

RESOLUTION No. 2020-

RELATIVE TO IMPLORING THE STATE OF NEW YORK TO IMMEDIATELY REPEAL BAIL AND DISCOVERY REFORM LAWS THAT ARE ENDANGERING THE PEOPLE OF NEW YORK AND REVERSE DECADES OF BIPARTISAN PROGRESS IN REDUCING CRIME.

BY:

Council Chairman Christopher Voccio
Council Member William Kennedy
Council Member John Spanbauer
Council Member Kenny Tompkins
Council Member Andrew Touma

WHEREAS, the Niagara Falls City Council recognizes the need for statewide bail and discovery reform; and

WHEREAS, protecting the people from harm by enforcing the rule of law is a fundamental role of government; and

WHEREAS, city governments are vested by the State of New York with the responsibility to protect the most vulnerable among us, including the elderly, the disabled, the socio-economically disadvantaged, children and others;

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

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WHEREAS, in the final stages of adopting its Fiscal Year 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 the bail reform which began January 1, 2020, judges were stripped of their discretion to set bail for many specific enumerated crimes, meaning that many of 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, with 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 3rd and 4th 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 also include *Promoting an Obscene Sexual Performance by a Child*, *Possessing an Obscene 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 also include *Aggravated Assault upon a Person Less Than Eleven Years Old, Reckless Assault of a Child by a Day Care 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 likewise includes *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, furthermore, these crimes include *Aggravated Cruelty to Animals, Torturing Animals and Injuring Animals*, resulting in immediate release of those suspected of deliberately injuring, torturing and killing animals; and

WHEREAS, these crimes also include *Assault in the 3rd Degree, Aggravated Vehicular Assault*, and other crimes of physical violence against people; and

WHEREAS, these crimes likewise includes *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 also 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

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WHEREAS, all the offenders mentioned heretofore are a 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 were held in custody for non-qualifying crimes including those mentioned heretofore became eligible for release from custody on January 1, 2020; and

WHEREAS, the discovery mandates imposed by the State of New York requires 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 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 full 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 crimes; and

WHEREAS, the fundamental responsibility of governments to protect the vulnerable in society demands that the shortcomings of these laws must remediate by total repeal;

NOW, THEREFORE, BE IT RESOLVED that the Niagara Falls City Council hereby implores the State of New York to immediately repeal these laws; and be it further **RESOLVED**, that the following improvements to these laws be implemented as soon as possible:

1. Give judges the discretion to impose bail when appropriate for all the crimes enumerated in this Resolution;

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2. Increase the discovery timeline from 15 days to a minimum of 45 days;
3. Phase in discovery reform by applying these new mandates only to misdemeanors and then to felonies effective January 1, 2022, and repeal the provision that makes the new discovery mandates applicable to violations of the Vehicle and Traffic Law;
4. Require that Court appearance reminders are sent not only to defendants but also to the victims of their crimes; and
5. Extend appropriate dignity, fairness and respect to crime victims by soliciting input from victim advocate organizations and considering their suggestions for improving these laws; and be it further

RESOLVED, that the Niagara Falls City Council asks all counties and towns across New York State to urge their State representatives to take immediate action on the foregoing issues; and be it further

RESOLVED, that copies of this resolution be provided to: Governor Andrew Cuomo, Lt. Governor Kathy Hochul, Attorney General Letitia James, each and every member of the New York State Legislature, Congresswomen Elise Stefanik, Senator Kirsten Gillibrand, Senator Charles Schumer, the New York State Association of Counties, the New York State Sheriff's Association, the New York State Association of Chiefs of Police, the District Attorneys Association of New York, the New York State Public Defenders Association, the New York State Probation Officers Association, the New York State Council of Probation Administrators, the Associations of Justices of the

Supreme Court of the State Of New York, the New York State Association of City Court
Judges, the County Judges Association of the State of New York, and the County
Attorneys Association of the State of New York.

Kennedy _____ **Spanbauer** _____ **Tompkins** _____ **Touma** _____ **Voccio** _____