

Stand for Children Tennessee and Official Black Lives Matter Memphis Support Federal Lawsuit Challenging Tennessee's Unconstitutional Bail Law

MEMPHIS, Tenn. — Stand for Children Tennessee (Stand) and the Official Black Lives Matter – Memphis Chapter (Official BLM Memphis) have filed an amicus brief supporting the [federal lawsuit against a Tennessee law that prohibits judges from considering an individual's financial condition when setting bail \(HB1719/SB2565, passed in the 2024 Legislative Session\)](#). An amicus brief, or “friend of the court” brief, is submitted by individuals or organizations that are not parties to a case but have a strong interest in the outcome. Originally filed by the ACLU, ACLU of Tennessee, and Just City, the lawsuit argues that this new law violates the Fourteenth Amendment by mandating discriminatory, wealth-based detention and dismantling reforms that have proven to increase fairness and strengthen public safety in Shelby County.

Since the case's recent filing, arguments in court have already highlighted severe delays resulting from the new law, with people detained for weeks—sometimes months—before even knowing their bail amount. Stand and Official BLM Memphis joined this lawsuit to help bring public attention to this law's harmful and unconstitutional consequences, which reverses Shelby County's data-driven reforms (the Standing Bail Order, or SBO) that had helped create one of the fairest bail systems in the nation.

According to the two organizations, both of which helped shape Shelby County's initial bail reforms in 2022, the law sponsored by State Senator Brent Taylor and State Representative John Gillespie has “erased essential protections against unfair, wealth-based incarceration.” The amicus brief illustrates the severe harm caused by this law, which has led to overcrowding, unsanitary conditions, and inhumane delays in basic processing for people detained while waiting for their bail hearing.

“Reforms like the SBO ensure that our justice system doesn't punish people simply for being poor,” said Cardell Orrin, Executive Director of Stand for Children. “These reforms align better with the Constitution and building a more just community. This misguided law reverses that progress and reintroduces a system where freedom is determined by the amount of money in a person's pocket. With our system's presumption of innocence, the court should determine whether a person can be released until trial or whether bail needs to be set at an affordable or unaffordable level based on their risk of flight or danger to the community. Affordability and a person's ability to pay are inseparable: what is a manageable amount for one may be an impossible burden for another. Setting arbitrary bail amounts without considering the ability to pay locks people into a cycle of poverty and incarceration, creating two systems of justice—one for the wealthy and another for everyone else.”

Under the law, judges are barred from considering a person's financial condition when setting bail, which removes a critical safeguard designed to protect the rights of Tennesseans. Evidence and legal precedent, including federal court rulings in Tennessee, show that the Constitution demands fair, individualized bail determinations, with attention to the accused person's financial circumstances. Since Black people are overrepresented in the jail population, the Taylor/Gillespie law disproportionately exposes low-income and Black residents of Memphis to prolonged and unjust pretrial detention.

Shahidah Jones of Official Black Lives Matter Memphis emphasized that the law not only compromises justice but also endangers lives: "We're seeing a spike in jail overcrowding, unsafe conditions, and needless suffering among those who cannot afford high bail, often over minor, nonviolent charges. This is just another instance of tough-on-crime legislators passing laws that threaten the foundations of our constitution and democracy rather than focusing on things like common-sense gun safety laws that might actually make a difference for our safety."

Both Stand and Official BLM Memphis agree that this new law represents a return to ineffective, wealth-based policies that worsen racial and economic inequities in Shelby County's justice system. The organizations are urging Tennesseans and lawmakers to resist fear-based legislation that prioritizes outdated policies over evidence-based solutions proven to work.

With a court decision anticipated soon, Stand and Official BLM Memphis hope this case will not only protect the constitutional rights of all Tennesseans but also reinforce the importance of fair, evidence-based justice reforms.

###