



NEW YORK STATE SENATOR

Pete Harckham

Bail Reform Changes Included in New Budget

PETE HARCKHAM April 6, 2020

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South Salem, NY –Bail reform changes approved in the recently passed 2020-2021 New York State Budget were first included in legislation that State Senator Pete Harckham co-sponsored last year.

The new budget includes an amendment to the bail reform law that expands the existing list of bail eligible or qualifying offenses. The list of newly added bail eligible offenses was part of the legislation Harckham co-sponsored in June 2019, which was intended to protect public

safety while still maintaining the progress achieved through state's historic criminal justice reform package in last year's budget.

"The need to protect the safety of our residents is always a top priority, and the changes to bail reform will strengthen the law substantially in this regard," said Harckham. "By tightening some loopholes, we made sure that repeat offenders and violence-prone individuals are not afforded automatic release. At the same time, we upheld reforms that are putting an end to the discriminatory inequities that have tarnished our criminal justice system and caused harm to countless individuals."

The bail reform amendment includes these newly added bail eligible felony offenses:

Criminal Possession of a Controlled Substance in the 1st degree

Criminal Sale of a Controlled Substance in the 1st degree

Hate Crime Assault in the 3rd degree, and Hate Crime Arson in the 3rd degree

Sex Trafficking, and Sex Trafficking of a child

Burglary in the 2nd degree (only when an individual is charged with entering the living space of another)

Certain Domestic Violence offenses (Criminal Obstruction of Breathing or Blood Circulation, Strangulation in the 2nd degree, Unlawful Imprisonment in the 1st degree)

Aggravated Vehicular Assault in the 1st degree

Grand Larceny in the 1st degree

Aggravated Assault on a child younger than 11

Endangering the Welfare of a Child when committed by a Level 3 Sex Offender

Money Laundering in Support of Terrorism in the 3rd and 4th degree

Promoting an Obscene Sexual Performance by a Child

In terms of repeat offenders, the amended law allows individuals who commit a new felony or an A misdemeanor level offense while out on release for another felony or an A misdemeanor offense to have bail set on their second crime when both crimes involved harm to a person or property.

Also included in the bail reform changes are expanded reporting requirements to allow for a more comprehensive review of the efficacy of the new law, and a more thorough analysis of racial bias within the criminal justice system.

Another significant change included in the budget in terms of criminal justice reform are amendments to the new criminal discovery law, which were based on the main concerns raised by law enforcement officials. Instead of prosecutors needing to turn evidence over to defendants within 15 days of arrest, now prosecutors have 20 to 35 days to do so. The amended law also provides \$40 million to help district attorneys and court officials to update their computer technology and employ additional staff members to meet the discovery requirements.

“I’d like to thank all of the stakeholders that met with me, both in Albany and in the 40th Senate District, who sought necessary changes to the bail reform law,” said Harckham. “This collaborative process recognized that each step forward strengthens our communities for the challenges ahead, while protecting the rights of those disproportionately impacted by the old bail and discovery systems. It was imperative that I got information from professionals on the ground and not pay attention to the disinformation circulated in the

tabloids and on social media.”