



# PRESS RELEASE

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**New York State  
Unified Court System**

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## **Chief Judge Jonathan Lippman Announces Series of Reforms to Address Injustices of NY's Current Bail System**

**New York** – With tens of thousands of pretrial defendants detained in jails in New York City and statewide solely because they cannot afford to post bail, Chief Judge Lippman today in a speech at the Citizens Crime Commission announced a series of initiatives to help address the inequities in New York's bail system and spur an overhaul of the current system.

While bail in New York is intended to ensure a defendant's return to court, it has instead resulted in a two-tier system of justice: one for those with money and one for those of limited means. Nearly 50,000 defendants are jailed each year in New York City because they cannot make bail. Almost 90 percent of those for whom bail is imposed do not make bail at arraignment, and over half of those defendants remain in jail for the entire duration of their case — from arraignment to disposition — without ever being released.

Excessive pretrial detention can inflict tremendous economic hardship and psychological harm on defendants and also limit their ability to assist in their defense. Being incarcerated can mean loss of income, employment or housing. For defendants who care for children or aging relatives, pretrial detention also impacts their dependents.

A strong and steady voice for a top-to-bottom revamping of the rules governing bail in New York, Judge Lippman proposed legislation in early 2013 that, if enacted, would permit

judges to consider whether a defendant poses a risk to the “safety of any person or community” when making a bail determination. Unlike 46 other states and the District of Columbia, New York does not allow judges to take public safety into account when setting bail. The proposed legislation would also create a statutory presumption of release without bail where the judge concludes that the defendant poses no risk to public safety or legitimate risk of failure to return to court. Additionally, it would give judges clear authority to impose a range of pretrial release conditions, such as participation in drug treatment or a supervised release program.

Despite the urgent need for bail reform, the proposed legislation has languished, with the initiatives announced today by Judge Lippman serving to ensure that the court system is doing everything within the constraints of existing law to limit the tremendous damage and human costs that can result from excessive pretrial detention. Among these measures are:

- **Automatic judicial review of bail for misdemeanor cases**

In the New York City Criminal Court, the court system will institute automatic “de novo” review of bail determinations, as authorized by New York’s Criminal Procedure Law, by a single judge in each borough. The review will be triggered whenever a defendant charged with a misdemeanor has been unable to make bail. This means the judge will take a fresh look at the case and make an independent determination whether the bail amount should be adjusted or whether bail should be permitted in a less onerous form. In contrast to arraignment parts — where enormous case volume and legally imposed time constraints often preclude a more thorough consideration of relevant factors and where information about a defendant’s circumstances may be limited — this process will give the reviewing judge a fuller opportunity to make a more considered bail determination and provide defense counsel the time to present a more accurate picture of the defendant that will be relevant to that determination. Having more information available and one judge per borough handling the reviews will lead to greater consistency in bail decisions in misdemeanor cases.

- **Periodic judicial review of case viability and bail for felony cases**

The court system will issue new court rules requiring regular, periodic judicial review of case viability and bail. Where a defendant is in custody pending disposition of the charges against him, the rules will require a status conference at designated milestones in the case. At the status conferences, the judge will evaluate the viability of the prosecutor’s case and readiness for trial and, where appropriate, make modifications to the defendant’s bail status. By institutionalizing this review structure, the courts will be able to better ensure that felony defendants do not languish in pretrial detention.

· **Pilot electronic supervision program in Manhattan Criminal Court**

Electronic supervision, which can track defendants on pretrial release and immediately locate them if they fail to appear in court when required, is a valuable option in appropriate cases, giving judges the additional security that defendants will return to court without having to post bail. Manhattan judges will be able to release defendants charged with misdemeanors — excluding domestic violence, assault and sex offenses — on electronic supervision while they await adjudication. Defendants will be considered for electronic supervision after arraignment if they remain incarcerated, ensuring that it will be used only for defendants who are unable to post bail. Apart from the benefits to those who would otherwise be detained, electronic monitoring has the potential to save huge amounts of money for taxpayers. The average yearly cost of detention in New York City exceeds \$100,000, drastically more than the modest costs of electronic supervision.

· **Promoting the use of alternative forms of bail**

New York’s bail statute provides for seven types of bail bonds, as well as cash bail and credit card bail. In practice, though, judges exclusively use two types — cash bail or insurance company bail bonds — which is understandable given the crushing volume of cases in arraignment parts and the overwhelming time pressures faced by judges. However, we need to make much better use of every available option that will allow those who are presumed innocent to more readily post bail. To facilitate wider use of alternate forms of bail that defendants may be able to post more readily, the court system will enhance training for judges and clerks on the availability of alternate types of bail and the procedures required.

“With the reforms announced today, we will make major strides in overhauling our broken system of bail. Reforming the institution of bail in New York will go a long way toward ensuring that our justice system not only protects the public safety, but also is fair and just for each and every New Yorker — rich and poor alike,” said Judge Lippman.

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