This proposal would represent a drastic, regressive rollback of the current bail law and would be a significant step backwards from even the previous bail law. The combination of preventative detention (remand) and a substantial expansion of detention-eligible charges/circumstances would undermine the presumption of innocence, dramatically increase jail populations across the State, and exacerbate racial disparities. This proposal would also subject huge numbers of people charged with misdemeanors to remand without possibility of release, something that has never before been done in New York.

This is exactly why hundreds of organizations across the state are demanding NO ROLLBACKS, NO TWEAKS, NO CHANGES. Every part of this proposal is harmful in its own right, but taken together, this proposal would take New York State back decades in the fight for justice.

This proposal:

Eliminates cash bail entirely and replaces it with indefinite preventative detention (remand) with no possibility of release for most people, including people charged with misdemeanors, based on flight risk or a “dangerousness” assessment

- The bill repeals cash bail but greatly increases detention. Options available to judges are: release on own recognizance, release with non-monetary conditions, and remand (preventative detention). Individuals who are remanded have no avenue for release as the due process provisions are eviscerated.

Creates new standard for pretrial detention based on a so-called “dangerousness” assessment

- The bill broadens the standard for detention: “the least restrictive conditions that will reasonably assure the principal’s return to court or prevent the principal from committing a crime involving serious physical injury to another person based on the facts of the instant case.”
- This language asks judges to try to predict the future and invites implicit bias into our pretrial system: it allows judges to guess future “dangerousness.” This will undoubtedly lead to more racial disparities in our system.
- This would eviscerate the presumption of innocence and will greatly increase the number of presumptively innocent people who are subject to pretrial detention.
Dramatically expands pretrial detention eligibility (buckets)

- This bill greatly expands the eligibility for indefinite preventative detention to include many more charges that are currently not bail eligible. This will increase pretrial detention rates across the State.

Allows remand in misdemeanor cases for the first time in New York’s history

- The bill appears to create a new detention eligibility category for an undefined group of “persistent offenders.” A person can become eligible for remand whenever they are out on any felony case or a class A misdemeanor involving “harm to an identifiable person or property” and pick up a new felony or class A misdemeanor involving “harm to an identifiable person or property”. This provision is particularly problematic and subject to broad interpretation.
- This would make huge numbers of people charged with misdemeanors subject to remand for the first time ever.

Violates due process for people facing remand

- Prosecutors can move to detain people at arraignment pending a detention hearing with an evidentiary standard even lower than probable cause.
- Judges can pre-determine guilt by evaluating the “strength of the case” or “weight of the evidence.” This provision flouts the presumption of innocence.
- The defense is entitled to one subsequent hearing requesting release. After that, there must be “substantial change in circumstances.” This provision, again, is regressive and lowers the standard that was in the previous bail laws or by limiting opportunities for release.

Prioritizes for-profit industries over people

- Allows for-profit industry to supply electronic monitoring devices incentivizing the overuse of these devices for monetary gain. This will lead to mass e-carceration and exploitation of poor Black and Brown New Yorkers.
- The bill includes no oversight or transparency measures or privacy protections.