

1 **2022 NYSAC Legislative Conference**
2 **Standing Committee on Public Safety**
3 **Resolution #2**

4 **Resolution Requesting the Following Amendments to the Bail Reform,**
5 **Discovery Reform, and Raise the Age Statutes Should the State Move to**
6 **Consider Amendments**

7 **WHEREAS**, the enacted 2017-18 New York State Budget, Part WWW of Chapter 59 of
8 the Laws of 2017 included language to raise the age of criminal responsibility; and

9 **WHEREAS**, this legislation includes statutory amendments that created a new
10 Adolescent Offender (AO) classification, established a new Youth Part in the Superior
11 Court, and required all misdemeanor cases, except for Vehicle and Traffic Law (VTL)
12 misdemeanors, to be heard in Family Court; and

13 **WHEREAS**, on October 1, 2018, this legislation went into effect for 16-year-old
14 offenders taken into custody and on October 1, 2019, for 17-year-old offenders taken
15 into custody; and

16 **WHEREAS**, the 2019-20 New York State Budget included criminal justice reforms that
17 limit bail, amend the discovery and speedy trial process, change civil asset forfeiture,
18 and improve the community re-entry process; and

19 **WHEREAS**, the SFY 2019-20 Adopted Budget eliminated monetary bail for people
20 facing misdemeanors and non-violent felony offenses which went into effect, January 1,
21 2020; and

22 **WHEREAS**, the enacted 2019-20 state budget also required prosecutors and the police
23 to share more information, and more quickly, with the defense before a trial takes place;
24 and

25 **WHEREAS**, this reform to the discovery statute also included disclosure of evidence
26 and information favorable to the defense; intended exhibits; expert opinion evidence;
27 witnesses' criminal history information; and search warrant information will be made
28 available to defendants in a timely and consistent manner; and

29 **WHEREAS**, the legislature may endeavor to eliminate cash bail altogether for all
30 crimes; and

31 **WHEREAS**, this will assure that defendants will not be kept behind bars solely because
32 they are poor; and

33 **WHEREAS**, further, the proposal calls for giving judges the discretion to impose
34 conditions of release if the defendant either poses a flight risk or is a danger to the safety
35 of any person or the community; and

1 **WHEREAS**, if no condition can reasonably assure the defendant’s return to court or
2 assure the safety of any person or the community, then the judge has discretion to
3 remand the defendant; and

4 **WHEREAS**, in making a determination, the judge would consider such factors as the
5 defendant’s history of violence; and

6 **WHEREAS**, the New York State Association of Counties (NYSAC) recognizes the
7 importance of this law and encourages the State Legislature to consider amendments
8 that consider the existing public safety landscape throughout our state and in
9 accordance with the New York State Justice Task Force.

10 **NOW, THEREFORE, BE IT RESOLVED**, that NYSAC encourages the Governor and
11 State Legislature to consider the following amendments to the bail, discovery, and raise
12 the age statutes:

- 13 • The State should eliminate cash bail altogether by eliminating the inequities that
14 allow wealth to determine freedom;
- 15 • The State should allow judges to consider a defendant’s public safety risk, so that
16 the people who pose the biggest threat to our communities can be taken off the
17 street;
- 18 • If a 16 or 17 year old is arrested on a gun charge, prosecutors should have the
19 ability to charge the individual in criminal court, rather than family court;
- 20 • The public display of the gun should not be a factor as it is under current
21 legislation; the carrying of a gun should be treated the same way whether the
22 individual displays it or not;
- 23 • The State must also pass legislation empowering district attorneys, in the event of
24 a gun charge, to proceed with section 30.30 if they have enough evidence to bring
25 to trial, even as they accumulate additional pieces. All evidence would be required
26 to be handed over in discovery 30 days before the trial; and
- 27 • The voluminous requirements of the new discovery bill have jammed up too
28 many cases. We urge the State to distinguish what is truly necessary for
29 discovery, especially in cases where a complainant directly brought law
30 enforcement to the scene.

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32 **BE IT FURTHER RESOLVED**, We encourage the legislature and Governor to reform
33 the judicial review board to be an independently appointed board nominated with equal
34 nominees from the Governor, the Speaker of the Assembly, and the Senate Majority
35 Leader.

36 **BE IT FURTHER RESOLVED**, that the state should also fully reimburse county
37 district attorney and sheriff offices for costs incurred due to statutory reforms; and

38 **BE IT FURTHER RESOLVED**, that copies of this resolution be sent to the counties
39 of New York State encouraging member counties to enact similar resolutions; and

1 **BE IT FURTHER RESOLVED**, that NYSAC shall forward copies of this resolution to
2 Governor Kathy Hochul, the New York State Legislature, and all others deemed
3 necessary and proper.