

Bail Reform at Five Years

Major Questions & Answers

Michael Rempel, Olive Lu, and Sarah Monaghan

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Introduction

In January 2020, New York's landmark bail reform law went into effect. The report, [Bail Reform at Five Years: Pretrial Decision-Making in New York State](#), examines the law's impact on: **(A)** Rates of release on recognizance, supervised release, bail, and pretrial detention; **(B)** Affordability of bail when it is set; and **(C)** Racial and ethnic disparities in pretrial outcomes. The report also examines: **(D)** Effects of three rounds of amendments, respectively put into effect in mid-2020, 2022, and 2023. Drawing on court data from 2018 to 2024, the report breaks down all results for each *charge severity* (violent felonies, nonviolent felonies, and misdemeanors) and New York's *three major regions* (NYC, Suburban NYC, and Upstate).

The report's **concluding chapter** provides a two-page summary of major themes and findings. For the benefit of policymakers and practitioners, this document replaces a traditional executive summary and offers questions and answers about the report's central takeaways.

A) Impact on Pretrial Decision-Making at Arraignment

1. Did bail reform reduce the use of bail and pretrial detention? *Yes.*

What did the law require? Bail reform precluded judges from setting monetary bail or detaining people in most misdemeanor and nonviolent felony cases.

What did the study find? Most cases arraigned in 2024 were ineligible for bail; judges only had the legal option to set bail in **34%** of the cases in New York City, **21%** in Suburban NYC, and **32%** in Upstate. In turn, statewide rates of setting bail or remanding people directly to jail dropped substantially from 2019 to 2024: from **14%** to **4%** for misdemeanors, **50%** to **26%** for nonviolent felonies, and **69%** to **50%** for violent felonies. The largest overall declines took place among *nonviolent felonies*, with rates of bail or remand in these cases dropping by **16** percentage points in NYC, **45** points in Suburban NYC, and **21** points in Upstate. Cumulatively from 2020 to 2024, we estimated that almost **90,000** fewer cases were detained before trial than if bail practices seen in 2019 had continued.

2. *Could bail reform explain why bail-setting declined for violent felonies? Yes.*

What did the law require? Several legal provisions were intended to limit bail-setting in *all* cases, including violent felonies, virtually all of which remained legally eligible for bail. These provisions included making *supervised release* a legal option in all cases; making *electronic monitoring* an option for all felonies and select misdemeanors; and limiting pretrial conditions to cases posing a demonstrable *risk of flight*.

What did the study find? Bail-setting reductions found among violent felonies (see above) dovetailed with judges increasingly ordering non-monetary conditions, especially *supervised release*. From 2019 to 2024, non-monetary conditions increased from **2%** to **34%** of violent felonies in NYC, **4%** to **22%** in Suburban NYC, **3%** to **13%** in Upstate, and **3%** to **28%** statewide.

Concurrently, reliance on non-monetary conditions also increased among misdemeanors (**3%** to **14%** statewide) and nonviolent felonies (**8%** to **28%** statewide).

While greater uptake of non-monetary conditions led overall release rates to increase from 2019 to 2024, rates of *release on recognizance (ROR)* remained remarkably low in violent felony cases—and declined by **11** percentage points in New York City. In 2024, judges set ROR in only **25%** of violent felony cases in NYC, **21%** in Suburban NYC, and **9%** in Upstate. Combining this report's findings with empirical evidence from [other recent studies](#), available data suggests that the reform provision requiring ROR except when credible evidence points to a “risk of flight” may not have been strictly implemented. For example, [prior research](#) indicates that over 85% of people charged with violent felonies across all State regions attend every single court date when they are released, suggesting that a flight risk exists in only a small fraction of the cases.

B) Impact on Affordability of Bail

3. *Did bail reform result in lower bail amounts and a greater ability to post bail? No.*

What did the law require? When contemplating bail, bail reform required judges to “consider and take into account” people’s “individual financial circumstances” and “ability to post bail without posing undue hardship.”

What did the study find? Echoing other [recent research](#), bail amounts *increased* from 2019 to 2024 and, correspondingly, *fewer* people could post bail and avoid pretrial detention. Statewide, median cash bail amounts increased from **\$500** to **\$2,500** for misdemeanors, **\$5,000** to **\$10,000** for nonviolent felonies, and **\$10,000** to **\$15,000** for violent felonies; and bail posting rates declined from **21%** to **9%** at arraignment and from **36%** to **19%** within five days of arraignment. Trends and resulting outcomes varied little by region or charge severity.

4. *Did bail reform increase bail posting rates by promoting “alternative” payment methods? No.*

What did the law require? Traditionally, judges tended to permit people to post bail only by paying *cash* or securing bail money from a for-profit *bail bond company*, which charges non-refundable fees that bail payers can never recover. Bail reform directed judges to allow people

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to post bail via either a *partially secured bond (PSB)*, which involves upfront payment of 10% or less of the total amount, or an *unsecured bond (USB)*, which involves no upfront payment. (People are responsible for the balance of the individual absconds.) The reform also directed judges to take into account whether people have the financial ability to post bail via one of these bonds or via a *secured bond*, which involves putting up property.

What did the study find? Bail posting rates declined rather than increased since 2019 (see above). Extending [prior research](#), *judicial practices may have contributed to PSBs and USBs not serving as an affordable payment option in the vast majority of the cases.* In 2024, judges offered payment via a USB in merely **0.1%** of bail cases. While consistently offering a PSB, judges set PSB totals an average of **5.8** times higher than cash (with regional variations), a practice that substantially drove up the cost of the required 10% upfront payment that PSBs entail. Among 2024 cases where people successfully posted bail, only **48%** posted via a PSB or USB in NYC, a fraction that plummeted to merely **3%** in Suburban NYC and **5%** in Upstate. Thus, especially outside NYC, people still predominantly relied on paying cash or obtaining bail money from a for-profit bail bond company.

Further limiting people's options for posting bail under reform, judges permitted payment via a *credit card* in only **4%** of bail cases and payment via a *secured bond* in only **6%** (though Upstate judges permitted payment via a secured bond in **21%**).

C) Impact on Racial and Ethnic Disparities

5. Did bail reform reduce disparities in pretrial decisions and bail payment outcomes? *It depends.*

What did the law require? While reducing racial disparities was an explicit goal of bail reform, the law did not include provisions requiring race-specific bail-setting reductions.

What did the study find? The Black-white disparity in rates at which judges set bail or remand narrowed modestly across all bail-eligible cases, post-reform, though there were no changes to the Hispanic-white disparity. When isolating violent felony cases, Black-white and Hispanic-white disparities in judges' rates of setting bail or remand increased in Suburban NYC, while remaining nearly the same in NYC and Upstate. In 2024, Black and Hispanic people faced bail or remand in violent felony cases at rates **10** and **9** percentage points higher than white people in NYC; **12** and **10** percentage points higher, respectively, in Suburban NYC; and **7** and **4** percentage points higher, respectively, in Upstate. ***Importantly, prior [statewide research](#) and [research in NYC](#) has consistently found that people's likelihood of attending court does not vary based on their race or ethnicity.***

Varying by region, racial disparities in bail payment rates generally remained about the same or declined from 2019 to 2024. Yet all racial/ethnic groups experienced the same trend of posting bail at lower rates in 2024—highlighting an uptick in the degree to which instances of continued bail-setting in New York State result in pretrial detention across-the-board.

D) Impact of the Three Rounds of Amendments on Pretrial Outcomes

6. *Did the 2020 amendments increase bail-setting and pretrial detention? Yes.*

What did the law require? Put into effect July 2, 2020, the 2020 amendments made more charges eligible for bail and established the so-called "harm-harm" provision that made people bail eligible if they were alleged to have caused "harm to an identifiable person or property."

What did the study find? In 2024, **26%** of bail-eligible cases were made eligible under the 2020 amendments, and **18%** of cases actually detained before trial became bail eligible under these amendments (**18%** in NYC and Suburban NYC and **19%** in Upstate). The full report breaks down which specific provisions of the 2020 amendments led to larger or smaller bail-setting increases.

7. *Did the 2022 amendments increase bail-setting and pretrial detention? No.*

What did the law require? Put into effect May 9, 2022, the 2022 amendments made two infrequently charged nonviolent felony firearms offenses bail eligible and expanded the "harm-harm" provision, for instance by clarifying that petit larceny involves "harm to property" except when the alleged theft is "negligible" and unconnected to other criminal activity.

What did the study find? In 2024, only **0.1%** of cases detained before trial became bail eligible due to the 2022 amendments, pointing to a miniscule impact, at most.

8. *Did the 2023 amendments increase bail-setting and pretrial detention? No.*

What did the law require? Put into effect June 2, 2023, the explicit intent behind the 2023 amendments was to encourage judges to set bail more often. These amendments replaced a standard that judges must set the "least restrictive condition" in bail-eligible cases with a standard that judges must set the "degree of control or restriction necessary"—though this language tweak maintained the [same essential meaning](#).

What did the study find? The 2023 amendments led to no increase in bail or remand rates in any region; in fact, there was a slight but statistically significant *downtick* in bail or remand rates after these amendments went into effect. Another 2023 amendment that explicitly permitted judges to set bail plus a non-monetary condition led to no change in judges' low rate of doing so (varying slightly, not over time, but by region from **1%** to **3%** of bail-eligible cases).

For more information: Please see the [full report](#).