

BAIL REFORM 2020

In 2019, New York enacted historic pretrial reforms that will result in a dramatic reduction in pretrial detention populations across the state by eliminating bail and pretrial detention for most misdemeanors and non-violent felonies. That means, in most cases, a person's liberty will not depend on how much money they have.

HOW DOES BAIL REFORM AFFECT NEW YORKERS?

- 1.** Bail reform will reduce the number of people subjected to the trauma of pretrial jailing simply because they cannot afford bail. Since 2001, hundreds of people have died in New York City's jails. Bail reform means that people can return home to their families instead of languishing on Rikers.
- 2.** Bail reform will reduce the number of wrongful convictions. People detained pretrial are more likely than people who await trial at home to be coerced into guilty pleas, be convicted of a crime, and receive harsher sentences.
- 3.** By providing support not punishment, bail reform will strengthen communities. Research shows that pretrial jailing worsens public safety because it exacerbates economic and familial instability from lost housing and employment to deteriorated mental health.
- 4.** Bail reform makes New York fairer and more just. Requiring someone to pay money before their release only criminalizes poverty and perpetuates mass incarceration.
- 5.** Bail reform begins to address the structural racism of the current pretrial system. White New Yorkers are nearly twice as likely as Black New Yorkers to be released on the same day that their bail is set.

WHAT DOES THE NEW BAIL LAW DO?

For violations, most misdemeanors and class E felonies, an arresting officer must issue an appearance ticket (similar to a summons) instead of subjecting someone to up to 24 hours in jail *before* seeing a judge.

For most misdemeanors, non-violent felonies and 2 "violent" felonies (that don't involve any interpersonal violence), judges must release people at their first appearance either on their own recognizance or with the least restrictive conditions that will ensure their return to court.

For charges where a judge can still set bail (including most violent felonies and a few misdemeanors), if the judge decides to set bail, they are required to:

- Consider the accused person's ability to pay without undue hardship
- Set bail in at least three forms. One of which *has* to be either partially secured surety bond or unsecured surety bond.
 - Partially secured bond = individual or friend or family puts down up to 10% of the total bond to the court, and gets the money back at the end of the case if the accused makes all of their court dates.
 - Unsecured bond = no money down! If the accused misses a court date and bond is forfeited, then they owe the full bond amount.
- State on the record or in writing their reasoning for setting bail (must be an individualized assessment)

The court must wait 48 hours before issuing a warrant if someone misses a court date and must try to contact them before issuing the warrant.

The courts can change someone's release conditions and set bail in cases where they believe the person "persistently and willfully failed to appear" for court, intimidated a witness, violated an order of protection, or is accused of a felony and arrested on another felony - which they must prove by "clear and convincing" evidence.