

# Inter-County Association of Western New York

*Representing the Counties of Allegany, Cattaraugus, Cayuga, Chautauqua, Chemung, Erie, Genesee, Livingston, Monroe, Niagara, Ontario, Orleans, Schuyler, Seneca, Steuben, Tompkins, Wayne, Wyoming, and Yates.*

## RESOLUTION NO. 2020-1-IC

### IMPLORING THE STATE OF NEW YORK TO IMMEDIATELY AMEND OR DELAY IMPLEMENTATION OF BAIL AND DISCOVERY REFORM LAWS THAT WILL ENDANGER THE PEOPLE OF NEW YORK AND REVERSE DECADES OF BIPARTISAN PROGRESS IN REDUCING CRIME

Offered by: the Inter-County Association of Western New York

**WHEREAS**, protecting the people from harm by enforcing the rule of law is the foundational role of government, and

**WHEREAS**, County governments are vested by the State of New York with the responsibility to protect the most vulnerable among us, including the socioeconomically disadvantaged, the disabled, the elderly, and children, and

**WHEREAS**, no group is more vulnerable than the victims of crime, and a just society demands that crime victims should be recognized as key participants within the criminal justice system and be treated with dignity, fairness, and respect, and,

**WHEREAS**, for the past twenty-five years the State of New York has committed itself to reducing crime, and has succeeded as evidenced by official U.S. Department of Justice Uniform Crime Reporting Statistics showing that New York transformed from the second most dangerous state in America in the early 1990s to the safest large state in America by the early 2000s, and

**WHEREAS**, in the final stages of adopting its FY 2020 budget, the State of New York enacted sweeping criminal justice reforms including the elimination of cash bail for many specific enumerated crimes and the imposition of stringent discovery mandates on police and prosecutors, and

**WHEREAS**, under bail reform, beginning January 1, 2020, judges will be stripped of their discretion to set bail for many specific enumerated crimes, which means those suspected of committing these crimes can no longer be held in jail after their arrest, regardless of the strength of the case against these defendants, or the length of the potential sentence faced by these defendants, or the extent of the harm allegedly caused by these defendants, and instead these defendants will be released back into the general public, and

**WHEREAS**, these crimes include those that result in the deaths of innocent people, including several subcategories of homicide and manslaughter, resulting in those responsible for these deaths being released back into the community of grieving families, and

**WHEREAS**, these crimes include Making a Terroristic Threat and Money Laundering in Support of Terrorism in the Third and Fourth degree, resulting in those alleged to have supported terrorism in this manner, or who have threatened to commit acts of terrorism, being released immediately from police custody, and

**WHEREAS**, these crimes include Promoting an Obscene Sexual Performance by a Child; Possessing an Obscene Sexual Performance by a Child; Failure to Register as a Sex Offender; and Patronizing a Person for Prostitution in a School Zone, resulting in suspected child predators being released and returning into our community, and

**WHEREAS**, these crimes include Aggravated Assault Upon a Person Less than Eleven Years Old; Reckless Assault of a Child by a Daycare Provider; Criminal Sale of a Controlled Substance to a Child; Abandonment of a Child; and Criminal Possession of a Weapon on School Grounds, resulting in those suspected to have physically harmed or endangered children in this manner being free from custody, and

**WHEREAS**, these crimes include Female Genital Mutilation; Stalking in the Second Degree; and Aggravated Harassment, resulting in those suspected of violating victims in this manner being returned to the community of those victims, and

**WHEREAS**, these crimes include Endangering the Welfare of a Vulnerable Elderly Person or an Incompetent or Physically Disabled Person, resulting in the potential for further endangerment of seniors and these defenseless individuals, and

**WHEREAS**, these crimes include Aggravated Cruelty to Animals; Torturing Animals and Injuring Animals, resulting in the immediate release of those suspected of deliberately injuring, torturing and killing animals, and

**WHEREAS**, these crimes include Assault in the Third Degree, Aggravated Vehicular Assault, and other crimes of physical violence against people, and

**WHEREAS**, these crimes include Burglary of a Residence, resulting in the immediate release of these individuals back into the neighborhoods they are suspected of targeting, and

**WHEREAS**, these crimes include Bail Jumping and Unlawfully Fleeing a Police Officer in a Motor Vehicle, resulting in release on recognizance of the very individuals who have demonstrated a propensity to evade the law, and

**WHEREAS**, all of the offenders mentioned heretofore are at risk of not showing up for court, thereby placing a burden on public employees who, under this law, are required to send multiple court appearance reminders to these offenders, as well as police officers and District Attorneys who must commit resources to tracking and pursuing those who evade prosecution, and

**WHEREAS**, all offenders who are currently being held in custody for non-qualifying crimes including those mentioned heretofore will be eligible for release from custody on January 1, 2020, and

**WHEREAS**, the discovery mandates imposed by the State of New York will require police and District Attorneys, beginning January 1, 2020, to turn over voluminous trial-related materials to defense attorneys within 15 days, creating a mandate that will inevitably not be achieved in some cases and may result in the inability of the People to properly prosecute cases against criminal defendants, and

**WHEREAS**, the office of New York State's chief law enforcement officer, Attorney General Letitia James, testified at a state legislative hearing on October 28, 2019, that there will be implementation difficulties because prosecutors across the state lack the resources required to fully comply with discovery mandates, and

**WHEREAS**, the Attorney General's office further testified that their own office, which carries a limited criminal caseload, lacks resources required to fully comply with discovery mandates and consequently needs an additional \$10 million in state funding, and

**WHEREAS**, discovery reform will also result in an opportunity for defendants to gain access to crime scenes that may include a victim's residence, thereby giving defendants accused of burglaries, assaults, rapes, and other crimes committed in victims' homes the right to return to those same homes, and

**WHEREAS**, the issues mentioned heretofore will undeniably impact past, present, and future victims of crime in a negative manner, and in so doing, the bail and discovery reforms adopted by the State of New York will themselves further victimize these innocent individuals, and

**WHEREAS**, these bail and discovery laws, in their current form, represent a clear and present danger to society, will tilt the scales of justice in favor of suspected criminals and away from innocent crime victims, and risk reversing decades of bipartisan progress made by the State of New York in reducing crime, and

**WHEREAS**, the fundamental responsibility of governments to protect the vulnerable in society demands that the shortcomings of these laws be remedied prior to their effective date of January 1, 2020, now, therefore be it

**RESOLVED:**

1. That the Inter-County Association of Western New York hereby implores the State of New York to immediately amend or otherwise delay implementation of these laws by convening an emergency session of the State Legislature, or by emergency executive authority, or by any other means deemed possible by the State, and to do so before December 31, 2019.

2. That the following improvements to these laws be implemented as soon as possible:

- A. Give judges the discretion to impose bail when appropriate for all of the crimes enumerated in this resolution;
  - B. Increase the discovery timeline from 15 days to a minimum of 45 days;
  - C. Phase in discovery reform by applying these new mandates only to misdemeanors effective January 1, 2020, and then to felonies effective January 1, 2021, and repeal the provision that makes the new discovery mandates applicable to violations of the Vehicle and Traffic law;
  - D. Require that court appearance reminders are sent not only to defendants but also to the victims of their crimes; and
  - E. Extend appropriate dignity, fairness, and respect to crime victims by soliciting input from victim advocate organizations and considering their suggestions for improving these laws.
3. That the Inter-County Association of Western New York asks all counties in New York State to urge their state representatives to take immediate action on the foregoing issues.
4. That the Inter-County Association of Western New York Secretary is directed to send a certified copy of this resolution to state representatives and all others deemed necessary and appropriate.

*This is to Certify that I*, the undersigned, Secretary of the Inter-County Association of Western New York, have compared the foregoing copy of resolution with the original resolution now on file in this office and which was duly adopted by the Association at a session held on the 21st day of February 2020 and that the same is a true copy of said original and of the whole thereof.

*In Witness Whereof*, I have hereunto subscribed my name and affixed the official seal of the Inter-County Association of Western New York dated February 21, 2020.

*Jodi Adams*



Jodi Adams, Secretary  
Inter-County Association of Western New York

Sponsored by: Allegany County, Moved by: Barnes (*Allegany*), Seconded by: Harris (*Allegany*)