

OVERVIEW OF NEW YORK BAIL REFORM

Bail reform in New York **chipped away at the state's two-tiered system of justice**, in which wealthy New Yorkers were free as they awaited trial and low-income New Yorkers (predominately Black and brown) were caged pretrial because they could not afford to pay bail. The amended law required pretrial release for people charged with certain misdemeanors and nonviolent felonies. Judges retain the power to set bail in violent felonies.

Bail reform was a common sense, evidenced-based change that was not a radical

departure from the earlier law. Lawmakers passed the reform to strengthen New York's long-standing laws that always favored a presumption of pretrial release for people who are presumed innocent. The only legal purpose of bail in New York State is to ensure that a person returns to court and setting bail based on a judge's guess about a person's future potential for "dangerousness," shown to be an error prone stand-in for race in jurisdictions where this assessment is allowed, has not been legal in New York for more than fifty years.

WHY WAS BAIL REFORM NECESSARY?

Bail is supposed to serve as an incentive to return to court. In reality, **bail served as a punishment, jailing thousands of people, pretrial and presumed innocent, only because they could not afford to buy their freedom.** Thousands of families were unnecessarily stripped of caretakers and breadwinners, jobs and housing were lost, and people faced the violence and horrors of incarceration.

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Black and brown people and communities were disproportionately affected as 92% of those caged pretrial in NYC are non-white. Taxpayers spent hundreds of millions of dollars every year (over \$1000 per night per person on Rikers Island). And bail was not even necessary: People overwhelmingly return to court when released and exceptionally few are rearrested.

WHAT HAPPENED AFTER BAIL REFORM WENT INTO EFFECT?

The original 2019 bail reform went into effect in January 2020, **leading to a 40% reduction in the jail population.** Pressure from reform opponents led to

partial rollbacks in April 2020, which increased the number of charges that were eligible for bail and increased the jail population.

HOW HAS BAIL REFORM HELPED NEW YORKERS?

Bail reform **has helped tens of thousands of people remain at home while their charges are resolved.** Instead of enduring traumatizing, destabilizing, and life threatening effects of pre-trial incarceration, people remain in their

communities, able to work and care for their families. And just like before bail reform, **people overwhelmingly return to court and less than 2% of people released are rearrested for violent crime.**

WHAT POWER DO JUDGES HAVE UNDER CURRENT LAW?

Judges have always had the ability to release people, regardless of their charges, based on their assessment of whether or not that person was likely to return to court, and judges were required to use the least restrictive means possible to accomplish this goal. Bail reform strengthened these

presumptions and made release automatic in certain, limited circumstances. But judges still retain power to set bail on violent felonies and many non-violent felonies and misdemeanors. Learn more on [JusticeNotFear](#).