IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

SIERRAH CORONELL and DIANE HOLSEY, *on behalf of themselves and others similarly situated*, and WOMEN ON THE RISE, *on behalf of itself*, *Plaintiffs*, v. STATE OF GEORGIA *Defendant*.	25CV005987 Case No. 2025-cv-XXXXXX

VERIFIED CLASS ACTION COMPLAINT
FOR DECLARATORY AND INJUNCTIVE RELIEF

Plaintiffs Women on the Rise, Diane Holsey, and Sierrah Coronell ("Plaintiffs") bring this class action against the State of Georgia (the "State") under O.C.G.A. § 9-4-2, seeking a permanent injunction and a declaratory judgment that Chapter 6 of Title 17 of the Georgia Code, as amended by Georgia Senate Bill 63 ("S.B. 63" or the "Statute"),[1] violates due process under Article I, Section 1, Paragraph I of the Georgia Constitution.

[1] 2024 Ga. Laws 507, § 3, at 506–508 (codified at O.C.G.A. § 17-6-12 (2024)).

INTRODUCTION

1. The right to physical liberty is enshrined in the Constitutions of the United States and the State of Georgia. These founding documents provide that *all* people—irrespective of their wealth or socioeconomic status—shall not be subject to government custody, detention, or other forms of physical restraint without due process of law. U.S. Const. amend. XIV, § 1; Ga. Const., art. I, § I, para. I.

2. The need for strict adherence to due process protections is paramount at bail hearings, where courts assess the propriety of a person's release pretrial. There, the accused have neither been afforded the protections of a trial, nor convicted of any crime, yet they face the significant risk of being detained. It is this potential deprivation of liberty that triggers due process and requires courts to comply with strict procedural and substantive requirements before imposing detention or otherwise infringing on the accused's right to physical liberty pending trial ("right to pretrial liberty"). Those safeguards ensure that the government can take such severe action only through fair procedures *and* when doing so serves a compelling state interest. Indeed, "[i]n our society liberty is the norm, and detention prior to trial or without trial is the carefully limited exception."[2]

3. The State significantly undermined these constitutional safeguards with the passage of S.B. 63 (attached hereto as Ex. A), rendering the traditional right to pretrial liberty the exception

[2] *U.S. v. Salerno*, 481 U.S. 739, 755 (1987).

for indigent people charged with any of the statute's thirty bail-restricted offenses.[3] *See* O.C.G.A. § 17-6-12 (a)(1).

4. After S.B. 63, any person charged with one of these offenses may be released from jail pending trial *only* if they can pay a sum of money or put up collateral—even if less restrictive conditions of release would be sufficient to reasonably ensure that the accused returns for future court appearances and is not a risk to the community (i.e., the State's interests in bail).[4]

5. S.B. 63's requirement for an upfront payment of money or collateral to be released from jail is one of the *most* restrictive conditions of release that a judge may impose because it requires people to have cash or assets readily available. Any difficulty a person has in raising the cash delays their release or prevents it altogether. This is particularly true for indigent people, who often do not have the means to pay or raise even nominal amounts to secure their release. For them, *any* amount of cash bond is often a de facto detention order. Today, indigent people charged with bail-restricted offenses are detained not because they pose unmitigable risks of future dangerousness or flight, but because they are unable to pay the cash bond that S.B. 63 requires.

[3] S.B. 63 added ten pure misdemeanor offenses, twelve pure felony offenses, and eight other offenses that can be either a felony or misdemeanor, depending on the severity of the offense (i.e., first degree, second degree, etc.) and/or an individual's conviction history for that same offense to the bail-restricted offenses list. 2024 Ga. Laws 507, § 3, at 506–508 (codified at O.C.G.A. § 17-6-12 (2024)).

[4] Specifically, the statute allows for release by use a secured bond ("cash bond"), professional bondsmen ("bondsmen"), or property (collectively, "secured conditions of release"). O.C.G.A. § 17-6-12(d) (2024).

6. A person can lose their job, their housing, or custody of their children from even a day in jail—let alone several weeks or months.[5] Pretrial detention undermines a person's ability to participate in and prepare their legal defense. And given the dangerous and deteriorating conditions of some jails in Georgia, any amount of time in jail can lead to grievous injury or even death.[6]

7. S.B. 63's effects are all the more debilitating for people without stable housing, gainful employment, or support systems—the very people S.B. 63 renders most susceptible to pretrial incarceration because of their inability to pay their cash bond. S.B. 63 also exacerbates racial disparities in Georgia's criminal legal system.[7]

8. The cases of Plaintiffs Holsey and Coronell ("Named Plaintiffs"), who were detained *only* because they did not have the means to pay for their freedom, illustrate the magnitude of the interests at stake in pretrial bail hearings and the consequences caused by incarceration before any finding of guilt.

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[5] *See, e.g.*, *Curry v. Yachera*, 835 F.3d 373, 377 (3d Cir.2016) ("While imprisoned [pretrial on a bail he could not afford], [Curry] missed the birth of his only child, lost his job, and feared losing his home and vehicle."); Open Soc'y Just. Initiative, *The Socioeconomic Impact of Pretrial Detention: A Global Campaign for Pretrial Justice Report* 13 (2011), https://perma.cc/BQ32-8WGU (attempting to "catalogue the socioeconomic impact of excessive pretrial detention around the world."); Nick Pinto, *The Bail Trap*, N.Y. Times Mag. (Aug. 13, 2015), http://nyti.ms/1INtghe (chronicling the story of a woman who, "five months after her arrest . . . was still fighting in family court to regain custody of her daughter.").

[6] *See*, *e.g.*, U.S. Dep't of Just. C.R. Div., *Investigation of the Fulton County Jail* (2024), https://perma.cc/8AAH-QJ7A; Kendall Murry, *Fulton County Sees Fourth Inmate Death of 2024*, WABE (Sept. 10, 2024), https://perma.cc/P2GR-CDGE.

[7] *See generally* Harv. L. Sch., *Moving Beyond Money: A Primer on Bail Reform* 7 (2016), https://perma.cc/GBM4-7XCN ("Due to well-established linkages between wealth and race, money bail will often result in increased rates of pretrial detention for Black and Latino defendants.").

9. As a result of S.B. 63, Named Plaintiffs and putative class members, including clients of Plaintiff Women on the Rise, have been denied their right to individualized judicial determinations as to whether cash bond was necessary to provide reasonable assurances of appearance and public safety in violation of due process.

10. For these reasons, S.B. 63 should be declared unconstitutional and its enforcement should be enjoined.

JURISDICTION AND VENUE

11. This action arises under O.C.G.A. § 9-4-2 and the Constitution of the State of Georgia.

12. With respect to Plaintiffs' claims for declaratory and injunctive relief under the Declaratory Judgments Act, sovereign immunity has been waived under Article I, Section 2, Paragraph V of the Georgia Constitution. That provision waives sovereign immunity "for actions in the superior court seeking declaratory relief from acts of the state . . . in violation of the laws of the Constitution of this state or the Constitution of the United States." Ga. Const., art. I, § II, para. V(b)(1) ("a court awarding declaratory relief pursuant to this Paragraph may, only after awarding declaratory relief, enjoin such acts to enforce its judgment.").

13. Venue is proper in this Court under O.C.G.A. § 9-10-30.

PARTIES

14. Plaintiff Sierrah Coronell, a resident of Georgia, was charged with a bail-restricted offense in the Fulton County Magistrate Court on February 19, 2025. Ms. Coronell is detained in Fulton County Jail under a secured bond order issued pursuant to O.C.G.A. § 17-6-12, as amended

by S.B. 63. The secured bond of Ms. Coronell was imposed without consideration of whether any less restrictive release conditions would reasonably assure her appearance in court and the safety of the public. Ms. Coronell is indigent and unable to pay for her release from jail.

15. Plaintiff Diane Holsey, a resident of Georgia, was charged with a bail-restricted offense in the Fulton County Magistrate Court on April 21, 2025. Ms. Holsey is detained in Fulton County Jail under a secured bond order issued pursuant to O.C.G.A. § 17-6-12, as amended by S.B. 63. The secured bond of Ms. Holsey was imposed without consideration of whether any less restrictive release conditions would reasonably assure her appearance in court and the safety of the public. Ms. Holsey is indigent and unable to pay for her release from jail.

16. Plaintiff Women on the Rise is a non-profit organization incorporated under the laws of the State of Georgia and with its principal place of business in Fulton County, Georgia. Women on the Rise's mission is to empower formerly incarcerated women through community organizing, direct services, leadership development, and civic engagement. Women on the Rise works to reform the criminal legal system, including ending cash bail, reversing the criminalization of poverty, and implementing diversionary alternatives to incarceration. Its staff are either formerly incarcerated or directly impacted by the criminal legal system, and their work is guided by the lived experiences of its staff and clients. Women on the Rise has the legal right to provide services and perform activities in furtherance of its mission.

17. The mission-driven work of Plaintiff Women on the Rise includes providing direct services to women who are incarcerated or formerly incarcerated in Georgia state prisons and jails, such as outreach to approximately 1,000 incarcerated women via quarterly newsletters to Georgia state prisons, support groups for formerly incarcerated women, and reentry services.

18. The reentry services Plaintiff Women on the Rise provides includes its program, "100 Women Rising," which supports over one hundred women a year reentering the community after being detained in the Fulton County Jail. In partnership with Grady Hospital, the program provides women with mental health conditions with reentry services like transitional housing, family reunification efforts, and access to social services and benefits. 100 Women Rising is intended to decrease recidivism by addressing the holistic needs of participants through healthcare, counseling, economic security, and community building.

19. Defendant State of Georgia ("State") is a sovereign state of the United States of America. The State of Georgia is the proper defendant in this matter under Ga. Const. art. I, § II, para. V(b)(2) ("Actions filed pursuant to this Paragraph against this state or any agency, authority, branch, board, bureau, commission, department, office, or public corporation of this state or officer or employee thereof shall be brought exclusively against the state in the name of the State of Georgia.").

FACTUAL ALLEGATIONS

I. S.B. 63 Requires the Imposition of Cash Bond Without Individualized Consideration of Whether It Is the Least Restrictive Condition Necessary to Ensure the Presence of the Accused and to Protect the Public.

20. S.B. 63 strips Georgia's bail-setting process of its constitutionally required procedural safeguards for people accused of S.B. 63's enumerated bail-restricted offenses. Because S.B. 63 mandates that secured conditions be imposed in *every* case involving a bail-restricted offense, the Statute *always* denies those who are accused of these offenses an individualized inquiry into whether such conditions are warranted. The Statute thus flouts

constitutional guarantees by systemically denying people charged with bail-restricted offenses of their due process. It also represents a stark departure from Georgia's historical bail-setting practices.

21. Historically, Georgia courts have had broad discretion to impose whichever conditions of release they deemed necessary, including non-financial and unsecured conditions.[8] Indeed, until O.C.G.A. § 17-6-12 was amended in 2020,[9] judges in Georgia were free to use recognizance release—called "unsecured judicial release"[10]—regardless of charge. It was not until January 1, 2021, when the amendments to O.C.G.A. § 17-6-12 took effect, that Georgia judges were *required* to set secured financial conditions of release for individuals charged with bail-restricted offenses.[11]

22. The State's efforts to restrict the accused's access to unsecured judicial release broadened significantly in the enactment of S.B. 63. Beyond its extensive additions to the list of "bail-restricted offenses," S.B. 63 took the unprecedented step of redefining the term "bail."[12]

23. The term "bail" in Georgia previously referred to the mechanism by which an individual accused of a crime is conditionally released from state custody. Historically, in Georgia and across the United States, bail did not involve any upfront cash deposit or other transfer of

[8] O.C.G.A. § 17-6-12 (Ga. L. 1969, p. 72, §§ 1, 2) (providing judges the authority to, upon their sound discretion, release individuals charged with *any* offense on their recognizance only); *West v. Colquitt*, 71 Ga. 559, 561 (1883) (demonstrating that, historically, bail in Georgia did not involve any upfront cash deposit or other transfer of collateral).
[9] Laws 2020, Act 547, § 1-1, eff. Jan. 1, 2021.
[10] Before the 2020 amendment of O.C.G.A. § 17-6-12, this was termed "release on recognizance."
[11] O.C.G.A. § 17-6-12 (as amended, August 3, 2020) (amending the section that allowed for people charged with bail-restricted offenses to be released on recognizance upon a judge's written findings about the reasons for such release).
[12] O.C.G.A. § 17-6-1(i).

collateral.[13] Rather, the accused or their sureties—individuals who also pledged to forfeit a specified sum if the accused failed to appear—pledged that, if the accused did not appear for court, the sum would be paid. This traditional conception of bail is also consistent with the meaning of bail as expressed in the State Constitution's Excessive Bail Clause. Ga. Const., art. I, § I, par. XVII. The right against excessive bail guarantees that any release conditions imposed are *only* those reasonably calculated to ensure future appearance and public safety.

24. S.B. 63 rejects this traditional scheme by arbitrarily restricting bail to secured, financial conditions of release for individuals charged with bail-restricted offenses, with no judicial determination of whether secured conditions are necessary. But bail determinations must encompass monetary conditions *and* any other conditions that may be imposed to ensure the future appearance of the accused in court. Fulfilling these constitutional guarantees requires that courts make individual determinations and order unsecured release in appropriate cases.

25. Indeed, all people arrested in the State, whether for a felony or a misdemeanor, have a constitutionally protected liberty interest in their pretrial freedom and a right against excessive bail. Georgians' liberty interest in pretrial freedom and their correlated right against excessive bail are not absolute. Courts may place conditions on pretrial release that are reasonably necessary to achieve the State's interests. To strike the proper balance between an individual's liberty interest and the state's interests in bail, bail determinations must be individualized and guided by procedural safeguards.

[13] Kellen Funk & Sandra Mayson, *Bail at the Founding*, 137 Harv. L. Rev. 1816, 1823 (2024);

26. But S.B. 63 prevents judges from exercising even the most basic discretion to decide whether conditions of release are needed at all, not to mention which *form* of condition best mitigates the risks of a particular person.

27. Without a judge first finding that no less-restrictive conditions would reasonably satisfy the State's interests, each person arrested for a bail-restricted offense faces a significant risk of receiving an overly restrictive secured bond. This in turn can and does erroneously deprive them of, or infringe on, their pretrial liberty. As a result, every day, Georgia courts inflict grievous harms upon Plaintiffs and putative class members.

II. Named Plaintiffs Are Needlessly Detained Solely Because of Their Inability to Post Their Mandatorily Imposed Cash Bond.

28. S.B. 63 mandated that Named Plaintiffs and other indigent release-eligible people across the State by imposing a cash bond for bail-restricted offenses without *any* individualized inquiry into whether release on personal recognizance, or any of a wide range of available unsecured conditions of release would be appropriate. Since they cannot afford to pay their cash bond, Named Plaintiffs remain incarcerated.

29. On February 19, 2025, Plaintiff Sierrah Coronell was arrested for allegedly committing the offense of Loiter Prowl, O.C.G.A. § 16-11-36, and the bail-restricted offenses of Possession of Tools For Commission of a Crime, O.C.G.A. § 16-7-20, Misdemeanor Willful Obstruction of Law Enforcement Officers, O.C.G.A. § 16-10-24, and Possession of Schedule II Controlled Substance, O.C.G.A. § 16-13-30. She has been in the Fulton County Jail ever since.

30. On February 19, 2025, Ms. Coronell had a bail hearing before Judge Holly Hughes of the Fulton County Magistrate Court, who imposed a $3,000 cash bond—$1,000 for each of the

bail-restricted offenses Ms. Coronell was charged with. As directed by S.B. 63, the judge was not permitted to consider whether any release conditions other than secured bond would reasonably ensure her appearance in court and the safety of the public.

31. On April 24, 2025, Ms. Coronell and the prosecution agreed to a consent bond that reduced her total bond to $600—$200 for each of the bail-restricted offenses.

32. Ms. Coronell is indigent and currently remains incarcerated because even after her cash bond was reduced, she cannot afford to pay her $600 cash bond. Ms. Coronell also does not own property that can be used as collateral to satisfy her bond amount. Additionally, Ms. Coronell is unable to have her bond posted by a bondsman because her bond of $600 is considered by bondsmen to be too low to be profitable and is thus ineligible for their services.

33. Prior to her arrest, Ms. Coronell was the primary caregiver for her five children, ages three, five, seven, ten, and fifteen. As a result of her incarceration, Ms. Coronell is unable to care for her children, leaving her mother and her children's father to be their sole caretakers in her absence. Ms. Coronell's incarceration has also forced her to miss significant life events. For example, she could not be with her oldest daughter to celebrate her fifteenth birthday on February 23—four days after Ms. Coronell was detained. Nor was she able to celebrate Easter—a cherished holiday that her entire family gathers for and celebrates together.

34. On April 21, 2025, Plaintiff Diane Holsey was arrested for allegedly committing the bail-restricted offenses of Battery, O.C.G.A. § 16-5-23.1, and Abuse, Neglect or Exploitation of Disabled or Elderly Person, O.C.G.A. § 16-5-102(a). She has been in the Fulton County Jail ever since.

35. On April 21, 2025, Ms. Holsey had a bail hearing before Judge John DeFoor, II, of the Fulton County Magistrate Court, who imposed a $4,000 cash bond—$2,000 for each bail-restricted offense Ms. Holsey was charged with. As directed by S.B. 63, the judge was not permitted to consider whether any release conditions other than secured bond would reasonably ensure her appearance in court and the safety of the public.

36. Ms. Holsey is indigent and currently remains incarcerated because she can neither afford to pay nor raise her $4,000 cash bond or a $400 deposit, 10% of her total cash bond amount that is required by bondsmen. Ms. Holsey also does not own property that can be used as collateral to satisfy her bond amount.

37. Prior to her arrest, Ms. Holsey worked at Burger King—a job she has had for two years—and assisted her daughter in caring for her daughter's children. Since being arrested, she has suffered lost wages, is at risk of losing her employment, and has been separated from her family.

38. In all material aspects, the experiences of Named Plaintiffs are representative of the experiences of putative class members across Georgia who are either incarcerated or otherwise subjected to overly restrictive release conditions only because they were charged with one or more of the Statute's bail-restricted offenses. Many putative class members are eligible for immediate release from jail, yet they remain in custody because they cannot afford to pay their cash bond—one that was imposed without consideration of whether any less restrictive release conditions would reasonably assure their appearance in court and the safety of the public.

III. S.B. 63's Mandatory Imposition of Cash Bond Unfairly Harms Indigent People in Georgia, Particularly Indigent People of Color.

39. S.B. 63 imposes an unjust and insurmountable burden on accused people charged with bail-restricted offenses who are eligible for release but indigent, and it has a disproportionate adverse impact on Black people and communities.[14]

40. As of July 1, 2024, when S.B. 63 took effect, Georgia judges immediately began imposing secured cash bond for people charged with any one of an unprecedented number of bail-restricted offenses. As a result, indigent people frequently remain in jail and face numerous collateral consequences that similarly situated wealthier people do not.

41. Where a judge may otherwise have decided that releasing someone on their own recognizance or another minimally restrictive condition was appropriate, S.B. 63 mandates that the person be released only if they can pay. Many people, including Named Plaintiffs Coronell and Holsey and many of Women on the Rise's clients, are unable to access and pay even nominal cash bond. Thus, any cash bond amount operates as a de facto detention order. For many more, they may be able to eventually raise the funds, but only after days or months of detention. And for others still, the best option is to secure release through a professional bondsman, which requires raising the requisite fee—which, unlike cash bond posted by an accused person or their family member will not be refunded after the resolution of the case—and abiding by the sometimes onerous financial and liberty restrictions imposed by the company.

42. Unwarranted pretrial detention based on a person's inability to pay cash bond is unjust to those presumed innocent, wrongly punishing poverty and harming communities and

[14] *See generally supra* note 7.

families. Like Named Plaintiffs, putative class members who are or were needlessly detained because of S.B. 63 are subject to an array of harms, such as instability in employment, housing, and care for children and other dependent relatives.

43. For example, putative class member Mr. Kelon Lewis, who is unhoused, was arrested on March 6, 2025, for allegedly remaining in an Atlanta Walmart after being asked to leave. He was charged with the bail-restricted offense of Criminal Trespass, O.C.G.A. § 16-7-21, and Criminal Damage to Property in the Second Degree. O.C.G.A. § 16-7-23. Exhibit B, Order for Bond for Kelon Lewis (hereinafter referred to as Ex. B). Mr. Lewis was arraigned via Zoom on March 7, 2025, where Judge Cheryl Treadwell of the Fulton County Magistrate Court set a $2,000 cash bond—$1,500 for criminal damage to property and $500 for criminal trespass. *Id.* Because criminal trespass is a bail-restricted offense, the judge was required to set a cash bond for Mr. Lewis. Indigent and able to pay neither his $2,000 cash bond nor $200, the 10% deposit required by bondsmen, Mr. Lewis was detained in the Fulton County Jail.

44. Four days later, on March 11, 2025, Mr. Lewis's public defender filed a motion for bond reconsideration, arguing that Mr. Lewis was "unable to make an unreasonable bond because [he] is indigent," and asking the court to set a nominal bond instead. Exhibit C, Motion for Bond for Kelon Lewis (hereinafter referred to as Ex. C).

45. Nearly three weeks later, on March 31, 2025, the State consented to a new bond amount—$1—because Mr. Lewis was indigent, he was charged only with non-violent offenses (and thus did not pose a danger to the public), and he had no prior failures to appear. Exhibit D, Consent Order for Bond for Kelon Lewis (hereinafter referred to as Ex. D). The court obliged and ordered that Mr. Lewis's bond be reduced to $1. *Id.*

46. Mr. Lewis remained detained in the Fulton County Jail on a $1 cash bond until April 3, 2025.

47. Mr. Lewis was detained from March 6, 2025 to April 3, 2025—a total of twenty-eight days—*only* because S.B. 63 required the court to impose cash bond that he could not pay, no matter the amount. Indeed, conditions of release less restrictive than cash bond would have reasonably ensured that Mr. Lewis would return to court and not endanger the public, but the court was unable to consider their applicability in Mr. Lewis's case because of S.B. 63.

48. As a result of his four-week detention, Mr. Lewis suffered an array of harms, including that he was unable to timely renew his public assistance benefits, search for stable housing and employment, or visit with his brother, not to mention the physical and psychological toll of his incarceration. Because Mr. Lewis's charges remain pending and he continues to lack stable housing, Mr. Lewis lives in constant fear that he will be reincarcerated and subject to the same array of harms in the future.

49. S.B. 63 also harms organizations like Women on the Rise that advocate for pretrial detention reform in Georgia and provide direct services to people who are incarcerated or were formerly incarcerated in Georgia.

50. S.B. 63 inhibits the work of Women on the Rise, and the communities and clients it serves, because its diversion programs are no longer offered as a form of unsecured release for people charged with a bail-restricted offense. O.C.G.A. §§ 17-6-12(a)(2), (c).

51. S.B. 63's mandatory imposition of secured cash bond for women charged with bail-restricted offenses has made it so women who were previously diverted from jail to Women on the Rise programming are now detained pretrial. Not only is Women on the Rise unable to begin

helping its clients soon after their arrest because of their ineligibility for post-arrest diversionary programs, but now, when its clients are released, Women on the Rise must expend more resources to assist them with overcoming even greater barriers to reentry born out of their prolonged pretrial detention. These barriers are compounded for women with serious mental health diagnoses and substance abuse disorders, who need prompt access to healthcare, but who are denied adequate care until their release—often weeks or months after their arrest. By requiring the imposition of cash bond that frequently leads to lengthy pretrial detention of clients of Women on the Rise, S.B. 63 infringes on Women on the Rise's right and ability to provide its services and engage in activities consistent with and in furtherance of its mission.

IV. S.B. 63's Mandatory Imposition of Cash Bond is the Least Effective Means of Ensuring Public Safety and Court Attendance.

52. Detaining people who cannot afford cash bond does not protect the community or increase public safety. In fact, individuals who are detained before trial are more likely to commit new crimes both before trial and for up to several years in the future; moreover, they are less likely to appear in court than those who are released within twenty-four hours of arrest.[15]

53. In appropriate cases, alternatives to the cash bail requirement, such as supervised or monitored release, may fully accomplish the government's valid pretrial interests of ensuring future court appearances and public safety. These methods also protect the accused's vital interest

[15] This is true even accounting for the idea that people might be detained because a judge has determined that they are more likely to be a danger or flight risk. *See, e.g.*, Paul Heaton et al., *The Downstream Consequences of Misdemeanor Pretrial Detention*, 69 Stan. L. Rev. 711, 786–87 (2017) (estimating that if Harris County, Texas had allowed defendants who were detained on a $500 monetary bond to instead be released on personal bond, there would have been 1,600 fewer felonies and 2,400 fewer misdemeanors within the following eighteen months).

in pretrial freedom, at a fraction of the cost to taxpayers, and without the harms imposed upon indigent people by the post-S.B. 63 bail regime.

54. While a handful of other states mandate secured bond for certain offenses,[16] Georgia requires secured bond for more types of offenses, and more offenses in total, than any other state by a vast margin.[17]

55. By contrast, many jurisdictions release detained people and employ the least restrictive pretrial supervision practices that ensure public safety and court appearances.[18] Such non-monetary conditions of release include, but are not limited to: unsecured bond; reporting obligations; phone and text-message reminders of court dates; rides to court for those without transportation or a stable address; substance abuse treatment; mental health treatment and counseling; alcohol monitoring devices; or, in extreme cases of particular risk, electronic monitoring and home confinement. These jurisdictions also utilize secured release conditions, but

[16] Only eleven states besides Georgia require secured bond based on charge, and each of these states do so only for a small number of offenses that are considered "serious" or "violent." *See* Conn. Practice Book § 38-3(c); Ind. R. Crim. P. 2.6(A); La. Code Crim. Proc. Ann. art. 321(C); Mass. Gen. Laws Ann. ch. 276, § 57; Md. Code Ann., Crim. Proc. § 5-101(c); Mich. Comp. Laws Serv. § 765.6a; Okla. Stat. tit. 22, § 1105(C); Or. Rev. Stat. Ann. §§ 135.242(1), 135.245(6); Tenn. Code Ann. § 40-11-115(e); Tex. Code Crim. Proc. Ann. art. 17.03; Va. Code Ann. § 19.2-123(A).

[17] S.B. 63 added thirty new offenses to the existing list of offenses in O.C.G.A. § 17-6-12(a)(1)—totaling fifty-seven offenses that mandate secured bond. The state with the second highest number of offenses requiring secured bond is Louisiana with twenty offenses, the majority of which are felonies. *See* La. Code Crim. Proc. Ann. art. 321(C).

[18] Ariz. R. Crim. P. 7.2; Alaska Stat. Ann. § 12.30.011; Ark. R. Crim. P. 9.2; Cal. Penal Code § 1270; Iowa Code Ann. § 811.2; Ky. Rev. Stat. Ann. § 431.520; Me. Rev. Stat. Ann. tit. 15, § 1026; Mass. Gen. Laws Ann. ch. 276, § 58; Minn. R. Crim. P. 6.02; Mo. Ann. Stat. § 544.455; Neb. Rev. Stat. Ann. § 29-901; N.J. Stat. Ann. § 2A:162-17; NMRA, Rule 5-401; N.Y. Crim. Proc. Law § 510.10 (McKinney); Or. Rev. Stat. Ann. § 135.245; S.C. Code Ann. § 17-15-10; S.D. Codified Laws § 23A-43-2; Vt. Stat. Ann. tit. 13, § 7554; Wyo. R. Crim. P. 46.1.

they typically only require an upfront payment of money if less restrictive conditions are insufficient.

56. Jurisdictions that do not mandate secured judicial release, and instead only impose secured release conditions when necessary, do not sacrifice the goals of public safety or court attendance. For example, Washington, D.C. releases more than 90% of all accused people without financial conditions of release, and no one is detained on secured money bail that they cannot afford.[19] Empirical evidence further shows that nearly 90% of those released in Washington, D.C., attend all court appearances, nearly 90% complete the pretrial release period without any new arrests, and 98-99% consistently avoid rearrest for violent crime.[20]

57. Not only is unsecured bond generally more effective in assuring court appearance and avoiding unnecessary detention than unsecured bond,[21] secured conditions of release are not well-tailored to address public safety.[22]

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[19] *See* D.C. Code § 23-1321; *see also* Pretrial Servs. Agency for the District of Columbia, *Release Rates for Pretrial Defendants within Washington, DC: FY 2022* (Jan. 2023), https://perma.cc/7BKC-53NK ("In Washington, DC, over 90% of defendants normally are released pretrial without using a financial bond.").

[20] Clifford T. Keenan, *We Need More Bail Reform*, Pretrial Servs. Agency for the District of Columbia (Sept. 2013), https://perma.cc/L6SS-AHEV.

[21] *See, e.g.*, Arpit Gupta et al., *The Heavy Costs of High Bail: Evidence from Judge Randomization*21 (2016), https://perma.cc/KJ6W-EAR3 ("Our results suggest that money bail has a negligible effect or, if anything, increases failures to appear."); Michael R. Jones, *Unsecured Bonds: The As Effective and Most Efficient Pretrial Release Option* 11 (2013) https://perma.cc/HLH6-THVG ("Whether released defendants are higher or lower risk or in-between, unsecured bonds offer the same likelihood of court appearance as do secured bonds.").

[22] *See* Aurelie Ouss & Megan Stevenson, *Does Cash Bail Deter Misconduct?* 15 Am. Econ. J.: Applied Econ. 150, 180 (2023) (finding no evidence that financial collateral has a deterrent effect on failure to appear or pretrial crime in study of more than 22,000 low-level defendants released after policy change in Philadelphia.); *see also Clarke v. State*, 228 Ga. App. 219, 221 (1997) (stating that in practice, monetary bond does not actually operate to protect the public).

58. Additionally, as in virtually all other states, Georgia makes failure to appear for court the only event that can lead to forfeiture of a bond.[23] Thus, when a person is arrested on a new offense while on pretrial release, the money is not forfeited. This circumstance further reduces the likelihood that secured bond functions to protect the public any more than other less-restrictive conditions of release would.

59. Thus, a robust body of data on the impact of pretrial detention has shown that by using secured money bond to incapacitate the accused, with the goal of ensuring court appearance and public safety, the state may *harm* those important interests. Studies have shown that pretrial detention may actually increase crime—i.e., the opposite of what it intends—because detention destabilizes communities.[24] And flight risk may decrease when a person remains free pretrial and maintains their community ties.

60. Accordingly, there is no plausible justification for mandating secured conditions of release for all people charged with bail-restricted offenses under S.B. 63.

CLASS ACTION ALLEGATIONS

61. Named Plaintiffs bring this action, on behalf of themselves and all others similarly situated, for the purpose of asserting the claims for declaratory and injunctive relief on a common basis pursuant to O.C.G.A. § 9-11-23(b)(2).

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[23] *See* O.C.G.A. § 17-6-70.

[24] *See The Hidden Costs of Pretrial Detention* (Houston, TX: Laura and John Arnold Foundation, 2013), 4, https://perma.cc/498S-LM6P; Am. Bar Assoc. (ABA), *ABA Standards for Criminal Justice— Third Edition: Pretrial Release* (Washington, DC: ABA, 2007), 29, https://perma.cc/Q2FG-5VJE.

62. Named Plaintiffs seek class certification because there are numerous similarly situated individuals in Georgia who will be subject to unwarranted secured conditions of pretrial release under S.B. 63. The class, as proposed by Plaintiffs, consists of:

> All people, since July 1, 2024, who are or will be charged with any bail-restricted offense added to O.C.G.A. § 17-6-12(a)(1) by 2024 Georgia Laws Act 507 (S.B. 63), and, as a result, have been or will be denied consideration of release on unsecured bond and unsecured judicial release pursuant to O.C.G.A. § 17-6-12(d).

63. The class seeks declaratory and injunctive relief to enjoin enforcement of the statute. That relief will necessarily apply to every member of the class and is thus applicable to the class as a whole.

64. Class status is particularly appropriate due to the acute risk that any individual class member's claims will become moot before the litigation is finally resolved because of the inherently transitory nature of claims related to pretrial detention. Named Plaintiffs and the putative class have no plain, speedy, and adequate remedy at law to vindicate the rights of all persons subjected to S.B. 63's unconstitutional mandate.

65. This action may be properly maintained as a class action because the proposed class satisfies the requirements of O.C.G.A. § 9-11-23 under subsections (a) and (b)(1)–(3).

66. The class is so numerous that joinder is impracticable. Since S.B. 63 took effect on July 1, 2024, hundreds of individuals have been charged with S.B. 63 bail-restricted offenses and subject to secured conditions of release in Fulton County alone. Given this snapshot of data is from only one jurisdiction in Georgia, it represents just a fraction of the putative class members statewide.

67. Each of these individuals was subjected to secured conditions of pretrial release without having the opportunity to be considered for release on unsecured bond.

68. The total number of individuals subjected to the challenged law—either in the past, currently, or in the future—will likely exceed tens of thousands. Individual lawsuits challenging the constitutionality of S.B. 63 would create an enormous demand on Georgia's state judicial resources and could result in conflicting outcomes.

69. There are questions common to the proposed class that predominate over any questions affecting only Named Plaintiffs, including but not limited to: whether S.B. 63 as written facially violates the due process rights of the proposed class under Article I, Section I, Paragraphs I of the Georgia Constitution.

70. The claims of Named Plaintiffs are typical of the claims of the proposed class. Named Plaintiffs, like all putative class members, are ineligible for unsecured judicial release based solely upon the offense for which they were charged and without regard to whether individual circumstances show that unsecured conditions of release would satisfy the state's interests.

71. Named Plaintiffs will fairly and adequately represent the interests of all members of the proposed class because they seek relief on behalf of the class as a whole and have no interests antagonistic to other members of the putative class.

72. Plaintiffs are represented by competent attorneys from the American Civil Liberties Union Foundation, the American Civil Liberties Union Foundation of Georgia, and the Southern Center for Human Rights, all of whom have extensive experience with litigating complex civil

rights matters in federal and state court, detailed knowledge of Georgia law, and other relevant issues.

CLAIMS FOR RELIEF

COUNT ONE
Article I, Section I, Paragraph I of the Georgia Constitution
(Procedural Due Process)

73. Plaintiffs incorporate by reference every allegation contained in the preceding paragraphs as if fully set forth herein.

74. Article I, Section I, Paragraph I of the Georgia Constitution provides that "[n]o person shall be deprived of life, liberty, or property except by due process of law." Ga. Const., art. I, § I, para. I.

75. In addition to their right to physical liberty, Named Plaintiffs and putative class members also possess an express constitutional right to be free from unwarranted conditions of release, through the Excessive Bail Clause of the Georgia Constitution. Ga. Const., art. I, § I, para. XVII ("[e]xcessive bail shall not be required[.]").

76. Bail decisions implicate these fundamental rights that are entitled to procedural due process protections. By subjecting Named Plaintiffs and other presumptively innocent people to mandatory secured conditions of release, the State infringes on the constitutionally protected rights to liberty and right to be free from unwarranted conditions of release without due process of law.

77. To satisfy due process, judges must make individualized findings regarding the risks a person poses before imposing secured conditions. Individualized consideration is essential to decide whether and which conditions of release are reasonably necessary in a particular case.

78. S.B. 63 violates due process by mandating secured release, thus precluding judges from making an individualized determination of release conditions.

79. Because S.B. 63 forecloses an individualized consideration of unsecured release conditions, there is an impermissibly high risk that the conditions imposed will be overly restrictive and that individuals will therefore be erroneously deprived of their liberty.

80. The minimal costs to the State stemming from allowing judges to first consider unsecured conditions of release clearly are greatly outweighed by the nearly certain reduction in unnecessary deprivations of individuals' physical liberty. Thus, the State's mandatory imposition of secured conditions of release violates procedural due process.

COUNT TWO
Article I, Section I, Paragraph I of the Georgia Constitution
(Substantive Due Process)

81. Plaintiffs incorporate by reference every allegation contained in the preceding paragraphs as if fully set forth herein.

82. Article I, Section 1, Paragraph I of the Georgia Constitution provides that "[n]o person shall be deprived of life, liberty, or property except by due process of law." Ga. Const., art. I, § I, para. I.

83. In addition to their right to physical liberty, Named Plaintiffs and putative class members also possess an express constitutional right to be free from unwarranted conditions of release, through the Excessive Bail Clause of the Georgia Constitution. Ga. Const., art. I, § I, para. XVII ("[e]xcessive bail shall not be required[.]").

84. Bail decisions implicate these fundamental rights that are entitled to substantive due process protections, which may not be infringed unless the State's action is narrowly tailored to serve its compelling interests.

85. But S.B. 63 is not narrowly tailored to the state's compelling interests in preventing flight and protecting public safety, and it undermines the state's compelling interest in speedy release for individuals deemed entitled to pretrial freedom.

86. S.B. 63 fails to advance these interests because, by mandating secured release conditions and prohibiting unsecured or nonmonetary release, the law necessarily prevents judges from making an individualized determination of what release conditions are reasonably necessary to prevent flight or protect public safety, while increasing the risk that an individual will be detained even though a judge has determined they can be released.

87. Indeed, the legislation is especially mis-calibrated because unsecured and non-monetary conditions of release are generally as effective as, if not more effective than, secured bond in achieving the state's interests in mitigating risks of flight and danger, while also ensuring speedy release where appropriate. Therefore, S.B. 63's categorical bar on considering these less restrictive yet potentially sufficient conditions of release is arbitrary and in violation of substantive due process.

RELIEF REQUESTED

Plaintiffs respectfully request that this Court enter judgment in their favor and:

A. Certify the proposed class under O.C.G.A. § 9-11-23(b)(2), and appoint the Named Plaintiffs as class representatives and the undersigned counsel as class counsel;

B. Declare that Georgia Senate Chapter 6 of Title 17 of the Georgia Code, as amended by Georgia Senate Bill 63, facially violates due process under Article I, Section I, Paragraph I of the Georgia Constitution;

C. Immediately after entering an order granting declaratory relief, enter a permanent injunction prohibiting the State of Georgia; its judges, officers, agents, servants, employees, representatives, and attorneys, including all district attorneys in the State; and anyone acting on behalf of, in active participation with, or in concert with the State, from enforcing Sections 1 and 3 of S.B. 63 (codified at O.C.G.A. § 17-6-1 (2024) and O.C.G.A. § 17-6-12 (2024));

D. Award Plaintiffs costs and fees under O.C.G.A. § 9-15-14; and

E. Grant Plaintiffs any such other, further, and different relief the Court deems just and proper.

Respectfully submitted this 1st day of May 2025,

/s/ Julian Clark
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Ashika Verriest*
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Attorneys for Plaintiffs

**Pro hac vice application forthcoming*

VERIFICATION

Before the undersigned officer duly authorized to administer oaths came Sierrah Coronell, who swears under oath that she has read and examined the foregoing **Verified Class Action Complaint for Declaratory and Injunctive Relief**, and that the statements contained therein that pertain to her individual facts and circumstances are true and correct.

Sierrah Coronell

SWORN TO and subscribed before me this 30th day of April 2025.

NOTARY PUBLIC: Kerry W. Stephens

Kerry W Stephens
NOTARY PUBLIC
DEKALB COUNTY, GEORGIA
My Commission Expires 06/27/2028

My Commission Expires:

VERIFICATION

Before the undersigned officer duly authorized to administer oaths came Diane Holsey, who swears under oath that she has read and examined the foregoing **Verified Class Action Complaint for Declaratory and Injunctive Relief**, and that the statements contained therein that pertain to her individual facts and circumstances are true and correct.

Diane Holsey

SWORN TO and subscribed before me this 30th day of April 2025.

NOTARY PUBLIC: Kerry W. Stephens

Kerry W Stephens
NOTARY PUBLIC
DEKALB COUNTY, GEORGIA
My Commission Expires 06/27/2028

My Commission Expires:

VERIFICATION

Before the undersigned officer duly authorized to administer oaths came Robyn Hasan-Simpson, Executive Director of Women on the Rise, who swears under oath that she has read and examined the foregoing **Verified Class Action Complaint for Declaratory and Injunctive Relief**, and that the statements contained therein about the facts and circumstances of Women on the Rise are true and correct.

Robyn Hasan-Simpson

Robyn Hasan-Simpson
Executive Director
Women on the Rise

SWORN TO and subscribed before me this 30th day of April 2025.

NOTARY PUBLIC: A FREIBLIN

My Commission Expires: Oct. 9, 2026

(raised seal)

Exhibit A

Senate Bill 63

By: Senators Robertson of the 29th, Gooch of the 51st, Brass of the 28th, Anavitarte of the 31st, Kennedy of the 18th and others

A BILL TO BE ENTITLED

AN ACT

To amend Chapter 6 of Title 17 of the Official Code of Georgia Annotated, relating to bonds and recognizances, so as to provide for setting of bonds and schedules of bails; to provide for release of individuals on bail for misdemeanors; to limit unsecured judicial releases; to revise surety liability; to provide for return of compensation by surety to principal; to change the fee for continuing education programs for bail recovery agents; to end the issuance of uniform identification cards to bail recovery agents; to revise when forfeiture of bonds occurs; to revise procedures relating to execution hearings; to revise procedures for judgments on forfeitures and remission of bond funds; to revise definitions; to amend Code Section 17-10-6.1 of the Official Code of Georgia Annotated, relating to punishment for serious violent offenders and authorization for reduction in mandatory minimum sentencing, so as to identify domestic terrorism as a serious violent felony; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 6 of Title 17 of the Official Code of Georgia Annotated, relating to bonds and recognizances, is amended in Code Section 17-6-1, relating to when offenses bailable,

procedure, schedule of bails, and appeal bonds, by revising paragraph (4) of subsection (e), paragraph (1) of subsection (f), and subsection (i) as follows:

"(4) A bond set for any offense by an elected judge, an appointed judge ~~filling the vacancy of an elected judge~~, or a judge sitting by designation that purports a dollar amount shall be executed in the full-face amount of such bond through secured means as provided for in Code Section 17-6-4 or 17-6-50 or shall be executed by use of property as approved by the sheriff in the county where the offense was committed."

"(f)(1) Except as provided in subsection (a) of this Code section or as otherwise provided in this subsection, the judge of any court of inquiry may by written order establish a schedule of bails, inclusive of offenses that are violations of local ordinances, and unless otherwise ordered by the judge of any court, an accused shall be released from custody upon posting bail as fixed in the schedule; provided, however, that no bail schedule, local standing order, official policy, or local ordinance shall mandate releasing an accused on unsecured judicial release as defined in Code Section 17-6-12 prior to the accused appearing before a judge of any court of inquiry. Nothing in this paragraph shall prohibit unsecured judicial release for any person charged under Code Section 3-3-23.1 or charged under any provision of local or state law not providing for a sentence of confinement in a penal institution or state, county, or local jail."

"(i) As used in this Code section, the term 'bail' shall only include the release of a person ~~on an unsecured judicial release, except as limited by Code Section 17-6-12~~ by the use of secured means as provided in Code Sections 17-6-4 and 17-6-5, professional bondsmen as provided in Code Section 17-6-50, or property as approved by the sheriff in the county where the offense was committed."

SECTION 2.

Said chapter is further amended in Code Section 17-6-2, relating to acceptance of bail in misdemeanor cases and posting driver's license as collateral for bail, by revising subsection (b) as follows:

"(b) In all other misdemeanor cases, sheriffs and constables shall accept bail in such ~~reasonable~~ sufficient amount as may be just and fair for any person or persons charged with a misdemeanor, provided that the sureties tendered and offered on the bond ~~are~~ shall only include the release of a person by the use of secured means as provided in Code Sections 17-6-4 and 17-6-5, professional bondsmen as provided in Code Section 17-6-50, or property as approved by the sheriff in the county where the offense was committed."

SECTION 3.

Said chapter is further amended by revising Code Section 17-6-12, relating to unsecured judicial release, requirement, and effect of failure of person charged to appear for trial, as follows:

"17-6-12.

(a) As used in this Code section, the term:

(1) 'Bail restricted offense' means the person is charged with an offense of:

~~(A) An offense of:~~

~~(i)~~(A) Murder or felony murder, as defined in Code Section 16-5-1;

~~(ii)~~(B) Armed robbery, as defined in Code Section 16-8-41;

~~(iii)~~(C) Kidnapping, as defined in Code Section 16-5-40;

~~(iv)~~(D) Rape, as defined in Code Section 16-6-1;

~~(v)~~(E) Aggravated child molestation, as defined in subsection (c) of Code Section 16-6-4, unless subject to the provisions of paragraph (2) of subsection (d) of Code Section 16-6-4;

~~(vi)~~(F) Aggravated sodomy, as defined in Code Section 16-6-2; ~~or~~

~~(vii)~~(G) Aggravated sexual battery, as defined in Code Section 16-6-22.2;

~~(B) A felony offense of:~~

~~(i)~~(H) Aggravated assault;

~~(ii)~~(I) Aggravated battery;

~~(iii)~~(J) Hijacking a motor vehicle in the first degree;

~~(iv)~~(K) Aggravated stalking;

~~(v)~~(L) Child molestation;

~~(vi)~~(M) Enticing a child for indecent purposes;

~~(vii)~~(N) Pimping;

~~(viii)~~(O) Robbery;

~~(viii.1)~~(P) Burglary;

~~(ix)~~(Q) Bail jumping;

~~(x)~~(R) Escape;

~~(xi)~~(S) Possession of a firearm or knife during the commission of or attempt to commit certain crimes;

~~(xii)~~(T) Possession of firearms by convicted felons and first offender probationers;

~~(xiii)~~(U) Trafficking in cocaine, illegal drugs, marijuana, or methamphetamine;

~~(xiv)~~(V) Participating in criminal street gang activity;

~~(xv)~~(W) Habitual violator;

~~(xvi)~~(X) Driving under the influence of alcohol, drugs, or other intoxicating substances;

~~(xvii)~~(Y) Entering an automobile or other mobile vehicle with intent to commit theft or felony, as defined in Code Section 16-8-18; ~~or~~

~~(xviii)~~(Z) Stalking; ~~or~~

~~(C) A misdemeanor offense of:~~

~~(i)~~(AA) Crimes involving family violence, as defined in Code Section 19-13-1; ~~or~~

~~(ii) Stalking.~~

(BB) Reckless stunt driving, as described in Code Section 40-6-390.1;

(CC) Promoting or organizing an exhibition of drag races or laying drags, as described in Code Section 16-11-43.1;

(DD) Laying drags, as defined in Code Section 40-6-251;

(EE) Reckless driving, as described in Code Section 40-6-390;

(FF) Fleeing or attempting to elude a police officer, as described in Code Section 40-6-395;

(GG) Obstruction of a law enforcement officer, as described in Code Section 16-10-29;

(HH) Criminal trespass, as described in Code Section 16-7-21;

(II) Theft by taking, as described in Code Section 16-8-2;

(JJ) Theft by deception, as described in Code Section 16-8-3;

(KK) Theft by extortion, as described in Code Section 16-8-16;

(LL) Destruction, removal, concealment, encumbrance, or transfer of property subject to security interest, as described in Code Section 16-9-51;

(MM) Bribery, as described in Code Section 16-10-2;

(NN) Purchase, possession, manufacture, distribution, or sale of controlled substances or marijuana, as described in Code Section 16-13-30;

(OO) Forgery, as described in Code Section 16-9-1;

(PP) Exploitation and intimidation of disabled adults, elder persons, and residents or obstruction of an investigation, as described in Code Section 16-5-102;

(QQ) Battery, as described in Code Section 16-5-23.1;

(RR) Voluntary manslaughter, as described in Code Section 16-5-2;

(SS) Cruelty to animals, as described in Code Section 16-12-4;

(TT) Violation of oath by a public officer, as described in Code Section 16-10-1;

(UU) Financial transaction card fraud, as described in Code Section 16-9-33;

(VV) Financial transaction card theft, as described in Code Section 16-9-31;

(WW) Identity fraud, as described in Code Section 16-9-121;

(XX) Racketeering and conspiracy, as described in Code Section 16-14-4;

(YY) Trafficking of persons for labor or sexual servitude, as described in Code Section 16-5-46;

(ZZ) Failure to appear, as described in Code Section 40-13-63;

(AAA) Domestic terrorism, as described in Code Section 16-11-221;

(BBB) Riot, as described in Code Section 16-11-30;

(CCC) Inciting to riot, as described in Code Section 16-11-31;

(DDD) Affray, as described in Code Section 16-11-32;

(EEE) Unlawful assembly, as described in Code Section 16-11-33;

(FFF) Terroristic threat or act, as described in Code Section 16-11-37; or

(GGG) Possession of tools for commission of a crime, as described in Code Section 16-7-20.

(2) 'Unsecured judicial release' means any release that does not purport a dollar amount through secured means as provided for in Code Section 17-6-4 or 17-6-50 or property as approved by the sheriff in the county where the offense was committed and that is:

(A) On a person's own recognizance; or

(B) For the purpose of entering a pretrial release program, a pretrial release and diversion program as provided for in Article 4 of Chapter 3 of Title 42, or a pretrial intervention and diversion program as provided for in Article 4 of Chapter 18 of Title 15, or pursuant to Uniform Superior Court Rule 27.

(b) An elected judge, an appointed judge ~~filling the vacancy of an elected judge~~, or a judge sitting by designation may issue an unsecured judicial release if~~:~~

~~(1) Such~~ such unsecured judicial release is noted on the release order~~; and~~

~~(2) The person is not charged with a bail restricted offense~~.

(c) Except as provided in subsection (b) of this Code section and in addition to other laws regarding the release of an accused person, the judge of any court having jurisdiction over a person charged with committing an offense against the criminal laws of this state shall

have authority, in his or her sound discretion and in appropriate cases, to authorize the release of the person on an unsecured judicial release only.

(d) Upon the failure of a person released on an unsecured judicial release to appear for trial, if the release is not otherwise conditioned by the court, absent a finding of sufficient excuse to appear, the court shall summarily issue an order for his or her arrest which shall be enforced as in cases of forfeited bonds.

(e) No person charged with a bail restricted offense shall be eligible for release by any judge on an unsecured judicial release. Such persons charged with a bail restricted offense shall only be eligible for release through the use of secured means as provided in Code Sections 17-6-4 and 17-6-5, professional bondsmen as provided in Code Section 17-6-50, or property as approved by the sheriff in the county where the offense was committed.

(f) No person sentenced pursuant to subsection (b) or (c) of Code Section 17-10-7 shall be eligible for release by any judge on an unsecured judicial release. Such persons shall only be eligible for release through the use of secured means as provided in Code Sections 17-6-4 and 17-6-5, professional bondsmen as provided in Code Section 17-6-50, or property as approved by the sheriff in the county where the offense was committed.

(g) Any person arrested for any offense who has previously been arrested for any felony within the preceding seven years shall not be eligible for release by any judge on an unsecured judicial release. Such person shall only be eligible for release through the use of secured means as provided in Code Sections 17-6-4 and 17-6-5, professional bondsmen as provided in Code Section 17-6-50, or property as approved by the sheriff in the county where the offense was committed."

SECTION 4.

Said chapter is further amended in Code Section 17-6-31, relating to surrender of principal by surety, forfeiture of bond, and death of principal, by revising subsections (a), (d), and (e) as follows:

″(a) When the court is not in session, a surety on a bond may surrender the surety's principal to the sheriff or to the responsible law enforcement officer of the jurisdiction in which the case is pending in order to be released from liability. If the sheriff or the responsible law enforcement officer of the jurisdiction refuses such surrender, the surety shall be released from liability.″

″(d)(1) Furthermore, the surety shall be released from liability if, prior to entry of judgment, there is:

(A) A deferred sentence;

(B) A presentence investigation;

(C) ~~A court ordered~~ Entry into a pretrial intervention program;

(D) ~~A court ordered~~ Entry into an educational and rehabilitation program;

(E) A fine;

(F) A dead docket; ~~or~~

(G) Death of the principal;

(H) Participation in an accountability court;

(I) Entry into a pretrial release program; or

(J) Entry into an electronic pretrial release or monitoring program.

(2) Furthermore, the surety ~~may~~ shall be released from liability at the discretion of the court if~~:~~

~~(A) The~~ the principal used a false name when he or she was bound over and committed to jail or a correctional institution and was subsequently released from such facility unless the surety knew or ~~should have known~~ had reason to know that the principal used a false name~~; and~~

~~(B) The surety shows to the satisfaction of the court that he or she acted with due diligence and used all practical means to secure the attendance of the principal before the court~~.

(e) If the prosecuting attorney does not try the charges against a defendant within a period of two years in the case of felonies and one year in the case of misdemeanors after the date of posting bond, ~~then judgment rendered after such period may not be enforced against the surety on the bond and~~ the surety shall thereafter be relieved of liability on the bond. ~~This subsection shall not apply where the prosecuting attorney's failure to try the charges is due to the fault of the principal.~~"

SECTION 5.

Said chapter is further amended in Code Section 17-6-54, relating to no further compensation after becoming surety, when sum received to be returned to defendant, and right to surrender defendant and to keep sum paid when defendant forfeits, by revising subsection (a) as follows:

"(a) No professional bondsman or his or her agents or employees who receive compensation for becoming the surety on a criminal bond shall thereafter receive any other sum in the case. If the surety surrenders a defendant into the custody of the court, the sheriff, or another law enforcement officer in the jurisdiction where the bond was made before final disposition of the case, the surety is required to return to the principal the compensation received for signing the bond as surety if such surrender of the defendant is for reasons other than:

(1) The defendant's arrest for a crime other than a traffic violation or ~~misdemeanor~~ local ordinance violation;

(2) The defendant's cosigner attests in writing the desire to be released from the bond;

(3) The defendant fails to provide to ~~the court and~~ the surety the defendant's change of address;

(4) The defendant fails to pay any fee due to the surety after being notified ~~by certified mail or statutory overnight delivery~~ that the same is past due;

(5) The defendant fails to notify ~~the court and~~ the surety upon leaving the jurisdiction of the court; or

(6) The defendant provides false information to the surety."

SECTION 6.

Said chapter is further amended in Code Section 17-6-56.1, relating to continuing education programs for bail recovery agents, fee, annual requirement, and certificate of completion, by revising subsection (b) as follows:

"(b) The fee for continuing education programs for bail recovery agents shall not exceed ~~$125.00~~ $250.00 annually."

SECTION 7.

Said chapter is further amended by revising Code Section 17-6-57, relating to bail recovery agents, notification to local police, out-of-state agents, and identification card, as follows:

"17-6-57.

(a) Any bail recovery agent who enters any local police jurisdiction in pursuit of and for the purpose of apprehending the principal on a bail bond or capturing a fugitive or engaging in surveillance of such principal or fugitive shall, prior to taking any action in his or her capacity as a bail recovery agent in that local police jurisdiction, notify by facsimile transmission or telephone the sheriff and police chief of the local police jurisdiction in which the surveillance, apprehension, or capture is to take place unless it is to take place in public.

(b) An out-of-state bail recovery agent shall submit proof to the sheriff or police chief that he or she is qualified to be a bail recovery agent under the requirements of his or her home state. An out-of-state bail recovery agent shall deliver a certified copy of the bail bond or of the forfeiture or failure to appear to the sheriff or chief of police. Such out-of-state bail recovery agent, if not qualified in his or her home state or if his or her home state does not

require bail recovery agents to be qualified, shall employ a Georgia bail recovery agent who is lawfully registered pursuant to this part.

~~(c) Each professional bondsman shall issue a uniform identification card to each bail recovery agent registered by the professional bondsman which identification card shall include the bail recovery agent's name, height, weight, address, photograph, and signature. The identification card shall also include the signature of the professional bondsman who has registered the bail recovery agent as required in subsection (c) of Code Section 17-6-56. A bail recovery agent shall be required to carry such identification card while acting in the capacity as a bail recovery agent.~~"

SECTION 8.

Said chapter is further amended in Code Section 17-6-70, relating to when forfeiture occurs, by revising subsection (b) as follows:

"(b) An appearance bond shall not be forfeited unless the clerk of the court gave the surety at least 72 hours' written notice, exclusive of Saturdays, Sundays, and legal holidays, before the time of the required appearance of the principal. Notice shall not be necessary if the time for appearance is within 72 hours from the time of arrest, provided the time for appearance is stated on the bond~~, or where the principal is given actual notice in open court~~."

SECTION 9.

Said chapter is further amended by revising Code Section 17-6-71, relating to execution hearing on failure of principal to appear, as follows:

"17-6-71.

(a) ~~The judge shall, at the end of the court day, upon the failure of the principal to appear, forfeit the bond, issue a bench warrant for the principal's arrest, and order an execution hearing not sooner than 120 days but not later than 150 days after such failure to appear.~~

~~Notice of the execution hearing shall be served by the clerk of the court in which the bond forfeiture occurred within ten days of such failure to appear by certified mail or by electronic means as provided in Code Section 17-6-50 to the surety at the address listed on the bond or by personal service to the surety within ten days of such failure to appear at its home office or to its designated registered agent. Service shall be considered complete upon the mailing of such certified notice. Such ten-day notice shall be adhered to strictly. If notice of the execution hearing is not served as specified in this subsection, the surety shall be relieved of liability on the appearance bond~~ The judge shall, at the end of the court day, upon the failure of the principal to appear, forfeit the bond and issue a bench warrant for the principal's arrest. If the forfeiture and bench warrant are not issued and signed on the day of the failure to appear, the surety shall be relieved of liability on the appearance bond. Upon forfeiting the bond, the judge shall order an execution hearing not sooner than 150 days but not later than 180 days after such failure to appear. If the execution hearing is not ordered as specified in this subsection, the surety shall be relieved of liability on the appearance bond. Notice of the execution hearing and a copy of the bench warrant shall be served by the clerk of the court in which the bond forfeiture occurred within ten days of such failure to appear by certified mail, return receipt requested, or by electronic means as provided in Code Section 17-6-50 to the surety at the address listed on the bond or by personal service to the surety within ten days of such failure to appear at its home office or to its designated registered agent. Service shall be considered complete upon the mailing of such certified notice. Such ten-day notice shall be adhered to strictly. If notice of the execution hearing and bench warrant are not served as specified in this subsection, the surety shall be relieved of liability on the appearance bond.

(b) If at the execution hearing it is determined that judgment should be entered, the judge shall so order and a writ of fieri facias shall be filed in the office of the clerk of the court where such judgment is entered. Notice of the judgment shall be served by the clerk of the court in which entry of judgment occurred within ten days of such entry by certified mail,

return receipt requested, or by electronic means as provided in Code Section 17-6-50 to the surety at the address listed on the bond or by personal service to the surety within ten days of such entry of judgment at its home office or to its designated registered agent. Service shall be considered complete upon the mailing of such certified notice. Such ten-day notice shall be adhered to strictly. If the notice of the judgment is not served in the time frame as specified in this subsection, the surety shall be relieved of liability on the appearance bond, the judgment shall be marked satisfied, and the writ of fieri facias shall be canceled. The provisions of this subsection shall apply to all bail bonds, whether returnable to superior court, state court, probate court, magistrate court, or municipal court."

SECTION 10.

Said chapter is further amended in Code Section 17-6-72, relating to conditions not warranting forfeiture of bond for failure to appear and remission of forfeiture, by revising subsections (b), (c), (d), and (e) as follows:

"(b) No judgment shall be rendered on a forfeiture of any appearance bond if ~~it is shown to the satisfaction of the court that~~ the principal on the bond was prevented from attending because he or she was detained by reason of arrest, sentence, or confinement in a penal institution or jail in the State of Georgia, or so detained in another jurisdiction, or because he or she was involuntarily confined or detained pursuant to court order in a mental institution in the State of Georgia or in another jurisdiction. ~~An official written~~ Written notice of the holding institution in which the principal is being detained or confined shall be considered proof of the principal's detention or confinement. ~~Such notice may be sent from the holding institution by mail or e-mail or delivered by hand or by facsimile machine.~~ Upon the presentation of such written notice to the clerk of the proper court, the prosecuting attorney, and the sheriff or other law enforcement officer having jurisdiction over the case, along with a letter of intent to pay all costs of returning the principal to the jurisdiction of the court, such notice and letter shall serve as the surety's request for a

detainer or hold to be placed on the principal. Should there be a failure to place a detainer or hold within ten business days of the surety's service of a detainer or hold request, and after such presentation of such notice and letter of intent to pay costs, the surety shall then be relieved of the liability for the appearance bond without further order of the court.

(c) No judgment shall be rendered on a forfeiture of any appearance bond if ~~it is shown to the satisfaction of the court that~~ prior to the entry of the judgment on the forfeiture the principal on the bond is in the custody of the sheriff or other responsible law enforcement agency. ~~An official written~~ Written notice of the holding institution in which the principal is being detained or confined shall be considered proof of the principal's detention or confinement. ~~Such notice may be sent from the holding institution by mail or e-mail or delivered by hand or by facsimile machine~~. Upon presentation of such written notice to the clerk of the proper court, the prosecuting attorney, and the sheriff or other law enforcement officer having jurisdiction over the case along with a letter of intent to pay all costs of returning the principal to the jurisdiction of the court, such notice and letter shall serve as the surety's request for a detainer or hold to be placed against the principal. Should there be a failure to place a detainer or hold within ten business days of the surety's service of a detainer or hold request, and after presentation of such notice and letter of intent to pay costs, the surety shall then be relieved of the liability for the appearance bond without further order of the court.″

″(d) In cases in which subsection (e) of this Code section is not applicable, the court shall order remission under the following conditions:

(1) Provided the bond amount has been paid within ~~120~~ 150 days after entry of the judgment ~~and the delay has not prevented prosecution of the principal~~ and upon application filed within ~~120~~ 150 days from the payment of judgment with prior notice to the prosecuting attorney of such application, said court shall direct remission of 95 percent of the bond amount remitted to the surety if the principal is produced, surrendered, or otherwise appears before the court that has jurisdiction of the bond or if

the surety provides proof of the principal's incarceration or confinement in another jurisdiction, proof of the principal's death, or proof that surrender of the principal was denied by the sheriff or other responsible law enforcement officer within such ~~120~~ 150 day period following payment of the judgment;

(2) Provided the bond amount has been paid within ~~120~~ 150 days after the entry of judgment and ~~the delay has not prevented prosecution of the principal, should the surety, within two years of the principal's failure to appear, locate the principal in the custody of the sheriff in the jurisdiction where the bond was made or in another jurisdiction causing the return of the principal to the jurisdiction where the bond was made, apprehend, surrender, or produce the principal, if the apprehension or surrender of the principal is substantially procured or caused by the surety, or if the location of the principal by the surety causes the adjudication of the principal in the jurisdiction in which the bond was made, the surety shall be entitled to a refund of 50 percent of the bond amount. The application for 50 percent remission shall be filed no later than 30 days following the expiration of the two-year period following the date of judgment~~ upon application filed within 60 days following the expiration of the two-year period following the date of judgment with prior notice to the prosecuting attorney of such application, said court shall direct remission of 50 percent of the bond amount remitted to the surety if the principal is produced, surrendered, or otherwise appears before the court that has jurisdiction of the bond or if the surety provides proof of the principal's incarceration or confinement in another jurisdiction, proof of the principal's death, or proof that surrender of principal was denied by the sheriff or other responsible law enforcement officer within such two-year period following payment of the judgment; or

(3) ~~Remission~~ One hundred percent remission shall be granted upon condition of the payment of court costs and of the expenses of returning the principal to the jurisdiction by the surety.

(e)(1) If, within ~~120~~ 150 days from entry of the judgment, the surety surrenders the principal to the sheriff or responsible law enforcement officer, or said surrender has been denied by the sheriff or responsible law enforcement officer, or the surety locates the principal in custody in another jurisdiction, the surety shall only be required to pay costs and 5 percent of the face amount of the bond, which amount includes all surcharges. If it is shown to the satisfaction of the court, by the presentation of competent evidence from the sheriff or the holding institution, that said surrender has been made or denied or that the principal is in custody in another jurisdiction or that said surrender has been made and that 5 percent of the face amount of the bond and all costs have been tendered to the sheriff, the court shall direct that the judgment be marked satisfied and that the writ of fieri facias be canceled.

(2)(A) The court shall direct that the judgment be marked satisfied and that the writ of fieri facias be canceled, if within ~~120~~ 150 days from entry of the judgment, the surety:

(i) Tenders an amount equal to 5 percent of the face amount of the bond and all costs to the sheriff; and

(ii) Provides, in writing, the court and the prosecuting attorney for the court that has jurisdiction of the bond with competent evidence giving probable cause to believe that the principal is located in another jurisdiction within the United States and states that it will provide for the reasonable remuneration for the rendition of the principal, as estimated by the sheriff; and

(B) The prosecuting attorney for the court that has jurisdiction of the bond:

(i) Declines, in writing, to authorize or facilitate extradition; or

(ii) Within ten business days of the notice provided pursuant to division (2)(A)(ii) of this subsection, fails to enter the appropriate extradition approval code into the computerized files maintained by the Federal Bureau of Investigation National Crime Information Center, thereby indicating an unwillingness to extradite the principal.″

SECTION 11.

Code Section 17-10-6.1 of the Official Code of Georgia Annotated, relating to punishment for serious violent offenders and authorization for reduction in mandatory minimum sentencing, is amended by revising subsection (a) as follows:

"(a) As used in this Code section, the term 'serious violent felony' means:

(1) Murder or felony murder, as defined in Code Section 16-5-1;

(2) Armed robbery, as defined in Code Section 16-8-41;

(3) Kidnapping, as defined in Code Section 16-5-40;

(4) Rape, as defined in Code Section 16-6-1;

(5) Aggravated child molestation, as defined in subsection (c) of Code Section 16-6-4, unless subject to the provisions of paragraph (2) of subsection (d) of Code Section 16-6-4;

(6) Aggravated sodomy, as defined in Code Section 16-6-2; ~~or~~

(7) Aggravated sexual battery, as defined in Code Section 16-6-22.2; or

(8) Domestic terrorism, as defined in Code Section 16-11-220."

SECTION 12.

All laws and parts of laws in conflict with this Act are repealed.

Exhibit B

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

STATE OF GEORGIA
vs.
KELON LEWIS

ACCUSATION NO. 25PI001788
BOOKING NO.2504171
CHARGE(S):
1. Criminal Damage To Property - 2Nd Degree
2. Criminal Trespass

ORDER FOR BOND

The aforesaid matter having come before this Court for a regularly scheduled Bond Hearing, and it is hereby ORDERED that:

A. Bond is GRANTED as follows:

1.	**1.5K**	**2.**	**500.00**	**3.**		**4.**	
5.		**6.**		**7.**		**8.**	
9.		**10.**		**11.**		**12.**	

For a total bond of: $ **2K GOOD**

☒ (i) Cash or other good bond (no pre-trial supervision)

☐ (ii) Sheriff's 10% program

☐ (iii) Unsecured Judicial Release (dollar amount not required). Defendant must not be charged with any bail-restricted offenses; *see* O.C.G.A. § 17-6-12.

Defendant_____shall__**X**___shall not be subject to Pretrial Services supervision at Level_____

B. Bond be denied for the following reason(s): .

C. Conditions Imposed on the Defendant:

☐ You will receive written notice of your next court date today.

☒ You will be notified of your next court date by mail.

→ **If you change your address, it is your responsibility to immediately notify, in writing** to the Clerk of State Court (misdemeanor cases) or the clerk of Superior Court (felony cases).

→ Failure to appear will result in a warrant being issued for your arrest.

☒ **You are to have no contact directly or indirectly with the victim, victim's family, professional, personal, or close associates, by phone, mail, e-mail, or through third party, including at victim's work place, church, home, and daycare. If you encounter the victim, you must leave immediately, and must not come within 200 yards of victim.**

Victim's Name(s): SHIRLEY MATHIS

☒ Other: Next Court Date is To Be Determined;

Other conditions: **STAY AWAY FROM CITY PARKS APTS. @ 415 FAIRBURN RD SW**.

I have read, understood and agree to comply with all of the conditions stated above.

DEFENDANT APPEARED VIA ZOOM
3/7/2025 3:24:52 PM
Defendant's Signature

SO ORDERED on this the 7th day of March, 2025

JUDGE, Superior Court of Fulton County/ Magistrate
Sitting by Designation for Superior Court of Fulton County, Georgia

Consented to by: _____

Cheryl Treadwell
Judge's Name - **PLEASE PRINT**

Exhibit C

IN THE SUPERIOR COURT OF FULTON COUNTY

STATE OF GEORGIA

STATE OF GEORGIA	§	
	§	
v.	§	CASE NO. CASE NO. 25PI001788
	§	
Kelon Lewis	§	
Defendant.	§	

MOTION FOR BOND

COMES NOW the Defendant in the above-styled case by and through undersigned counsel petitions this Honorable Court to set bail for petitioner in such reasonable amount as this Honorable Court should deem fit and proper.

1. Defendant meets the criteria for bond as set out in Ayala v. State, 262 Ga. 704 (1993) and O.C.G.A. § 17-6-1.

2. Defendant is unable to make an unreasonable bond because Defendant is indigent and can post nothing more than a nominal bond.

WHEREFORE Defendant prays this Court, after a hearing, set a reasonable bond amount and grant any other necessary and proper relief.

Respectfully submitted this 11th day of March, 2025.

/s/*Berit I. Browning*
Berit I. Browning
Georgia Bar No. 237804
Office of the Public Defender
Atlanta Judicial Circuit
100 Peachtree Street NE, Suite 1600
Atlanta, Georgia 30303
(404) 612-5350
Berit.Browning@fultoncountyga.gov

CERTIFICATE OF SERVICE

This is to certify that I have this day served counsel for the opposing party in the foregoing matter with a copy of the foregoing document by filing such in the E-filing system.

Respectfully submitted this 11th day of March, 2025.

/s/*Berit I. Browning*
Berit I. Browning
Georgia Bar No. 237804

Exhibit D

8

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

STATE OF GEORGIA

vs.

Kelon Lewis
DEFENDANT

ACCUSATION NO. 25P1001788

BOOKING NO. 2504171

CHARGE(S): Criminal Trespass, Criminal Damage to Property

CONSENT ORDER FOR BOND

The aforesaid matter having come before this Court for a regularly scheduled Bond Hearing, and it is hereby ORDERED that:

A. Bond is GRANTED as follows:

1. $1.00
2. UJR jail
3.
4.
5.
6.
7.
8.

For a total bond of: $ 1.00

☐ (i) Cash or other good bond (no pre-trial supervision)

☐ (ii) Sheriff's 10% program

☐ (iii) Unsecured Judicial Release (dollar amount not required). Defendant must not be charged with any bail-restricted offenses; *see* O.C.G.A. § 17-6-12.

Defendant_____ shall ✓ shall not be subject to Pretrial Services supervision at Level_____

Conditions Imposed on the Defendant:

☑ You will be notified of your next court date by mail.

→ **If you change your address, it is your responsibility to immediately notify, in writing**: Clerk of Superior & Magistrate Court, Attn.: Court Services, 136 Pryor Street, SW, Atlanta, GA 30303.

→ Failure to appear will result in a warrant being issued for your arrest.

☐ **You are to have no contact directly or indirectly with the victim, victim's family, professional, personal, or close associates, by phone, mail, e-mail, or through third party, including at victim's work place, church, home, and daycare. If you encounter the victim, you must leave immediately, and must not come within 200 yards of victim.**

Victim's Name(s):

☑ Other: Next Court Date is To Be Determined;

Other special conditions:
Stay Away from City Parks Apartments at 415 Fairburn Rd SW.

SOORDERED on this the 31st day of March 2025

JUDGE, HOLLY HUGHES
Fulton County Magistrate Court Judge sitting by
Designation for the Superior Court of Fulton County

Acknowledged by Defendant (signature):
Kelon Lewis

Consented to by State:
Dr John M Turner, DDA

Affirmation that Defense Counsel will communicate these conditions of bond to the Defendant and answer any questions Defendant has about these conditions prior to their release:

Counsel for Defendant

Reason for Consent:
waiver of Prelim, nature of allegations (non violent), no FTAs