

**Fact Sheet: Proposed Bill S. 4483 (Nozzolio) / A. 6799 (Lentol)**

**What is the proposed bill?**

Proposed bill S. 4483/A. 6799 is an act to change New York State's bail statute, requiring judges to consider "public safety" as well as risk of flight, and to create a statutory presumption of release for people charged with non-violent offenses who do not pose a threat to the community and who are likely to return to court.

**Why is the proposed bill unnecessary and harmful?**

While the bill aims to enhance public safety and fairness, it will actually have the opposite result, proving especially harmful for poor people accused of low-level offenses. Three elements of the bill undermine the legislature's goal:

- **It fails to provide adequate constitutional safeguards:** The bill lacks protections that exist in the federal bail statute for those detained pretrial, like the right to testify and present witnesses, proffer evidence, and cross-examine other witnesses at an adversarial hearing.
- **The proposed bill will not make our bail system fairer to poor people charged with low level offenses:** The current bail statute already reflects an implicit presumption in favor of release; making that presumption explicit will not change bail-setting practices
- **The proposed bill will lead to an increase in the number of people detained pre-trial and will result in unwanted financial and non-financial consequences:** The proposed bill gives judges an additional reason for detaining the accused pretrial, while doing nothing to change current bail setting practices that disadvantage poor people.

**What are the benefits of the current bail statute?**

The current bail statute, if fully realized, already addresses the legislature's goals. Instead of amendments to it, we need awareness and education about the potential of the current bail statute so that it can be applied fairly. Under the current bail statute:

- **Judges have the tools to ensure that our bail system is fair for all New Yorkers, regardless of income.** Thousands of people are held on bail each year simply because they are poor, not because they are guilty or violent. The current bail statute was designed to address this problem. There are nine different types of bail, some of which require no cash deposit. Judges must set at least two different forms of bail, and they may set bail in any increment. These provisions should make posting bail more accessible for poor clients. However, the statute has never been applied as intended.
- **Judges can already consider "public safety" in certain circumstances,** such as domestic violence, but the statute is carefully tailored so judges are only required to make determinations about safety when there is a real threat to an individual or community.

**What will happen if the proposed bill passes?**

New York's already overcrowded jails will swell with even more poor people who are presumed innocent, charged with low-level offenses, but are detained pretrial. Without any meaningful way of challenging the determination, many more of those detained will have to choose between pleading guilty and gaining their freedom, or exercising their constitutional right to trial and remaining incarcerated.