

# Harris County Bail Reform

## FACT SHEET

### FACT | Harris County has successfully implemented misdemeanor bail reform.

- » In the 2016 class-action [ODonnell lawsuit](#), a federal judge ruled that bail practices in Harris County misdemeanor courts violated the U.S. Constitution. The court also found that “[s]ecured money bail in Harris County does not meaningfully add to assuring misdemeanor defendants’ appearance at hearings or absence of new criminal activity during pretrial release.”
- » As a result of *ODonnell*, Harris County agreed to a [consent decree](#) that required most people charged with misdemeanors to be promptly released without a hearing. Misdemeanor cases that involve a risk to public safety, such as repeat DWIs, family violence, prior bond violations or outstanding warrants, **do not qualify for automatic release**.
- » [Federal monitors have found](#) that these reforms are working to promote the stated goals of maximizing pretrial liberty, court appearance, and public safety in Harris County’s misdemeanor courts.
  - Recidivism rates are largely unchanged: 23 percent of misdemeanor defendants from the first half of 2020 were re-arrested within a year.
  - Dismissal rates have increased: In 2019, 66 percent of misdemeanor cases that were disposed ended in

dismissal. In 2015, 61 percent of cases resulted in a conviction, and of those 97 percent resulted from guilty pleas.

- Bond failure rate is up slightly: In 2020, 23 percent of misdemeanor bonds resulted in forfeiture or revocation due to new arrests, failure to appear at court, or other reasons. In 2015, the rate was 17 percent.
  - Definitions for “failure to appear” and “non-appearance” were not standardized prior to the consent decree. Continued research will allow for a more consistent interpretation of bond failure data

### FACT | There has NOT been felony bail reform in Harris County.

- » The *ODonnell* consent decree does not apply to felony courts. Those courts still operate under a money bail status quo. The Texas Constitution guarantees a [right to bail](#) except in limited circumstances.
- » In 2017, felony judges implemented a risk-informed bail schedule that issues recommendations based on Public Safety Assessment (PSA) results and severity of charges. The most severe cases, such as first-degree felonies, capital felonies, new felonies on bail, defendants charged with multiple offenses, and cases involving high PSA scores, are recommended to be referred for a formal first appearance hearing before bail is set. Unlike the misdemeanor reforms, these recommendations are not binding. Individual judges and magistrates make the final decision in setting a felony bond for matters that are referred for a formal hearing. Outside of the normal courtroom actors (district attorney, public defender, pretrial staff, and judicial officer), other government officials are not involved in this process. The judge presiding over a case may adjust bail amounts and conditions of release at any point during the pretrial phase.

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- » While the *ODonnell* decree mandates data collection in the misdemeanor courts, we still lack reliable, objective information about felony courts. Harris County recently approved the creation of a “[dashboard](#)” to help track felony bail practices.

## FACT | The Harris County criminal justice system faces serious challenges unrelated to felony bail settings.

- » In [July 2021](#), Harris County faced a backlog of more than 100,000 cases in its criminal court system — a 40% increase from 2017. This backlog was initially caused by Hurricane Harvey in 2017 and was exacerbated by the COVID-19 pandemic. Federal monitors have noted the backlog has resulted in fewer trial dates being set and longer stretches between court appearances.
  - In response to this backlog, the county added six new associate judges to assist the 22 felony courts and the state of Texas approved a new district court for Harris County.
- » The number of people under the supervision of Harris County Pretrial Services has [skyrocketed](#) over the past several years. The department oversaw 2,235 people in the beginning of 2016. That number grew to 31,886 by the end of 2021.
- » [Bail bond companies have been caught](#) creating payment plans and setting discounts that allow defendants to buy their way out of pretrial detention for less than the stated bond amount, potentially undercutting attempts at detaining people who pose a threat to community safety.

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- » The Harris County jail is overcrowded and dangerous. The county government was compelled to transfer 192 people from the jail to a facility in Louisiana in order to comply with state regulations. At least [18 people died](#) in the facility in 2021. Sheriff deputies who staff the jail have [filed a lawsuit](#) demanding federal oversight of the facility in order to ensure compliance with state and federal jail standards.

## Recommended reading...

- » The Houston Chronicle’s [Bonding Out](#) series and [Bail Explainer](#)
- » The [ODonnell independent monitor website](#) and [March 2022 report](#)
- » Advancing Pretrial Policy & Research explainers on [pretrial justice](#) and the [Public Safety Assessment](#)
- » A [National Partnership for Pretrial Justice interview](#) with Texas Supreme Court Justice Nathan Hecht and former executive director of the Texas Judicial Council David Slayton
- » The [Texas Center for Justice and Equity report](#) on media coverage of Harris County bond practices
- » An [explainer on how bail works](#) by Bloomberg News reporter Fola Akinnibi.