

[We Support Enactment of an Anti-Masking Law in New York](#)

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Body

Y. David Scharf, left, and David B. Saxe. Courtesy photos

The scene is depressingly and alarmingly the same whether it is taking place at Columbia, Barnard, any one of the City Colleges as well as at colleges and universities around the country. Emboldened antisemitic, masked pro-Hamas protestors, supportive of this organization designated by the United States as a "[Designated Foreign Terrorist Organization](#)," are regularly harassing, threatening and frequently assaulting Jewish college students who are afraid for their safety, especially given the backdrop of flaccid college administrators.

Jewish study programs and regularly scheduled courses of interest to Jewish students have been disrupted by these keffiyeh-wearing, pro-Hamas antisemites who hide their identities behind these facial coverings eluding college discipline and law enforcement. College buildings where Jewish students take courses and libraries for quiet study have also become fertile territory for these masked intruders.

We believe that one possible solution to this problem is the adoption of anti-masking legislation.

New York's mask ban was originally passed in 1845 but repealed during the COVID-19 pandemic. Now, it is not only certain Jewish organizations that favor re-instatement of a mask ban (Anti-Defamation League, Jewish Community Relations Counsel and UJA Federation) but civil rights groups as well (The NAACP New York Conference, National Urban League). The late Hazel Dukes, President of the NAACP New York State Conference said "Reinstating New York's masking laws will protect New Yorkers from some of the most terrifying periods in our history; when the Klan menaced Black Americans, faces covered, without accountability. We can't let history repeat itself."

Earlier this year, State Assemblyman Jeffrey Dinowitz reintroduced his anti-mask harassment bill for the 2025 legislative session. The 2025 version of the bill (Assembly Bill A3133)-makes it unlawful for a person to wear "a mask or other face covering that intentionally hides or conceals their face for the primary purpose of menacing or threatening violence against another person or placing another person or group of persons in reasonable fear for their physical safety."

The exceptions provided by this law are expansive and should satisfy the reasonable expectations of those who have raised civil liberty concerns. The bill provides that it shall not constitute a violation where a person is not wearing a mask or face covering for the primary purpose of menacing or threatening violence against another person or placing another person or group of persons in reasonable fear for their physical safety, including: (a) wearing a mask or face cover on or near the occasion of a holiday, celebration or other event involving costumes; (b)wearing a mask or face covering for the purpose of ensuring the physical safety of the wearer or because of the nature of the person's occupation, trade or profession; (c) wearing a mask or face covering for the purpose of

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protection from the weather elements or while participating in a winter sport; (d) wearing a mask or face covering in an artistic or theatrical production or celebration; (e) wearing a gas mask or other protective facial covering for the purposes of protection during, or relating to an emergency situation, or during emergency management drills; (f) wearing a medical mask, face shield or other similar face covering with the intention of ensuring one's physical health and safety or the health and safety of others, including but not limited to limiting the spread of airborne illnesses; or (g) wearing a mask or face covering for religious purposes.

The proposed legislation also seeks to expand the definition of "aggravated harassment" in the second degree (Subdivision 3 of section 240.30 of the penal law, as amended by chapter 545 of the laws of 2024), to include hitting or threatening to hit someone with the intent to annoy, threaten or alarm another person, "or while wearing a mask or face covering to intentionally conceal one's identity and for the primary purpose of placing another person or group in reasonable fear for the physical safety."

Nassau County has already established its own anti-masking law. The Mask Transparency Act (MTA), codified at Title 90 of the Miscellaneous Laws of Nassau County, makes it a misdemeanor to wear a face mask under certain circumstances. Specifically, Section 4 provides that "[a]ny person that violates any provision of this law shall be guilty of a misdemeanor punishable by a fine of not more than one thousand dollars or imprisonment of not more than one year, or both."

Notably, there are limits on its application; the MTA does not apply to facial coverings worn (1) "to protect the health or safety of the wearer," (2) "for religious or cultural purposes," or (3) "for the peaceful celebration of a holiday or similar religious or cultural event for which the wearing of masks or facial coverings are customarily worn."

It is further limited, and the MTA "only" applies, if the person wearing the mask or facial covering:

- (1) remains or congregates in a public place with other persons so masked or disguised, or knowingly permits or aids persons so masked or disguised to congregate in a public place; or
- (2) acts with the intent, by force or threat of force, to injure, intimidate, or interfere with any person because of the person's exercise of any right secured by federal, state, or local law or to intimidate such person or any other person or any class of persons from exercising any right secured by federal, state, or local law; or
- (3) acts with the intent to intimidate, threaten, abuse, or harass any other person; or
- (4) it is engaged in conduct that could reasonably lead to the institution of a civil or criminal proceedings against her or him, with the intent of avoiding identification in such a proceeding.

We acknowledge opposition among certain civil libertarian groups. While antisemitism will obviously not be solved by the enactment of a new anti-masking law, it will, we think, curtail some of the masked pro-Hamas demonstrations that have threatened and harassed Jewish life and Jewish students on campuses.

Notably, this legislation will have no effect on peaceful protests. Indeed, it will have no effect on even masked users who are not targeting others with violence and intimidation. One will be able to wear a mask for lawful reasons-not however to hide one's identity while committing another crime.

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