



City of Atlanta
Georgia

Ordinance
20-O-1653

AN ORDINANCE BY COUNCILMEMBERS MICHEAL JULIAN BOND, DUSTIN R. HILLIS, CARLA SMITH, ANDREA L. BOONE AND J.P. MATZIGKEIT AMENDING THE CITY OF ATLANTA CODE OF ORDINANCES, CHAPTER 62, ARTICLE I, SECTION 62-31, (ENTITLED " BAIL ESTABLISHED UNDER CERTAIN CIRCUMSTANCES."), IN ORDER TO REQUIRE THE DETENTION OF A DEFENDANT UNTIL THE INITIAL APPEARANCE HEARING FOR CERTAIN VEHICULAR OFFENSES RELATED TO STREET RACING WHICH CREATE DANGERS TO PERSONS OR PROPERTY; AND FOR OTHER PURPOSES.

Information

Department:	Office of Research and Policy Analysis	Sponsors:	Councilmember, Post 1 At Large Michael Julian Bond, Councilmember, District 10 Andrea L. Boone, Councilmember, District 1 Carla Smith, Councilmember, District 9 Dustin Hillis
Category:	Personal Paper		

Body

WHEREAS, the United States Supreme Court has recognized the fundamental right to pretrial liberty for defendants awaiting trial except in carefully limited exceptional circumstances (*United States v. Salerno*, 481 U.S. 739 (1987)); and

WHEREAS, by granting a right to bail in misdemeanor cases (O.C.G.A. §17-6-1(b)(1)), the General Assembly has recognized the high value that our society places on pre-trial liberty; and

WHEREAS, the Atlanta City Council adopted Ordinance 18-O-1045, on February 5, 2018 and it was signed into law by the Mayor on February 6, 2018, which provides that persons under the jurisdiction of the Municipal Court of Atlanta charged with non-violent offenses, requiring cash bond as a condition of pre-trial release not remain in jail simply because they are unable to pay cash bond collateral; and

WHEREAS, pursuant to 18-O-1045, the City of Atlanta Code of Ordinances was amended such that arrestees charged solely with non-violent offenses may be released from the Atlanta City Detention Center after booking, on a recognizance or signature bond; and

WHEREAS, in accordance with these amendments, the City of Atlanta retained the ability to permit the acceptance of a cash bond following a hearing before a judge of the municipal court in cases in which the defendant has been charged with an offense containing an element of violence or threatened violence against persons, and under other limited circumstances and with the procedural protections as set forth in this ordinance; and

WHEREAS, offenses for street racing and reckless driving exhibitions are imminently dangerous to the safety and wellbeing of the public and could be construed as "containing an element of violence or threatened violence"; and

WHEREAS, in the interests of public safety and ensuring the well-being of motorists and pedestrians, defendants charged with offenses which include vehicle speed contest using public highways, streets or rights of way in violation of applicable motor vehicle and traffic laws, including without limitation, O.C.G.A. §§ 40-6-186, 40-6-251 and 40-6-390 should be required to be detained until the initial appearance hearing before a judge of the municipal court in accordance with Section 62-31(b) of the City of Atlanta Code of Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, as follows:

SECTION 1: That Chapter 62, Article I, Section 62-31, (entitled " Bail established under certain circumstances."), Subsection (b) be amended as follows (with permanent additions in underline font):

Sec. 62-31. - Bail established under certain circumstances.

(b) For any offense containing an element of violence or threatened violence against a person, the defendant is to be detained until the initial appearance hearing, which shall be held as soon as practicable, but in no event later than 48 hours after the time of the arrest, or 72 hours after the time of arrest where the arrest occurs pursuant to a warrant. For purposes of this subsection 62-31(b), the following shall be deemed an "offense containing an element of violence or threatened violence:

- 1) City Ordinance 106-81.1: Disorderly Conduct- Act of violence toward another
- 2) City Ordinance 106-81.3: Disorderly Conduct - Fighting
- 3) City Ordinance 106-81.7: Disorderly Conduct- Physical obstruction of another
- 4) O.C.G.A. § 40-6-391: Driving Under the Influence
- 5) O.C.G.A. §40-6-186 : Racing on highways and streets
- 6) O.C.G.A. § 40-6-251 : Intentional operation of motor vehicles to create danger to persons or property: "laying drags"
- 7) O.C.G.A. § 40-6-390 : Reckless driving
- 8) An offense which is bailable only before a judge of Georgia superior court
- 9) Other offenses which the Corrections Chief reasonably believes involve violence or the threat of violence to a person
- 10) Any citation that includes "DV" (domestic violence) written by the arresting officer at any location on the ticket regardless of the offense charged
- 11) Idling and loitering for illicit sex
- 12) A defendant who is currently serving probation or parole, regardless of the current offense

SECTION 2: That this Ordinance shall take effect immediately after its approval.

SECTION 3: That all ordinances and parts of ordinances in conflict herewith are hereby waived to the extent of the conflict.