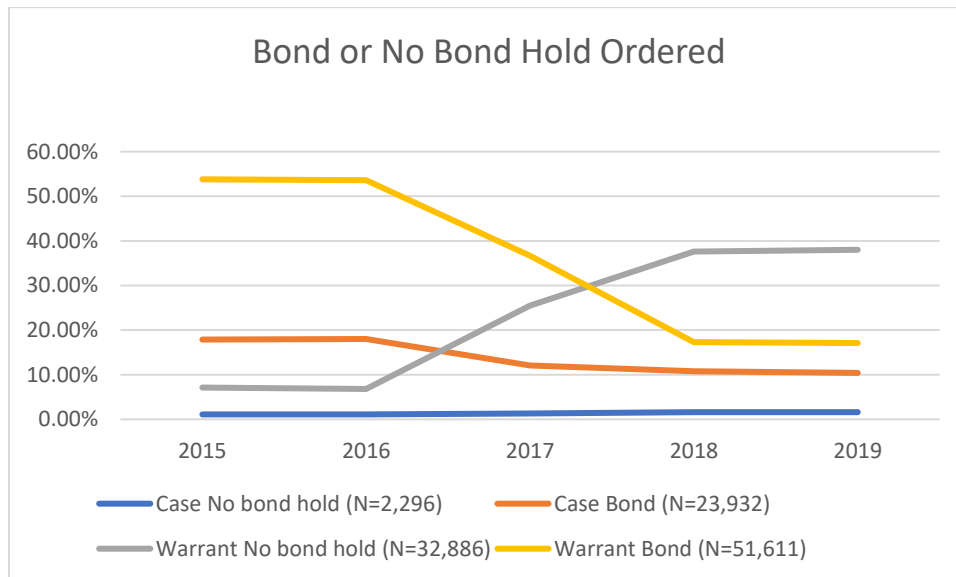


● FAST FACTS ●

Bail Reform: Impacts September 2022

New Mexico constituents passed a constitutional amendment to alter bail practices in 2016, which went into effect by January of 2017. The amendment was intended to detain dangerous defendants pretrial while ensuring that people are not held only because they are unable to pay a bond. New Mexico Statistical Analysis Center has engaged in an ongoing assessment of bail reform. The current report examines the impact of bail reform in six New Mexico counties: Chaves, Doña Ana, Luna, San Juan, San Miguel, and Santa Fe. We examine the global impact of bail reform first by exploring the use of bond and amount of bond ordered across all cases, whether pretrial or post-disposition. Next, we focus specifically on new felony cases during the pretrial period, following a sample of defendants booked between January 2015 and December 2019 (prior to COVID-19). This allows us to study the impact of bail reform on pretrial practices among felony defendants—the target of New Mexico’s constitutional amendment on bail reform. We examine release practices, the use of bond, detention, and court processing during the pretrial period. We highlight key findings here.¹

Global Release, Detention, and Bond Amounts

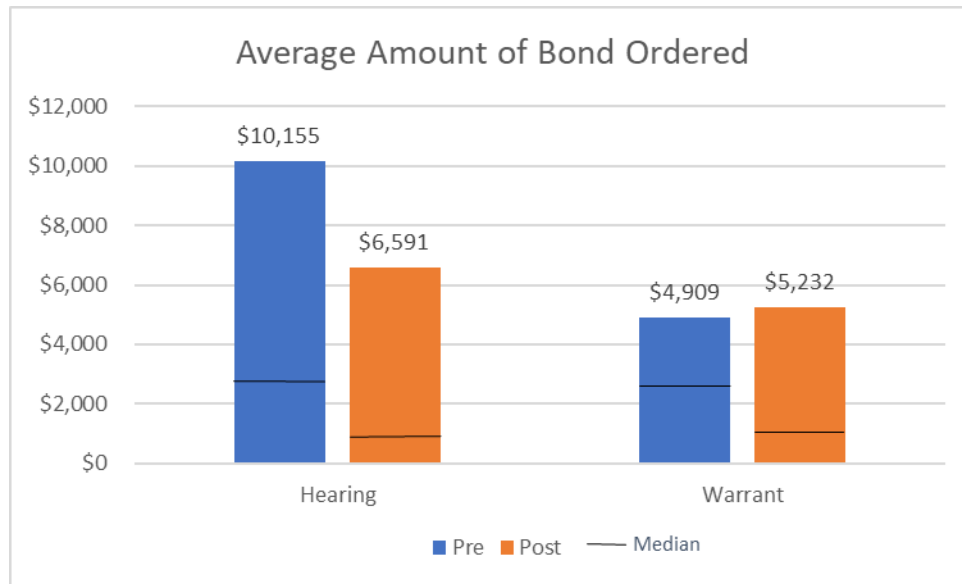


Judges make decisions about release (from release on recognizance to detainment) when issuing a warrant for an arrest (typically a very short-term situation occurring when a defendant has failed to appear for a court hearing, failed to comply with conditions of release, or when summoned for a first appearance), or at a hearing (for instance, at a first appearance after an initial arrest). The figure above illustrates two release options: release with a bond, or temporary detention (no bond hold) within these two contexts over time. Excluded from the figure are other types of releases (release on recognizance, third party release, etc.). As seen in the

¹ We are grateful to Douglas Carver for thoughtful feedback on this Fast Facts report.

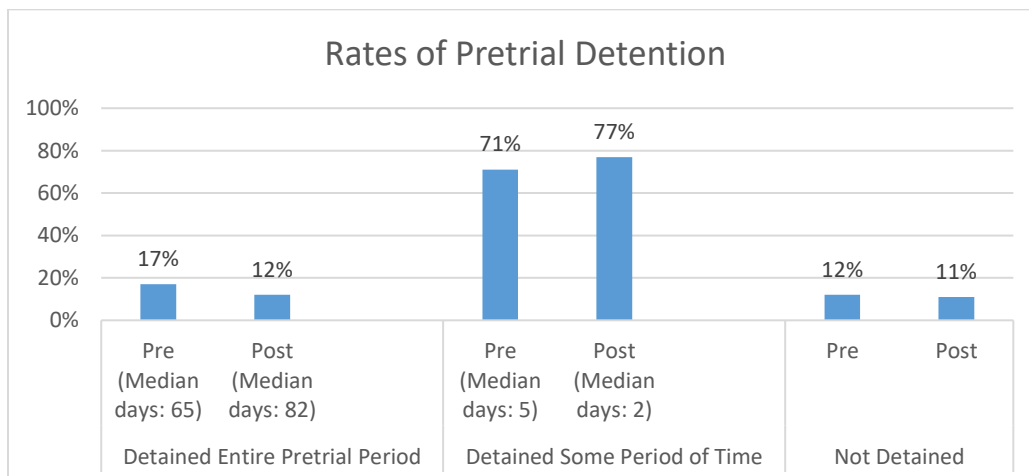
figure, since bail reform:

- The rate at which judges order defendants to pay a bond has significantly decreased, regardless of whether in conjunction with a warrant or in a hearing.
- When issuing a warrant, the rate at which judges order a no bond hold increased.
- When issuing conditions in the courtroom, the rate at which judges ordered a no bond hold did not notably change.



The average bond amount judges ordered in court decreased by almost half pre- to post- reform: \$10,155 to \$5,232. The median amount, though, remained the same at \$2,500. This indicates that prior to bail reform, judges ordered much higher bond amounts for some defendants, skewing the average. The average bond amount remained similar, however, when judges ordered bond in conjunction with a warrant. Further, the median amount increased slightly from \$800 to \$1,000.

Pretrial Detention Rates and Lengths among New Felony Cases



The bail reform amendment was intended to decrease the number of people detained during the pretrial period and the length of time they are detained. After bail reform:

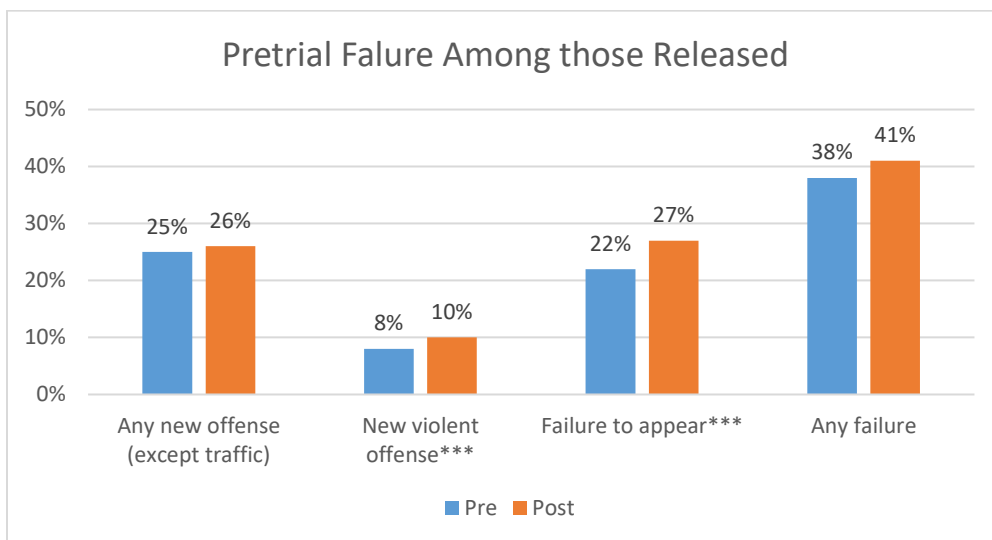
- The percentage of defendants held the entire pretrial period decreased from 17% to 12%, but the median days detained increased from 65 to 82 days (average of 127 to 136 days, not shown in chart above).
- The proportion of defendants held for at least some period of time increased from 71% to 77%, but the median length of detention for this group decreased from 5 to 2 days (average of 21 to 13 days).

- The proportion of defendants *not detained at all* decreased slightly from 12% to 11%; in other words, after bail reform there was a slight increase in the proportion of defendants held for at least one day.
- Overall, the length of pretrial detention decreased from a median from 6 days to 2 days and from an average of 36 to 27 days.

These trends varied somewhat across county and by offense type:

- The proportion of individuals detained for the entire pretrial period decreased in most counties, except Doña Ana and Santa Fe.
- Among those detained for some portion of the pretrial period, but not the entire time, rates of detention increased in all counties except Santa Fe. The most notable increases observed are in Luna (from 62% to 74%) and San Juan (from 64% to 80%).
- Across counties post bail reform, the proportion of defendants released the same day as booking were similar or slightly less than pre-bail reform rates. One exception is Luna, where the proportion released the same day increased by 3%.
- The median days of detention decreased in nearly all counties; decreases were particularly substantial in Luna (from 31 to 3.5 days). Santa Fe, however, remained the same (2 days).
- Length of detention decreased for all offense types except “other” offenses. Decreases were particularly substantial for DWI offenses (from a median of 12.5 days to 1), followed by property (6 to 2 days) and violent offenses (7 to 3 days).
- Whereas the rate at which defendants were detained during the pretrial period decreased for all offense types, the decrease was most substantial for those with a DWI offense (from 30% pre-reform to 10% post-reform), with a corresponding increase in the proportion released immediately (from 6% to 23%).

Pretrial Failure Rates Among Those with New Felony Cases



***p<.001

New pretrial offenses and failures to appear increased slightly following bail reform:

- New offenses overall increased from 25% to 26%.
- Violent new offenses increased from 8% pre-bail reform to 10% post-reform.
- Failures to appear increased from 22% to 27%.
- Overall, failure rates increased three percentage points, from 38% to 41%.

Rates of pretrial failure varied across counties and offense type, as well as by failure type:

- Chaves experienced the greatest increase in new offending, from 11% pre-reform to 24% post-reform; Santa Fe had significantly fewer new offenses, from 35% to 28%, but the greatest increase in failure to appear rates, from 21% to 32%.
- The increase in rates of new violent offenses were consistently 2% across each offense type except DWI, where there was a decrease in the rate of violent offending.
- Failures to appear increased for those charged with a violent offense, property offense, or drug offense, but remained the same for those with a DWI charge, and decreased for those with charges that did not fit into the preceding categories.
- Defendants charged with a drug offense performed most poorly after bail reform; the rate of any type of new failure for this group increased from 42% to 50%, the rate of new offenses of any type increased from 26% to 33%, and failures to appear increased from 27% to 36%.

- Defendants charged with DWI performed the best after bail reform; they experienced a reduction in any type of new failures from 38% to 31%; a reduction in new offenses, from 27% to 20%; and a reduction in new violent offending from 7% to 5%.

Court Efficiency Among Those with New Felony Cases

Days to Disposition, by Detention Category						
	Mean Days to Disposition (SD)		Median Days to Disposition		N	
	<i>Pre</i>	<i>Post</i>	<i>Pre</i>	<i>Post</i>	<i>Pre</i>	<i>Post</i>
All cases***	270 (275)	239 (238)	199	168	7,363	12,749
Detained Entire Pretrial Period	126 (169)	131 (161)	64	73	1,238	2,784
Detained Some Period of Time***	305 (285)	273 (261)	238	205	5,217	15,087
Not Detained***	265 (275)	244 (249)	187	169	908	2,241

*** $p < .001$

The final analyses explored whether court efficiency has improved post-bail reform, by comparing the number of days between booking and disposition over time. Of particular concern is whether the cases of defendants detained for the entire pretrial period are disposed of more quickly than they had been prior to bail reform. Overall, days from booking to disposition decreased with bail reform:

- The average time to disposition decreased from 270 to 239 days.
- Time to disposition *increased* for those detained the entire pretrial period, though this was not statistically significant.
- Time to disposition decreased across all counties, although the magnitude of the decrease varied:
 - The most substantial decreases in time to disposition were in Luna (from a median of 240 days to 144 days post-reform) and Santa Fe (from a median of 142.5 days to 110 days post-reform).
- Average time to disposition decreased across all offense types, though the median days to disposition increased for defendants charged with “other” offenses.

Key Takeaways

After bail reform:

- Judges ordered defendants to pay bond to secure their release less often in both new felony cases and overall.
- When considering all cases, judges ordered a no-bond hold more frequently when issuing a warrant after bail reform.
- Defendants involved in new felony cases were detained for a shorter period of time overall, though a slightly greater percentage were subject to a short period of detention than prior to bail reform; those detained during the entire pretrial period spent more time in jail post-reform.
- New violent offenses increased slightly by 2%; new offenses overall increased by 1%.
- Failures to appear were more common after bail reform, with a 5% increase, but this varies significantly by county.

More information is available in the full-length version of this report.

The full report can be obtained by contacting:

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Notes and Disclaimers

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