

RESOLUTION URGING THE GOVERNOR TO REPEAL THE “HALT ACT”, REPEAL THE
“RAISE THE AGE” LAW, REFORM DISCOVERY RULES IN CRIMINAL CASES, AND
REFORM BAIL LAWS

By:

Seconded by:

WHEREAS, for more than a century the Elmira Correctional Facility, a maximum security prison located in Elmira, Chemung County, New York has housed some of the most dangerous criminals in the New York prison system; and

WHEREAS, correctional officers are tasked with keeping order within the Elmira Correctional Facility, protecting inmates from violence committed by other inmates, and protecting themselves and each other from violence committed by inmates; and

WHEREAS, in 2021 the State of New York enacted legislation limiting the situations where inmates in correctional facilities and mental health facilities can be placed in solitary confinement known as the “HALT Act”; and

WHEREAS, solitary confinement is one of the few tools the Department of Corrections has to incentivize inmates to follow facility rules and disincentivize inmates from committing acts that endanger corrections officers, civilian employees, and fellow inmates; and

WHEREAS, the HALT Act limits disciplinary confinement of inmates to a special housing unit or in a separate keep lock housing unit to a maximum of fifteen consecutive days, or twenty total days within any sixty day period; and

WHEREAS, under the HALT Act, these time limits may not be meaningfully extended even when an inmate has committed such serious acts as attempted escape, physical or sexual assault on staff or other inmates, or even homicide; and

WHEREAS, since the HALT Act’s enactment, assaults by inmates on corrections officers and civilian employees in New York’s prisons have increased by 32%, inmate on inmate assaults have increased by 81%, and overall assaults increased by 56%; and

WHEREAS, the HALT Act has made New York’s prisons a more dangerous place for corrections officers, employees, and inmates alike; and

WHEREAS, the HALT Act essentially eliminates any meaningful disciplinary sanctions for inmates who commit violent acts; and

WHEREAS, convicted murderers, career violent criminals, and other dangerous inmates, particularly those already serving life sentences, have virtually no significant disincentive to commit violent acts while incarcerated; and

WHEREAS, even prior to the enactment of the HALT Act, confinement to a special housing unit did not constitute true “solitary confinement”, and could only be imposed subject to significant procedural safeguards, including notice and a hearing; and

WHEREAS, even prior to the enactment of the HALT Act, inmates confined to special housing units had access to outdoor recreation, personal visits, and commissary; and

WHEREAS, the HALT Act prohibits segregated confinement for “special populations” including if the inmate is 21 years or younger, which are often the most unpredictable and violent population; and

WHEREAS, the Halt Act is causing meaningful programs for general population inmates to be cancelled due to lack of staff as the staff that should be instructing and overseeing these programs are being redeployed to cover HALT Act mandated programs, thus punishing the general population inmates that are complying with facility rules, which causes more idle time and friction inside the facility; and

WHEREAS, in 2018 the State of New York enacted legislation raising the age of criminal responsibility for most crimes from 16 to 18 years of age, known as the “Raise the Age” Law; and

WHEREAS, the Raise the Age Law has drastically reduced the number of 16- and 17-year-olds in the criminal court system, including virtually all misdemeanors, 83% of felonies, and 75% of violent and Class A felonies (except those involving drugs) which are now handled in family court; and

WHEREAS, the Raise the Age Law has dramatically increased the rate of recidivism for juvenile offenders; and

WHEREAS, statistics for Upstate New York are difficult to obtain, but statistics for New York City are more readily available; and

WHEREAS, as of August, 2022, the rate of recidivism for juveniles in New York City after the implementation of the Raise the Age Law has increased from 39% to 48%; for felonies, the rate of recidivism for juveniles in New York City after the implementation of the Raise the Age Law has increased from 26% to 35%; and for violent felonies, the rate of recidivism for juveniles in New York City after the implementation of the Raise the Age Law has increased from 18% to 27%; and

WHEREAS, since the implementation of the Raise the Age Law, adolescent gun crimes have increased dramatically, and

WHEREAS, in 2017, the last year before the implementation of the Raise the Age Law, only 30 identified shooters in New York City were under the age of 18; and

WHEREAS, in the first 8 months of 2022 there were 85 identified shooters in New York City under the age of 18; and

WHEREAS, since the implementation of the Raise the Age Law, juveniles are the victims in gun crimes at a rate three times greater than the same period prior to implementation of the Raise the Age Law; and

WHEREAS, since the implementation of the Raise the Age Law, the rate of juveniles arrested with a gun while under 18 who were subsequently involved in a shooting as a perpetrator or victim within a year increased from 4.4% in 2017 to 12.9% in 2020 and 13.7% in 2021; and

WHEREAS, since the implementation of the Raise the Age Law, the rate of juveniles arrested with a gun while under 18 who were subsequently involved in a shooting as a perpetrator or victim within two years increased from 6.7% in 2017 to 23.4% in 2020; and

WHEREAS, among 18- to 24-year-olds the one-year shooting involvement rate rose 3.7% in 2019 to only 5.1% in 2021; and

WHEREAS, the Raise the Age Law has accordingly caused an increase in crime and recidivism and failed to offer any benefit different than the Youthful Offender system in existence prior to the passage of the Raise the Age Law; and

WHEREAS, in 2019, New York enacted significant changes to New York's discovery rules in criminal cases, codified in Criminal Procedure Law Article 245, resulting in a destabilizing effect on the criminal justice system as prosecutor's offices and law enforcement officers spend limited time and resources searching for, collecting, reviewing and producing materials instead of prosecuting cases, investigating crimes, and patrolling the streets; and

WHEREAS, the change in discovery rules has so strained resources that prosecutors have been forced to pick and choose which cases they will prosecute; and

WHEREAS, New York prosecutors have been able to meet the discovery deadlines in only 21% of cases statewide, only 16% of cases in statewide local criminal courts, and only 13% in New York City local courts, requiring the dismissal of those cases where discovery timelines were unable to be met, not because of the merits of the case, but because of an unfeasible discovery schedule; and

WHEREAS, under the discovery reforms, witness identities and grand jury testimony must be disclosed early on, resulting in less cooperation from witnesses to crimes; and

WHEREAS, the change in discovery rules has correlated with a rise in crime and drop in arrests; a 12% drop in felony arrests outside of New York City from 2019 to 2021, while murders rose by 56% and violent crime with a firearm rose by 35.5%; and a 45% drop in arrests outside of New York City for felony and misdemeanor drug arrests while statewide drug overdose deaths rose by 37% from 2019 to 2020; and

WHEREAS, the crush of paperwork caused by the change in discovery rules has caused retention and recruitment problems in prosecutors offices statewide, resulting in unfillable vacancies, further exacerbating the ability to comply with the unfeasible discovery schedules; and

WHEREAS, the result of these discovery rule changes is that criminals go unprosecuted or have their case dismissed because of the practical inability to comply with an arbitrary discovery schedule, and the victims of their crimes are victimized yet again by a system that values a strict discovery schedule over justice; and

WHEREAS, in 2019 New York enacted significant changes to its bail rules, largely removing the ability of judges to set bail for most crimes regardless of the circumstances of the case or defendant; and

WHEREAS, we now have 5 years of data showing that the bail reforms are an abject failure, making our streets more dangerous and the public less safe; and

WHEREAS, prior to the implementation of bail reform laws, judges always had the ability to set bail or not set bail, taking into account the nature of the crime, the criminal history of the defendant, the risk to the community if the defendant was released, and the likelihood that the defendant would reappear in court; and

WHEREAS, removing this authority and responsibility from judges and replacing it with a system that released defendants without bail without regard for these reasonable and longstanding bail considerations has resulted in the exact result predicted by critics of bail reform before its implementation; and

WHEREAS, the available data suggests that bail reform has emboldened criminals with criminal histories of significance – one of the major factors considered by judges prior to the bail reform of 2019; and

WHEREAS, available statistics analyzing the effects of bail reform fail to take into consideration the concurrent changes to New York’s criminal discovery rules which, as noted above, resulted in reduced arrests and prosecutions despite an increase in crime; and

WHEREAS, local judges are in the best position to weigh the traditional factors and decide whether bail should be set, rather than a bail system that ignores the individual standing before the judge and considers only the crime with which he is charged; now therefore, be it

RESOLVED, that the Chemung County Legislature urges the Governor to repeal the HALT Act, repeal the Raise the Age Law, reform the discovery rules in criminal cases, and reform the bail rules in New York to return discretion to the judicial system; and

RESOLVED, that copies of this resolution be distributed by the Clerk of the Chemung County Legislature to Governor Kathy Hochul, Senate Majority Leader Andrea Stewart Cousins, Assembly Speaker Carl Heastie, Senate Minority Leader Robert Ort, Assembly Minority Leader William Barclay, Senator Thomas O’Mara, Assemblyman Philip Palmesano, and Assemblyman Christopher Friend.