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State Legislatures Address Bail Reform

In 2010, 16-year-old Kalief Brown was on probation for a prior offense when he was arrested on charges that he stole a backpack. His bail was set at three thousand dollars, which his family could not afford. Without money for the cash bail, he ended up spending 3 years on Rikers Island awaiting trial. After being released from jail, he faced a number of challenges that eventually culminated with Kalief taking his own life. [His experience](#) became a catalyst for conversations about the cash bail system in the United States.

Kalief's story has helped elevate the conversation to a national level and increase pressure for bail reform. Those who support cash bail argue that it keeps potential criminals off the street and is an effective tool to ensure people show up to court. Critics of the cash bail system point to research demonstrating that it discriminates against the poor, and especially poor people of color, making experiences in the judicial system biased towards those with financial resources.

While there is no national bail system, state bail systems demonstrate some common characteristics. Generally, when someone is arrested, they see a judge within 24 hours. The judge can extend a lenient option by releasing the defendant with a promise to return for their trial. If the defendant is deemed high risk, a judge might detain them in jail until a trial verdict or plea deal is reached. Bail has traditionally allowed defendants to remain free but face financial consequences if they fail to show up for their trial. (According to a [2015 Vera Institute of Justice](#) report, two in five people are behind bars because they cannot afford their bail.) Those who do not have the financial resources to post bail often must choose between jail time or use of a commercial bail bondsman or bail



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bond agent, depending on their state laws. In most cases, a bail bondsman or agent charges a [10 percent premium](#) which is non-refundable.

Through legislative and judicial changes, bail reform is possible. Several states have begun to implement such changes, including California, [New York](#), and [New Jersey](#). [California's bail industry](#) will be the subject of a November 2020 ballot referendum, asking voters to uphold or reject Senate Bill 10 which seeks to end the cash bail system. In New York, bail has been eliminated for most misdemeanors and nonviolent felonies. In February of 2020, the New York Times reported that opponents of these reforms, including police chiefs and county district attorneys, have argued that the new law is potentially dangerous citing an increase in the crime rate from the year prior.

With increased media coverage of the bail reform topic, many state legislatures have begun to explore the concerns and perspectives as it relates to their state judicial system. As legislators delve into this complex issue, the topic has become a priority for the CSG West Public Safety Committee. During the committee meeting at the upcoming CSG West Annual Meeting, members will engage with Pretrial Reform Task Force member and Washington State Superior Court Judge, Maryann C. Moreno; Executive Director/Policy Director of the American Bail Coalition, Jeff Clayton; and representatives from California's Senate Majority Leader Robert Hertzberg's office to discuss the many challenges and opportunities associated with bail reform.

On any given day in the U.S. roughly half a million people who have not yet been convicted of a crime occupy county and city jails.

Source: United States [Bureau of Justice Statistics](#)