

# #FREEnewyork

## GOVERNOR CUOMO'S CRIMINAL JUSTICE REFORM PACKAGE IS A STEP BACKWARDS FOR NEW YORK

On January 16th, Governor Cuomo introduced a criminal justice reform package as part of his Executive Budget Proposal, threatening a step backwards for New Yorkers. **JustLeadershipUSA** and the **#FREEnewyork** campaign demand a groundbreaking overhaul of our pretrial system of bail, discovery & speedy trial laws that will bring an end to New York's jail crisis. We **cannot support half-measures, nor incremental reforms**. Governor Cuomo has expressed commitment to enacting substantial, statewide criminal justice reform in the areas of bail, discovery and speedy trial, and our communities must hold him to his word.

**The Governor's proposals fall far short of the complete systems change that directly impacted communities need; change that will** dramatically reduce jailing, wealth- and race-based detention, and that will enforce the Constitutional rights to Due Process and a fair and speedy trial. **A bold, strategic, and holistic overhaul of the pretrial pillars of bail, discovery, and speedy trial** can and must be achieved in tandem as all three pillars work together to guarantee just trials and **protect against collateral consequences**.

**#FREEnewyork will continue to demand groundbreaking reform that will expand our communities' access to justice and freedom.** New Yorkers deserve a pretrial system that will:

1. Ensure that legally innocent New Yorkers have every opportunity, starting from the outset of their case, to protect their liberty and freedom and have a fair shot at justice
2. End money bail; people should not be locked up because they are experiencing poverty;
3. Ensure thorough and timely access to case evidence; people should not be left in the dark about their own case and
4. Protect speedy trial rights; people should not have their cases needlessly dragged out for months and years.

**The Governor's Criminal Justice Reform Package, if enacted, would:**

### GOVERNOR'S BAIL LAW PROPOSAL:

- Creates a presumption of detention for certain cases. This stands in direct contradiction to the presumption of innocence. Liberty must be the default;
- Whenever a prosecutor asks for preventive detention, the judge *must* detain the person without possibility of release for up to 5 days until a preventive detention hearing is held. This gives prosecutors unprecedented unchecked power and is likely to dramatically increase pretrial detention;
- Makes *all* re-arrests eligible for preventive detention. Under current law, a person charged with a misdemeanor cannot be preventively detained, even when the person is out on a misdemeanor and re-arrested on a new misdemeanor;
- Allows prosecutors to keep people in preventive detention indefinitely, in violation of existing speedy trial laws;
- Allows for the privatization of pretrial supervision and increases the threat of mass community surveillance via electronic monitoring, GPS monitoring, and pretrial "probation";

- Leaves open the possibility for individuals under pretrial-supervision to have to pay unlimited fees for these interventions if required.
- Fails to put an end to wealth-based detention or the indefinite detention of poor people, especially people of color;

### **GOVERNOR'S DISCOVERY LAW PROPOSAL:**

- Provides prosecutors an unprecedented statutory right to redact their discovery and hide it from people accused of crimes:
  - This would give prosecutors broad and unreviewable ability to redact names, address and any other information that serves to identify a witness;
  - Prosecutors would have the additional power to more broadly redact any information that could interfere with an ongoing investigation or case, putting the onus on the defense to challenge such redactions without having access to the underlying information;
- Allows prosecutors to never disclose the names and contact information for key witnesses to the case by not calling the witnesses at trial, perpetuating a cruel cycle of wrongful convictions;
- Allows prosecutors to withhold grand jury transcripts and other key evidence until 15 days before trial even when they could be disclosed far earlier;
- Allows prosecutors to withhold evidence before a guilty plea;
- Unconstitutionally requires people accused of crimes to turn over defense witness statements and other evidence before the prosecution is so required, in effect requiring a defendant to prove his or her own case before the prosecutor is required to share the evidence against that person;

### **GOVERNOR'S SPEEDY TRIAL LAW PROPOSAL:**

- Would eliminate speedy trial release for people being detained pretrial;
- Would not at all address underlying issues of court congestion and under-resourced courts;
- Does not fix the “speedy trial clock loophole” that allows prosecutors to say they are ready for trial out of court, stopping the clock for release or dismissal;
- Would allow prosecutors to say they are ready for trial even when they have not yet turned over key discovery to the defense;
- Would require that speedy trial motions be filed 20 days in advance of a trial date
  - This ends up reducing the time (by at least 20 days) that could be included in the overall speedy trial time calculation (and hence, fewer cases would qualify for speedy trial motions)

The #FREEnewyork campaign is led by JustLeadershipUSA in partnership with directly impacted people and more than 250 statewide organizations and faith leaders. #FREEnewyork is organizing to ensure that Governor Cuomo completely overhauls New York State’s pretrial justice system to reflect New Yorkers’ values and stop the harm caused to individuals, families, and communities, by the criminal justice system.

### **TO LEARN MORE**

**Katie Schaffer, New York Statewide Organizer [katie@justleadershipusa.org](mailto:katie@justleadershipusa.org) | 347-454-2195**

**VISIT:** [justleadershipusa.org/freenewyork](http://justleadershipusa.org/freenewyork)