

1 **2021 NYSAC Fall Seminar**  
2 **Standing Committee on Public Safety**  
3 **Resolution #1**

4 **Resolution Imploring the State of New York to Amend the Bail and**  
5 **Discovery Reform Laws**

6 **WHEREAS**, the New York State Association of Counties recognizes the need for  
7 statewide bail and discovery reform; and

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

10 **WHEREAS**, New York State has seen a disturbing rise in violent crime in the past  
11 several years and more so in the wake of the passage of bail reform; and

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

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

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

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

28 **WHEREAS**, New York State is unique among the 50 states in not allowing judges to  
29 consider a defendant's threat to public safety when making a bail or remand  
30 determination; and

31 **WHEREAS**, even in cases where bail may be set, language contained in the Criminal  
32 Procedure Law compels magistrates to compel the defendant's return to court using the  
33 "least restrictive means" at his or her disposal; and

34 **WHEREAS**, the discovery mandates imposed by the State of New York require law  
35 enforcement and District Attorneys, beginning January 1, 2020, to turn over  
36 voluminous trial-related materials to defense attorneys within 15 days, creating a

1 mandate that will inevitably not be achieved in some cases and may result in the  
2 inability of the People to properly prosecute cases against criminal defendants; and

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

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

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

15 **NOW, THEREFORE, BE IT RESOLVED**, that the New York State Association of  
16 Counties (NYSAC) encourages the Governor and State Legislature to amend the existing  
17 bail and discovery reform laws; and

18 **BE IT FURTHER RESOLVED**, the following improvements to these laws be  
19 implemented as soon as possible:

- 20 • Allow judges to consider a defendant’s potential threat to public safety, and not  
21 simply his or her likelihood of returning to court, when making a bail or remand  
22 determination for an eligible crime;
- 23 • Eliminate the language in the criminal procedure law that requires judges to  
24 employ the “least restrictive” means of ensuring that a defendant who is bail  
25 eligible returns to court; and
- 26 • Allow judges to automatically remand a defendant for any crime involving the  
27 illegal possession or use of a firearm; and

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

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