



NEW YORK STATE SENATOR

Thomas F. O'Mara

O'Mara renews call for one-year delay on new bail reform laws: Says so-called 'reforms' raising red flags as new report shows thousands of inmates being readied for release from county prisons

THOMAS F. O'MARA December 11, 2019

| ISSUE: **CRIMINAL JUSTICE REFORM**



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**Albany, N.Y., December 11**—State Senator Tom O'Mara (R,C,I-Big Flats) today again called on Governor Andrew Cuomo and the Democrat leaders of the State Legislature to delay the implementation of several criminal justice reform laws set to take effect on January 1, 2020.

O'Mara renewed his call following today's *USA Today* report that "New York courts are in the process of releasing at least 3,800 inmates in county prisons under a new law taking effect Jan. 1 that ends cash bail for many offenses." The report further states that "the estimated number of inmates being released would be enough to fill some upstate arenas, like those in Utica, Elmira and Poughkeepsie" and that "local officials estimated about 25% to 30% of their jail populations may soon be released."

O'Mara, the top Republican on the Senate Judiciary Committee, said, "These so-called 'reforms' are nothing more than unlocking the cell blocks and sending thousands of potentially dangerous criminals back into our communities and neighborhoods, with no safeguards. That's not criminal justice. That's crazy."

Throughout the past year, O'Mara has joined legislative colleagues, law enforcement agencies, county district attorneys, and many others on the front lines of fighting crime locally and throughout New York State calling for delaying the start of the new laws.

O'Mara is currently co-sponsoring legislation (**S.6853**) calling for a one-year moratorium on the implementation of the new laws so that statewide public hearings can be held on the measures.

Yesterday, the Democrat leader of the State Senate, Senator Andrea Stewart-Cousins (D-Yonkers), said that **the Senate Democrat Majority would not support any delay.**

O'Mara said, "It is becoming increasingly clear that these new laws will put public safety at risk. We have heard direct testimony from the men and women on the front lines of law

enforcement in our communities that these laws, as they stand, are unworkable and will jeopardize the safety of crime witnesses and crime victims, especially the victims of domestic violence.”

The actions, pushed by Cuomo and legislative Democrats, have raised alarms throughout New York’s law enforcement community.

Opponents, including O’Mara, have continued to voice opposition to the new laws reforming New York’s bail, discovery, and pretrial detention processes, commonly known as “bail reform,” approved last March as part of the 2019-2020 state budget. Among other provisions, the new laws eliminate cash bail and pretrial detention for nearly all misdemeanors and nonviolent felony cases. O’Mara and other opponents believe that the move will result in the mandatory release of 90% of those arrested, regardless of their criminal history.

O’Mara charged that it is creating a system of criminal justice in New York State that releases violent criminals back into the community without supervision and fully capable of threatening their victims, the victim’s family members, trial witnesses, and others.

Beginning on January 1, 2020, judges will be required to release defendants from custody without bail for the following crimes:

- > Manslaughter in the second degree
- > Aggravated vehicular homicide
- > Criminally negligent homicide
- > Assault in the third degree
- > Aggravated vehicular assault
- > Making a terroristic threat
- > Criminal possession of a gun on school grounds/criminal possession of a firearm

- > Criminal sale of a firearm to a minor
- > Arson in the third and fourth degree
- > Money laundering in support of terrorism in the third and fourth degree
- > Promoting or possessing an obscene sexual performance by a child
- > Aggravated cruelty to animals, overdriving, torturing and injuring animals, animal fighting
- > Unlawful imprisonment in the first degree
- > Coercion in the first degree
- > Grand larceny in the first degree
- > Criminal possession of a controlled substance in the first and second degree
- > Criminal sale of a controlled substance in the first and second degree, or near/on school grounds
- > Specified felony drug offenses involving the use of children, including the use of a child to commit a controlled substance offense and criminal sale of a controlled substance to a child
- > Criminal solicitation in the first degree and criminal facilitation in the first degree
- > Patronizing a person for prostitution in a school zone
- > Failure to register as a sex offender
- > Obstructing governmental administration in the first and second degree, or by means of a self-defense spray device
- > Bribery and bribe receiving in the first degree, bribe giving for public office
- > Promoting prison contraband in the first and second degree
- > Resisting arrest
- > Hindering prosecution
- > Tampering with a juror and tampering with physical evidence
- > Aggravated harassment in the first degree
- > Directing a laser at an aircraft in the first degree
- > Criminal possession of a weapon in the fourth degree

> Enterprise corruption and money laundering in the first degree.

O'Mara said, "Where in the name of justice are New York Democrats headed? Governor Cuomo's Parole Board has been releasing cop killers, murderers, and other violent felons all year long. Democrat senators are pushing legislation to grant parole hearings to dangerous inmates sentenced to life without parole, to let felons sit on juries, and even to have state taxpayers foot the bill to set up voter registration programs in state prisons. It is a dangerous and disturbing trend of over rolling over backwards for criminals to radically redefine criminal justice in New York State at the expense of victims and their families and loved ones, communities and neighborhoods, and taxpayers."

O'Mara participated in a public hearing in Albany in late October where a number of local district attorneys, including Chemung County District Attorney Weeden Wetmore, highlighted numerous fears over the upcoming changes, including their ongoing ability to protect witnesses and a lack of resources to handle ever-increasing caseloads. In fact, according to O'Mara, the new bail reform law stands as another, onerous unfunded state mandate on localities and local property taxpayers that Cuomo refuses to address or even acknowledge.

The District Attorneys Association of the State of New York has estimated it will cost \$100 million for extra staff and other resources for offices outside of New York City to comply with the new discovery laws.

In addition to the one-year moratorium legislation, O'Mara will also co-sponsor the following legislative proposals:

> **S.6839** giving judges discretion to set bail in domestic violence cases;

- > **S.6840** allowing judges to consider whether a defendant poses a danger to the community when determining bail; and
- > **S.6849** repealing criminal justice reforms enacted in the 2019-20 state budget including bail and discovery changes.