

Rensselaer County District Attorney Mary Pat Donnelly Issues Statement Regarding Upcoming Criminal Justice Reforms

Effective January 1, 2020, changes to New York State Law will result in mandatory pretrial release of defendants without allowing a judge to consider risk of flight or threat to public safety.

The laws were attached to the State's budget bill, ironically however, there has been no funding allocated to support these new mandates.

As a result of these reforms, defendants charged with, among other things, residential burglary, almost all drug sale and possession offenses, some homicides, assaults resulting from drunk driving collisions, many weapons offenses, grand larceny, bribery involving public officials, and many charges involving child pornography, among other charges, will all be released from custody, without the court even being able to consider bail. Neither defendant's criminal record, nor his previous record of showing up at court appearances, can be taken into consideration. .

A non-exhaustive list of charges for which a defendant must be released from custody, without bail, after January 1, 2020, includes:

- Burglary in the second degree (residential burglary)
- Burglary in the third degree
- Robbery in the second degree (aided by another person)
- Robbery in the third degree
- Manslaughter in the second degree
- Criminally negligent homicide
- Aggravated vehicular homicide
- Vehicular manslaughter in the first and second degrees
- Assault in the third degree
- Aggravated vehicular assault
- Aggravated assault upon a person less than eleven years old
- Vehicular assault in the first and second degrees
- Criminal possession of a weapon on school grounds
- Criminal possession of a firearm
- Criminal possession of a weapon in the fourth degree
- Criminal sale of a firearm to a minor
- Criminal possession of a controlled substance in the first and second degrees
- Criminal sale of a controlled substance in the first and second degrees
- Criminal sale of a controlled substance in or near school grounds
- Use of a child to commit a controlled substance offense
- Criminal sale of a controlled substance to a child
- Patronizing a person for prostitution in a school zone
- Promoting an obscene sexual performance by a child
- Possessing an obscene sexual performance by a child
- Promoting a sexual performance by a child

- Failure to register as a sex offender
- Bribery in the first degree
- Bribe giving for public office
- Bribe receiving in the first degree
- Unlawful imprisonment in the first degree
- Coercion in the first degree
- Arson in the third and fourth degrees
- Grand larceny in the first, second, third, and fourth degrees
- Aggravated cruelty to animals, overdriving, torturing and injuring animals
- Failure to provide proper sustenance to animals
- Animal fighting
- Criminal solicitation in the first degree
- Criminal facilitation in the first degree
- Money laundering in support of terrorism in the third and fourth degrees
- Making a terroristic threat
- Obstructing governmental administration in the first and second degree
- Obstructing governmental administration by means of a self-defense spray device
- Promoting prison contraband in the first and second degrees
- Resisting arrest
- Hindering prosecution
- Tampering with a juror
- Tampering with physical evidence
- Aggravated harassment in the first degree
- Directing a laser at an aircraft in the first degree
- Enterprise corruption
- Money laundering in the first degree

Not only will a victim have to deal with the fact that the accused is at liberty in the community pending trial, but prosecutors will no longer be able to assure witnesses that their identity will be protected. Starting in January, all evidence must be turned over to the defense within 15 days. District Attorney Donnelly explained, “Every prosecutor knows the challenge involved in witness cooperation – they are scared and they look to law enforcement for protection. These laws prevent us from doing that.”

Even grand jury proceedings will no longer be secret as the District Attorney will also be required to turn over police reports and grand jury testimony to the defense within 15 days of indictment.

District Attorney Donnelly said, “These reforms will not promote justice in Rensselaer County. On the contrary, these laws put public safety at risk. I urge residents to reach out to your New York State legislators and let them know that you are concerned. Lawmakers need to take a second look to consider the real life implications of this legislation.”

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