

## How Big a Role Does Money Play in North Carolina's Bail System?

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I have discussed elsewhere criticisms and concerns asserted regarding money-based bail systems. Among other things, it is argued that money-based bail systems undermine public safety by allowing dangerous but wealthy people to buy their way out of jail with no supervision, and—citing recent empirical research—that unnecessary incarcerations of low-risk people who cannot pay their bonds causes more crime once those people are released. It also is asserted that unnecessary wealth-based detentions of low-risk individuals are unfair, disproportionately impact people of color and inefficiently use taxpayer resources. Finally, some point to successful legal challenges to money-based bail systems as creating litigation risk. In light of those criticisms and concerns, it is natural to wonder: How big a role does money play in our state's bail system? The answer: A lot.

North Carolina law provides for several different types of pretrial release. They include:

- release on a written promise;
- custody release;
- unsecured bond;
- secured bond—sometimes called money bond because it requires financial resources to obtain release pretrial, and which can be imposed with or without electronic house arrest; and
- release to a pretrial services program.

G.S. 15A-534(a). North Carolina law contains an express preference for nonfinancial conditions except when certain circumstances are present. G.S. 15A-534(b). Notwithstanding the availability of other options for pretrial release and the statutory preference for nonfinancial conditions, data from the North Carolina Administrative Office of the Courts (NC AOC) confirm that money bonds are the most common form of pretrial release in North Carolina. The data show that statewide for 2018, secured bonds were imposed in 72% of criminal cases. The heavy use of secured bonds holds true in both felony and misdemeanor cases. Looking just at cases where the highest charge was a misdemeanor, the data show that secured bonds were imposed in 68% of those cases.

Before I provide some county-level data, a few notes about the data source. First, this information comes from a data run from the NC AOC showing the *last condition* imposed in 2018 cases. There is no way to extract from the existing case management system a history of conditions imposed in individual cases; the only way to get that information is to pull case files. Thus, the last condition in this report may include the initial condition set by a magistrate; the condition set by a judge at the first appearance; or the condition set at a subsequent court proceeding. Second, apparently there is no field to code release to a pretrial services program. Thus, for counties that provide for that form of release, local practices will dictate how cases are reported in the data run. For example if they are coded as custody releases, they would show up in that number. I don't know for sure, but I suspect that in some counties release to a pretrial services program is coded as a secured bond, possibly inflating secured bond numbers in counties that have such programs. (If you are in a county that has pretrial services and know how these releases are coded in the NC AOC system for your jurisdiction, please let me know). And finally, the report only shows cases for which conditions were imposed. If charges were initiated by a citation or summons and the defendant was not later arrested in connection with those charges, the case is not included in this report.

And now some county-level data. Table 1 below shows the ten North Carolina counties with the highest percentage of secured bonds imposed in cases where the highest charge was a misdemeanor. Table 2 shows the ten North Carolina counties with the lowest percentage of secured bonds in those cases. Want to know where your county stands? I have posted a full spreadsheet [here](#).

**Table 1: 10 Counties with Highest Percentage of Secured Bonds in Misdemeanor Cases**

County	Percentage Secured Bonds--Misdemeanors
Franklin	87.6%
Alamance	85.1%
Dare	84.9%
Pitt	84.4%
Henderson	83.8%
Wake	83.6%
Bertie	82.8%
McDowell	82.3%
Warren	82.0%
Brunswick	81.1%

**Table 2: 10 Counties with Lowest Percentage of Secured Bonds in Misdemeanor Cases**

County	Percentage Secured Bonds--Misdemeanors
Gates	32.9%
Mecklenburg	41.8%
Tyrrell	44.6%
Camden	44.7%
Hyde	47.0%
Cherokee	51.8%
Haywood	53.9%
Jackson	54.1%
Buncombe	55.2%
Davie	55.7%

At least two counties—Buncombe and Mecklenburg—in the group with the lowest percentage of secured bonds implemented bail reform efforts prior to the closing date of the 2018 report.

These percentages do not tell us anything about the nature of the misdemeanor cases at issue or the defendants’ pretrial risk. Because of limitations in the data, we also do not know how many cases involve imposition of a secured bond after a failure to appear. But the numbers give us one lens to look at our pretrial system. As such they confirm the prominent role of money in North Carolina’s bail system.

Want to learn more about North Carolina’s bail system and options for reform? My Criminal Justice Innovation Lab website has information: <http://cjil.sog.unc.edu/>.

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