secured bond Commercial bond	Okla. Stat. tit. 59, § 1334 Okla. Stat. tit. 22, § 1108.1 Okla. Stat. tit. 22, § 1106 Okla. Stat. tit. 59, § 1306
Limits on Types of Bail	Mandatory secured bond for DV and other specific offenses	Okla. Stat. tit. 22, § 1101 Okla. Stat. tit. 22, § 1105 Okla. Stat. tit. 22, § 1105.3
Bail Conditions	No direction	
Pretrial Services	As available	Okla. Stat. tit. 22, § 1105.2 Okla. Stat. tit. 22, § 1105.3
Special Considerations	If an escaped prisoner, the defendant must be processed back into the Department of Corrections prior to bail being set on new criminal charges	Okla. Stat. tit. 22, § 1101
Ability to Pay Considered	No direction	
Preventive Detention	Capital offenses → Standard: Proof evident or presumption great Violent offenses; life imprisonment offenses; felony with two or more prior felonies; and other specific offenses → Standard: Proof evident or presumption great AND no condition of release would ensure safety Rebuttable presumption for detention for specific offenses → Standard: Clear and convincing evidence	Okla. Const. Art. 2, § 8 Okla. Stat. tit. 22, § 1101 Okla. Stat. tit. 22, § 1102
Bail Reconsideration	No direction	



Oregon



State Population

4,240,137

2022 National and State
Population Estimates



Pretrial Detention Population

54.9% of 7,097

persons in jail

Census of Jails, 2019



Purpose of Bail

Court appearance

Safety of another

Safety of the public

Or. Rev. Stat. § 135.245

Release Before First Appearance	Bond schedule	Or. Rev. Stat. § 135.233
Time Limits	Without undue delay (within 36 hours)	Or. Rev. Stat. § 135.245 Or. Rev. Stat. § 135.010
Bail Factors	Must consider any relevant factors	Or. Rev. Stat. § 135.230
Pretrial Risk Assessment	Required	Or. Rev. Stat. § 135.235
Type of Bail Available	Personal recognizance Partially secured bond Secured bond	Or. Rev. Stat. § 135.233 Or. Rev. Stat. § 135.265
Limits on Types of Bail	Mandatory ROR/unsecured bond subject to court discretion of flight or safety risk Mandatory secured bond for manufacturing or distributing methamphetamine and danger of flight or safety risk	Or. Rev. Stat. § 135.245 Or. Rev. Stat. § 135.242
Bail Conditions	Least onerous Reasonably ensure Must follow list of progressive conditions	Or. Rev. Stat. § 135.245 Or. Rev. Stat. § 135.265 Or. Rev. Stat. § 135.245 Or. Rev. Stat. § 135.260
Pretrial Services	As available	Or. Rev. Stat. § 161.355
Special Considerations	Defendant shall appear in person for felony arraignment; misdemeanors may appear in person or by counsel	Or. Rev. Stat. § 135.030
Ability to Pay Considered	May consider financial resources	Or. Rev. Stat. § 135.230
Preventive Detention	Murder or treason → Standard: Proof evident or presumption strong Violent felonies → Standard: Probable cause of crime AND clear and convincing evidence of risk of safety	Ore. Const. Art. I, § 14 Ore. Const. Art. I, § 43 Or. Rev. Stat. § 135.240
Bail Reconsideration	48 hours (automatic)	Or. Rev. Stat. § 135.245

Pennsylvania



State Population

12,972,008

2022 National and State
Population Estimates



Pretrial Detention Population

65.6% of 31,790

persons in jail

Census of Jails, 2019



Purpose of Bail

Court appearance

Safety to the public (detention only)

Compliance with conditions

[Pa. R. Crim. P. 523](#)

[Pa. R. Crim. P. 524](#)

[Pa. R. Crim. P. 526](#)

Release Before First Appearance	Cite and release (misdemeanor)	Pa. R. Crim. P. 519
Time Limits	Without unnecessary delay	Pa. R. Crim. P. 516 Pa. R. Crim. P. 519
Bail Factors	Must consider any relevant factors	Pa. R. Crim. P. 523
Pretrial Risk Assessment	May consider, if available Limited use	18 Pa. Cons. Stat. § 2711 Pa. R. Crim. P. 523
Type of Bail Available	Personal recognizance Unsecured bond Partially secured bond Secured bond Commercial bond	Pa. R. Crim. P. 524 Pa. R. Crim. P. 528
Limits on Types of Bail	No direction	
Bail Conditions	Reasonably necessary to ensure	Pa. R. Crim. P. 524
Pretrial Services	No direction	
Special Considerations	N/a	
Ability to Pay Considered	Must consider ability to pay	Pa. R. Crim. P. 528
Preventive Detention	Capital offenses, life imprisonment offenses or any crime which no condition will reasonably ensure safety → Standard: Proof evident or presumption great	Pa. Const. Art. I, § 14 42 Pa. Cons. Stat. § 5701
Bail Reconsideration	No direction	



State Population

1,093,734

2022 National and State
Population Estimates



Pretrial Detention Population

N/a

Census of Jails, 2019



Purpose of Bail

Court appearance
Safety to the public

R.I. Super. R. Crim. P. 46
R.I. Gen. Laws § 12-13-1.3

Release Before First Appearance	May be fixed on warrant Cite and release (misdemeanor)	R.I. Gen. Laws § 12-13-2 R.I. Gen. Laws § 12-7-12
Time Limits	Without unnecessary delay	R.I. Super. R. Crim. P. 5
Bail Factors	Must consider any relevant factors	R.I. Super. R. Crim. P. 46 R.I. Gen. Laws § 12-13-1.3
Pretrial Risk Assessment	Required	R.I. Gen. Laws § 12-13-1.3 R.I. Gen. Laws § 12-13-24.1
Type of Bail Available	Personal recognizance Partially secured bond Secured bond Commercial bond	R.I. Super. R. Crim. P. 46 R.I. Gen. Laws § 12-13-1.3 R.I. Gen. Laws § 12-13-10
Limits on Types of Bail	No direction	
Bail Conditions	Least onerous Reasonably necessary to ensure	R.I. Gen. Laws § 12-13-1.3
Pretrial Services	Available statewide	R.I. Gen. Laws § 12-13-1.3 R.I. Gen. Laws § 12-13-24.1
Special Considerations	Alternative to arrest for serious mental illness	R.I. Gen. Laws § 12-7-12
Ability to Pay Considered	Must consider ability to pay	R.I. Super. R. Crim. P. 46
Preventive Detention	Life imprisonment offenses and other specific offenses → Standard: Proof evident or presumption great	R.I. Const. Art. I, § 9 R.I. Gen. Laws § 12-13-1.1 R.I. Gen. Laws § 12-13-5.1
Bail Reconsideration	No direction	



State Population

5,282,634

2022 National and State Population Estimates



Pretrial Detention Population

72.7% of 11,875

persons in jail

Census of Jails, 2019



Purpose of Bail

Court appearance

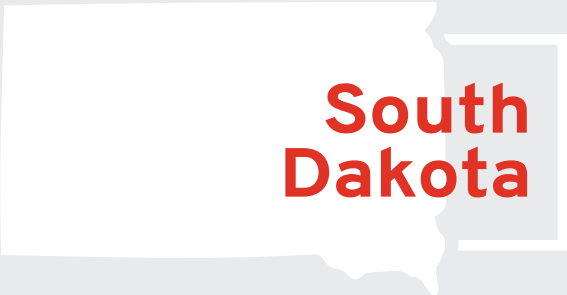
Safety to another

Safety to the public

S.C. Code Ann. § 17-15-10

S.C. Code Ann. § 22-5-510

Release Before First Appearance	No direction	
Time Limits	Within 24 hours	S.C. Code Ann. § 22-5-510
Bail Factors	May consider specific and must consider other specific factors	S.C. Code Ann. § 17-15-30 S.C. Code Ann. § 22-5-510
Pretrial Risk Assessment	Required	S.C. Code Ann. § 22-5-580
Type of Bail Available	Personal recognizance Partially secured Secured bond Commercial bond	S.C. Code Ann. § 17-15-10 S.C. Code Ann. § 17-15-15 S.C. Code Ann. § 38-53-10
Limits on Types of Bail	Mandatory ROR/unsecured bond subject to court discretion of flight or safety risk	S.C. Code Ann. § 17-15-10
Bail Conditions	Reasonably ensure	S.C. Code Ann. § 17-15-10 S.C. Code Ann. § 17-15-30
Pretrial Services	No direction	
Special Considerations	Receipt of deposits in lieu of recognizance	S.C. Code Ann. § 22-5-530
Ability to Pay Considered	May consider financial resources	S.C. Code Ann. § 17-15-30
Preventive Detention	Capital offenses Life imprisonment offenses Violent offenses	S.C. Const. Art. I, § 15 S.C. Code Ann. § 22-5-510
Bail Reconsideration	Upon request	S.C. Code Ann. § 17-15-55



State Population

909,824

2022 National and State Population Estimates



Pretrial Detention Population

72.6% of 2,070

persons in jail

Census of Jails, 2019



Purpose of Bail

- Court appearance
- Safety of another
- Safety of the public

S.D. Codified Laws § 23A-43-2

Release Before First Appearance	Must be fixed on warrant	S.D. Codified Laws § 23A-2-4
Time Limits	Without unnecessary delay	S.D. Codified Laws § 23A-4-1
Bail Factors	Must consider specific factors	S.D. Codified Laws § 23A-43-4
Pretrial Risk Assessment	No direction	
Type of Bail Available	<ul style="list-style-type: none"> Personal recognizance Unsecured bond Partially secured bond Secured bond Commercial bond 	S.D. Codified Laws § 23A-43-2 S.D. Codified Laws § 23A-43-3 S.D. Codified Laws § 58-22-1
Limits on Types of Bail	Mandatory PR/unsecured bond subject to court discretion of flight or safety risk	S.D. Codified Laws § 23A-43-2
Bail Conditions	<ul style="list-style-type: none"> Reasonably ensure appearance (type or conditions) Reasonably ensure safety (type only) 	S.D. Codified Laws § 23A-43-3
Pretrial Services	As available	S.D. Codified Laws § 23A-43-3
Special Considerations	N/a	
Ability to Pay Considered	Must consider financial resources	S.D. Codified Laws § 23A-43-4
Preventive Detention	<p>CONSTITUTION</p> <ul style="list-style-type: none"> Capital offenses → Standard: Proof evident or presumption great <p>LIMITED BY STATUTE</p> <ul style="list-style-type: none"> No condition(s) of release will reasonably ensure court appearance or safety 	S.D. Const. Art. VI, § 8 S.D. Codified Laws § 23A-43-2.1
Bail Reconsideration	24 hours (upon request)	S.D. Codified Laws § 23A-43-8



Tennessee



State Population

7,051,339

2022 National and State
Population Estimates



Pretrial Detention Population

53.2% of 29,651

persons in jail

Census of Jails, 2019



Purpose of Bail

Court appearance

Safety to the public

Tenn. Code Ann. § 40-11-118

Tenn. Code Ann. § 40-11-115

Release Before First Appearance	Cite and release (misdemeanor)	Tenn. Code Ann. § 40-7-118
	Delegated release (limited)	Tenn. Code Ann. § 40-10-104 Tenn. Code Ann. § 40-11-105
Time Limits	Without unnecessary delay	Tenn. R. Crim. P. Rule 5
Bail Factors	Must consider specific factors (monetary)	Tenn. Code Ann. § 40-11-115 Tenn. Code Ann. § 40-11-118
	May consider specific factors (conditions)	
Pretrial Risk Assessment	Must consider, if available	Tenn. Code Ann. § 40-11-115
Type of Bail Available	Personal recognizance	Tenn. Code Ann. § 40-11-103
	Unsecured bond	Tenn. Code Ann. § 40-11-115 Tenn. Code Ann. § 40-11-118
	Secured bond	
	Commercial bond	
Limits on Types of Bail	Mandatory secured bond for strangulation	Tenn. Code Ann. § 40-11-115
	Mandatory ROR/unsecured bond for driving under suspension and no FTA (with time limit)	
Bail Conditions	Reasonably necessary to ensure	Tenn. Code Ann. § 40-11-115 Tenn. Code Ann. § 40-11-118 Tenn. Code Ann. § 40-11-116
	Least restrictive	
	Least onerous (appearance)	
Pretrial Services	As available	Tenn. Code Ann. § 40-11-116
Special Considerations	Any offender arrested for the offense of stalking, elder abuse, DV, or rioting shall not be released within 12 hours of the time of arrest	Tenn. Code Ann. § 40-11-150
Ability to Pay Considered	Must consider financial resources	Tenn. Code Ann. § 40-11-115
Preventive Detention	Capital offenses	Tenn. Const. Art. I, § 15 Tenn. Code Ann. § 40-11-102
	→ Standard: Proof evident or presumption great	
Bail Reconsideration	Upon request	Tenn. Code Ann. § 40-11-143



State Population

30,029,572

2022 National and State Population Estimates



Pretrial Detention Population

76.2% of 66,806

persons in jail

Census of Jails, 2019



Purpose of Bail

Court appearance

Safety to another

Safety to the public

Tex. Crim. Proc. Code § 17.028

Release Before First Appearance	Cite and release (misdemeanor) Bond schedule	Tex. Crim. Proc. Code § 14.06 Tex. Crim. Proc. Code § 17.028
Time Limits	Without unnecessary delay (within 48 hours)	Tex. Crim. Proc. Code § 17.028 Tex. Crim. Proc. Code § 15.17
Bail Factors	Must consider specific factors	Tex. Crim. Proc. Code § 17.15
Pretrial Risk Assessment	May not use	Tex. Crim. Proc. Code § 17.021
Type of Bail Available	Personal recognizance Secured bond Commercial bond	Tex. Crim. Proc. Code § 17.028 Tex. Occ. Code § 1704.160
Limits on Types of Bail	Mandatory secured bond for individuals civilly committed as a sexually violent predator Mandatory secured bond for violent offenses or any felony while on bail for a violent offense	Tex. Crim. Proc. Code § 17.03 Tex. Crim. Proc. Code § 17.03
Bail Conditions	Reasonably necessary to ensure Least restrictive	Tex. Crim. Proc. Code § 17.15 Tex. Crim. Proc. Code § 17.028
Pretrial Services	As available	Tex. Gov't Code § 76.011
Special Considerations	Potential alternatives to arrest for individuals with intellectual or developmental disability Extended detention for DV	Tex. Crim. Proc. Code § 14.035 Tex. Crim. Proc. Code § 17.291
Ability to Pay Considered	Must consider ability to pay	Tex. Crim. Proc. Code § 17.15
Preventive Detention	Capital offenses → Standard: Proof evident Felony with prior felonies Felony while on bail Violent or sexual offense while under supervision → Standard: Presumption of release with conditions	Tex. Const. Art. I, § 11 Tex. Crim. Proc. Code § 17.028
Bail Reconsideration	Upon request	Tex. Crim. Proc. Code § 17.33



State Population

3,380,800

2022 National and State Population Estimates



Pretrial Detention Population

42.8% of 7,595

persons in jail

Census of Jails, 2019



Purpose of Bail

- Court appearance
- Safety of another
- Safety of the public
- Prevent obstruction of justice

Utah Code Ann. § 77-20-205

Release Before First Appearance	Delegated release (limited) Cite and release (misdemeanor) May be fixed on warrant	Utah Code Ann. § 77-7-18 Utah Code Ann. § 77-20-203 Utah Code Ann. § 77-20-204 Utah R. Crim. P. 6
Time Limits	Without unnecessary delay	Utah Code Ann. § 77-7-23
Bail Factors	May consider specific factors	Utah Code Ann. § 77-20-202 Utah Code Ann. § 77-20-205
Pretrial Risk Assessment	No direction	Utah Code Ann. § 77-20-202
Type of Bail Available	Personal recognizance Unsecured bond Secured bond Commercial bond	Utah Code Ann. § 77-20-402 Utah Code Ann. § 77-20-205 Utah Code Ann. § 31A-35-402
Limits on Types of Bail	No direction	
Bail Conditions	Reasonably necessary to ensure	Utah Code Ann. § 77-20-205
Pretrial Services	As available	Utah Code Ann. § 77-20-205
Special Considerations	May only issue a warrant if necessary to protect person or property or secure appearance Pretrial release may not be based solely on the seriousness of the offense	Utah Code Ann. § 77-7-5 Utah Code Ann. § 77-20-205
Ability to Pay Considered	Must consider financial circumstances	Utah Code Ann. § 77-20-202 Utah Code Ann. § 77-20-205
Preventive Detention	Capital offense, felony while on bail or under supervision for a felony → Standard: Substantial evidence to support the charge Any other crime, by statute (felony, DV and other specific crimes) → Standard: Substantial evidence to support the charge AND clear and convincing evidence of flight or safety risk	Utah Const. Art. I, § 8 Utah Code Ann. § 77-20-201
Bail Reconsideration	No direction	



State Population

647,064

2022 National and State
Population Estimates



Pretrial Detention Population

N/a

Census of Jails, 2019



Purpose of Bail

Court appearance (conditions)
Safety to the public (detention only)

Vt. Stat. Ann. tit., 13 § 7554

Vt. Stat. Ann. tit., 13 § 7553a

Release Before First Appearance	Cite and release	V.R.Cr.P. Rule 3
	Bond schedule	V.R.Cr.P. Rule 5
Time Limits	Without unnecessary delay	V.R.Cr.P. Rule 3
Bail Factors	Must consider specific factors and may consider any relevant factors	Vt. Stat. Ann. tit., 13 § 7554c Vt. Stat. Ann. tit., 13 § 7554
Pretrial Risk Assessment	May consider	Vt. Stat. Ann. tit., 13 § 7554c V.R.Cr.P. Rule 5
Type of Bail Available	Personal recognizance	Vt. Stat. Ann. tit., 13 § 7554
	Unsecured bond	Vt. Stat. Ann. tit., 13 § 7554a
	Partially secured bond	
	Secured bond	
	Commercial bond	
Limits on Types of Bail	Mandatory ROR/unsecured bond subject to court discretion of flight risk	Vt. Stat. Ann. tit., 13 § 7551 Vt. Stat. Ann. tit., 13 § 7554
Bail Conditions	Least restrictive	Vt. Stat. Ann. tit., 13 § 7554c
	Reasonably mitigate (flight risk)	Vt. Stat. Ann. tit., 13 § 7554
	Reasonably ensure (safety)	
Pretrial Services	Available statewide	Vt. Stat. Ann. tit., 13 § 7554c Vt. Stat. Ann. tit., 13 § 7554
Special Considerations	Use of needs assessment	Vt. Stat. Ann. tit., 13 § 7554c
	Mandatory cite and release for some misdemeanors	V.R.Cr.P. Rule 5 V.R.Cr.P. Rule 3
	Specific nonviolent misdemeanor offense: max secured bail of \$200	
Ability to Pay Considered	Must consider ability to pay	Vt. Stat. Ann. tit., 13 § 7554
Preventive Detention	Life imprisonment offenses → Standard: Evidence of guilt is great	Vt. Stat. Ann. tit., 13 § 7553 Vt. Stat. Ann. tit., 13 § 7553a
	Violent felonies → Standard: Evidence of guilt is great AND clear and convincing evidence of risk of safety	Vt. Const. § 40
Bail Reconsideration	48 hours	Vt. Stat. Ann. tit., 13 § 7554



State Population

8,683,619

2022 National and State
Population Estimates



Pretrial Detention Population

46.5% of 26,583

persons in jail

Census of Jails, 2019



Purpose of Bail

Court appearance

Safety of another

Safety of the public

Safety of self

Va. Code Ann. § 19.2-120

Release Before First Appearance	Cite and release (misdemeanor)	Va. Code Ann. § 19.2-74
Time Limits	Without unnecessary delay	Va. Code Ann. § 19.2-80
Bail Factors	Must consider all relevant factors	Va. Code Ann. § 19.2-120 Va. Code Ann. § 19.2-121
Pretrial Risk Assessment	Required	Va. Code Ann. § 19.2-152.4:3
Type of Bail Available	Unsecured bond Secured bond Commercial bond	Va. Code Ann. § 19.2-120 Va. Code Ann. § 19.2-123
Limits on Types of Bail	Mandatory secured bond for any felony with a prior felony, under supervision, or on bail for a felony	Va. Code Ann. § 19.2-123
Bail Conditions	Reasonably necessary to ensure	Va. Code Ann. § 19.2-124 Va. Code Ann. § 19.2-123 Va. Code Ann. § 19.2-121
Pretrial Services	Available statewide	Va. Code Ann. § 19.2-123 Va. Code Ann. § 19.2-152.2 Va. Code Ann. § 19.2-152.4:3
Special Considerations	N/a	
Ability to Pay Considered	Must consider ability to pay	Va. Code Ann. § 19.2-121
Preventive Detention	Any crime → Standard: Probable cause of flight, safety risk, or self-harm	Va. Code Ann. § 19.2-120
Bail Reconsideration	Upon request	Va. Code Ann. § 19.2-124



State Population

7,785,786

2022 National and State Population Estimates



Pretrial Detention Population

71.9% of 9,609

persons in jail

Census of Jails, 2019



Purpose of Bail

- Court appearance
- Safety of another
- Prevent obstruction of justice

Wash. CRR 3.2
Wash. Rev. Code Ann. § 10.21.010

Release Before First Appearance	Must be fixed on warrant	Wash. Rev. Code Ann. § 10.31.030 Wash. CRR 2.2
Time Limits	As soon as practicable (before the close of business on the next court day) Directly and without delay	Wash. CRR 3.2.1 Wash. Rev. Code Ann. § 10.31.030
Bail Factors	Must consider any relevant factors	Wash. CRR 3.2 Wash. Rev. Code Ann. § 10.21.050
Pretrial Risk Assessment	No direction	
Type of Bail Available	Personal recognizance Unsecured bond Partially secured bond Secured bond Commercial bond	Wash. CRR 3.2 Wash. Rev. Code Ann. § 10.21.020 Wash. Rev. Code Ann. § 18.185.280
Limits on Types of Bail	Presumption of ROR subject to court discretion of flight or risk of violent crime	Wash. CRR 3.2
Bail Conditions	Least restrictive Reasonably ensure (appearance) Any condition if finding of substantial danger	Wash. CRR 3.2 Wash. Rev. Code Ann. § 10.21.050
Pretrial Services	May use, limited use (may not supervise violent or sex offenses, unless on secured bond)	Wash. CRR 3.2 Wash. Rev. Code Ann. § 10.21.030 Wash. Rev. Code Ann. § 10.21.015
Special Considerations	Alternatives to arrest for individuals known to have a mental disorder or substance use disorder	Wash. Rev. Code Ann. § 10.31.110
Ability to Pay Considered	Must consider ability to pay	Wash. CRR 3.2
Preventive Detention	CONSTITUTION Capital offenses → Standard: Proof evident or presumption great Life imprisonment offenses → Standard: Clear and convincing evidence of a propensity for violence that creates a substantial likelihood of danger to the community or any persons	Wash. Const. Art. I, § 20 Wash. CRR 3.2
Bail Reconsideration	Upon request	Wash. CRR 3.2



State Population

1,775,156

2022 National and State
Population Estimates



Pretrial Detention Population

55.6% of 5,112

persons in jail

Census of Jails, 2019



Purpose of Bail

Court appearance

Safety of another

Safety to the public

Prevent obstruction of justice

W. Va. Code § 62-1C-1a

Release Before First Appearance	No direction	
Time Limits	Without unnecessary delay	W. Va. R.Cr.P., Rule 5
Bail Factors	Must consider specific factors	W. Va. Code § 62-1C-1a
Pretrial Risk Assessment	Required	W. Va. Code § 62-11F-4 W. Va. Code § 62-11F-2 W. Va. Code § 15A-5-7
Type of Bail Available	Personal recognizance Unsecured bond Secured bond Commercial bond	W. Va. Code § 62-1C-1a W. Va. Code § 62-1C-4
Limits on Types of Bail	Mandatory ROR for low-level, nonviolent misdemeanors, except when good cause shown	W. Va. Code § 62-1C-1a
Bail Conditions	Least restrictive Reasonably necessary to ensure	W. Va. Code § 62-1C-1a
Pretrial Services	As available	W. Va. Code § 62-1C-1a W. Va. Code § 62-11F-2 W. Va. Code § 62-11F-3
Special Considerations	Monetary condition—may not exceed three times maximum fine for all misdemeanors	W. Va. Code § 62-1C-1a
Ability to Pay Considered	Must consider ability to pay	W. Va. Code § 62-1C-1a
Preventive Detention	Life imprisonment offenses → Standard: Judicial discretion	W. Va. Code § 62-1C-1
Bail Reconsideration	Misdemeanor—hearing within five days of setting the initial bail	W. Va. Code § 62-1C-1a



State Population

5,892,539

2022 National and
State Population



Pretrial Detention Population

50.2% of 13,142

persons in jail

Census of Jails, 2019



Purpose of Bail

Court appearance

Safety of the public

Prevent obstruction of justice

Wis. Const. Art. I, § 8

Wis. Stat. § 969.01

Release Before First Appearance	Cite and release (misdemeanor) May be fixed on warrant	Wis. Stat. § 968.085 Wis. Stat. § 969.05
Time Limits	Within a reasonable time	Wis. Stat. § 970.01
Bail Factors	May consider specific factors	Wis. Stat. § 969.01 Wis. Const. Art. I, § 8
Pretrial Risk Assessment	No direction	
Type of Bail Available	Personal recognizance Unsecured bond Secured bond	Wis. Stat. § 969.02 Wis. Stat. § 969.03 Wis. Stat. § 969.12
Limits on Types of Bail	Limit on use of monetary conditions: to ensure appearance only, unless violent crime	Wis. Stat. § 969.01
Bail Conditions	Reasonably necessary to ensure	Wis. Const. Art. I, § 8 Wis. Stat. § 969.01 Wis. Stat. § 969.03
Pretrial Services	As available	Wis. Stat. § 969.02 Wis. Stat. § 969.03
Special Considerations	For low-level misdemeanors, judge must issue a summons instead of a warrant unless there is a flight risk Monetary conditions for misdemeanors shall not exceed the maximum fine provided for the offense	Wis. Stat. § 968.04 Wis. Stat. § 969.02
Ability to Pay Considered	Must consider ability to pay	Wis. Stat. § 969.01
Preventive Detention	Intentional murder Sex offenses Violent offenses with prior violent offense → Standard: Clear and convincing evidence that the defendant committed an offense AND conditions with release not sufficient for safety	Wis. Const. Art. I, § 8 Wis. Stat. § 969.035
Bail Reconsideration	72 hours (upon request)	Wis. Stat. § 969.08

Wyoming



State Population

581,381

2022 National and State Population Estimates



Pretrial Detention Population

73.8% of 1,441

persons in jail

Census of Jails, 2019



Purpose of Bail

Court appearance

Safety of another

Safety of the public

Prevent obstruction of justice

W.R.Cr.P. Rule 46

Release Before First Appearance	Cite and release (misdemeanor)	W.R.Cr.P. Rule 3.1
Time Limits	Without unnecessary delay (within 72 hours)	W.R.Cr.P. Rule 46.1
Bail Factors	Must consider specific factors	W.R.Cr.P. Rule 46.1
Pretrial Risk Assessment	No direction	
Type of Bail Available	Personal recognizance Unsecured bond Secured bond Commercial bond	W.R.Cr.P. Rule 46.1 W.R.Cr.P. Rule 46
Limits on Types of Bail	Mandatory ROR/unsecured bond subject to court discretion of flight or safety risk	W.R.Cr.P. Rule 46.1
Bail Conditions	Reasonably ensure Least restrictive	W.R.Cr.P. Rule 46.1
Pretrial Services	As available	W.R.Cr.P. Rule 46.1
Special Considerations	N/a	
Ability to Pay Considered	Must consider financial resources	W.R.Cr.P. Rule 46.1
Preventive Detention	Capital offenses → Standard: Proof evident or presumption great	Wyo. Const. Art. 1, § 14 W.R.Cr.P. Rule 46.1 Wyo. Stat. § 7-10-101
Bail Reconsideration	10 days (automatic)	W.R.Cr.P. Rule 46

Key Themes

An in-depth analysis of bail reform laws across all 50 states reveals several key themes that shed light on the evolving landscape of pretrial justice in the United States. These themes encompass a wide spectrum of approaches, from reducing the reliance on cash bail to enhancing public safety measures, and offer valuable insights into the complex and nuanced discussions surrounding bail reform. Promising themes are discussed below.



Key Themes (continued)

• Expanding Immediate-Release Options

Most states offer some form of immediate release, whether it be through delegated release authority, bond schedules, warrants with fixed conditions, or citations in lieu of continued custody. Expanding pretrial release before a defendant's first court appearance is crucial when aiming to minimize the adverse effects of pretrial detention, which can lead to higher rates of reoffending.⁶⁹ Additionally, it helps prioritize jail and court resources, alleviating overcrowded facilities and court congestion. This shift toward more expeditious pretrial release decisions does not alter the consideration of risk, but rather ensures that individuals who would eventually be released are not penalized before due process. States can also increase the accuracy of risk predictions by using evidence-based risk assessments during these early stage release decisions, yielding better results than considering offense levels alone.

• Establishing Defined Time Limits to Set Bail

While nearly all states designate some type of required timeframe for a defendant to appear before a judge for bail consideration, only some specify a concrete time limit. The phrase “without necessary delay,” which is used in many states, lacks clarity and invites a variety of interpretations. Introducing a defined time limit of 24 to 48 hours ensures a swifter delivery of justice, preventing unnecessary delays in future court proceedings. Similar to immediate-release options, this approach reduces prolonged pretrial detention, protecting the presumption of innocence and curbing the negative effects of incarceration. Moreover, it enhances transparency and accountability in the criminal justice system, fostering public trust and confidence. Clear timeframes also promote efficient case management while respecting the legal rights and dignity of unconvicted individuals. While some states may express logistical concerns about meeting expedient timeframes, they can draw on the experience of other jurisdictions that have implemented these procedures to identify strategies to meet such requirements.

• Implementing Mandatory Pretrial Risk Assessments

Pretrial risk assessments are prominent in many communities, but few states have implemented statewide use.⁷⁰ Often, this can be to the detriment of smaller, more rural areas that struggle with a lack of resources and technical assistance needed to use such tools. Requiring a pretrial risk assessment for all defendants promotes fairness by ensuring that bail decisions are based on objective data rather than subjective judgments, reducing the potential for bias and discrimination.⁷¹ It also enhances public safety by identifying individuals who pose a genuine risk and need stricter supervision or detention while releasing lower-risk defendants, thus optimizing resource allocation within the criminal justice system.⁷² Notably, the mandatory use of pretrial risk assessments does not have to be imposed through legislation. In Nevada, the Supreme Court issued such a mandate through a court order.⁷³ Other considerations for meaningful pretrial risk assessment policy changes include validating and reviewing risk assessments for prejudice, as was done in California and Pennsylvania.⁷⁴

• Requiring a Mandate or Presumption of ROR

Several states have incorporated language that requires judges to grant defendants release on personal recognizance or unsecured bonds unless there is a risk of flight or a safety concern within the court's discretion. This framework upholds the fundamental principles that individuals should not be assumed guilty or dangerous, but rather presumed innocent until proven otherwise.⁷⁵ It also contributes to a more equitable system by removing financial barriers to release,

69. Will Dobbie et al., “The Effects of Pretrial Detention on Conviction, Future Crime, and Employment: Evidence from Randomly Assigned Judges,” *American Economic Review* 108:2 (February 2018), pp. 201-240. <https://www.aeaweb.org/articles?id=10.1257/aer.20161503>.

70. “How Many Jurisdictions Use Each Tool,” Mapping Pretrial Injustice, last accessed Sept. 26, 2023. <https://pretrialrisk.com/national-landscape/how-many-jurisdictions-use-each-tool>.

71. Petis, “Pretrial Assessments.” <https://www.rstreet.org/commentary/tools-for-safe-and-smart-bail-system-changes-pretrial-assessments>.

72. Ibid.

73. “Order Adopting Statewide Use of the Nevada Pretrial Risk Assessment,” Supreme Court of the State of Nevada, March 21, 2019. https://nvcourts.gov/__data/assets/pdf_file/0022/25915/adkt_0539_order_adopting_statewide_use_of_the_nevada_pretrial_risk_assessment.pdf.

74. Cal Pen Code § 1320.35. <https://advance.lexis.com/api/document/collection/statutes-legislation/id/60RJ-XCD3-GXJ9-30VK-00000-00>; 18 Pa.C.S. § 2711. <https://advance.lexis.com/api/document/collection/statutes-legislation/id/8RHD-8V72-D6RV-H3SF-00000-00>.

75. Jorgensen and Smith. <https://www.hks.harvard.edu/publications/current-state-bail-reform-united-states-results-landscape-analysis-bail-reforms-across>.

Key Themes (continued)

particularly for low-income individuals. It ultimately promotes a more just and consistent approach to pretrial proceedings by respecting an individual's right to liberty. Additionally, the framework is more cost effective than pretrial detention while still allowing for bail conditions to ensure court appearance or public safety when necessary. Pretrial risk assessments can improve the accuracy of identifying who is suitable for release without conditions, easing potential safety concerns.

• **Setting Least Restrictive/Least Onerous Conditions**

While these terms differ slightly, they are, in essence, the same. This concept protects against unwarranted government deprivation and ensures that protective measures are minimally disruptive to an individual's life. Similar to presumptions of release on recognizance, these types of guidelines safeguard individual rights, minimize financial burdens, and help avoid overcrowding in jail facilities. Importantly, this approach does not eliminate tools to address flight or safety risk; instead, it requires an intentional and individualized assessment of imposing conditions that could negatively affect a person's life. Some experts believe this practice also helps avoid constitutional challenges.⁷⁶

• **Considering and Reconsidering Ability to Pay**

The consideration of a defendant's ability to pay bail, or at the very least their financial resources, is already a factor in many states when determining bail. This approach is not only logical but also essential in preventing the unconstitutional practice of imposing excessive bail.⁷⁷ By considering an individual's financial capacity, courts can ensure that bail amounts are reasonable and do not disproportionately burden low-income defendants, thus avoiding the inadvertent criminalization of poverty. Further, automatic bail reconsideration for in-custody defendants unable to afford bail is essential for safeguarding rights and ensuring fairness in the criminal justice system. States can make sure that a reconsideration of monetary conditions of bail are done as a matter of right, rather than request, when a defendant remains incarcerated.

• **Establishing Statewide Pretrial Services**

Many communities have established their own pretrial services programs, but few states have created statewide systems.⁷⁸ This often results in pretrial supervision resources in urban areas but limited options in rural regions. Implementing statewide pretrial services can yield cost savings through economies of scale and shared technical support. Furthermore, it enhances public safety by providing a structured system for supervision of a defendant no matter where the crime is committed or where the defendant resides. However, it is crucial for such programs to be well designed, adequately funded, and not overused to achieve these benefits and avoid potential pitfalls. Research shows that pretrial supervision can be effective, but it may have unintended negative consequences if it is unnecessarily burdensome or overused.⁷⁹ Therefore, it should adhere to least restrictive or least onerous limits.

• **Expanding Preventive Detention**

Several states restrict preventive detention to capital offenses, but those that have curtailed the use of cash bail often include a broader range of offenses eligible for continued custody, as seen in Illinois and New Jersey. Expanding the types of offenses eligible for pretrial detention provides a legal mechanism to detain high-risk offenders charged with serious or violent offenses, reducing potential threats to society. It also acknowledges that excessive bail should not be used for detention. However, establishing high levels of standard proof and requiring that detention be used as a last resort is crucial to prevent the erosion of individual rights and the excessive use of pretrial detention for less serious offenses.

76. "Statutory Framework of Pretrial Release," National Conference of State Legislatures, Nov. 18, 2020. <https://www.ncsl.org/civil-and-criminal-justice/statutory-framework-of-pretrial-release>.

77. Alison M. Smith, "U.S. Constitutional Limits on State Money-Bail Practices for Criminal Defendants," Congressional Research Service, Feb. 26, 2019. https://www.everycrsreport.com/files/20190226_R45533_4c89aa904dab7e75e7f25576cbfff1d6e260fe6c.pdf.

78. "Statutory Framework of Pretrial Release." <https://www.ncsl.org/civil-and-criminal-justice/statutory-framework-of-pretrial-release>.

79. Ross Hatton and Jessica Smith, "Research on the Effectiveness of Pretrial Support and Supervision Services: A Guide for Pretrial Services Programs," UNC School of Government Criminal Justice Innovation Lab, July 2021, pp. 17-24. <https://cjlil.sog.unc.edu/wp-content/uploads/sites/19452/2020/05/Research-on-the-Effectiveness-of-Pretrial-Support-Supervision-Services-5.28.2020.pdf>.

The Future of Bail

The future of the bail system is likely to involve continued efforts to move away from secured bail and toward expanded release while incorporating pretrial safety tools. Advances in technology and data analysis could also play a role in improving the accuracy of risk assessments and encouraging court appearances and public safety upon release. However, fearmongering, political dynamics, and the evolving public sentiment on the prioritization of societal values will likely continue to strongly influence future reforms. Additionally, there are promising but less-common opportunities for improving the bail system, which are outlined below.



• Incorporating Needs Assessments and Pretrial Support

States should integrate both needs and risk assessments for bail considerations to offer a more comprehensive picture and effective framework to achieve pretrial success. This approach allows for more informed bail decisions and expands the array of support options beyond court-mandated conditions. Addressing a defendant's needs and risk through pretrial support has also proven to be effective.⁸⁰ For example, if substance abuse is identified as a need, providing information about treatment programs, as opposed to just mandating testing, may more effectively reduce the risk of reoffending. Likewise, addressing transportation needs to attend court could reduce failures to appear. By acknowledging and addressing factors such as mental health, substance use, housing stability, transportation, and childcare challenges, the criminal justice system can better promote court appearance rates and law-abiding behavior. This personalized and humane approach can ultimately lead to cost savings and decreased recidivism rates.

• Adopting Statewide Pretrial Services

States should make pretrial services programs as commonplace as probation or parole. Pretrial services can seamlessly integrate needs and risk assessments while facilitating vital connections to services for defendants to mitigate flight and safety risks. Under delegated release authority, these programs can promptly release low-risk offenders through citation in lieu of continued custody or identify nonmonetary support conditions for medium-risk offenders to be released on their own recognizance. With a well-structured process, these decisions could be made more consistently and expeditiously, limiting the need to gather an entire courtroom. Ideally, pretrial release programs should be administered by an agency outside of the criminal justice system to honor the presumption of innocence. The programs should primarily offer court notifications, voluntary support services, and referrals but can also facilitate enforcement of the least onerous bail conditions necessary to ensure court appearance or safety. However, it is imperative that pretrial supervision be subject to the least restrictive condition framework to avoid “net widening” that would place an undue burden on defendants.⁸¹

• Limiting Cash Bail While Expanding Preventive Detention

The criminal justice system is tasked with holding individuals accountable for their criminal actions, but the system must do this while also protecting defendant rights and maintaining public safety. Although limiting the use of secured bonds is necessary to rectify the system's wealth-based disparities, the court must still possess access to a variety of tools to ensure safety and accountability. Preventive detention must remain an option for courts to use to address flight and safety risk. Although it is rare for individuals who are released on bail to commit violent crimes or deliberately avoid prosecution, courts must still protect against these possible events. Therefore, states should be able to expand their ability to hold defendants in custody for more than just capital offenses. However, if given the ability to do this, stringent limitations must be imposed to ensure that detention is used only when necessary and as a last resort. Any expansion in the offenses eligible for preventive detention should also be coupled with the requirement of “proof of guilt is evident or presumption is great” and “clear and convincing evidence” of the risk of nonappearance or danger to others or the public. Further, courts should be required to consider least restrictive alternatives to ensure appearance and safety before ordering detention. While the reduction of cash bail is a vital step toward establishing a fairer and more just system, the expansion of preventive detention eligibility is what will ultimately lead the justice system safely toward that goal.

80. Petis, “Pretrial Support.” <https://www.rstreet.org/commentary/tools-for-safe-and-smart-bail-system-changes-pretrial-support>.

81. Erin Valentine and Sarah Picard, “Assessing the Effectiveness of Varying Intensities of Pretrial Supervision,” MDRC, June 2023, p. 15. https://www.mdrc.org/sites/default/files/PIC_Pretrial_Supervision.pdf.

Conclusion

Bail is a critical component in our criminal justice system, and due to its ability to deprive someone of their freedom—as well as its capacity to protect public safety and ensure accountability—it is subject to intense scrutiny and heated debate. Consequently, perspectives on bail have become more emotionally driven than rooted in common sense. Opponents to bail reform believe that the potential public safety costs outweigh the personal harm inflicted upon accused individuals. However, doing nothing incurs several other significant costs that go beyond individual harm. Unnecessary detention also increases recidivism, wastes taxpayer dollars, and undermines the presumption of innocence. Embracing opportunities to improve the pretrial release process allows communities to establish more effective criminal justice systems that safeguard individual rights while maintaining public safety. To foster informed discussions and facilitate meaningful changes in the bail system, it is imperative to cultivate a comprehensive perspective on the existing bail laws across the United States and let facts, not fear, guide the future of bail discussions.

There are several notable themes across the country shaping pretrial justice. These include efforts to minimize the collateral consequences of pretrial detention through expanding immediate-release options, requiring a presumption of release on recognizance to remove financial barriers, and promoting least restrictive conditions to safeguard individual rights. Other trends include enhancing public safety by implementing mandatory pretrial risk assessments, advocating for statewide pretrial services to ensure uniformity and effectiveness, and expanding eligibility for preventive detention. Of course, there is also a push for stringent standards that protect individual rights and prevent excessive use of pretrial detention for less serious offenses, such as establishing defined time limits for bail considerations and assessing a person's ability to pay.

The future of the bail system is expected to pivot away from predominately relying on secured bail toward embracing expanded release and integrating new technology and data analysis to improve pretrial success and community safety after release. The inclusion of needs and risk assessments, coupled with pretrial support, to address behavioral health and economic challenges could be a more holistic and productive framework. Adopting statewide pretrial services programs, administered by agencies outside of the criminal justice system, could also facilitate consistent and expeditious decisions, ensuring court appearances and safety. However, challenges such as political discord and misguided fear are expected to strongly impact future changes to the bail system.

Policymakers should move past the divisive and emotional aspects of bail reform to focus on balanced, common-sense solutions. They can draw inspiration from successful models in other states, using key themes identified in this analysis. In this ever-evolving landscape where individual rights, public safety and socioeconomic disparities intersect, finding a fair and pragmatic approach is essential. Limiting cash bail to address wealth-based disparities will be just as crucial as the expansion of preventive detention eligibility—with stringent limitations—to promote a more just system. It is a journey that requires careful consideration, thoughtful bipartisan conversations, and a commitment to understanding and boldly addressing the myriad issues associated with the bail system.

About the Author

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