

Bail Bond Education



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Education
1999 - Present



History of Bail

The History of Bail Reform

By Mike Morrison

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History of Bail

For centuries, bail in America followed English common law traditions. The idea was simple: someone accused of a crime could pledge money or property to guarantee they would return to court, and in exchange they could remain free before trial. The Bill of Rights enshrined this concept, warning that bail should not be “excessive,” but leaving states and courts wide latitude in how to apply it. Through most of the twentieth century, cash bail dominated the system—sometimes harsh for the poor but familiar and relatively predictable.

In the 1960s a first wave of reform arrived. Federal policymakers, legal scholars, and judges worried that people accused of minor crimes were lingering in jail solely because they could not pay small sums. The Federal Bail Reform Act of 1966 promoted release on recognizance for defendants who seemed likely to return. It was an effort to address inequality, but it was narrow and left dangerousness mostly unexamined. When violent crime surged in the 1970s and 1980s, the public mood shifted.

Congress responded with the Bail Reform Act of 1984, allowing judges to detain defendants considered a threat to safety even if they might otherwise pay bail. The Supreme Court upheld that preventive detention framework in *United States v. Salerno*, affirming that communities had a right to be protected from clearly dangerous individuals.

The current wave—what most Americans today call “bail reform”—emerged decades later from academic research, judicial policy groups, and large private philanthropy. Beginning around 2010, many reformers argued that money bail still unfairly penalized the poor and clogged local jails with people accused of low-level crimes. Some states and counties began to scale back cash bail or adopt risk-assessment tools meant to predict failure to appear or reoffending.

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New Jersey's 2017 overhaul became a national showcase, replacing most cash bail with a statewide pretrial services system. New York followed in 2020 with sweeping restrictions on when bail could be set; Illinois eliminated cash bail entirely in 2023. California experimented through county-level "zero-bail" schedules, especially during the COVID-19 pandemic.

Major funders, particularly Arnold Ventures, poured money into research and tool development. The intent, at least publicly, was to modernize and make pretrial justice fairer.

The results have not been uniform. In some places—especially where courts paired reform with strong pretrial services and the ability to hold genuinely dangerous defendants—overall jail populations fell without a clear rise in violent crime. Yet in other communities, hasty rollouts produced serious side effects.

Where judges lacked discretion to consider dangerousness, or where supervision and swift sanctions were missing, repeat property offenders quickly tested the limits of the system. Some police departments reported surges of car theft and shoplifting.

Failure-to-appear rates climbed in courts that had no robust reminder or enforcement mechanism. Victims and neighborhood leaders saw defendants cycling in and out of custody and concluded the system was broken.

These experiences have real economic and civic costs. Crime—especially visible property crime and violence—has long been tied to housing prices and business vitality. When residents and shopkeepers see repeat offending unchecked, confidence erodes and property markets can stagnate or decline.

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There is no evidence of a deliberate conspiracy to crash values for opportunistic buyers, but the impact of public safety failures on neighborhoods is well documented and significant enough to alter where families invest and settle.

The story of bail reform, then, is not one of pure progress or of pure sabotage. It began with a genuine desire to remedy unfair detention and grew into a nationwide experiment often driven by large philanthropic players and policy entrepreneurs rather than by local safety needs. Where it has been implemented thoughtfully—with resources, judicial discretion, and accountability mechanisms—reform has coexisted with public safety. Where it has been rolled out broadly and cheaply, ignoring the need for enforcement and community assurance, it has damaged trust and left some neighborhoods less safe.

As debates continue, one lesson is clear: pretrial systems must balance fairness with the public's right to security. Quick, cost-cutting changes untethered from supervision, swift response to failure, and a clear standard for dangerousness risk doing real harm. But ignoring the need for modernizing and calibrating bail is equally shortsighted. Communities that want both safety and fairness must invest in the infrastructure—reminder systems, tracking with enforceable conditions, fast warrant response, and transparent reporting—that keeps released defendants accountable while protecting constitutional rights. The history of bail reform shows how easily good intentions can be lost when ideology moves faster than practical safeguards.