

Analyzing Pretrial Decisions and Bail Amounts Across Texas

This year, the Texas Legislature will once again consider legislation that, if approved, would expand the use of money bail and pretrial detention across the state.¹ State-level data collected by the Texas Judicial Branch, however, shows that judges across the state already set money bail in the overwhelming majority of cases (four out of five)—even in low-level, nonviolent cases.

Researchers at the Vera Institute of Justice (Vera) used data from the state’s Public Safety Report System to analyze bail-setting practices in more than 430,000 cases from 2022 to 2023.

This memo analyzes data on pretrial decisions and bail amounts from 438,755 cases across Texas from April 2022 to February 2023, submitted by counties to the state’s Public Safety Report System.² Though there are limitations in the quality and comprehensiveness of this data, it enables an examination of patterns of pretrial release decisions across Texas since the 2022 implementation of SB 6, which established a new category of charges for which judges are not permitted to release on personal bond.³ This analysis shows that, across all cases, judges set money bail in 82.6 percent of cases, deny bail outright in 4.5 percent of cases, or set personal bond in 12.8 percent of cases.⁴ Vera’s analysis confirms similar findings published by the Texas Judiciary, and it adds a breakdown by charge type.⁵

The data shows that judges across Texas rely heavily on money bail—even for low-level charges often related to poverty, mental illness, or substance use.

To conduct this analysis, Vera researchers identified 43 lower-level charges that typically do not pose a public safety risk and often stem from poverty, mental illness, or substance use. These charges, presented in Figure 1, make up 22.5 percent of all cases in the dataset. More than half (56.9 percent) were misdemeanors (mostly A and B), while most of the rest (42.5 percent) were state jail felonies (the lowest felony level). All these charges are eligible for release on personal bond under Texas law, which means a person may be released pretrial by agreeing to return to court and follow any specific conditions as determined by the court.⁶

Figure 1

Categories of low-level charges included in analysis

Includes only bookings whose most serious charge was one of 43 identified as typically stemming from poverty, mental illness, or substance use, and posing little public safety risk.

Type of charge	# of low-level bookings	% of low-level bookings
Drug possession	49,202	49.89%
Theft	27,214	27.59%
Trespass	20,861	21.15%
Failure to appear	974	0.99%
Forgery / false statement	235	0.24%
Child-support nonpayment	112	0.11%
Benefits / SNAP fraud	17	0.02%
Disorderly conduct	9	0.01%

Percentages may not add up to 100% due to rounding.

Table: Vera Institute of Justice • Source: Texas Public Safety Reporting System, 2022-2023

Finding 1: Within this subset of cases involving low-level charges, Texas judges set money bail 78.3 percent of the time—or in nearly four out of every five of these cases.

This finding suggests that judges across Texas are defaulting to setting money bail even where there may be no permissible rationale for doing so, such as a safety risk to the alleged victim or the public.⁷ This overuse of money bail keeps people in pretrial detention, which is costly to governments, harmful to detained people and their families, and generates no clear public safety benefit.⁸ Overall, in more than a fifth (21.3 percent) of cases in which judges set money bail, the person’s most serious charge was low level.

Finding 2: This pattern—money bail set in about four of every five cases—holds true across different types of low-level charges.

Figure 2 shows that bail-setting for these low-level charge types ranges from 73 to 89 percent.

Figure 2

Bail decisions in cases involving low-level charges, by charge category

Charge category	Bail denied	Money bail	Personal bond
Drug possession (excl. marijuana)	6.6% (2,174)	77.4% (25,367)	16.0% (5,249)
Marijuana possession	1.0% (171)	73.3% (12,036)	25.6% (4,204)
Theft	3.6% (986)	78.9% (21,472)	17.5% (4,756)
Trespass	0.8% (164)	80.1% (16,703)	19.1% (3,994)
Failure to appear	8.3% (81)	89.0% (867)	2.7% (26)
Forgery/false statement	4.7% (11)	85.5% (201)	9.8% (23)
Child support	21.4% (24)	77.7% (87)	0.9% (1)
Benefits fraud	5.9% (1)	76.5% (13)	17.6% (3)
Disorderly conduct	0.0% (0)	77.8% (7)	22.2% (2)

Table: Vera Institute of Justice • Source: Texas Public Safety Reporting System, 2022-2023

Finding 3: Bail amounts for this subset of low-level charges are high.

Looking at cases with the 43 lower-level charges, judges set bail lower than \$500 in just 4.5 percent of cases, between \$500 and \$999 in 15.9 percent of cases, and between \$1,000 to \$4,999 in 49.2 percent of cases. Notably, in about a third of these cases (30.3 percent), judges set money bail above \$5,000.⁹ Even low bail amounts are out of reach for many people with low incomes and will result in pretrial detention for those who cannot pay. Four out of ten Americans could not come up with \$400 on an emergency basis; in one study, less than *half of defendants* were unable to pay a bail of \$5,000 or less.¹⁰

Instead of doubling down on harmful pretrial practices, Texas should minimize unnecessary pretrial detention.

Under state and federal law, pretrial detention is meant to be used only in rare, exceptional circumstances, with affordable amounts of money.¹¹ However, Texas data shows that the opposite is true in practice: use of money bail is widespread in cases involving low-level charges, and it is ordered in amounts that many families cannot pay. This is likely a major reason that tens of thousands of people remain in pretrial detention while legally innocent, despite posing no clear risk to public safety. On an average day in 2024, Texas held more than 53,000 people pretrial in local jails—at a cost of more than a billion dollars annually.¹²

Instead of continuing to expand the use of money bail, Texas should adopt policies that minimize unnecessary pretrial detention. This could include ensuring judges have the resources to make safe, informed pretrial decisions by establishing a presumption of release for certain low-level charges, ensuring defense counsel at bail hearings, and expanding opportunities for supervision and services outside of jail that help people return to court before trial.¹³

About the Data

In April 2022, Texas began collecting information on monetary bail amounts set in initial arraignments, mandating that each county report this information by completing “bail forms” and submitting them to the Texas Public Safety Report System (PSRS). Despite some limitations in data quality, due mainly to inconsistent data entry across counties, this dataset is important because it is the state's first attempt to document bail practices systematically.

The public can search for and view specific PSRS records, and the Texas Judiciary Branch publishes annual reports summarizing aggregate patterns as well as a dashboard. The analysis in this memo provides additional insights not available in those sources: pretrial decisions and bail amounts by charge type. To construct this dataset, Vera researchers extracted data from individual bail forms uploaded to the PSRS and combined this data into one charge-level dataset. The dataset created by Vera includes data from 438,755 bail forms completed and uploaded to the PSRS between April 1, 2022, and February 28, 2023. Each bail form contains information about the location, date, and nature of a person's booking into a jail facility, including details about the criminal charges underlying each booking as well as the type and amount of bail set for each charge.¹⁴ Vera's analysis uses the most serious charge on each booking. This dataset excludes some counties and cases due to missing or inconsistent reporting to the PSRS.

Endnotes

- ¹ See Texas State Legislature, Senate Joint Resolution (SJR) 17, 89th Legislature, 2025, <https://legiscan.com/TX/text/SJR17/2025>; Texas State Legislature, House Joint Resolution (HJR) 115, 89th Legislature, 2025, <https://legiscan.com/TX/bill/HJR115/2025>; and Texas State Legislature, House Bill (HB) 1167, 89th Legislature, 2025, <https://legiscan.com/TX/text/HB1167/id/3026954>.
- ² Texas Judicial Branch, “Public Safety Report System,” <https://www.txcourts.gov/bail/statistics-dashboards>.
- ³ See Texas State Legislature, Senate Bill (SB) 6, 87th Legislature, 2nd Special Session 2021, <https://legiscan.com/TX/text/SB6/id/2430892>; and Jolie McCullough, “Texas Bill To Require Cash Bail For Those Accused Of Violent Crimes Becomes Law,” September 13, 2021, *Texas Tribune*, <https://www.texastribune.org/2021/09/03/texas-bail-legislation-abbott>.
- ⁴ The percentages do not sum to 100 percent due to rounding.
- ⁵ See, for example, Texas Office of Court Administration (OCA), *Damon Allen Act Bail Proceedings and Public Safety Report System FY 2023 Report* (Austin, TX: OCA, 2023), 6. <https://www.txcourts.gov/media/1457571/bail-report-2023.pdf>. This Fiscal Year 2023 report that shows judges set cash/surety bail in about 83 percent of cases; excluding cases with bail denial, this proportion rises to 87 percent.
- ⁶ The dataset does not include information on a defendant's history of criminal convictions or non-appearance in court. When a judge considers risks of flight, non-appearance, or public safety threats, the charge is one of several factors, so some cases in this dataset may involve more serious risks. Overall, though, since these charges are minor in nature, it is reasonable to assume that many of the people involved were low risk.
- ⁷ Article 17.15 of the Texas Code of Criminal Procedure requires the court to consider the following when setting bail: (1) bail and any conditions must give reasonable assurance that the person will return to court and comply with the conditions, (2) bail is not to be used as an “instrument of oppression,” (3) the nature of the offense, (4) the accused's ability to pay, (5) the safety of the alleged victim and the public, (6) the accused's criminal history, and (7) the citizenship status of the accused. See Texas State Legislature, Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722, <https://statutes.capitol.texas.gov/Docs/CR/htm/CR.17.htm>.
- ⁸ Christopher T. Lowenkamp, *The Hidden Costs of Pretrial Detention Revisited* (Houston, TX: Arnold Ventures, 2022), 4, <http://perma.cc/99VE-QLG8>; and Peter Wagner and Bernadette Rabuy, *Following the Money of Mass Incarceration* (Northampton, MA: Prison Policy Initiative, 2017), <https://www.prisonpolicy.org/reports/money.html>.
- ⁹ Separately, false narratives circulate in political debates in Texas claiming that county judges are using “\$1 bail” to circumvent bail regulations. In reality this is very rare, occurring in only 0.3 percent of all cases per the PSRS dataset.
- ¹⁰ Board of Governors of the Federal Reserve System, *Report on the Economic Well-Being of U.S. Households in 2017* (Washington, DC: Federal Reserve System, 2018), <https://www.federalreserve.gov/publications/2018-economic-well-being-of-us-households-in-2017-dealing-with-unexpected-expenses.htm>; and Will Dobbie, Jacob Goldin, and Crystal S. Yang, “The Effects of Pretrial Detention on Conviction, Future Crime, and Employment: Evidence from Randomly Assigned Judges,” *American Economic Review* 108, no. 2 (2018), 201-240, <https://doi.org/10.1257/aer.20161503>.
- ¹¹ See *United States v. Salerno*, 481 U.S. 739 at 755 (1987); and Texas State Legislature, Acts 1965, Article 17.15 of the Texas Code of Criminal Procedure.
- ¹² Nick Hudson, *Bail in Texas: A Brief for State and Local Policymakers* (Houston, TX: American Civil Liberties Union of Texas, 2025) https://www.aclutx.org/sites/default/files/bail_in_texas_3.5.pdf
- ¹³ Hudson, *Bail in Texas*, 2025, 8-9.
- ¹⁴ To assemble this dataset, Vera researchers performed several data cleaning and data transformation steps. These steps included standardization of data types; re-structuring of data into a long form, charge-level dataset; accounting for missing data; assigning broader charge categories (e.g., “violent”) based on a given charge description (e.g., “22.01[a][1] assault causes bodily inj”); identifying which charge was likely the most serious (or “top”) charge in bookings with more than one charge; and determining the primary type (and dollar amount, where applicable) of bail set in each case.