

The logo for the New York City Bar, featuring the text "NEW YORK CITY BAR" in a serif font, centered between two horizontal blue bars.

NEW YORK  
CITY BAR

February 11, 2020

Hon. Andrew M. Cuomo  
Governor of New York State  
NYS State Capitol Building  
Albany, NY 12224

Hon. Carl E. Heastie  
Speaker of the New York State Assembly  
Legislative Office Building 932  
Albany, NY 12248

Hon. Andrea Stewart-Cousins  
Majority Leader of the New York State Senate  
Legislative Office Building 907  
Albany, NY 12247

Dear Governor Cuomo, Speaker Heastie, and Majority Leader Stewart-Cousins:

On behalf of the New York City Bar Association (“City Bar”), we write to express our continued support for the bail reforms enacted in last year’s budget that became effective last month.<sup>1</sup> The City Bar is an organization of more than 24,000 members dedicated to improving the administration of justice, with a long record of commenting on and testifying about statutes, programs, and policies relating to the reform of the New York criminal justice system.

We are cognizant of the pressures created by recent attacks on bail reform but we urge you to keep these vital changes intact for long enough to permit thoughtful study and analysis of the effects of the changes. We urge you to resist calls to act precipitously to reconsider a reform that has only been on the books for a matter of weeks.

The City Bar has long supported the Governor and State Legislature’s dedicated efforts to fix New York’s two-tiered bail system, which has historically jailed thousands of New Yorkers each year solely because they were unable to afford cash bail.<sup>2</sup> The reforms at issue were informed by studies showing that overuse of pretrial detention not only disproportionately affects poor and minority communities, but also makes New Yorkers less safe. Equally as critical—and as Governor Cuomo correctly noted in his *Daily News* op-ed of March 12, 2019—setting bail eviscerates the presumption of innocence for thousands of individuals who cannot afford bail and

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<sup>1</sup> “New York Needs Bail Reform,” March 22, 2019, <https://www.nycbar.org/member-and-career-services/committees/reports-listing/reports/detail/new-york-needs-bail-reform>. (All links in this letter were last visited on February 11, 2020).

<sup>2</sup> See <https://tinyurl.com/ybwp6z9s>.

are left to languish in jail awaiting trial.<sup>3</sup> Moreover, the vast majority of these presumed-innocent individuals are Black and Latinx, making this a racial justice issue of glaring disparity.

Bail reform arrived just over a month ago, on January 1, 2020. Since then, hundreds of poor New Yorkers who would have been incarcerated pending trial, separated from their families, jobs, and communities, have been allowed to remain free in their communities. This means they can continue to work and support their families, receive social services if needed while answering the charges, and avoid other collateral consequences of pre-trial detention.

We anticipate that bail reforms will lead to fairer and better criminal justice outcomes. But bail reform must be given a chance to work. Before the ink was dry on the new law, opponents of bail reform have made concerted efforts to incite fear by publicizing well-chosen stories of purportedly dangerous individuals who were released while awaiting trial. Many of these stories fail to consider whether the person would have been eligible for and released without bail or with only modest bail *before* bail reform. They also fail to mention that those who can afford it have always been able to make bail. Nonetheless, this press coverage has had its intended effect, stoking confusion, anger, and fear among New Yorkers by creating the false impression that New Yorkers are less safe due to bail reform. Criminal justice policy, with its immediate effect on the lives of thousands of people, should not be driven or so quickly reversed in response to such misleading narratives. Rather, we submit that a pause is the soundest course of action at this juncture. Any assessment of bail reform's impact on return rates requires sufficient time and study to allow policymakers to analyze both the costs and the benefits of the new system.

We remain grateful to you for supporting the reforms in the first place, and ask you to continue to lead on this issue by resisting calls to revise bail reform this legislative session. The new law must be allowed to work and then be carefully and thoughtfully evaluated.

Respectfully,

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<sup>3</sup> “Andrew Cuomo: Why I will not sign a budget without criminal justice reform,” New York Daily News, March 12, 2019, <https://www.nydailynews.com/opinion/ny-oped-no-criminal-justice-reform-no-budget-20190312-story.html>.

cc:

Hon. Fred Akshar  
Ranking Member of Crime Victims, Crime and Correction Committee, New York State Senate

Hon. Jamaal T. Bailey  
Chair of Codes Committee, New York State Senate

Hon. William A. Barclay  
Minority Leader of the New York State Assembly

Hon. Jeffrey Dinowitz  
Chair of Judiciary Committee, New York State Assembly

Hon. John J. Flanagan  
Minority Leader of the New York State Senate

Hon. Michael Gianaris  
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