



**New York State YMCA**  
**Youth And Government**

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FOR HEALTHY LIVING  
FOR SOCIAL RESPONSIBILITY

Committee Assignment: Assembly Liberty 1

Bill #:AL-01

**Sponsors:** Alex Barsanti, Anna Pastore, Amy Kugelman, Meline Kalishian

**An Act To** To amend CPL 510.10 (4) (a)-(i) of the New York State bail reform to expand the list of crimes that require cash bail to include burglary in the first degree, criminally negligent homicide, aggravated criminally negligent homicide, first and second degree vehicular manslaughter, and hate crimes.

*The People of the State of New York, represented in the Senate and Assembly do enact as follows:*

**Purpose** To keep unsafe criminals off the streets by increasing the number of crimes that require cash bail.

**Summary of Provisions**

**Section 1: Definitions**

**Bail:** money or other security given to the court in exchange for releasing a defendant from jail and the defendant's promise to come back for the next court date.

**"Unsafe criminals":** a criminal that has committed crimes like burglary in the first degree, criminally negligent homicide, aggravated criminally negligent homicide, first and second degree vehicular manslaughter, and hate crimes.

**burglary in the second degree:** when he knowingly enters or remains unlawfully in a building with intent to commit a crime

**criminally negligent homicide:** when, with criminal negligence, he causes the death of another person.

**"Criminal negligence":** A person acts with criminal negligence with respect to a result or to a circumstance described by a statute defining an offense when he fails to perceive a substantial and unjustifiable risk that such result will occur or that such circumstance exists. The risk must be of such nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation.

**Aggravated criminally negligent homicide:** when a person is guilty of criminal negligence, he or she causes the death of a police officer or peace officer where such officer was in the course of performing his or her official duties and the defendant knew or reasonably should have known that such victim was a police officer or peace officer.

first and second degree vehicular manslaughter, and hate crimes

**Section 2: Provisions**

4. Where the principal stands charged with a qualifying offense, the court, unless otherwise prohibited by law, may in its discretion release the principal pending trial on the principal's own recognizance or under non-monetary conditions, fix bail, or, where the defendant is charged with a qualifying offense which is a felony, the court may commit the principal to the custody of the sheriff. A principal stands charged with a qualifying offense for the purposes of this subdivision when he or she stands charged with:



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(a) a felony enumerated in section 70.02 of the penal law, ~~other than~~ including burglary in the first degree defined in section 140.30, burglary in the second degree as defined in subdivision two of section 140.25 of the penal law, or robbery in the second degree as defined in subdivision one of section 160.10 of the penal law;

(b) a crime involving witness intimidation under section 215.15 of the penal law;

(c) a crime involving witness tampering under section 215.11, 215.12 or 215.13 of the penal law;

(d) a class A felony defined in the penal law, other than in article two hundred twenty of such law with the exception of section 220.77 of such law;

(e) a felony sex offense defined in section 70.80 of the penal law or a crime involving incest as defined in section 255.25, 255.26 or 255.27 of such law, or a misdemeanor defined in article one hundred thirty of such law;

(f) conspiracy in the second degree as defined in section 105.15 of the penal law, where the underlying allegation of such charge is that the defendant conspired to commit a class A felony defined in article 125 of the penal law; as well as criminally negligent homicide defined in 125.10 and aggravated criminally negligent homicide defined in 125.11; first and second degree vehicular manslaughter as defined in section 125.12 and 125.13;

(g) money laundering in support of terrorism in the first degree as defined in section 470.24 of the penal law; money laundering in support of terrorism in the second degree as defined in section 470.23 of the penal law; or a felony crime of terrorism as defined in article 490 of the penal law, other than the crime defined in section 490.20 of such law; or a hate crime as defined in section 70.02 of the penal law;

(h) criminal contempt in the second degree as defined in subdivision three of section 215.50 of the penal law, criminal contempt in the first degree as defined in subdivision (b), (c) or (d) of section 215.51 of the penal law or aggravated criminal contempt as defined in section 215.52 of the penal law, and the underlying allegation of such charge of criminal contempt in the second degree, criminal contempt in the first degree or aggravated criminal contempt is that the defendant violated a duly served order of protection where the protected party is a member of the defendant's family or household as defined in subdivision one of section 530.11 of this article; or 6

(i) facilitating a sexual performance by a child with a controlled substance or alcohol as defined in section 263.30 of the penal law, use of a child in a sexual performance as defined in section 263.05 of the penal law or luring a child as defined in subdivision one of section 120.70 of the penal law.

**Justification**

After less than a week of the bail reform's new system, there were already major red flags to elected officials. If implemented effectively, a conservative estimate of the legislation's impact suggests that New York can expect at least a 40 percent reduction



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79 overall in the state's pretrial jail population. However the current legislation had a good  
80 intent it was not thought out enough before going into effect. Although it did  
81 successfully lower the number of people, many of them pose dangers to the public  
82 when not held in jail. One of the red flags was a spree of eight anti-Semitic attacks  
83 where the suspects were released right back into the neighborhoods they terrorized  
84 thanks to bail reform legislation. A woman who punched and cursed at three Orthodox  
85 women. This woman, Tiffany Harris, still has an open harassment and assault case on  
86 the Brooklyn docket from November 2018.

87 Another attack in this series where a 22-year-old man was accused of a burglary spree  
88 at a Long Island shopping center was released without having to post bail. Three days  
89 later, this same exact man was back behind bars after police say he committed yet  
90 another burglary just hours after being set free. There is and was nothing stopping  
91 either suspect from committing the felony again, and hurting the members of the  
92 Jewish community. This hatred present in the community has caused many citizens to  
93 be afraid to walk the streets at night. With the implementation of this bill, bail would be  
94 required for hate crimes along with burglary in the first degree, criminally negligent  
95 homicide, aggravated criminally negligent homicide, first and second degree vehicular  
96 manslaughter in order for justice to be carried out and result in a safer  
97 community.

98 **Fiscal Implications** The money involved in this bill would be the set cash bail amount  
99 by the judge paid for by the citizens who have committed the offense. Once posted,  
100 cash bail is directed to the New York City Department of Finance, which sends most of  
101 the money to the city comptroller, who places it in low-risk investments. The  
102 department waits for a case to conclude, followed by instructions from the court. If the  
103 judge decides the defendant did not abide by the rules, the judge may rule the bail  
104 money be forfeited, which means it is not returned to the surety and belongs to the  
105 city. If the defendant fulfills the court's conditions and the case is ultimately resolved in  
106 his or her favor, the money is returned to the surety in full. But if the defendant is  
107 convicted, state law entitles the city to impose a 3 percent fee for its role in  
108 administering bail before refunding the money. One percent of the bail must be directed  
109 to alternative to incarceration programs, which includes initiatives meant to keep  
110 people out of jail, such as mental health services or drug and alcohol addiction  
111 assistance. This bill would not change what happens with the bail money after it is paid.  
112 The intent of this bill is to require bail to be paid for crimes in order to keep them from  
113 continuously committing the crime.

114 **Environmental Implications**

115 There would be no Environmental Implication.

116 **Effective Date** January 1st, 2021