



NEW YORK STATE SENATOR

Fred Akshar

Senator Fred Akshar: So-Called Bail Reforms Put Children, Abuse Victims and Communities at Risk

FRED AKSHAR January 10, 2020

| ISSUE: **BAIL AND PRETRIAL DETENTION REFORM, BAIL REFORM. PUBLIC SAFETY, CASHLESS BAIL**



In my heart, I believe that most individuals working in government or in nearly any vocation have good intentions, no matter their political persuasion. But good intentions without common sense, thoughtfulness and input from those with knowledge and experience can often lead to disaster.

New York State government's latest disaster is the so-called bail "reforms" passed by Albany's all-Democrat-led One Party Rule.

It has only been days since the "reforms" have gone into effect, but we're already seeing mandatory release after mandatory release of repeat offenders and those arrested for serious, violent crimes.

Across our state, individuals accused of manslaughter, sexual misconduct with children, conspiracy and facilitation of rape, hate crimes, assault, burglary and more have been handed get-out-of-jail free cards and released out into our communities with reckless abandon.

New York's One Party Rule claims their so-called bail "reforms" only apply to non-violent crimes. You need only look at the long list of releases based on these specific reforms to see that their assertions are completely false:

In Broome County, bail reform releases from the past week include:

- fifteen men and one woman arrested for strangulation;
- a woman arrested for rape of a mentally disabled victim and injuring a child;
- three men arrested for soliciting the sexual performance of a child;
- four men arrested for injuring a child;
- a man charged with manslaughter recklessly causing a death and many more.

Around the state, get-out-of-jail-free cards have been handed out to:

- a man charged with manslaughter in the strangulation-and-stabbing death of a woman in Albany;
- a man charged with predatory sexual assault, rape, and endangering the welfare of a child in Seneca County;
- a man charged with driving drunk and killing a pedestrian in Harlem;
- a woman arrested and released multiple times over a five day period of attacks and alleged hate crimes, including slapping three Jewish women while screaming anti-Semitic tirades in Brooklyn;
- a man charged with driving illegally, accidentally killing a 35-year old mother of three and fleeing the scene of the crime in Rockland County;
- a man arrested in connection with six burglaries, who committed another burglary within hours of release on Long Island; and many more.

Much of the momentum behind the need for bail reform came from the story of a young man named Kalief Browder, who was arrested for allegedly stealing a backpack, but spent three years incarcerated at Rikers Island due to the backlogged Bronx criminal court system and the fact that he could not afford bail. This ordeal eventually led Kalief Browder to take his own life at 22 years old.

The U.S. Constitution guarantees the right to a speedy trial, and no one should be forced to wait years in jail for misdemeanors and violations simply because they can't afford bail.

Without a doubt, before these so-called bail "reforms" were passed, our justice system needed tweaking, but One Party Rule's efforts compare unfavorably to performing brain surgery with a jackhammer. They treat both misdemeanors and far too many serious, violent crimes

with the same broad and oversimplified approach, creating more problems than they fix. As Onondaga County Court Judge Stephen Dougherty put it, they equate to attempting to kill a mosquito with an atom bomb.

While other states like New Jersey, California and Illinois have limited the use of bail, New York is one of the few states to abolish bail for many crimes without also giving state judges the discretion to consider whether a person poses a threat to public safety in deciding whether to hold them.

Regardless of the circumstance, prior criminal history, and the facts of the case, judges cannot set bail for dozens of serious crimes, including manslaughter in the 2nd degree, conspiracy to commit rape, child abuse, promoting child prostitution, facilitating female genital mutilation, possessing or promoting a sexual performance by a child, stalking, arson, aggravated cruelty to animals, animal torture, resisting arrest, money laundering in support of terrorism, criminally negligent homicide, making a terroristic threat, criminal sale of a firearm to a minor, failure to register as a sex offender, rioting, vehicular assault, unlawful imprisonment, obstructing governmental duties by means of a bomb, killing a police K9 or horse, obstructing emergency medical services personnel, and a slew of drug-related charges.

In their rush to please advocates, New York's One Party Rule slipped these reforms into the State Budget without proper vetting and overshot the mark to an alarming degree, creating a revolving door that indiscriminately shuffles violent, non-violent, and repeat criminals in and out of the justice system as their crimes continue to multiply.

For example, if a defendant fails to appear in court, they may be arrested and then released without bail. They are then provided a sheet of paper with the date of the next court appearance. If the defendant fails to appear again, they still cannot be issued a warrant

without sending a further letter, phone call or text. If they fail to appear in court again, unless it can be shown that their lack of appearance was willful and persistent, they still cannot have their bail set.

The practical consequences of this short-sighted overcorrection is exactly why I opposed these misguided “reforms” and why my opposition is shared by district attorneys, sheriffs offices, law enforcement and municipalities across the state. The implementation has gone so poorly in the first week alone that it’s forced judges themselves to speak out against it.

But it’s not enough to complain about the terrible decisions those in power have made. We have to come up with solutions.

That’s why I’ve authored legislation ([S.7146](#)) to restore bail for the violent and dangerous crimes that require it, including manslaughter in the 2nd degree, criminally negligent homicide, reckless assault of a child, facilitating a sexual performance by a child, aggravated vehicular manslaughter, menacing, unlawful imprisonment, arson, criminal possession of a weapon on school grounds, failure to register as a sex offender, aggravated cruelty to animals, animal torture, stalking, burglary, robbery, hate crimes, patronizing a person for prostitution in a school zone, money laundering in support of terrorism, and aggravated assault.

I’ve also authored a bill ([S.7205](#)) to remove the option of cashless bail if the arrested individual has been convicted of a felony in the past 10 years.

The law as currently written is a slap in the face to law-abiding New Yorkers and their families and we must work together to fix it.

One Party Rule's all-Democrat leadership can either help us fix their terrible mistakes or stand by their rhetoric and bury their heads in the sand. If they choose the latter, the people who will suffer are those we were all elected to serve.

All men and women may be created equal, but all crimes are not. For justice to truly prevail, our judicial system must be allowed to handle dangerous crimes on a case-by-case basis. Otherwise, New York will continue to put criminals before the safety law-abiding citizens in our community.

RELATED LEGISLATION

2019-S7146

- Introduced
- - In Committee Assembly
 - In Committee Senate
- - On Floor Calendar Assembly
 - On Floor Calendar Senate
- - Passed Assembly
 - Passed Senate
- Delivered to Governor

- Signed By Governor

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Adds serious crimes to those offenses that qualify for bail and pre-trial detention

January 08, 2020

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2019-S7205

- Introduced
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- - On Floor Calendar Assembly
 - On Floor Calendar Senate
- - Passed Assembly
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- Delivered to Governor
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Ensures repeat offenders qualify for bail and pre-trial detention when the principal has been previously convicted of felony offenses

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