



New York State YMCA
Youth And Government

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Committee Assignment: Assembly Liberty 3

Bill #:AL-23

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An Act To

Amend section §2101-A of the Bail Elimination Act to allow arrangement judges to give the option of monetary bail, pretrial detention, or ROR (release on your own recognizance).

The People of the State of New York, represented in the Senate and

Assembly do enact as follows:

Purpose

The purpose of this bill is to grant the appointing judge at an arraignment hearing the power and authority to grant the option of monetary bail, pretrial detention, or ROR (release on your own recognizance) based on the judges' discretion on what the judge deems suitable for the offense, this applies to misdemeanor offenders and nonviolent felons.

Summary of Provisions

Section 1:Definitions

Bail - Security, such as cash, a bond, or property, pledged or given to a court by or on behalf of one accused of committing a crime, to obtain release from incarceration and to ensure the person's future appearance in court when required during the criminal proceeding.

Pretrial Detention - Refers to detaining of an accused person in a criminal case before the trial has taken place, either because of a failure to post bail or due to denial of release under a pre-trial detention statute.

ROR (Release On One's Own Recognizance) - It is for a judge to allow a criminal defendant to be released from custody without posting bail.

Incarceration - It is the state of being imprisoned or confined.

Principal - a defendant in a criminal action or proceeding, or a person adjudged a material witness therein, or any other person so involved therein that he may by law be compelled to appear before a court for the purpose of having such court exercise control over his person to secure his future attendance at the action or proceeding when required, and who in fact either is before the court for such purpose or has been before it and been subjected to such control



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41 Section 2

42 1. Determinations of applications for recognizance or bail are not in all cases
43 discretionary but are subject to rules, prescribed in article five hundred thirty and
44 other provisions of law relating to specific kinds of criminal actions and
45 proceedings, providing

46 (a) that in some circumstances such an application must as a matter of law be
47 granted,

48 (b) that in others it must as a matter of law be denied and the principal committed
49 to or retained in the custody of the sheriff, and

50 (c) that in others the granting or denial thereof is a matter of judicial
51 discretion.

52 2. To the extent that the issuance of an order of recognizance or bail
53 and the terms thereof are matters of discretion rather than of law, an application
54 is determined on the basis of the following factors and criteria:

55 (a) With respect to any principal, the court must consider the kind and degree
56 of control or restriction that is necessary to secure his court attendance when
57 required. In determining that matter, the court must, on the basis of
58 available information, consider and take into
59 account:

60 [(i) The principal's character, reputation, habits and mental condition;

61 (ii) His employment and financial resources; and

62 (iii) His family ties and the length of his residence if any in the community

63

64 1. [An application for recognizance or bail must be determined by a securing
65 order which either:

66 (a) Grants the application and releases the principal on his own recognizance; or

67 (b) Grants the application and fixes bail; or

68 (c) Denies the application and commits the principal to, or retains him in, the
69 custody of the sheriff.

70

71 **Justification**

72 Previous to the Bail Elimination Act, a judge would grant the defendant bail, ROR or
73 under certain circumstances pretrial detention. As of January 1st, 2020, New York
74 State will no longer allow appointed judges the power to make these decisions for
75 misdemeanor offenders and nonviolent felons; the only option left is ROR. The
76 effects of this law have already shown to be ineffective in New York. For example,
77 on December 30th, 2019 Gerod Woodbury was arrested and charged after he was



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78 responsible for four bank robberies in the borough of Manhattan. Due to the Bail
79 Elimination Act, he was released on January 2nd, 2020 and the following day he
80 was suspected of robbing another bank in Brooklyn. By New York State taking
81 action to eliminate bail, these offenders no longer have a reason to show for their
82 scheduled court date, instead, they are motivated to continuously break the law
83 because they will not be punished. Eliminating bail purges the ideology that not
84 crimes are all the same, the opposite of a 'one size fits all' scenario. But all crimes
85 are different, it is common knowledge to believe someone who has a criminal
86 record will continue to grow their record unless acted upon by an opposing force. A
87 first time offender should have different consequences than a repeated offender.
88 The purpose of bail is to ensure the defendant will appear for their court date and
89 not be used as a punishment or fine; the same with pretrial detention, if the judge
90 feels the defendant is a flight risk he might request detection until the trial. New
91 York State needs to amend the Bail Elimination Act to ensure the safety of the
92 people who call New York home.

93

94 **Fiscal Implications**

95 New York State spends more on per inmate in the correction system than most
96 other states. By amending the Bail Elimination Act, to allow judges to grant bail and
97 pretrial detention rather than the only option being ROR, there will be an allocation
98 of funding to provide the appropriate funds to the justice system. New York State
99 has been allocating funds to the system for years; this will be a change back to the
100 previous system. There will be an increase in tax dollars paid (much like the
101 allocation of funds), but people in New York State had already been paying to
102 accommodate for the prison system. Though money is a major factor as to why the
103 Bail Elimination Act is needed, the safety of those in New York state is priceless.

104

105 **Environmental Implications**

106 Amending the Bail Elimination Act of 2019 will have a nonexistent effect on New
107 York State wildlife.

108

109 **Effective Date**

110 This bill will take effect on January 1, 2021.