



NEW YORK STATE SENATOR

Patrick M. Gallivan

Senators Sound the Alarm on Dangerous Bail Reform Law

JIM RANNEY November 7, 2019

| ISSUE: **BAIL REFORM, CRIMINAL JUSTICE, PUBLIC SAFETY**



With New York State's sweeping bail reform measures poised to take effect in less than two months, Senator Patrick M. Gallivan (R-C-I, Elma) and Senator Sue Serino (R-C-I, Hyde Park) are sounding the alarm and urging legislative leaders to take action before the changes jeopardize public safety. Flanked by members of the law enforcement community and experienced victim advocates, the lawmakers today announced the introduction of legislation that would build on the Victims Justice Agenda and give law enforcement the tools they need to keep perpetrators off our streets and away from their victims.

“As a former New York State Trooper and Sheriff of Erie County, I am concerned about recent changes to our criminal justice system,” Senator Gallivan said. “When laws are changed, we must never lose sight of the innocent victims of crime or the rights of law-abiding citizens. Judges must have the discretion to set bail when it is necessary to help protect victims and ensure the safety of our communities.”

“In the rush to reform, the voices of those who work on the front lines to keep our communities safe were drowned out and as a result, the bail reform measures will leave too many New Yorkers vulnerable come January 1,” Senator Serino said. “This is especially true when it comes to victims of domestic violence who will undoubtedly feel the dangerous impacts of these changes first-hand. With lives on the line, I am urging my colleagues to heed the warnings of these experts, do what is right and act on these measures immediately.”

The so-called “criminal justice reforms,” eliminate cash bail and pre-trial detention for most offenses and will result in the mandatory release of 90% of perpetrators arrested, regardless of criminal history. Many fear these ‘reforms’ will have dangerous unintended consequences that will jeopardize the safety of victims, particularly in cases of domestic violence, where victims are at especially high risk of re-victimization.

When the new bail reform measures take effect on January 1, 2020, judges will only have the power to set bail if they determine that a defendant is a flight risk. A defendant’s criminal history, or the fact that they may pose a clear physical threat to another person, cannot be considered, creating a system in which a violent offender is likely sent back into the community, unsupervised and able to come into contact with their victim, the victim’s loved ones, and others.

The bills introduced today aim to specifically address these serious concerns. The first bill would expressly allow judges to consider a perpetrators’ dangerousness when determining

whether a defendant should be held pre-trial. New York will be one of only four states that do not allow judges to consider the dangerousness of a defendant when setting a securing order.

The second bill would ensure that each crime under the aggravated family offense statute—domestic violence and sex crimes—would qualify for bail and pre-trial detention. When the new bail reform measures take effect on January 1, 2020, several of these particularly heinous crimes will no longer qualify for bail and pre-trial detention leaving these victims particularly vulnerable.

Leah Feldman, Vice President for Community Programs at Family Services, Inc., said, "Domestic violence is a pattern of power and control which escalates overtime. Leading research indicates that for every intimate partner homicide, there is an average of nine non-lethal assaults. This allows an opportunity for the system to intervene and interrupt the cycle of escalating violence. The pre-trial phase, is known to be the most dangerous time for a victim of domestic violence. This is the time that a victim is most likely to be killed. If the criminal justice system prioritizes safety, this is also the time where a victim can connect with service providers, increasing their likelihood of finding independence and safety. Without consideration of the unique risks that a domestic violence offender poses to their partner, children and community, bail reform will result in increased danger and heightened risk of homicide for domestic violence victims."

Branka Bryan, Executive Director of the Grace Smith House, said, "Progressive changes to bail reform should not and cannot come at the expense of victim safety. Real lives are on the line and I urge our legislative leaders to take the action necessary to protect and empower the victims we fight so hard for."

Diandria Williams, Executive Director of the Hudson Valley House of Hope, said, “These bail reform measures are putting the lives of domestic violence survivors, and their loved ones, in jeopardy. The impact of these reforms have the potential to overwhelm our already struggling shelter system and will only further erode victims’ trust in the criminal justice system. I passionately urge Albany’s legislative leaders to take action on these bills being introduced today before it’s too late.”

Orange County District Attorney David Hoovler, President, District Attorneys Association of the State of New York, said, "As we move forward and enter a new world of criminal justice in New York State, we must make sure we prioritize the needs of victims and witnesses who are truly the heart of the criminal justice system. Victims of domestic violence are among the most vulnerable members of our communities and deserve to be treated with dignity and care, but most of all deserve a sense of safety."

Sheriff Craig DuMond, Delaware County Sheriff, said, “Today’s proposals are necessary first steps in remedying some of the most troubling parts of the soon to be enacted bail reform statute. But many similar amendments will be needed if we wish for New York State to remain one of the safest large states in the nation. It is the hope of Sheriffs that this legislation, and other legislation like it, is given serious consideration by the legislature.”

Dutchess District Attorney William Grady, said, “The proposals put forth today are extremely important to create some balance for victims' rights. Nowhere is this more important than in the area of domestic violence where the victim is at heightened risk immediately after an arrest. It is also important that all victims and witnesses not be put at risk by a defendant who poses a danger to them. This proposed legislation would help to remedy these problems created by the new law. I express my sincere gratitude to Senators Serino and Gallivan for their dedicated work to keep crime victims safe.”

Rensselaer County District Attorney, Mary Pat Donnelly, said, “The reforms set to take effect in January are intended to protect the rights of the accused in order to promote justice for all New Yorkers. However, that protection needs to be balanced with the authority to ensure public safety and the safety of innocent crime victims. Today’s proposals do just that.”

East Fishkill Police Department Chief of Police, Matt Orsino said, “Law enforcement, not only in Dutchess County, but in New York State are trained to be cognizant and respectful of a criminal defendant’s Constitutional rights. In saying this however, a victim of that criminal defendant particularly in domestic violence cases should never have their own rights infringed upon and should be protected to the fullest extent possible until a case has been adjudicated. This legislation introduced by Senators Serino and Gallivan goes a long way towards keeping crime victims safer.”

The bills will be introduced later today and the lawmakers are actively seeking sponsors in the Assembly.

2019-S6839

- Introduced
- - In Committee Assembly
 - In Committee Senate
- - On Floor Calendar Assembly
 - On Floor Calendar Senate
- - Passed Assembly
 - Passed Senate
- Delivered to Governor
- Signed By Governor
-

Relates to adding certain offenses committed by a family member to the list of crimes qualifying for bail

November 08, 2019

In Senate Committee [Codes](#)

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Do you support this bill?

2019-S6840

- Introduced
- - In Committee Assembly
 - In Committee Senate
- - On Floor Calendar Assembly
 - On Floor Calendar Senate
- - Passed Assembly
 - Passed Senate
- Delivered to Governor
- Signed By Governor
-

Relates to setting bail for defendants that pose a current physical threat to public safety

November 08, 2019

In Senate Committee [Codes](#)

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Do you support this bill?