

Misdemeanor Bail Reform and Litigation: An Overview

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EXECUTIVE SUMMARY

This Report provides an overview of recent bail reform measures and related litigation in various jurisdictions across the country.

While reforms vary by jurisdiction, there are some common elements:

- Requiring mandatory release on personal recognizance or unsecured bond, or a presumption of release on personal recognizance or unsecured bond, in certain low- or moderate-risk cases.
- Monetary conditions are either eliminated or viewed as a last resort, to be imposed only if necessary to ensure future court appearances.
- If monetary conditions are imposed, individualized review is required.
- Providing by statute for a specific list of non-monetary conditions that may be imposed in lieu of money bail.
- If any conditions are imposed, mandating use of the least restrictive conditions or combination of conditions to ensure public safety and future court appearances.
 - If conditions are imposed, creating a procedure for timely review.
- Mandating or strongly encouraging the use of locally-validated and empirically-based risk assessment tools.
- Establishing a right to counsel at bail hearings.

Courts that have considered the constitutionality of money bail practices routinely hold that it is a violation of the Fourteenth Amendment's Equal Protection and Due Process Clauses to impose money bail without individualized consideration of ability to pay and to incarcerate defendants solely because they are unable to post monetary bail.

OVERVIEW OF SELECT BAIL REFORM MEASURES

The following is an overview of bail reform measures in jurisdictions across the country. It is not exhaustive but is intended to highlight the most relevant substantive reforms. Hyperlinks are included for the relevant statutes/amendments/rules.

Alaska (2016) [SB 91](#)

Alaska has created a statutory system governing pretrial release that relies on a combination of risk assessment and pretrial services recommendations. Release decisions are now made based on the alleged offense and the defendant's risk, as assessed by a validated pretrial risk instrument.

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- Mandatory release on personal recognizance or unsecured bond for low- and moderate-risk defendants charged with non-violent, non-DUI misdemeanors; and low-risk defendants charged with non-violent, non-DUI class C felonies.
- Includes a presumption of release on personal recognizance or unsecured bond (which can be overcome if the judge finds that monetary bail is the only way to reasonably assure court appearance and public safety) for defendants charged with DUI; low- and moderate-risk defendants charged with failure to appear or violation of release conditions; high-risk defendants charged with a non-violent misdemeanor; moderate- and high-risk defendants charged with a non-violent class C felony; and all other defendants assessed as low-risk for pretrial failure (e.g. failure to appear or presenting a danger to the community).
- In all other cases—including moderate- and high-risk defendants charged with a crime against the person, domestic violence, sex offense, or higher-level felony—defendants can be required to execute a surety bond, deposit bond, or performance bond.
- In all cases, the courts may order additional, non-monetary release conditions, including complying with pretrial supervision, so long as they are the least restrictive conditions necessary to ensure public safety and the defendant’s future appearances in court.
 - Non-monetary conditions of release included in the statute include, among other things, residential restrictions, refraining from alcohol and controlled substances, and adhering to treatment or medication requirements.
- Creates a pretrial services program to conduct pretrial risk assessments using an objective, data-based, validated pretrial risk assessment tool; make recommendations to the court regarding release decisions and conditions; and supervise pretrial defendants who are released.
 - Pretrial services recommendations are guided by statute, based on the same factors described above (offense class + pretrial risk assessment + least restrictive conditions).
 - The use of third-party custodians is restricted to cases where pretrial supervision is not available, no secured monetary bond is ordered, and no other conditions of release can reasonably ensure public safety and the defendant’s future appearance.
 - In addition, the courts are required to send court date reminders to defendants to help improve court appearance rates.
- Adds class C felony offenses to the list of offenses (in addition to misdemeanors and municipal ordinance violations) for which peace officers are allowed to issue a citation in lieu of arrest.

Arizona (2016)

The Arizona legislature has made several attempts at bail reform, but recent attempts ([SB 1163](#) and [HB 2500](#)) have stalled. In light of those developments, the Arizona Supreme Court has acted independently, amending the Rules of Criminal Procedure as described below. Among other things, the rule changes require that judges consider pretrial release options in order of least burdensome to most burdensome (i.e., first considering unsecured bond, then a deposit, then a cash bond, and last, a secured bond).

Arizona Supreme Court Rule Amendment [R-16-0041](#)

- Eliminates the requirement for a secured bond.
- Includes a presumption of release on own recognizance.
- Expressly defines and allows “unsecured appearance bond.”
- Provides for a “deposit bond.”
- Non-monetary conditions of release include, among other things, travel and residence restrictions, regular reporting requirements, and firearm/alcohol restrictions (and “any other non-monetary condition that has a reasonable relationship to assuring the safety of

- other persons or the community from risk posed by the person or securing the person's appearance").
- Mandates that monetary conditions be individualized rather than based on a schedule.
 - If a monetary condition is necessary, the court should impose the least burdensome of the types of bond allowed.
- Establishes the right to counsel in misdemeanor cases for the purpose of determining release conditions.

Colorado (2013) [HB 13-1236](#)

Colorado's bail reform law, passed in 2013, made several significant changes to the state's bail system, including an expanded definition of and individualized approach to setting bail; providing for additional non-monetary conditions of pretrial release; encouraging the use of an empirically-developed risk assessment; and creating a process for review of secured bonds.

- Defines "bail" to include non-monetary conditions (previously defined as "an amount of money").
- Includes a presumption of release under the least restrictive conditions.
- Mandates consideration of defendant's ability to pay.
- Requires reasonable financial conditions of release and that any other condition of conduct not mandated by statute is tailored to address a specific concern.
- Requires, if practicable and available in the jurisdiction, the use of an empirically-developed risk assessment instrument to determine the type of bond and conditions of release.
- Requires the court, when using a bond schedule, to incorporate into the bond schedule the consideration of individualized risk and particular circumstances of a person in custody.
- Provides criteria for the court to consider in deciding the type of bond and conditions of release including, among other things, the likely sentence (considering the nature of the offense charged), prior criminal record, potential for witness intimidation, and possible flight risk.
- Outlines conditions that can be imposed by the court to assist in ensuring future court appearances and the safety of the community under the supervision of a qualified organization or pretrial services program, including, among other things, telephone contact or home/office visits, counseling, mental health or substance abuse treatment, and electronic or GPS monitoring.

Connecticut (2017) [HB 7044](#)

Connecticut's recent bail reform legislation bars cash-only bail and restricts judges from setting bail for misdemeanors in most circumstances. Judges retain discretion to impose bail for defendants with a record of not appearing in court or considered to be a flight risk.

- Bars cash-only bail: Courts are required to accept surety bonds from defendants.
- Requires the court to remove financial conditions of release for defendants charged with only misdemeanors *unless*:
 - The person is charged with a family violence crime;
 - The person requests financial conditions for release; or
 - The court makes a finding on the record that there is a risk of (i) failure to appear; (ii) obstruction of justice through witness or juror intimidation; or (iii) a threat to the safety of the individual or others.
 - In making such a finding, the court can consider any prior record of failure to appear or any pending or past criminal history.

- **Bail review hearings:**
 - Misdemeanor defendants who are unable to make bail, except a person charged with a crime in another state and detained, or a person detained for violation of parole pending a parole revocation hearing, must be brought to the court no later than 14 days after arraignment, unless the defendant waives this appearance.
 - If the defendant is not charged with a family violence crime, the court must remove the financial conditions unless it makes a finding on the record that the exceptions to limits on financial conditions for misdemeanor defendants (described above) are met.
 - If the defendant is charged with a family violence crime, the court must remove financial conditions unless it makes a finding on the record that, without financial conditions, there is a “likely risk” that defendant will (a) fail to appear in court; (b) obstruct or attempt to obstruct justice, or (attempt to) threaten, injure or intimidate prospective jurors or witnesses; or (c) engage in conduct that threatens another person’s safety.

Illinois (2017) [SB 2034](#)

Illinois’s new law makes several changes to the state’s bail process. It makes clear that cash bail is not required for people charged with a non-violent misdemeanor or low-level felony, and imposes a presumption against money bail in such cases. In cases where cash bond is imposed, it requires a rehearing within 7 days.

- Includes a presumption of release with non-monetary conditions and requires imposition of only the least restrictive conditions necessary to assure the defendant’s appearance.
 - Requires the court to consider the socio-economic circumstances of the defendant when imposing monetary and non-monetary conditions of release.
 - Conditions of release can include, among other things, electronic home monitoring, drug counseling, curfews, in-person reporting, and stay-away orders.
- Requires that defendants who are unable to post bail and who are charged with non-violent misdemeanors or Class 3 or 4 felonies be given a bail review hearing at the next available court date or within 7 days of bail being set.
- Allows the court to reconsider conditions of release for any individual whose sole reason for continued incarceration is the inability to post monetary bail.
- States that the Illinois Supreme Court may establish a statewide risk assessment tool that does not discriminate by race, gender, educational level, socio-economic status, or neighborhood.
- Establishes that defendants charged with non-violent misdemeanors or Class 3 or 4 felonies receive a \$30 deduction from money bail for every day they are incarcerated.
- Provides right to counsel at bail hearings. If the person is unable to obtain counsel, the court is required to appoint a public defender or licensed attorney to represent the defendant at the bail hearing.

Kentucky (2011) [HB 463](#)

In 2011, Kentucky passed a law requiring judges to release low- and moderate-risk defendants without financial conditions. Judges still have discretion, but must indicate in writing the reasons for deviation. Pursuant to the law, the Kentucky Supreme Court later established pretrial release and supervision guidelines for moderate- and high-risk defendants.

- Requires the Supreme Court to establish guidelines for judges to use:
 - For pretrial release when pretrial risk assessment indicates a “moderate” or “high” risk; and

- When determining eligibility for pretrial supervision of defendants identified as “moderate” or “high” risk.
- Requires the Supreme Court to permit only evidence-based practices in supervision and intervention programs, and to measure the effectiveness of these programs.
- Expands the use of GPS monitoring.
- Allows officers to issue a citation instead of an arrest for specified misdemeanors.
- Requires that only one bail amount be set for multiple misdemeanor charges when the misdemeanor charges do not involve physical injury or sexual contact.
- Requires written findings when release is denied.
- Requires pretrial release without financial conditions:
 - If the defendant poses a low flight risk, is likely to appear for trial, and is not likely to pose a risk to public safety.
 - If identified as “moderate” risk and subject to GPS monitoring, drug testing, and increased supervision.
- Provides a \$100 credit toward the amount of bail for each day, or portion of a day, the defendant remains in jail prior to trial.
- Requires that monies used for pretrial supervision/intervention be spent on evidence-based practices.

Pursuant to HB 463, the Supreme Court established [guidelines](#) for the Non-Financial Uniform Schedule of Bail Administrative Release Program (“the Schedule”).

- Requires PSA Risk Assessment of all verified and eligible defendants.
- Provides eligibility and release options as follows:
 - Defendants charged with non-violent/non-sexual misdemeanors with a score of 2–5 (“Low Risk”) are eligible under the Schedule and released on recognizance.
 - Defendants charged with non-violent/non-sexual misdemeanors with a score of 6–7 (“Moderate Risk”) are eligible under the Schedule and released on recognizance.
 - Defendant is ineligible for release under the Schedule if:
 - Charged with:
 - Contempt of court
 - Probation/parole violation
 - Violation of protective order
 - Violation of conditions of release
 - Certain DUIs
 - Failure to appear/bail jumping
 - Declined pretrial interview
 - All defendants ineligible for release under the Schedule may only be released upon judicial review and conditions of release ordered by the court.
- Allows local courts to deviate if:
 - Local jurisdiction has expanded the Schedule to include certain nonviolent and nonsexual felony offenses; and
 - Local jurisdiction has expanded the Schedule to include defendants with a risk score of 8 or 9.

****Note:** The most recent version of bail reform legislation in Kentucky ([SB 120](#)) did not include the [complete elimination of money bail for all but high-risk defendants](#).

Maryland (2017) [Rules Order](#)

In 2017, Maryland’s Court of Appeals adopted a new rule that requires judges to consider non-financial conditions of release before using money bail. If the judge decides that money bail is

necessary to ensure the defendant's return to court, the judge cannot impose a bail amount that is unaffordable.

- Includes presumption of release on own recognizance and requires written findings in the event of court's denial.
 - Provides 10 factors for courts to consider in determining whether a defendant should be released and the conditions of that release, including, among other things: the nature of the offense, likelihood of court appearance, risk to public safety, and the recommendation of any pretrial release services program that has assessed the defendant with a validated risk assessment tool and is willing to provide an acceptable level of supervision during the period of release.
 - Provides fifteen possible conditions and requires that conditions for pretrial release be the least restrictive conditions possible.
 - Includes preference for non-monetary conditions.
- Requires individualized assessment when imposing conditions of release, including the defendant's ability to meet financial terms.
- Prohibits monetary conditions that result in pretrial detention solely because defendant is financially incapable of meeting the condition.
- Prohibits the use of bond schedules.
- Recommends pretrial services and use of risk assessment tool.

Nebraska (2017) [LB 259](#)

Under Nebraska's new law, cash bail is not necessary for nonviolent misdemeanors or low-level felonies such as theft, prostitution, DUIs, or drug possession. In such cases, there is a presumption for non-monetary bail; other options include electronic home monitoring, curfews, drug counseling, stay-away orders, and in-person reporting. The law also requires judges to consider a person's ability to pay as one of several factors in setting bond.

- Requires the court to consider all methods of bond and conditions of release to avoid pretrial incarceration.
- If the court determines the defendant cannot be released on their own recognizance, the court is required to consider the defendant's financial ability to pay a bond and impose the least onerous conditions to reasonably assure the defendant returns for the next court date or eliminate/minimize the risk of harm to the public.
- Allows the court to order the supervision of a defendant by a person, organization, or pretrial services to ensure the defendant complies with the conditions of release.
- Requires the court to waive any associated costs and fees of conditional release or supervision if the court finds the defendant is unable to pay.
- States that eligibility for release or supervision may not be conditioned upon the defendant's ability to pay.
- Allows the court to impose additional conditions of release including, among other things, phone or in-person check-in, home visits, mental health or substance abuse treatment, drug/alcohol testing, and electronic or GPS monitoring.
- Prohibits the use of any incriminating results of any drug or alcohol test or any information learned by a representative of the organization or program for any proceeding except those relating to revocation or the amending of bond release conditions.
- Removes provisions allowing the court to consider defendant's character and mental condition in setting bond.

New Jersey (2014/2016) [S946 3R](#)

New Jersey's bail reform efforts are the product of legislation and a constitutional amendment approved by voters in 2014 that allows judges to detain certain offenders without bail. New Jersey's Bail Reform and Speedy Trial Act eliminates bail in most minor criminal cases. It also requires courts to use the PSA risk assessment tool to decide whether a defendant should be released pre-trial.

- Includes a rebuttable presumption of release upon conditions (monetary and non-monetary).
- States that money bail shall only be set when court finds, after considering pretrial risk assessment and other circumstances, that no other conditions would reasonably assure the defendant's appearance in court.
- Requires the least restrictive conditions to reasonably assure defendant's future appearance in court, public safety, and that defendant will not obstruct justice. These conditions may include that defendant:
 - Remain in the custody of a designated person;
 - Maintain employment;
 - Maintain or commence an educational program;
 - Abide by specified restrictions on personal association, travel or place of abode;
 - Report on a regular basis to a designated party;
 - Comply with a specific curfew;
 - Refrain from possessing a firearm, destructive device, or dangerous weapon;
 - Refrain from excessive use of alcohol or other non-prescribed controlled substance;
 - Undergo medical, psychological, or substance abuse treatment;
 - Return to custody for specified hours;
 - Be placed on pretrial home supervision—with or without an electronic monitoring device; or
 - Satisfy any other conditions necessary to reasonably assure defendant's future appearance in court, public safety, and that defendant will not obstruct justice.
- Allows the court to order pretrial detention of defendants charged with certain crimes.
- Requires the release of certain defendants, after 90 days, who are unable to meet monetary conditions of bail.
- Establishes a right to counsel at the pretrial detention hearing. If the defendant is financially unable to obtain counsel, counsel will be appointed.
- Establishes a statewide pretrial services unit that uses a validated risk assessment instrument to provide recommendations to the court concerning an appropriate pretrial release decision and monitors defendants released on conditions as ordered by the court.

New Mexico (2016) [Constitutional Amendment 1](#)

New Mexico's recent constitutional amendment prohibits the detention of defendants who are not deemed dangerous or a flight risk "solely because of financial inability" to pay bail. For those who claim to be too poor to afford bail, the measure lays out a process by which they "may file a motion with the court requesting relief from the requirement to post bond."

- Gives the court authority to deny bail when prosecutor proves by clear and convincing evidence "that no release conditions will reasonably protect the safety of any other person or the community."
- Prohibits the detention of defendants who are not deemed dangerous or a flight risk solely because of their inability to post a money or property bond.
- Creates a process for people unable to afford bail to request relief from the court.
- In 2017, the New Mexico Supreme Court revised its criminal procedure rules (Rule [5-401](#)) to provide guidance regarding the state's new constitutional amendment:

- Requires pretrial release hearing within 3–5 days of arrest.
- States that if defendant does not have counsel at the initial release conditions hearing and is not released, the matter shall be continued for no more than three days, and the defendant shall have the right to assistance of retained or appointed counsel.
- Includes presumption of release without financial conditions unless the court makes written findings regarding why the release will not reasonably ensure the defendant's appearance.
- Requires imposition of least restrictive conditions or combination of conditions.
- Includes factors to consider for release:
 - Results of pretrial risk assessment tool;
 - Financial resources;
 - Nature and circumstances of the offense(s) charged;
 - The weight of evidence against the defendant;
 - History and characteristics of the defendant;
 - The nature and seriousness of the risk to the community; and
 - Any other facts likely to indicate whether the defendant will appear as required.
- Specifies possible non-monetary conditions, such as (but not limited to) conditions relating to employment; education; curfew; medical, psychological, or psychiatric treatment; drug/alcohol testing; and regular reporting requirements.
- Outlines factors to consider in setting a secured bond:
 - Any facts tending to indicate the likelihood that defendant will appear in court;
 - Must be set at the lowest amount necessary to ensure appearance, taking into account defendant's financial ability;
 - Shall not be set for the purpose of detaining someone who is otherwise eligible for pretrial release; and
 - Shall not be set by reference to a schedule of monetary amounts.
- Includes the following types of secured bonds:
 - Percentage bonds, which requires a refundable deposit of 10%;
 - Property bonds, which allows the pledging of real property; and
 - Cash or surety bond.

Washington, D.C. (2016)

§ 23-1321

Washington, D.C. has a bail-free (i.e., cashless bail) system of pretrial release. Under D.C.'s pretrial release system, defendants may be subject to a number of non-monetary conditions.

- Requires the court to release a defendant on their own recognizance, or an unsecured appearance bond, subject to the condition that the defendant not commit a crime during the period of release, unless the court determines that the release will not reasonably ensure public safety and future appearances in court.
- Requires the court to impose the least restrictive conditions that will reasonably ensure public safety and future appearances in court. Such conditions may include:
 - Remain in custody of designated person or organization;
 - Maintain employment, or actively seek employment;
 - Maintain or commence an educational program;
 - Abide by specific restrictions on personal association, place of abode, or travel;
 - Avoid all contact with the alleged victim of the crime and potential witnesses;
 - Report on a regular basis to a designated agency;
 - Comply with a specified curfew;
 - Refrain from possessing a firearm, destructive device, or dangerous weapon;

- Refrain from excessive use of alcohol or marijuana, or any use of a narcotic drug or other controlled substance without a prescription;
- Undergo medical, psychological, or psychiatric treatment;
- Return to custody for specified hours;
- Execute an agreement to forfeit designated property upon failing to appear as required;
- Execute a bail bond with solvent sureties; or
- Satisfy any other conditions deemed reasonably necessary to assure public safety and future appearances.
- Prohibits imposition of financial conditions unless required to reasonably assure the defendant's future appearances.
- Provides a review of the conditions set by the court after 24 hours if the defendant is unable to meet the conditions. If the court fails to amend the conditions to allow for release, the court is required to provide in writing the reasons for requiring the conditions imposed.

SUMMARIES OF RECENT CASES

For brevity's sake, this Report does not include cases filed and still pending initial resolution. Like the above section, this list is not exhaustive, but includes many of the most pertinent examples of bail-related litigation, with hyperlinks to the relevant documents.

O'Donnell, et al v. Harris County (S.D. Tex. 2016) (pending)

Plaintiff filed [suit](#) against Harris County, claiming that by jailing her when she could not afford to pay the amount generically set for bail, Harris County violated her Fourteenth Amendment rights to due process and equal protection. The court found that Harris County's bail system did violate due process and equal protection and [enjoined](#) county officials from detaining misdemeanor defendants who are otherwise eligible for release but cannot pay a secured financial condition of release. The court further ordered that pretrial services must verify misdemeanor arrestees' inability to pay bail on a secured basis by affidavit and that the County must release on unsecured bail those misdemeanor defendants whose inability to pay is shown by affidavit, who would be released on secured bail if they could pay, and who have not been released after a probable cause hearing held within 24 hours after arrest. The court's preliminary injunction will remain in place until the lawsuit is resolved pending appeal.

Martinez v. City of Dodge City (D. Kan. 2016)

Plaintiff filed [suit](#) against Dodge City, claiming that the City's bail policy violated his Fourteenth Amendment right to due process and equal protection by jailing him when he could not afford to pay the amount generically set for bail. In the [order](#), the court held that it is inconsistent with the Equal Protection Clause to put a person in custody after a non-warrant arrest because they are too poor to post a monetary bond. It also entered an injunction ordering that individuals arrested in Dodge City for violation of municipal ordinances be released on their own recognizance without further conditions of release and without requiring any monetary bond.

Varden v. Clanton (M.D. Ala. 2015)

Plaintiff filed [suit](#) against the City of Clanton, claiming that the terms of Clanton's generic bail schedule violated her Fourteenth Amendment rights to substantive and procedural due process, the Eighth Amendment's prohibition on Excessive Bail, and the Supreme Court's rulings requiring individual consideration of circumstances for non-excessive and reasonable bail. While the case was pending, the City changed its municipal court policies with respect to bail such that any person arrested for a misdemeanor would be released on an unsecured appearance bond as long as she had no outstanding warrant for failure to appear. Individuals with an outstanding failure to appear

warrant may still post a cash, commercial, or signatory bond. The parties then reached a [settlement](#) that the court [adopted](#) and retains jurisdiction to enforce for three years.

Pierce et al v. The City of Velda City (E.D. Mo. 2015)

Plaintiff filed [suit](#) against Velda City, claiming that the City violated her Fourteenth Amendment rights to due process and equal protection by keeping her in jail when she was unable to pay the amount set by the generic bail schedule. The parties eventually entered into a settlement agreement under which the city agreed to end the use of the challenged cash bond system. The court issued an [order](#) adopting the settlement and setting forth a declaratory judgment that it is a violation of equal protection to keep an arrestee in custody because the person is too poor to post a monetary bond.

Powell v. The City of St. Ann (E.D. Mo. 2015)

Plaintiff filed [suit](#) against the City of St. Ann, claiming that it violated his Fourteenth Amendment rights to due process and equal protection by keeping him in jail when he was unable to pay the amount set for bail. In its [order](#), the court adopted the parties' settlement agreement. Under the terms of the settlement, the City agreed to stop requiring arrestees to post a secured bail for release. Instead, the City agreed to release arrestees if they agreed to provide an unsecured bond or on their own recognizance, except when the arrestee is a threat and detention is required to protect the community. The City also agreed to improve its procedures for notifying arrestees of court dates, and to release persons arrested for failure to attend court dates on unsecured bonds.

Thompson v. Moss Point, Mississippi (S.D. Miss. 2015)

Plaintiff filed [suit](#) against the City of Moss Point, claiming that Moss Point violated his Fourteenth Amendment rights to due process and equal protection by keeping him in jail when he was unable to pay the amount set for bail. In its [order](#), the court adopted the parties' settlement agreement, under which the City agreed to abandon its secured bail requirement for persons seeking release from jail after a warrantless arrest or after an initial warrant arrest, and to instead release those persons on recognizance or on an unsecured bond. The City also agreed to improve its procedures for notifying arrestees of court dates.

Snow v. Lambert (M.D. La. 2015)

Plaintiff filed [suit](#) against the Parish of Ascension, claiming that its bail policy violated his Fourteenth Amendment rights to due process and equal protection by jailing him when he could not afford to pay the amount generically set for bail. The court's [order](#) outlines the final settlement between the parties, in which the Parish agreed to create a new policy for misdemeanor arrestees and to stop holding misdemeanor arrestees in jail due to an unaffordable monetary bond.

Walker v. City of Calhoun, Georgia (N.D. Ga. 2015) (pending)

Plaintiff filed [suit](#) against the City of Calhoun, claiming that his Fourteenth Amendment rights to equal protection and due process were violated when the City held him in pretrial detention due to his inability to make a generically set monetary payment. In January 2016, the court issued a [preliminary injunction](#) ordering the City to implement post-arrest procedures that comply with the Constitution (and specifying that, until then, it had to release any misdemeanor arrestees on their own recognizance or on an unsecured bond) and that the City could not keep arrestees in custody for any amount of time solely because they cannot afford to pay a monetary bond. The City appealed the district court's order, and the U.S. Court of Appeals for the Eleventh Circuit vacated the district court's preliminary injunction (682 Fed. App'x 721 (2017)) on the grounds that it failed to provide specific direction to the City as to how to make its misdemeanor bond practices constitutional. The case remains pending.