



# SENATOR BRAD HOYLMAN

## DISTRICT OFFICE:

322 Eighth Ave.,  
Ste. 1700  
New York, NY 10001  
Phone: (212) 633-8052

**E-MAIL:** [hoylman@nysenate.gov](mailto:hoylman@nysenate.gov)

**WEBSITE:** [hoylman.nysenate.gov](http://hoylman.nysenate.gov)



## BAIL REFORM FAQs

### Some of the charges that are no longer bail-eligible seem really bad. Why are we letting people out of custody when they're accused of such serious offenses?

- Bail is still an option for people charged with violent felonies and all sex offenses.
- For all other serious charges, the old laws allowed people who could afford bail to be released immediately without any supervision.
- The new laws, for the first time ever, explicitly provide the courts with options to supervise released defendants. These include:
  - Checking in with a pretrial services provider (in person or by phone)
  - Attending mental health or substance abuse treatment
  - Maintaining employment
  - Obeying an order of protection
  - Forfeiting firearms
- Electronic monitoring is now available as a condition of release for the following charges:
  - All felonies;
  - Misdemeanor domestic violence crimes;
  - Misdemeanor sex offenses;
  - Persistent violent felony offenses (a charge that would be the defendant's third violent felony conviction, if convicted);
  - Misdemeanors, where the defendant was convicted of a violent felony within the past five years;
  - Defendants whose previous bail or release has been revoked.

### Is bail still an option for repeat offenders?

- The new law allows for the use of money bail where the defendant has demonstrated an unwillingness to return to court or poses certain dangers to the integrity of the case or the community. Bail is automatically an option if a defendant:
  - Willfully and persistently failed to appear in court in the present case,
  - Violated an order of protection while released
  - Intimidated a witness
  - Is charged with a new felony after having been released on a separate felony charge

## **Is it true that no stakeholders had any input on the new bail reform laws, and the bills were released with no time for legislators to review?**

- Bail reform bills had been pending in both houses for years before they were enacted, and the reform legislation was based on those bills.
- Legislators spoke with and took input from numerous stakeholders in the course of drafting the legislation, including the District Attorneys Association of the State of New York, individual DAs from across the state, police departments, public defenders, and probation departments.

## **Courts can no longer consider a defendant's history of failing to appear in court or criminal history, or likelihood of committing crimes while released.**

- This is not true. When setting release conditions or bail, the court must take into consideration the defendant's history, including criminal history and past failures to appear in court or attempts to flee justice.
- Any defendant who is charged with a new felony while released on a different felony charge, or who has violated terms of their release on a separate charge, is automatically eligible for money bail under the new law.

## **Under bail reform, police can no longer make arrests for many serious crimes – including domestic violence offenses - and are required to issue desk appearance tickets instead.**

- The reform allows the police discretion to make an arrest when there is reason to suspect that the arrestee is dangerous or is likely not to return to court. Importantly, the reform does not change the law that requires arrests to be made in domestic violence situations.
- Accordingly, police will be permitted to make an arrest instead of issuing an appearance ticket when:
  - The person has a warrant for their arrest;
  - The person cannot or will not identify themselves;
  - The person is charged with a domestic violence crime;
  - An order of protection should be issued;
  - The person is charged with a sex crime;
  - The person is charged with a crime that may result in a suspended or revoked driver's license (ie, a charge of Driving While Intoxicated or Driving While Ability Impaired);
  - The person is in medical or mental health distress, and the officer has tried unsuccessfully to connect the person with the appropriate services;
  - The person has failed to appear in court in the past two years.

## **Does bail reform put domestic violence survivors in more danger?**

- Under the previous law any accused domestic abuser would be released into the community without supervision if he or she could afford bail.
- Under the new law, all DV misdemeanors and felonies are eligible for pre-trial services and supervision, including electronic monitoring.
- With the combination of electronic monitoring and orders of protection, courts will be able to keep abusers away from survivors.