

STATE OF NEW YORK

4317

2023-2024 Regular Sessions

IN SENATE

February 7, 2023

Introduced by Sen. LANZA -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

AN ACT to establish a temporary blue ribbon commission to study bail and the bail industry; and providing for the repeal of such provisions upon expiration thereof

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

- 1 Section 1. 1. Establishment. There is hereby established the blue
2 ribbon commission on bail to examine, evaluate, and make recommendations
3 on the application of bail in the criminal justice system of the state.
4 2. Powers and duties. Such commission shall examine issues relating to
5 bail including, but not limited to:
6 a. Administration. (1) Determining the viability of allowing private
7 citizens and bail agents to post bail bonds for any case in a county or
8 borough while the arraignment parts are open, including the ability to
9 post a bail bond at night and on the weekends in the arraignment parts;
10 (2) Allowing bail bond agents to post bail bonds at correctional
11 facilities twenty-four hours a day in all counties;
12 (3) Allowing electronic transmittal of release orders to jails;
13 (4) Allowing court issued release orders to be listed by docket number
14 only; and
15 (5) Issuing state identification to qualified bail bond agents and
16 staff.
17 b. Arraignments. (1) Examining data regarding the number of individ-
18 uals arraigned on violations, misdemeanors and felonies, broken down by
19 county or borough on a monthly basis over the latest two-year period for
20 which the data is available. Such data shall include a breakdown of the
21 statistics described in subdivision a of this section, regarding the
22 number of cases:
23 (a) dismissed at arraignment;
24 (b) pled at arraignment;

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 (c) released without bail, including but not limited to individuals
2 released on their own recognizance, supervised releases, conditional
3 releases to probation or other conditional releases;

4 (d) in which bail was set, including the bail amounts and the types of
5 crimes charged;

6 (e) whether defendants had holds; and

7 (f) whether bail was paid at arraignment;

8 (2) The number of cases in subparagraph one of this paragraph that
9 were disposed of on the next court appearance and the type of disposi-
10 tion;

11 (3) A breakdown by ethnicity of the individuals in cases listed in
12 subparagraphs one and two of this paragraph;

13 (4) A breakdown by economic status of the individuals in the cases
14 listed in subparagraphs one and two of this paragraph and how such
15 arrestee's economic status was determined based on an interview
16 performed by a criminal justice agency;

17 (5) The number of cases in subparagraphs one and two of this paragraph
18 in which bail was set using a form of bail other than cash and surety
19 bond;

20 (6) Warrant and return on warrant rates for individual arrestees list-
21 ed in subparagraphs one and two of this paragraph, broken down by the
22 type of securing order and level of crime; and

23 (7) Re-arrest rates for individual arrestees listed in subparagraphs
24 one and two of this paragraph, broken down by type of securing order,
25 amount of securing order and level of crime.

26 c. Charitable bail. Determining and examining data regarding how an
27 arrestee's indigence is determined when being considered for charitable
28 bail, including:

29 (1) How charitable bail organizations obtain clients;

30 (2) How resources are used to obtain background information on poten-
31 tial clients to make a proper determination about whether to use chari-
32 table bail;

33 (3) Failure to appear rates for individuals released on charitable
34 bail guarantees and, if applicable, number of returns on failure to
35 appear warrants; and

36 (4) Charitable bail organizations, including such information relating
37 to:

38 (a) funding sources;

39 (b) expenditures for administration;

40 (c) expenditures for actual bail;

41 (d) expenditures for lobbying;

42 (e) expenditures for forfeitures;

43 (f) expenditures for staff salaries; and

44 (g) how charitable bail organizations adhere to section 6805 of the
45 insurance law by which they are provided licensure.

46 d. Failure to appear. (1) Determining and examining data regarding the
47 number of failures to appear reconciled against the number of individ-
48 uals arraigned during a specific, defined period; and

49 (2) The attending costs of failure to appear, including but not limit-
50 ed to:

51 (a) expenditures related to the re-arrest of absconders; and

52 (b) municipalities' costs to replace police personnel in court.

53 e. Jail populations. Determining and examining data regarding method-
54 ologies used to determine the population of inmates and economic status
55 of a defendant held on bail. Such methodologies shall include:

1 (1) The ethnic breakdown of individuals held in jail on bail and of
2 those claiming to be indigent;

3 (2) A statistical breakdown of the number of defendants in jail broken
4 down by the type of securing order on which they are held, including
5 remands and sentenced prisoners;

6 (3) The number of defendants who have release holds other than bail
7 and the type of restriction; and

8 (4) The amount of time defendants spent in jail from arraignment to
9 release from custody, for the following reasons:

10 (a) bail posted;

11 (b) case dismissed;

12 (c) guilty plea;

13 (d) release without bail;

14 (e) remand or transport to other entity; and

15 (f) sentence imposed.

16 f. Pretrial release programs. (1) Examining data on current statewide
17 pretrial release numbers broken down by type of crime charged, includ-
18 ing, violations, misdemeanors, and violent and non-violent felonies.
19 Such pretrial release information shall include:

20 (a) securing order status;

21 (b) failure to appear rates;

22 (c) re-arrests and type of arrest; and

23 (d) disposition of the case, including the original charge;

24 (2) For each pretrial services program, an annual report describing
25 the rates of failures to appear, new crimes being committed while
26 released under pretrial supervision, and the total annual cost of the
27 pretrial services program within the jurisdiction;

28 (3) Statistics describing pretrial services programs' policies,
29 including:

30 (a) the methodology to determine indigence;

31 (b) listing of all fees charged for services provided to defendants;
32 and

33 (c) detailed listings of the total fees collected, by fee category;

34 (4) Effect on pretrial remand rates in states or jurisdictions that
35 have enacted bail reforms, implemented pretrial supervision programs, or
36 employed release algorithms;

37 (5) Statistics providing the total population of jails in this state
38 for the last five years, including:

39 (a) the total percentage of the jail population that is in pretrial
40 status;

41 (b) the percentage of those in pretrial status that are not bailable
42 and breakdown of the reasons such persons are not bailable; and

43 (c) the percentage of those who could post bail by posting a bond
44 which have not posted a bond, with a listing of the amounts of the bonds
45 pursuant to which such persons are being held;

46 (6) Effect on pretrial crime rates in states or jurisdictions that
47 have enacted bail reforms, implemented pretrial supervision programs, or
48 employed release algorithms;

49 (7) Drug overdose rates before and after implementation of reforms in
50 states or jurisdictions that have enacted automatic non-monetary release
51 for non-violent misdemeanor crimes; and

52 (8) Cost analysis to determine:

53 (a) startup and annual operating costs of pretrial supervision
54 programs;

55 (b) implementation and annual operating costs of pre-arraignment
56 screening programs;

1 (c) increase in funding to law enforcement to counter increased
2 warrants and crime rates;

3 (d) cost to court system for extra staff and hours required for new
4 programs and related hearings;

5 (e) loss of tax revenue and licensing fees from bail bond industry;

6 (f) indirect costs of reforms, pension costs for supervision programs,
7 court officers and police, costs resulting from increased failure to
8 appear rates and recidivism; and

9 (g) determination of whether the state or local municipalities will
10 bear the total cost of reforms, and the cost to the taxpayer.

11 3. Membership. a. Such commission shall consist of thirteen members
12 who shall serve a term of two years and shall be appointed as follows:
13 five members to be appointed by the governor, of which one member shall
14 serve as chair of the commission, one member shall be a representative
15 of the charitable bail organizations chartered in this state, and one
16 member shall be a representative of the commercial bail industry
17 licensed in this state; three members to be appointed by the temporary
18 president of the senate, of which one member shall be a representative
19 of the charitable bail organizations chartered in this state and one
20 member shall be a representative of the commercial bail industry
21 licensed in this state; three members shall be appointed by the speaker
22 of the assembly, of which one member shall be a representative of the
23 charitable bail organizations chartered in this state and one member
24 shall be a representative of the commercial bail industry licensed in
25 this state; one member shall be appointed by the minority leader of the
26 senate; and one member shall be appointed by the minority leader of the
27 assembly.

28 b. In addition to these voting members, the commission shall have six
29 non-voting, ex officio members. The following government agencies or
30 officials shall appoint one ex officio member each: the attorney gener-
31 al, the chief judge of the state, the executive director of the division
32 of criminal justice services, the commissioner of corrections and commu-
33 nity supervision, the state comptroller, and the superintendent of the
34 state police.

35 4. Meetings. The commission shall meet at least six times. The meet-
36 ings of the commission shall be held at the call of the chair or whenev-
37 er five or more members so request. The locations of the meetings shall
38 provide for representation of different geographic areas of the state.
39 The first meeting shall be within ninety days of the effective date of
40 this act. A majority of the members of the commission shall constitute a
41 quorum. Approval of any matter shall require the affirmative vote of a
42 majority of the members voting thereon. Members may designate and
43 authorize another person to act for him or her by proxy. Proxies shall
44 be revocable at the discretion of the member executing it.

45 5. Proceedings. The deliberations, meetings and other proceedings of
46 the commission and any committee thereof shall be governed by article 7
47 of the public officers law. Any one or more members may participate in a
48 meeting by means of a conference telephone call, conference video call
49 or similar communications equipment allowing all persons participating
50 in the meeting to hear each other at the same time. Participation by
51 such means shall constitute presence in person at a meeting. At any
52 meetings of the commission conducted by means of a conference telephone
53 call, conference video call or similar communications equipment, other
54 than executive sessions, the public shall be given an opportunity to
55 listen. If a meeting other than an executive session is to be conducted
56 by means of a conference telephone call, conference video call or simi-

1 lar communications equipment, the public notice for the meeting shall
2 inform the public that such equipment will be used, and identify the
3 means by which the public may listen to such meeting.

4 6. Advisory committees. The commission may form such advisory commit-
5 tees as it deems necessary, convenient, or desirable to advise and
6 assist in performing the duties conferred by this act.

7 7. Hearings. The commission shall hold at least four public hearings
8 where members of the public shall be provided an opportunity to present
9 oral and/or written testimony relevant to the commission's study. Prior
10 to the public hearings, the commission shall request from, review, and
11 consider written input with respect to its mission from relevant stake-
12 holder organizations, including, but not limited to: Brooklyn Community
13 Bail Fund, Conference of Mayors, Correction Officers' Benevolent Associ-
14 ation, District Attorneys Association of the State of New York, New York
15 State Association of Counties, New York State Association of PBAs, New
16 York State Bail Bondsman Association, New York State Correction Officers
17 and Police Benevolent Association, New York State Court Clerks Associ-
18 ation, New York State Magistrates Association, Patrolmen's Benevolent
19 Association of the city of New York, Police Conference of New York, The
20 Association of Towns of the State of New York, and The Bronx Freedom
21 Fund.

22 8. Reimbursement. The members of the commission shall receive no
23 compensation for their services, but shall be allowed the actual and
24 necessary expenses incurred in the performance of their duties pursuant
25 to this act. Such reimbursements shall be disbursed from the general
26 fund.

27 9. Report. The commission shall issue an interim report to the gover-
28 nor and the legislature of its findings, conclusions and recommendations
29 one year after the effective date of this act. A final report shall be
30 issued to the governor and legislature two years after the effective
31 date of this act including further findings, conclusions, and recommen-
32 dations by the commission and legislative proposals as it deems neces-
33 sary to implement such recommendations.

34 § 2. This act shall take effect January 1, 2024, and shall expire and
35 be deemed repealed two years after it shall have become a law. Effective
36 immediately, the addition, amendment and/or repeal of any rule or regu-
37 lation necessary for the implementation of this act on its effective
38 date are authorized to be made and completed on or before such effective
39 date.