

# New York State Bar Association

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## **THE NEW YORK STATE BAR ASSOCIATION** **URGES REFORM OF STATE LAW REGARDING BAIL**

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The New York State Bar Association (NYSBA) commends state leaders for engaging in discussions regarding bail reform. NYSBA supports these efforts and urges adoption of a proposal that would address the following framework. The proposal should:

- Create a presumption that defendants facing misdemeanor and non-violent felony charges be released without cash bail, either on their own recognizance or with non-monetary conditions imposed by the court, such as supervised release monitored by a pretrial services agency, absent of a record of bench warrants for non-appearance;
- Allow monetary bail, but not require its use, in remaining cases, after an individualized assessment of the nature of the case and the defendant's personal and financial circumstances;
- Require the court, in cases when bail is set, to give the defendant a choice between cash or bail industry bonds and an alternative form of bail that the judge will set, such as an unsecured or partially secured bond; and,
- Allow the court, in cases involving domestic violence or other serious violence, or if, while on pretrial release, a defendant commits a crime or willfully fails to come to court, to order a defendant to be held in jail pretrial if the court finds, after due process, that the defendant poses a high risk of not returning to court or poses a current threat to the physical safety of a reasonably identifiable person or persons.

Many courts rely solely on cash bail or insurance company bond to secure a defendant's future appearances, despite the availability of alternatives that are set forth in the Criminal Procedure Law. We urge a solution that would balance the needs of communities while minimizing financial hardship for low-income defendants.

Moreover, we urge that enhanced and increased training and education be provided regarding the availability of alternatives to cash bail. Likewise, we urge the simplification and increased availability of forms compliant with the Criminal Procedure Law to facilitate secured, partially secured and unsecured (non-financial) release.

We **SUPPORT** measures to improve our system of bail and urge state leaders to enact legislation that will adequately meet the above-referenced objectives.