

A SMARTER APPROACH TO PRETRIAL RELEASE IN LOUISIANA



KEY POINTS

- Louisiana’s bail system fails to prioritize public safety. Violent and repeat offenders are routinely released pretrial, often with little oversight, undermining victim protection and community trust.
- This seven-point reform package offers a conservative, public-safety-first solution that strengthens accountability, provides well honed risk assessment tools, and ensures dangerous individuals can be held when appropriate.
- Judicial discretion must be accountable to the public. This package shifts bail authority for violent/repeat offenders from unelected commissioners to elected judges, and creates a fast-track appeal process for prosecutors to challenge dangerous bail decisions.
- The proposal includes a constitutional amendment to allow preventive detention in cases involving serious threats to public safety — aligned with reforms passed in Texas and other states.
- Reforms also include strong civil rights safeguards including due process protections and transparent judicial reporting requirements.
- This is a data-driven, constitutionally sound approach that balances law and order with civil liberties — and positions Louisiana as a national leader in responsible bail reform.

EXECUTIVE SUMMARY

Louisiana’s current bail system too often fails to balance public safety with constitutional rights. Dangerous individuals accused of violent crimes are routinely released on bond with minimal oversight, while low-risk defendants remain detained solely due to inability to pay. This imbalance erodes trust in the justice system, jeopardizes community safety, and puts a significant strain on law enforcement resources.

This targeted reform package is modeled on successful recent legislation in Texas and evidence-based practices from states like New Jersey and Kentucky. The centerpiece is the establishment of a preventive detention framework for serious violent offenses — accompanied by mandatory use of a validated Public Safety Assessment (PSA) tool, enhanced due process protections, and safeguards to protect civil liberties.

This package prioritizes public safety, judicial accountability, and responsible governance. It ensures that judges have clear legal authority to detain defendants who pose a demonstrable threat to the community, while also mandating written findings, data transparency, and local control. It prohibits outside activist groups from using taxpayer resources to fund mass bailouts, and instead strengthens the role of prosecutors and courts in keeping violent offenders off the street.

These reforms are not about weakening the presumption of innocence — they are about restoring order, deterrence, and trust in a system that must protect law-abiding citizens and victims from repeat violence. Louisiana must act now to close the dangerous gaps in its pretrial system and join other states in putting public safety and common sense back at the center of our bail laws.

■ **"WE JUST HAD THE OFFICER-INVOLVED SHOOTING A COUPLE WEEKS AGO. THAT PERSON HAS BONDED OUT WITH A LOW BOND, SO IF WE CAN'T HOLD THOSE PEOPLE IN JAIL, WHERE IS THE TEETH BEHIND US PUTTING THEM IN JAIL?" – BRPD CHIEF TJ MORSE (1)**

■ **REDIRECT BAIL AUTHORITY TO ELECTED JUDGES**

In Louisiana, unelected magistrates or appointed commissioners often make initial bail decisions in felony cases — including violent crimes — without meaningful public accountability. These commissioners can, and often do, release dangerous offenders with low or unsecured bonds before the district attorney or public has a chance to respond. This practice disconnects bail decisions from the voters and weakens the integrity of the justice system.

Considering the danger to victims and the public at large, this is unacceptable. Judicial decisions that directly impact public safety and community trust must be made by those who answer to the people — elected district court judges, not appointed bureaucrats. When someone accused of rape, armed robbery, or attempted murder is quickly released without a proper hearing, it undermines deterrence, endangers victims, and damages the public's faith in law and order.

Redirecting bail authority for serious violent felonies to elected judges ensures:

- **Accountability:** Voters have recourse if a judge consistently endangers public safety.
- **Transparency:** Bail decisions are more likely to be explained and scrutinized.
- **Integrity:** Elected judges are more likely to follow the law, apply consistent standards, and consider all sides — including prosecutors and victims.

In short, the power to release violent offenders pretrial should not rest with officials the public cannot remove.

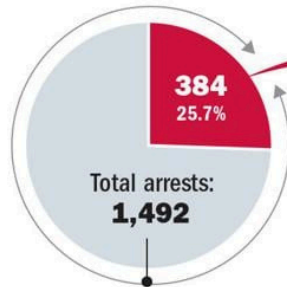
The Bottom Line: Redirecting bail authority for violent crimes reclaims bail decisions for the public. When liberty and community safety hang in the balance, those decisions must be made by judges who stand before the voters, not behind closed doors. Accountability, transparency, and public trust demand nothing less.

HIGHLIGHT: THE ADVOCATE (2)

Arrested while on bail

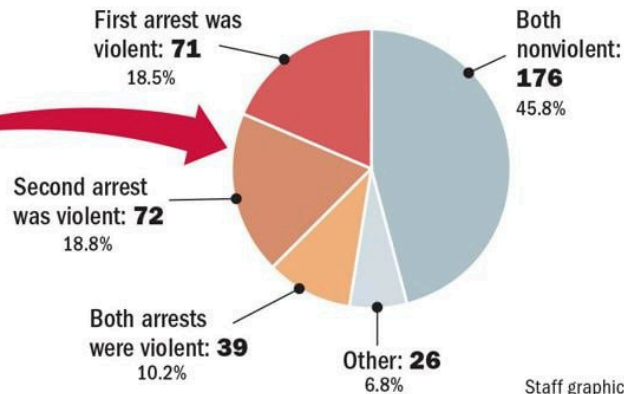
Law enforcement leaders say they frequently arrest suspects who are released on bond and then arrested again for a new crime.

Of the 1,492 arrests in East Baton Rouge Parish between June 16-Oct. 16, some 384 cases involve people who were already out on bond when they were arrested again:



Source: Advocate compilation of arrest records

In some of those 384 cases, either the first arrest, the second arrest, or both, were for violent crimes.



Staff graphic

CREATE A PROSECUTORIAL APPEAL MECHANISM

Under current Louisiana law, judges and magistrates have near-total discretion to set bail, including in cases involving violent and repeat offenders. If a judge sets an unreasonably low bond – or grants release when detention is warranted – prosecutors have no practical means of immediate recourse. This leaves the public exposed to unnecessary risk.

This dangerous imbalance causes further harm to victims and a loss of confidence from the general public. The system must allow prosecutors to immediately challenge and seek review of bail decisions that jeopardize community security.

Creating a fast-track appeal mechanism on violent offenses [DH(91)] for prosecutors ensures that:

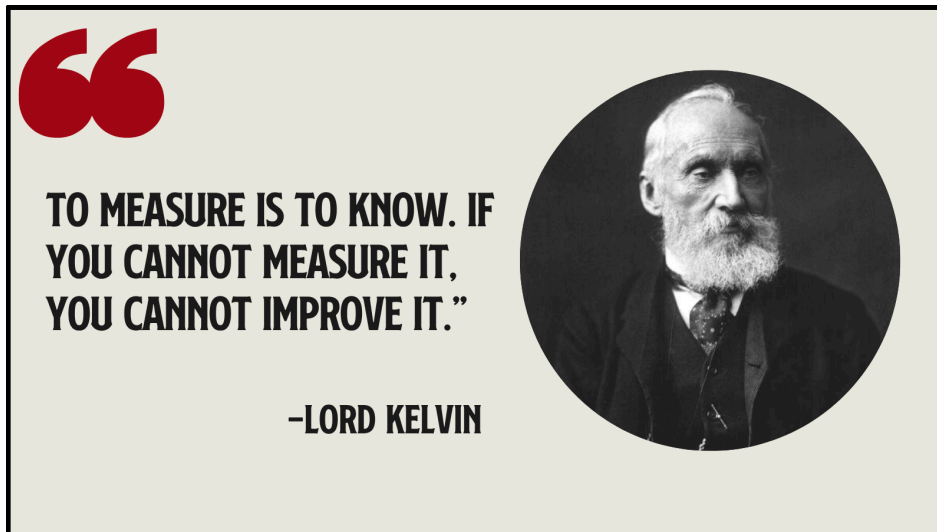
- Egregious or reckless bail decisions can be corrected before harm occurs;
- Judges are held accountable to legal standards and community expectations;
- Public safety and victim protection are prioritized in the pretrial process.

This reform mirrors provisions already enacted in Texas through SB 6 and is in line with broader national trends toward evidence-based, risk-informed judicial review – without sacrificing defendants' due process rights.

The Bottom Line: District Attorneys are elected by the voters and entrusted with deciding who to charge, we must also trust them to challenge dangerous bail decisions. Giving DAs this appeal power ensures that safety is not left to chance – and that the rights of victims, witnesses, and the public are given equal weight in pretrial justice.

■ REQUIRE A STANDARDIZED BAIL FORM FOR TRANSPARENCY AND ACCOUNTABILITY

One of the reasons Louisiana’s bail system is inconsistent and opaque is the lack of a standardized, detailed bail form documenting charges faced by the defendant, type of bond, amount and conditions of the bond, whether the prosecutor was present or notified, risk factors and/or scoring per a risk assessment tool, and the reasoning behind the bail decision.



Texas addressed this issue through HB 13 (2021), requiring a uniform bail form to be completed and filed in each case where bail is set. This simple reform has made a major difference in ensuring accountability among magistrates/ commissioners and judges, aiding prosecutors in monitoring and challenging bail decisions, and providing reliable and accessible data for evaluating the effectiveness of bail practices.

Without documentation, poor or dangerous bail decisions cannot be corrected or analyzed. A standard bail form forces decision-makers to explain their rationale clearly, in writing, and helps ensure that bail decisions prioritize public safety and respect the law.

The Bottom Line: A standardized bail form is a simple, low-cost, high-impact reform that enhances transparency, strengthens accountability, and helps ensure that bail decisions reflect public safety priorities rather than hidden or inconsistent practices.

REQUIRING WRITTEN EXEMPTIONS FOR PROBABLE CAUSE DISMISSES

Judges and magistrates have the ability to dismiss charges for lack of probable cause at preliminary hearings, often without requiring a detailed explanation. This discretion, while intended as a safeguard against weak or biased motivated prosecutions, is sometimes used to dismiss serious cases prematurely, before evidence can be properly presented or vetted at trial.

This creates a dangerous loophole where, when used improperly, violent offenders are allowed to walk free due to technical or procedural rulings. This process often lacks transparency to the public and victims who are left in the dark as to the reason for the dismissal.

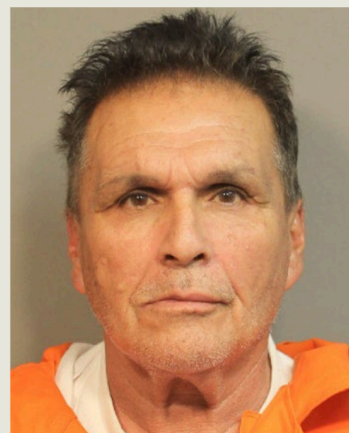
Worse still, these dismissals can occur without a formal record, shielding the decision from review and scrutiny. This weakens the integrity of the justice system and frustrates the efforts of law enforcement and prosecutors trying to keep communities safe.

Requiring written findings whenever a court chooses to dismiss a case for lack of probable cause ensures:

- **Transparency:** Judges must explain their reasoning.
- **Accountability:** Appellate review becomes possible.
- **Integrity:** The public and prosecutors can distinguish between proper dismissals and This reform would require that any dismissal of a felony charge based on lack of probable cause must include a written explanation of the specific legal or factual deficiency justifying dismissal. That record would be:
 - Entered into the case file,
 - Available for public inspection (except in sealed juvenile matters),
 - Subject to review by the district attorney and, if appropriate, a higher court.

The requirement applies to all violent offenses and other qualifying felonies, particularly those involving repeat offenders and other serious crimes.

THE CASE OF CLARK DOUGLAS SEPULVADO, A HABITUAL OFFENDER WITH 17 PRIOR THEFT ARRESTS AND FIVE CONVICTIONS, HIGHLIGHTS THE RISKS OF INADEQUATE PRETRIAL DETENTION DECISIONS. DESPITE MULTIPLE FELONY CHARGES AND OUTSTANDING WARRANTS FOR VIOLENT OFFENSES LIKE AGGRAVATED BATTERY, INDIVIDUALS LIKE SEPULVADO OFTEN REMAIN AT LARGE. (3)



PROPOSE CONSTITUTIONAL AMENDMENT FOR PREVENTATIVE DETENTION AND ENACT ENABLING LEGISLATION TO INCLUDE RISK ASSESSMENT TOOL.

Goal: Maintain the general right to bail but create a clear exception for defendants who pose a serious risk of violence, obstruction of justice, or flight. Measure should also require procedural safeguards to survive constitutional scrutiny.

The right to bail is currently outlined in Article 1, Section 18 of the Louisiana State Constitution (4). A person charged with a crime is generally considered bailable unless, 1) charged with a capital offense and the proof is evident and the presumption of guilt is great, and 2) charged with a crime of violence, production, distribution of drugs. This provision has proven inadequate by requiring bail be given to repeat offenders who are often violent.

In order to ensure public safety the Louisiana Constitution should be amended to allow denial of bail for violent or repeat felony offenders, if the judge finds by clear and convincing evidence that, 1) the defendant poses a specific threat to the public or to the administrations of justice and, 2) no condition of release can reasonably mitigate that risk. This is not about punishing people before conviction. It's about giving judges the authority to deny bail in rare, serious cases, when release would put the public at significant risk.

Enabling Legislation – Accurately Assessing Public Safety

Enabling legislation will be necessary to address covered offenses, hearing procedures, defendant rights, and evidentiary standards for detention rulings. Strong consideration should also be given requiring use of a Public Safety Tool such as the Arnold Ventures Public Safety Assessment. This tool has proven successful in helping judges make more accurate pretrial decisions. The tool uses factors such as criminal history, current charges, age, etc... to estimate the following:

- Likelihood of failure to appear for court
- Risk of new criminal activity
- Risk of new violent criminal activity

Use of this tool helps guide judges rather than replace them. It's use promotes consistent, fair, and transparent decision making. It removes bias and emotion from the decision-making process and helps ensure that detention decisions are evidence based. For policymakers who believe in efficient, data-driven government and personal accountability, this is the smart way forward.

The Bottom Line: Preventive detention is not about punishment, it's about protection. If someone is likely to create more victims while awaiting trial, the state must have the power to detain them temporarily and lawfully. With a constitutional amendment and a smart, evidence-based framework like the Arnold Ventures PSA, Louisiana can finally align its bail system with public safety and common sense.

PROHIBIT PUBLIC FUNDING OF CHARITABLE BAIL FUNDS

Goal: Prohibit any state or local government funds from being used to support charitable bail organizations or third-party groups that post bail for criminal defendants.

A dangerous trend is emerging. Public dollars, including local government grants and discretionary budgets, are being used to support or subsidize charitable bail organizations. These nonprofit organizations pay bail for defendants, often without regard to the nature of the offense, the defendant's criminal history, or their likelihood to reoffend. While these groups claim to promote fairness, they routinely post bail for individuals without input from victims, courts, or prosecutors. In some cases, these funds have posted bail for defendants who have immediately reoffended, harming new victims and straining public safety systems.

Prohibiting state and local agencies from using taxpayer funds (directly or indirectly) to fund, contract with, or support charitable bail funds will ensure that tax dollars are not being used to release criminals. Though Louisiana does not currently have any public funding of bail funds at the state or local level, addressing this issue preemptively is important.

The Bottom Line: Public safety is not a political experiment. If individuals or organizations want to fund bail out of their own pockets that's their choice, but taxpayers should not be forced to subsidize criminal release policies they do not support. This reform keeps government aligned with the priorities of law-abiding citizens, not ideological nonprofits.

ESTABLISH SAFEGUARDS TO PROTECT CIVIL RIGHTS IN PRE TRIAL DETENTION

Goal: Establish clear, enforceable civil rights protections in Louisiana's bail and pretrial detention system by ensuring transparency in judicial decision making, guaranteeing due process for defendants, requiring government reporting and accountability in the use of pretrial detention.

A strong pretrial system must protect public safety – but it must also uphold the constitutional rights of every Louisiana citizen. Louisiana's bail and detention practices have long faced criticism for being inconsistent, opaque, and sometimes discriminatory – not because judges are malicious, but because the system lacks standardized safeguards.

All stakeholders in the effort of Criminal Justice reform seek to protect due process, prevent unjust pretrial incarceration, and have a desire to ensure accountability and transparency in decision making. That means enacting safeguards that both improve public safety and protect civil liberties, including:

- Clear standards for pretrial detention decisions
- Public reporting on outcomes (e.g., who is detained, for what charges, and for how long),
- Oversight mechanisms to ensure compliance with legal standards and constitutional protections.

This is not a “soft-on-crime” policy. It’s a smart-on-justice approach that builds public trust, improves system reliability, and ensures that bail decisions are based on risk – not race, wealth, or political pressure.

The Bottom Line: Strong public safety policy must be matched by strong due process protections. Louisiana cannot afford a system where justice depends on geography, income, or race. These civil rights safeguards will ensure the state protects both the community and the Constitution.

■ A CONSERVATIVE FRAMEWORK FOR BAIL REFORM THAT PUTS PUBLIC SAFETY FIRST WHILE PROTECTING CONSTITUTIONAL RIGHTS

Louisiana’s current bail system is outdated, inconsistent, and too often relies on cash over individual risk and community protection. Dangerous offenders are too often released before trial and allowed to create new victims. Victims are retraumatized, public confidence in the justice system is eroded, and taxpayers foot the bill for a revolving door of criminal behavior.

This seven-point reform package offers a comprehensive, conservative solution to fix the problem without sacrificing civil liberties. It draws from recent reforms in states like Texas and is tailored to Louisiana’s unique legal, constitutional, and public safety context. The goal is clear: restore accountability, strengthen public safety, and uphold the rule of law.

■ BAIL REFORM CITATIONS

1. <https://www.wbrz.com/news/police-chief-da-look-to-feds-to-ease-burden-end-cycle-of-arrests/>
2. https://www.theadvocate.com/baton_rouge/news/crime_police/is-baton-rouges-bail-system-working/article_5047e704-abfe-11ee-bcca-c71c49acb6f8.html?utm_source=chatgpt.com
3. <https://shreveportla.gov/DocumentCenter/View/28105/06242025wantedman>
4. <https://senate.la.gov/Documents/Constitution/Article1.htm#:~:text=722%2C%20%2C%A71%2C%20approved%20November,December%2012%2C%202019.&text=Section%2018.,bail%20shall%20not%20be%20required.>