



NEW YORK STATE SENATOR

Fred Akshar

## Law Enforcement, District Attorneys, Crime Victims Advocates and Elected Officials from Four Counties Call on Albany to Fix Problems Created by Bail Reform

FRED AKSHAR January 27, 2020

| ISSUE: **BAIL AND PRETRIAL DETENTION REFORM, BAIL DISCOVER AND SPEEDY TRIAL REFORM, CASHLESS BAIL, CONTROVERSIAL BAIL REFORM, BAIL REFORM. PUBLIC SAFETY**



(BINGHAMTON, NY) Members of law enforcement, district attorneys and crime victims advocates from four counties joined local officials in Binghamton to push for swift action from Albany to address a litany of public safety issues created by newly enacted bail reform laws.

Their message comes on the heels of NYPD Commissioner Dermot Shea highlighting the spike in crimes in New York City in the three weeks since the new bail reform laws went into effect. The NY Daily News reports that overall crime in New York City alone is up 11% from 2019, with a 32% surge in robberies, a 15% surge in burglaries, a 67% surge in stolen vehicles and a 30% jump in shooting victims.

The new law, which eliminates cash bail for the wide majority of misdemeanors and nonviolent felonies, has come under intense scrutiny as courts have released people who would have remained in jail under the old rules.

Regardless of the circumstance, prior criminal history, and the facts of the case, judges can no longer 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.

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.

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*“The law as currently written is a slap in the face to law-abiding citizens across the state,” said Akshar. “It’s created 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. This misguided law has effectively stripped judges of their discretion to prevent violent criminals, domestic abusers and sexual predators from being immediately released back into communities before they can answer for their crimes.”*

Across the 52nd Senate District, dozens of individuals have been granted immediate release due to the bail reform changes, including those charged with endangering the welfare of a child, strangulation, assault with intent to cause physical injury with a weapon, unlawful imprisonment, aggravated driving while intoxicated, burglary and criminal possession of narcotics with intent to distribute.

Across the state, bail reform changes have led to the immediate release of a individuals charged with:

- manslaughter in the strangulation-and-stabbing death of a woman in Albany;
- predatory sexual assault, rape, and endangering the welfare of a child in Seneca County;
- driving drunk and killing a pedestrian in Harlem;
- driving illegally, accidentally killing a 35-year old mother of three and fleeing the scene of the crime in Rockland County;
- multiple attacks and alleged hate crimes, including slapping three Jewish women while screaming anti-Semitic tirades in Brooklyn;
- committing strings of burglaries within hours of release on Long Island in New York City; and many more.

“This bail reform has dumped the rights of the victims,” said Broome County Sheriff David Harder. “It has also added more work to our already burdened courts, they have demoralized law enforcement who are trying to do their job. They have stuck the law enforcement with unfunded mandates. There was no input by court’s, District Attorneys and law enforcement.”

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*“The Governor and Legislature must own up to the undisputed fact that the list of very violent crimes included in their flawed bail reform package must be amended,” said Delaware County Sheriff Craig S. DuMond. “These crimes since January 1st have already involved scores of victims, some who have lost their lives to allowing these violent criminals to run free in our communities. Failing to act and right this wrong is unconscionable and a complete dereliction of duty. Our law abiding citizens and victims of crimes deserve much better from our elected representatives.”*

“Here in Broome County we have always prioritized public safety to keep our communities and the families that live here safe,” said Legislature Chairman Dan J. Reynolds. “Yet once again certain State officials have decided to usurp local authority and pass down ill-advised bail reform mandates that are putting our residents in danger every day and ignore the safety concerns of every community across the State.”

“We have to come together and fix this — public safety is at stake,” said Mayor Richard C. David. “Law enforcement agencies have been put in an impossible situation dealing with the aftermath of these changes. Unfunded mandates regarding new discovery laws have put a financial burden on local police agencies while dangerous criminals are being put back on

the street hours after arrests are made. It is incumbent on Albany's leaders to deal with the unintended consequences of these new laws."

In addition to local and statewide criticism of the law, U.S. Attorney Richard Donahue also stated publicly that, "No sound, rational and fair criminal justice system requires the pretrial release of criminal defendants who demonstrate such determination to continuously commit serious crimes. The recent reforms have made a bad situation worse by entirely excluding classes of purportedly 'nonviolent' felonies — like the bank robberies here — from pretrial confinement eligibility."

Public safety concerns extend beyond the mandated release of individuals arrested for violent crimes, and include new changes known as "Discovery Reform," which have created a litany of new issues for those charged with prosecuting criminals statewide.

Under the new law, district attorneys are required to turn over all evidence within 15 days of arraignment or be subject to sanction by the Court. This means they must obtain, review and provide the defense all police reports, witness statements, medical records, body cams, surveillance video, expert witness information, 911 and radio calls, photographs and more in every case.

The Broome County District Attorney's office alone handles 15,000 felony cases and several thousand misdemeanor cases each year, but was recently informed by the New York State Police Crime lab that due to evidence backlogs, they cannot comply with the new timeline requirements, which will likely result in the dismissal of many pending cases.

In addition, Grand Jury testimony and witness contact information must immediately be provided to the defense, creating safety concerns for witnesses in cases yet to go to trial.

“For years, prosecutors were able to assure witnesses that their Grand Jury testimony was confidential and would only be disclosed if the case went to trial,” said Broome County District Attorney Michael Korchak. “Immediate disclosure of Grand Jury testimony and witness contact information to a defendant who is incarcerated will have a chilling effect on witness cooperation. These changes put witnesses and the community at risk.”

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*“Enough is enough,” said Akshar. “While we may all agree that the bail system before these so-called ‘reforms’ needed tweaking, it’s clear that actual changes passed by One Party Rule and signed by the Governor have been an utter failure to public safety and to the very concept of law, order and justice. We need those same leaders who voted to pass these ill-conceived ‘reforms’ to come to the table and either make the necessary changes or repeal this law entirely. Anything less is a disservice to the safety of law-abiding citizens and their families.”*

While Akshar does support a full repeal, he has also introduced legislation to fix key parts of the bail reform law, including a bill (S.7146) to restore bail for the violent and dangerous crimes, 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.

Akshar also introduced legislation (S.7205) to remove the option of cashless bail if the arrested individual has been convicted of a felony in the past 10 years and cosponsors legislation (S.7133) to require affirmative consent for disclosure of contact information of

witnesses to a defendant.

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#### RELATED LEGISLATION

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## 2019-S4176

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- 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
- 

Requires supermarkets to make excess food available to qualifying entities

March 04, 2019

Senate Floor Calendar

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## 2019-S7205

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- 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
- 

Ensures repeat offenders qualify for bail and pre-trial detention when the principal has been previously convicted of felony offenses

January 10, 2020

In Senate Committee [Codes](#)

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## 2019-S7133

- 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
- 

Relates to requiring affirmative consent for the disclosure of contact information of witnesses to a defendant

January 08, 2020

In Senate Committee [Codes](#)

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