



Legislation Text

File #: Res 1486-2017, **Version:** *

Res. No. 1486

Resolution calling on the State Legislature to pass and for the Governor to sign A.5033/S.3579, in relation to reforming the State's bail system

By Council Members Rosenthal and Constantinides

Whereas, The United States Department of Justice stated in 2016 that the United States Constitution prohibits “bail or bond practices that cause indigent defendants to remain incarcerated solely because they cannot afford to pay for their release;” and

Whereas, The American Bar Association has promulgated national standards for pretrial detention that eliminate the use of commercial bail bonds, create a presumption of release on personal recognizance, encourage the use of “non-financial conditions of release,” and permit “release on financial conditions only when no other conditions will ensure appearance;” and

Whereas, The National Association of Pretrial Service Agencies has also called for the abolition of commercial bail bonds, a presumption of release on personal recognizance, and the use of financial conditions “only when no other conditions will reasonably assure the defendant’s appearance;” and

Whereas, Both the New York City Criminal Justice Agency and the New York City Bar Association have called for the abolition of commercial bail bonds; and

Whereas, Extensive studies of the use of bail have found little to no meaningful distinction in return rates between those released with bail and those released on personal recognizance, and no meaningful distinction in return rates between varying amounts of bail; and

Whereas, Jurisdictions such as Washington D.C., etc. have successfully abolished the use of any form of monetary bail; and

Whereas, New York City has instituted a program that replaces monetary bail with a supervised release program based on a scientifically validated risk assessment tool, which has diverted thousands of criminal defendants from pretrial detention while simultaneously demonstrating a higher rate of return to court than those released without this form of release, and without any meaningful impact on public safety; and

Whereas, However, New York state's bail statutes continue to permit the use of commercial bail bondsmen and the use of cash bail, and contain no presumption of release on personal recognizance; and

Whereas, Furthermore, the judiciary in New York City continues to rely almost exclusively on commercial bail bonds and cash bail; and

Whereas, Based on these laws and practices, New York's current bail system unjustly and unconstitutionally incarcerates criminal defendants, who are entitled to a presumption of innocence, solely because they are too poor to afford monetary bail; and

Whereas, To address these fundamental statutory issues, A.5033/S.3579 proposes to abolish the use of monetary bail, and instead utilize a robust system of pretrial services to replace cash bail and commercial bail bonds; and

Whereas, Consistently with the recommendations of the American Bar Association and the National Association of Pretrial Service Agencies, A.5033/S.3579 would also create a presumption of release on recognize; and

Whereas, For those cases in which no method of release would be sufficient to ensure a defendant's appearance in court, A.5033/S.3579 would permit judges to remand defendants; and

Whereas, A.5033/S.3579 would bring New York State's bail statutes in line with constitutional standards and national best practices; now, therefore, be it

Resolved, That the Council of the City of New York calls on the State Legislature to pass and the Governor to sign A.5033/S.3579, in relation to reforming the State's bail system.

BC
5/15/17