

In 2027, Texas Lawmakers Should Hold the Line Against Further Politically Motivated Attacks on Pretrial Justice

After multiple failed attempts, Texas passed legislation during the 2025 session that expands pretrial detention and money bail.¹ SB 9 and SJR 5 undermine the presumption of innocence and destabilize communities through unnecessary pretrial detention. But some lawmakers worked for years to narrow the detention net and include strong due process protections, such as the right to counsel at bail denial and a high evidentiary standard for detention.²

However, months after the legislation went into effect, these hard-won protections have failed to materialize in practice. Without them, Texas’s jail overcrowding crisis will deepen.

- **Lack of instruction around bail and detention can lead to confusion and unnecessary detention.** SJR 5 is a constitutional amendment that expands judges’ authority to deny bail. While lawmakers ensured that it also guarantees critical due process rights before judges decide on detention, there are no instructions from state agencies nor in statute indicating when a detention hearing must be set, how the prosecutor should request detention, what should happen to an accused person during the proceedings, and much more. Moreover, judges can simply skirt these requirements by continuing to rely on money bail. This glaring lack of instruction will lead to confusion, inconsistent application, and prolonged unnecessary pretrial detention.
- **The likely explosion in jail populations will create unsafe conditions for detained people and staff.** Under the new legislation, Harris County officials estimate the jail population could increase by 1,900 people by the end of 2026.³ Meanwhile, Harris County still has an estimated 1,000 people outsourced to detention facilities in other counties, and deaths in Harris County jail doubled in 2025.⁴

State officials are using the new bail legislation to attack Harris County’s misdemeanor bail policy, despite clear evidence that it has reduced jail populations and improved public safety.⁵

- **Harris County misdemeanor bail reform simply requires the pretrial release of people accused of low-level, non-violent misdemeanors.⁶** Emboldened by wins in the legislature and under the guise of improving public safety, the Texas attorney general filed in August of 2025 to overturn the entire consent decree, arguing that it conflicts with narrow sections of SB 6 (2021) and SB 9.⁷
- **The attorney general’s pretenses are grounded in politics—not facts or data.** Harris County judges set money bail or deny bail in **99 percent** of cases with offenses involving violence as defined by SB 6.⁸ Independent monitors consistently report public safety improvements, such as a **12 percent decrease** in the average number of rearrests since the reforms began.⁹ And while there are still far too many people detained in the custody of Harris County Jail, the total number decreased by more than 2,000 people after misdemeanor bail reform took effect.¹⁰

Texas influences the nation, and so lawmakers must hold the line against further attacks.

Since the bail fight in Texas began, several states, including Indiana, Alabama, and Tennessee, have passed constitutional amendments to expand automatic pretrial detention.¹¹ This year, Alabama legislators are considering a bill that closely resembles Texas’s SJR 1—a bill defeated last session that would automatically deny bail for any person accused of any felony who falls under a broad definition of “illegal alien.”¹² Federal lawmakers also introduced bills that seek to mandate money bail and limit federal funding for jurisdictions that have passed pretrial justice reforms.¹³ Lawmakers who care about delivering safety, justice, and accountability must continue to resist this push for more punitive, ineffective policies.

Endnotes

- ¹ Jolie Mccullough, "Texas Senate Approves Bail Bill That Would Keep More People in Jail If They Can't Post Cash Bonds," *Texas Tribune*, April 14, 2021, <https://www.texastribune.org/2021/04/14/texas-bail-legislature>.
- ² Emma Stammen and Nicole Zayas Manzano, *Behind the Bill: The Fight or Pretrial Reform in Texas* (Los Angeles, CA: The Bail Project, 2026), <https://bailproject.org/wp-content/uploads/2026/01/Behind-the-Bill-The-Bail-Project.pdf>.
- ³ Harris County Commissioners Court, "December 11, 2025 Commissioners Court," Harris County video, December 11, 2025, <https://harriscountytx.new.swagit.com/videos/364295>, 1:15:17.
- ⁴ Sarah Grunau, "The Harris County Jail Population Has Declined This Year. Will the Trend Continue?," Houston Public Media, December 12, 2025, <https://www.houstonpublicmedia.org/articles/news/criminal-justice/2025/12/12/538349/harris-county-jail-population-commissioners-court-case-backlog>. Twenty people died in the Harris County jail in 2025, and 10 people died in the facility in 2024. See Caroline Wilburn, "Harris County Jail Saw 20 Deaths in 2025 as Most Inmates Awaited Trial. Here's What We Know," *Houston Chronicle*, January 2, 2026, <https://www.houstonchronicle.com/news/houston-texas/crime/article/harris-county-jail-deaths-2025-21221223.php>.
- ⁵ Brandon L. Garrett, Dottie Carmichael, David Shi, et al., *Monitoring Pretrial Reform in Harris County: Ninth Report of the Court-Appointed Monitor* (Durham, NC: Duke Law, 2026), viii, <https://ppri.tamu.edu/wp-content/uploads/2026/03/ODonnell-Monitor-Ninth-Report-v.19.pdf>; and Adam Zuvanich, "Texas AG Ken Paxton Asks Federal Court to End Harris County's Misdemeanor Bail Reform," Houston Public Media, August 26, 2025, <https://www.houstonpublicmedia.org/articles/news/criminal-justice/2025/08/26/529540/texas-ag-ken-paxton-asks-federal-court-to-end-harris-countys-misdemeanor-bail-reform>.
- ⁶ ODonnell Monitor, "The Bail Reform Lawsuit Settlement," accessed March 21, 2026, <https://sites.law.duke.edu/odonnellmonitor/bail-reform-lawsuit-settlement>.
- ⁷ Zuvanich, "Texas AG Ken Paxton," 2025.
- ⁸ Analysis of Harris County, Texas, Public Safety Report System data from April 1, 2022, to February 28, 2023, for "offenses involving violence" as defined by SB 6. On file at Vera. SB 6 offenses involving violence are listed under Articles 17.03(b-3)(2)(A - T) of the Texas Rules of Criminal Procedure. For more information, contact Brianna Williams at briwilliams@vera.org.
- ⁹ Garrett, Carmichael, Shi, et al., *Monitoring Pretrial Reform in Harris County*, 2026, 57 and 59 (Table 18).
- ¹⁰ From October 1, 2019, to March 1, 2026, the Harris County jail total population decreased from 9,333 people to 7,048 people. See Texas Commission on Jail Standards, "Current Population Reports," <https://www.tcjs.state.tx.us/population-reports>; and *Texas Commission on Jail Standards - Abbreviated Population Report for 10/01/2019* (Harris County, TX: Texas Commission on Jail Standards, 2019), 4, https://www.tcjs.state.tx.us/wp-content/uploads/2020/07/Abbreviated_Pop_Rpt_Oct_2019.pdf.
- ¹¹ Erin George, Josh Mitman, Levi Gonzalez, et al., *Detention by Design: The Constitutional Crossroads of Pretrial Justice* (Los Angeles, CA: The Bail Project, 2025), 7, <https://bailproject.org/wp-content/uploads/2026/01/Detention-by-Design-The-Bail-Project.pdf>.
- ¹² Ralph Chapoco, "Bill Making Bail for Immigrants Without Status More Difficult Passes Alabama House Committee," Alabama Reflector, February 19, 2026, <https://alabamareflector.com/2026/02/19/bill-making-bail-for-immigrants-without-status-more-difficult-passes-alabama-house-committee>.
- ¹³ Insha Rahman and Sam Raim, "What is Trump's Comprehensive Crime Bill and How Can Lawmakers Deliver Real Solutions for Safety Instead?" Vera Institute of Justice, December 5, 2025, <https://www.vera.org/news-spotlights/what-is-the-trump-comprehensive-crime-bill>.