

THE BAIL PROJECT

Behind the Bill

The Fight for Pretrial
Reform in Texas

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About The Bail Project

The Bail Project is a national nonprofit working to transform America's pretrial system by eliminating reliance on cash bail and proving that a more humane, equitable, and effective pretrial system is possible. We provide free bail assistance and pretrial support to thousands of low-income people each year while advancing policy change at the local, state, and national levels. Since our founding, The Bail Project has supported over 40,000 people navigating the pretrial system, which includes nearly 35,000 individuals whose release we secured by posting bail and providing supportive services such as court reminders and transportation assistance. With this support, those clients returned to court 92% of the time, proving that support — not wealth — is what makes the system work. We have also provided supportive services through pilot programs to more than 6,000 people, ensuring that both wealth and access to support are never barriers to fairness in the pretrial process. Learn more at bailproject.org.

Acknowledgments

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The Bail Crisis in Texas

Texas is known for doing big things — big cities, big landscapes, big culture.

But when it comes to pretrial detention, bigger isn't better. The state is home to some of the largest jails in the country, crowded with people who are jailed not because they've been convicted, but because they can't afford the price placed on their freedom.¹ The oversized bail problem carries serious consequences for individuals, families, and the broader justice system.


On any given day, more than 70,000 people are held in Texas jails.² But that daily snapshot understates the true scale of the state's pretrial system. A 2019 study found that around 505,000 people are booked into Texas jails each year — more than in any other state.³

The vast majority of them are legally innocent. More than 70% of people in Texas jails haven't been convicted of a crime — they're simply awaiting trial, often for an average of six to nine months.⁴ In the meantime, local governments spend more than \$1.1 billion annually — at roughly \$60 per person per day — to detain people pretrial.⁵

Despite these costs and constitutional concerns, Texas lawmakers have repeatedly sought to expand pretrial detention. In 2021 and 2023, Senator Joan Huffman introduced constitutional amendments that would allow judges to incarcerate more people before trial with little due process protections. Governor Greg Abbott declared "bail reform" an emergency item and called three special sessions in an attempt to push the proposals through.⁶

Each time, the measures were blocked, thanks to sustained advocacy by The Bail Project and the Texas Pretrial Justice Coalition.

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The 2025 Legislative Session: Renewed Threats

In February 2025, Governor Abbott and Senator Huffman reignited the push to expand pretrial incarceration. During the “State of the State” address, Abbott once again designated “bail reform” an emergency item, throwing his support behind Huffman’s constitutional amendment, Senate Joint Resolution (SJR) 5.⁷ Advocates were deeply concerned: the proposal had grown more extreme and was now bundled with a slate of bills targeting pretrial rights.

SJR 5

Makes it easier to jail people before trial — even if they’re not deemed dangerous — based solely on a judge’s suspicion they might miss court, with few due process protections.

SJR 1

Requires automatic detention based on immigration status, including legal residents, DACA recipients, asylum seekers, and even U.S. citizens.


SB 9

Expands cash bail requirements, limits judicial discretion, enables prosecutors to appeal bail decisions, and increases pretrial delays.

SB 40

Prohibits local governments from partnering with nonprofits that use donations to pay bail.

Collectively, this legislative package would worsen Texas’s overcrowded jail crisis, deepen racial disparities in the pretrial system, and erode foundational principles of due process. And given Texas’s outsized influence on national policy, its passage could fuel copycat efforts across the country — ensnaring even more legally innocent people in unnecessary pretrial incarceration.



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Coordinated Advocacy and Coalition Strategy

At the center of this fight was the Texas Pretrial Justice Coalition — a dedicated alliance of civil rights advocates, community organizers, and individuals directly impacted by the justice system.⁸ The Bail Project was proud to stand alongside them. Together, we launched a coordinated campaign to cut through political rhetoric, educate lawmakers, mobilize constituents, and shape media coverage to reflect the true stakes: more legally innocent people jailed, higher costs for taxpayers, and communities made less safe — not more.

The coalition prioritized protecting due process wherever possible. We built relationships with legislators committed to constitutional safeguards against unnecessary pretrial detention, offering policy support as political pressure intensified. We proposed improvements to mitigate the most harmful provisions of the bail package and made clear which proposals were beyond repair. Our vision was a safer, fairer pretrial system — one that limits pretrial detention, guarantees early access to counsel, imposes only the least restrictive release conditions, protects judicial discretion, empowers magistrates, and minimizes reliance on cash bail.

We knew policy arguments were not enough. Lawmakers needed to hear from the people they serve.

But we knew policy arguments were not enough. Lawmakers needed to hear from the people they serve. We mobilized supporters across the state through email and constituent outreach campaigns. Just blocks from the Capitol, we set up a booth at the South by Southwest Expo, engaging hundreds of Texans in conversations about the bail package, its consequences, and how they could take action.

Shifting the public narrative was just as critical. In Texas, media coverage around bail reform has long been shaped by fear and misinformation. To change that, we engaged reporters early in the session, issued public statements and fact sheets to counter misleading claims, and launched digital campaigns to reach Texans directly. We held a press conference where people impacted by pretrial incarceration shared their stories and called on lawmakers to act.

These efforts paid off. We saw a shift in public awareness. Our coalition successfully countered misleading data from former Harris County District Attorney Kim Ogg and secured coverage in dozens of outlets — from *The Texas Tribune* and *Austin American-Statesman* to the *Texas Observer* and local TV stations — bringing statewide attention to the realities of Texas's pretrial system and the dangers of the proposed bail package.^{9,10,11}



A wide-angle, high-angle photograph of a large, ornate legislative chamber. The room features a high, vaulted ceiling with a complex network of wooden beams and numerous chandeliers. The walls are lined with large windows and framed documents. The floor is filled with rows of wooden desks, each with a small lamp. A large number of people, mostly men in suits, are seated at the desks, facing towards the front of the room. In the foreground, a man in a dark suit stands at a desk, addressing the assembly. The overall atmosphere is formal and professional.

Legislative Progress and Key Amendments



Through sustained legislative advocacy, grassroots mobilization, and strategic media engagement, the coalition helped secure several critical amendments to SJR 5 in the Texas House — marking the first time due process protections of this kind were added to a proposed constitutional amendment in the state.

The revised version of SJR 5 included:

A “clear and convincing” evidentiary standard before someone could be detained pretrial.

A guaranteed right to counsel at any hearing where pretrial detention is being considered.

A clear legal distinction between wilful nonappearance and unintentional missed court dates.

A requirement that judges impose the least restrictive conditions necessary for release.

While these additions were a significant step forward, SJR 5 still included troubling provisions. It preserved a mandate for pretrial detention in certain cases and lowered the standard of proof for determining whether someone wilfully failed to appear in court — both of which risk undermining the very safeguards added through the amendment.

The House also made important revisions to SB 9. Lawmakers narrowed the list of offenses subject to mandatory cash bail and introduced changes to the prosecutor appeal process, resulting in faster release decisions and fewer unnecessary detentions than the original bill would have allowed.

As for SB 40, House committee hearings and floor debates revealed bipartisan skepticism. Legislators acknowledged that the bill was driven by misinformation and aimed at a problem that didn't exist. The underlying premise — that charitable bail funds were receiving taxpayer dollars — was shown to be unsupported by data or evidence.

Late-Session Challenges and Escalation

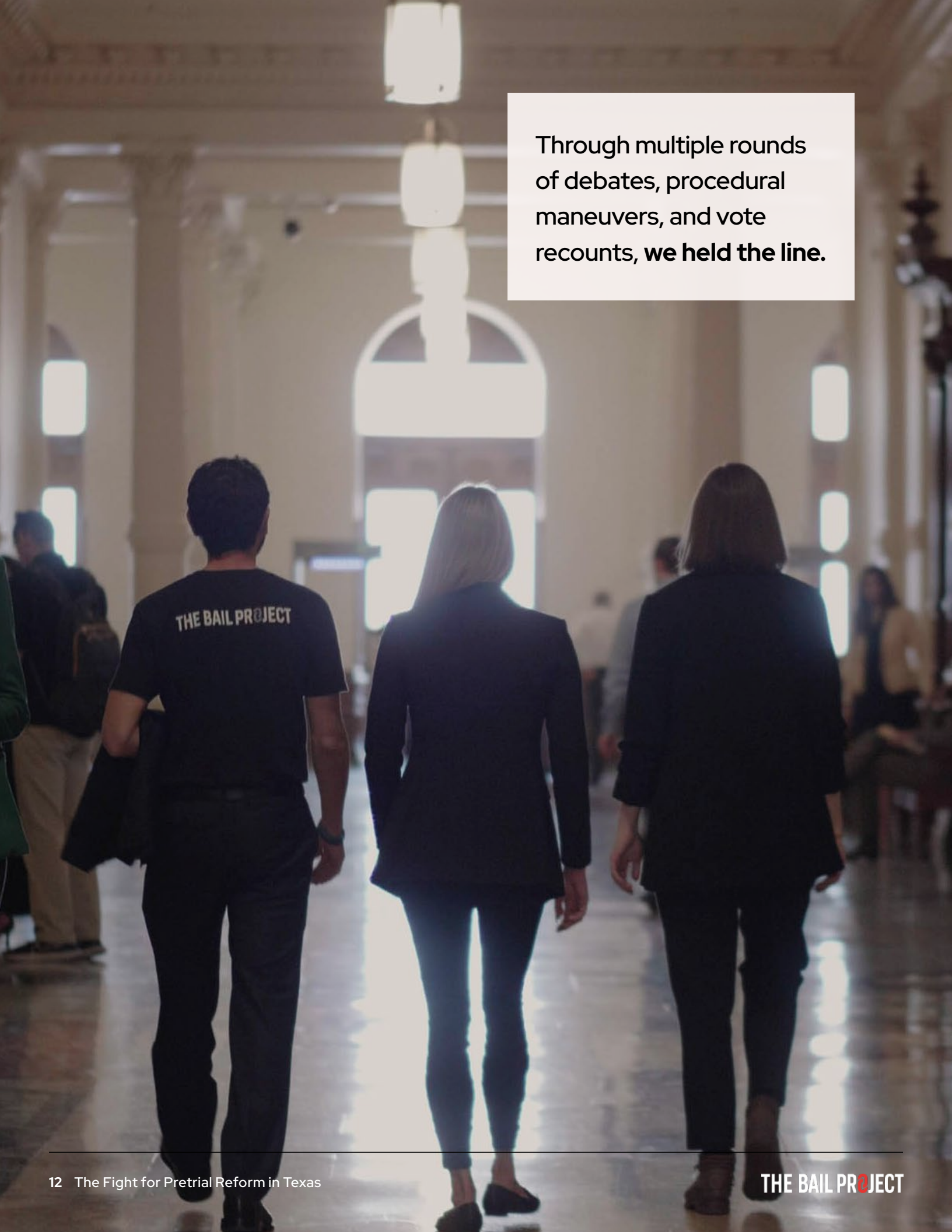
With less than a month remaining in the legislative session, progress on SJR 5 and SB 9 looked promising. But momentum shifted when the Senate introduced [SJR 87](#) — a new constitutional amendment that sought to automatically detain people with prior convictions or pending cases. In those final weeks, both the Senate and Governor Abbott also intensified pressure on the House to advance SJR 1, a separate amendment that would tie bail eligibility to immigration status. Both measures posed serious threats to constitutional rights and risked unraveling the hard-won protections recently secured in SJR 5.

As SJR 1 gained traction, the coalition recognized that broader expertise was needed. With sweeping language and far-reaching implications for immigrant communities, the measure required a unified response. We joined forces with leading immigration advocacy organizations, to form a coordinated front — educating lawmakers, engaging the public, and warning of the lasting harm that SJR 1 would inflict on Texans.

Meanwhile, the eleventh-hour introduction of SJR 87 demanded an even more urgent response. We doubled down on the strategies that had worked so far: briefing lawmakers, activating constituents, and working closely with reporters to expose the measure's implications. But with political pressure mounting, it was clear that traditional tactics alone would not be enough. As House debates stretched into the final hours, and reports emerged of backroom bargaining, Governor Abbott took to the House floor to lobby wavering votes directly.

We knew we had to match that presence. Coalition members remained on-site at the Capitol, providing legislators with accurate information, policy analysis, and encouragement in the face of mounting pressure.

Through multiple rounds of debates, procedural maneuvers, and vote recounts, we held the line. When the final gavel fell, both SJR 1 and SJR 87 were defeated — a testament to the power of coordinated advocacy, cross-issue coalition building, and a shared commitment to protecting the rights of all Texans.

A photograph of three people walking away from the camera down a long, brightly lit hallway. The person on the left is a man wearing a black t-shirt with "THE BAIL PROJECT" printed on the back. The person in the middle is a woman with blonde hair wearing a dark blazer. The person on the right is a woman with dark hair wearing a dark blazer. The hallway has high ceilings with large windows and arched doorways, and the floor is highly reflective. Other people are visible in the background, some sitting and some standing.

Through multiple rounds
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2025 Legislative Outcomes and Impacts

In the end, the combined efforts of The Bail Project, the Texas Pretrial Justice Coalition, and our partners played a pivotal role in shaping the outcome. Working alongside lawmakers open to dialogue, constituents mobilized for action, reporters committed to truth-telling, and immigration advocates armed with critical expertise, we helped secure hard-won due process protections and prevent major rollbacks of pretrial liberty.

As the Texas Legislature concluded its 2025 session, SJR 5 advanced to the midterm ballot as Proposition 3. In November, voters approved the measure, marking a watershed moment for the state's pretrial system. While the amendment included unprecedented due process guarantees, it also expanded the circumstances under which judges may detain legally innocent people before trial.

Results of the 89th Legislative Session's "Bail Reform" Package

Bill	Result	Expected Impact
SJR 5	Ratified into Constitution	As of November 2025, Texas voters approved Proposition 3, amending the state constitution to expand pretrial detention while enshrining landmark due process protections. Texas is now: <ul style="list-style-type: none">• The first state constitution to guarantee the right to counsel at bail hearings• The first state constitution to explicitly distinguish intentional from unintentional nonappearance• One of the few state constitutions to require "clear and convincing" evidence to justify detention
SJR 1	Failed	Did not pass the House
SJR 87	Failed	Did not pass the House
SB 9	Signed into Law	Passed with modest improvements, but will still worsen wealth-based pretrial detention
SB 40	Signed into Law	Passed despite being based on misinformation, with legislative records acknowledging the issue it aimed to solve did not exist

Next Steps in Texas and Beyond

This campaign has built a strong foundation for continued advocacy in Texas.

The Bail Project, in partnership with The Texas Pretrial Justice Coalition, will remain engaged — tracking new or reintroduced bills, educating lawmakers on effective pretrial policy, advancing reforms that protect due process, and shaping public understanding through sustained media and community engagement. If voters approve SJR 5 this November, we'll also monitor its implementation to ensure that its due process protections are meaningfully enforced.

But the significance of this work extends beyond Texas. Across the country, states are grappling with how to reform bail and pretrial systems without compromising public safety or the rights of legally innocent people. Texas now offers a model for striking that balance. If approved by voters, the state's revised constitution will stand as a powerful example for advocates working to protect pretrial liberty nationwide.

This campaign is a testament to what's possible when legal strategy, community organizing, and principled advocacy come together. It shows that with persistence and collaboration, we can secure meaningful change — both in policy and in the lives of those most impacted by the system, in Texas and beyond.

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Endnotes

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