

BAIL REFORM IN NEW YORK





History, Debate, and Impact



What is Bail?

Money defendants post for **pretrial release**

— *Cornell Law School*

-  Judges set bail based on **charge severity**, criminal history, flight risk Pre-Bail Reform
-  **Can't pay?** Stay in jail until case concludes
-  Bail bondsmen can help for a **fee**
-  Serious violent history? Judges may **deny release**



What is Bail Reform?

Core Goal

Promoting **fairness** and reducing **unnecessary pretrial incarceration**

— Brennan Center for Justice

How It Works

- 🚫 **Eliminates cash bail** for most misdemeanors & non-violent felonies
- ☰ Splits charges into **qualifying** and **non-qualifying** offenses
- 👉 Judges retain bail authority for **violent crimes**
- ⚠️ **Exception:** Bail allowed for persistent felony offenders

Offense Classification Examples

Non-Qualifying Offenses

Shoplifting

Minor Assault

Drug Possession

Qualifying Offenses

Aggravated Assault

Robbery with
Weapon

Domestic Violence

Historical Background

1971 Original Bail Laws

🔒 Unchanged for 50 years

🚫 No public safety

2010s Growing Advocacy

⚠️ Wealth-based detention

⚖️ Racial disparities

👤 Kalief Browder case

2019 Bail Reform Law

📅 Effective Jan 1, 2020

🚫 No cash bail for most cases

— Brennan Center for Justice

🔄 Key Amendments

2020 Expanded qualifying offenses · Added "harm to harm" provision

— Data Collaborative for Justice

2022 Added gun offenses · Broader criminal history consideration

— Data Collaborative for Justice

2023 Removed "least restrictive" standard · Judicial transparency

— Data Collaborative for Justice

Bail reform through the years

	Before 2019	2019 Bail Reform	2020 Bail Rollbacks	2022 Bail Rollbacks	2023 Bail Rollbacks
Standard judges use when determining whether to set bail	"The court must consider the kind and degree of control or restriction that is necessary to secure his court attendance when required."	"The court in all cases, unless otherwise provided by law, must impose the least restrictive kind and degree of control or restriction that is necessary to secure the principal's return to court when required."	Unchanged	Unchanged	"Except as otherwise required by law, the court shall ... consider the kind and degree of control or restriction necessary to reasonably assure the principal's return to court, and select a securing order consistent with its determination."
Charges eligible for bail	All charges	Most violent felonies, Class A felonies (other than drug offenses) and conspiracy to commit Class A felonies, crimes involving witness intimidation or witness tampering, sex offenses, violating an order of protection, terrorism or money laundering in support of terrorism.	Everything from the 2019 reforms, plus: Any crime that caused the death of another person, vehicular assault, domestic violence, hate crimes involving assault or arson, possession of a weapon on school grounds, grand larceny, failure to register as a sex offender, skipping bail.	Everything from the 2019 reforms and 2020 rollbacks, plus: Third-degree criminal possession of a weapon (including an unloaded gun) and second-degree criminal sale of a weapon to a minor.	Unchanged
Special circumstances in which judges may set bail, even when a charge is not otherwise bail-eligible	N/A (All charges were bail-eligible.)	None	Defendant accused of a felony while on probation or parole. Defendant is a "persistent felony offender" accused of another felony. Defendant accused of a felony or Class A misdemeanor that caused harm to a person or property, after previously being released on a similar charge.	The law was updated to clarify that theft was included in the list of charges that caused harm to a person or property, meaning that a person accused of theft, released and then accused of theft again would be eligible for cash bail.	Unchanged

Before 2019: Judges only ensured court attendance. All charges eligible for bail.

2019: Bail limited to serious crimes (violent felonies, sex crimes, terrorism). Judges use least restrictive conditions.

2020: Expanded bail to crimes like homicide, domestic violence, hate crimes, weapons, skipping bail. Added bail for repeat offenders and probation/parole cases.

2022: Added more weapon crimes and clarified repeat theft cases for bail.

2023: Judges given more discretion to consider control/restriction. Charges unchanged.

Supportive Views

★ Key Benefits

🔒 No detention solely due to **inability to pay**

🏠 Maintains **employment & family ties**

📈 **Reduces reoffending** likelihood

🛡️ Promotes **long-term public safety**

🚫 No Link to Rising Crime

🔍 **No evidence** connecting reform to rising crime

↓ **Reduced recidivism** for misdemeanors & nonviolent felonies

— Brennan Center

📊 Impact & Savings

\$104M

Saved in bail fees

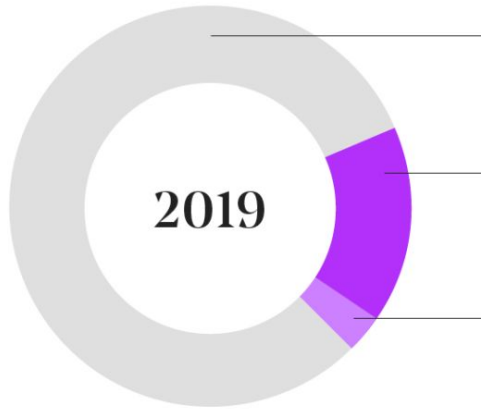
24K+

People returned home

💰 NY spends **\$315+** per day per incarcerated person

⚖️ Reduces **disproportionate impact** on low-income communities

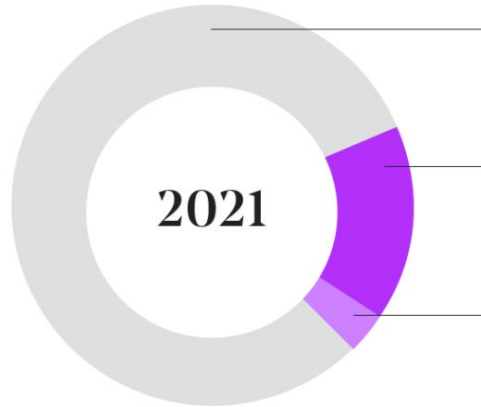
— Vera Institute of Justice & Brennan Center



81.0%
PERCENTAGE OF PEOPLE
RELEASED & NOT RE-ARRESTED

19.0%
PERCENTAGE OF PEOPLE
RELEASED & RE-ARRESTED

3.1% (subset)
PERCENTAGE OF PEOPLE
RELEASED & RE-ARRESTED
FOR VIOLENT FELONY



80.9%
PERCENTAGE OF PEOPLE
RELEASED & NOT RE-ARRESTED

19.1%
PERCENTAGE OF PEOPLE
RELEASED & RE-ARRESTED

3.6% (subset)
PERCENTAGE OF PEOPLE
RELEASED & RE-ARRESTED
FOR VIOLENT FELONY

Re-Arrest Data Summary:

- **2019:**
 - 81.0% released and not re-arrested.
 - 19.0% released and re-arrested.
 - 3.1% (subset) re-arrested for violent felony.
- **2021:**
 - 80.9% released and not re-arrested.
 - 19.1% released and re-arrested.
 - 3.6% (subset) re-arrested for violent felony.

Opposing Views

⚠ Critique of High-Profile Cases

👤 **Kalief Browder** held due to probation violation, not inability to post bail

⚖ Impact on Daily Life

🛒 Retailers **lock up basics** like ice cream and toothpaste

🚇 **22%** feel safe on subway at night (same as 2023, down from 46% in 2017) per CBC

💰 **\$4.4B** Retail losses in 2023

❗ **Opposition claims recidivism data is faulty — low clearance rates may hide repeat offenders**

📊 **61%** of major crimes go unsolved (Ostadan and Lane)

20%

Murder unsolved

56%

Rape unsolved

84%

Car theft unsolved





Results



[Video of theft](#)

Bail Reform: Good or Bad for New York State?			
	Apr 2019	Jan 2020	Mar 2022
All Voters			
Good for NY	55%	37%	30%
Bad for NY	38	49	56
Democrats			
Good for NY	64	53	46
Bad for NY	31	34	38
Republicans			
Good for NY	34	15	9
Bad for NY	55	78	84
Independents/ Others			
Good for NY	60	29	25
Bad for NY	38	56	61

Nuanced Views

-  Support core goals but call for **refinements**
-  Better **risk assessments** for high-risk cases
-  **Implementation challenges** acknowledged
-  Urban voters show **more division**



Key Takeaways



Reform addresses **wealth-based injustices**



Multiple **amendments** due to safety debates



Polarized views between equity and safety



Targeted adjustments could bridge divides

Balancing justice reform with community safety



DISCUSSION

