

**TESTIMONY OF MICHELLE ESQUENAZI  
NEW YORK STATE BAIL BONDSMAN ASSOCIATION CHAIRWOMAN**



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Esteemed panel members,

Enclosed please find a copy of the testimony of Michelle Esquenazi, delivered at the Joint Legislative Public Hearing on the FY2020 Executive Budget Proposal: Public Protection, on Tuesday, January 29, 2019.

Sources for statistics and estimates referenced by Mrs. Esquenazi are cited in the endnotes of the research documents submitted as addendums to this testimony.

Be advised that all source documents, research reports, analytical assessments, and publications prepared or used by the New York State Bail Bondsman Association are available in the following public directory:

[https://drive.google.com/open?id=1GMy0-CwZwtjEY9tEdmn4En6SkOyN\\_\\_Ea](https://drive.google.com/open?id=1GMy0-CwZwtjEY9tEdmn4En6SkOyN__Ea)

Additionally, should you require any additional documentation, or wish to discuss any of our research further, please contact NYSBBA vice chairman, Mr. Zalewski at any time.

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Thank you for your time and consideration.

Very respectfully,  
New York State Bail Bondsman Association

## **TESTIMONY OF MICHELLE ESQUENAZI NYS BAIL BONDSMAN ASSOCIATION**

Good Day Honorable Members of the NYS Senate,

My name is Michelle Esquenazi. I am the President of the New York State Bail Bondsman Association. As a business owner in New York State, I am troubled by the elimination of bail in the proposed legislation, and the impact it will have on all New Yorkers, especially crime victims.

I am a proud Cuban American woman, a Single Mom of four amazing children, one of which is biracial, and a domestic violence survivor. The members of our Association are the epitome of Minority and Women Owned Business Enterprises, by upwards of 50%.

The ability for mothers, fathers, and family members to remain an active part of their loved ones release back to their communities is overlooked in every proposed bill. These are your constituents, voters, and taxpayers; the backbone of New York State.

Removing the choice of surety bail is denying every such parent an active role in the liberty of their loved one. Governments role should be to examine this issue in the best interest of their constituents. Most citizens in your district communities have NO IDEA how the passing of these vastly unaccountable release initiatives will impact them directly. They also don't know that it is THEIR very own tax dollars that will fund criminal offender release.

When I met with Senator Breslin last week and brought up the issue of tax implication to the people of New York, he said "We're not looking at that"! Is that so? Is it not incumbent on each and every one of you to make EXCELLENT business policy decisions that will not overburden New Yorkers? People are fleeing this State in droves, and this dangerous initiative will be the catalyst for a continued mass exodus.

Not only does this legislation ignore the rights of victims, it actually tramples on the constitutional rights of the accused, the very people you are trying to help, by expanding the use of pretrial detention, and mandating the use of pre-arraignment risk assessments.

The proposed legislation allows a Judge to order, before trial, the detention of any defendant that the court determines poses a high risk of flight. The problem with this legislation is the method in which such a determination is made.

It mandates that every defendant be screened for releasability by a pretrial service agency, and that the agency may use a set of criteria, instrument, or tool to determine the defendants risk level. Clearly, this leaves the door open for the use of screening methodologies and algorithmic assessment tools that have been proven time and time again to be inherently racist.

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We all know that the criminal justice system in this country has a long history of being institutionally racist. Pretrial risk assessment tools make assessments based on historical data from that same flawed system. Assessment programs are only as infallible as the data used to create them. If the data input is drawn from a racist and unfair system, then how can we expect the determinations they make to be fair?

Perhaps that explains the bail reform disaster in Wisconsin, which began state-wide use of risk assessments in 2012, to address the fact that African-Americans made up 38% of the jail populace, despite accounting for only 6% of the state's overall population.

Despite mandating the use of risk assessments at each step in the criminal justice process, the number of African-American inmates in custody in Wisconsin has actually INCREASED by nearly 4% since 2012, and African-Americans went from making up 38% of all inmates, to 43% in that time.

Obviously, pretrial risk assessments, because they are based on decades of data from an inherently bias system, will serve only to intensify the problem of racial disparity in our jails.

I know in my heart that the members of this committee and the legislature as a whole have only the best interest of the people of the state of New York in mind. But as the saying goes, the road to hell is paved with good intentions. It is not enough for us make sweeping decisions based on what sounds good on the surface. I beg you, for the sake of our immigrant population, for the impoverished, for the working-class families, please scrutinize this legislation closely, and consider the potential long-term ramifications and unintended consequences.

Thank you.