

#LessIsMoreNY

Less Mass Supervision = More Safety and Justice



How the Less Is More Act Will Strengthen Public Safety

This fact sheet explains how the Less Is More: Community Supervision Revocation Reform Act will continue to enhance public safety – not diminish it – once it is fully implemented by July 15, 2022. The bill was signed into law by Governor Hochul on September 17, 2021, and all provisions took effect on March 1, 2022, except for the application of retroactive earned time credits. DOCCS anticipates that they will finish awarding retroactive earned time credits by July 15, 2022, at which point the #LessIsMoreNY Act will be fully implemented.

Background: Prior to the Less Is More Act, there were almost 34,000 people on parole in New York State who lived under the constant threat of being returned to prison for a non-criminal rule infraction, like missing an appointment, being late for curfew, or testing positive for drugs. Under the former system, people accused of these “technical” violations were automatically detained for up to 105 days, and they were not provided an opportunity for release or to post bail while their hearings were conducted. After the parole hearings were completed, people were routinely returned to prison for months or even years. New York imprisoned more people for technical violations of parole rules than any state in the country.¹ Of people on parole whom New York sent back to prison in 2019, over 85% were reincarcerated for technical parole violations.² The racial disparities were stark: across the state, Black people were 5 times more likely and Latinx people were 30% more likely to be re-imprisoned for a technical parole violation than whites. In New York City jails, Black people were incarcerated for technical parole violations at 12 times the rate of whites.³ This resulted in New York taxpayers spending more than \$680 million annually to reincarcerate people for technical parole violations.⁴

Is There a Crime Wave, and are People on Parole to Blame? There has been a recent uptick in homicides in cities across New York State and around the country compared to the last few years. However, violent crime as a whole (which includes homicide, rape, robbery, and aggravated assault as categorized by the FBI) is continuing its downward trend, as are nonviolent crimes like larceny and burglary. Homicides make up less than 1% of all violent crime, and even with the recent increase in the

¹ United States Department of Justice, Bureau of Justice Statistics. 2020. *Probation and Parole in the United States, 2017-2018*, Appendix Table 7. Available: <https://bjs.ojp.gov/content/pub/pdf/ppus1718.pdf>

² NY State Assembly, Standing Committee on Correction. 2019. *2019 Annual Report*, at 1. Available: <https://nyassembly.gov/comm/?id=10&sec=story&story=94293>

³ Kendra Bradner and Vincent Schiraldi. 2020. *Racial Inequities in New York Parole Supervision*. Available: <https://justicelab.columbia.edu/sites/default/files/content/NY%20Parole%20Racial%20Inequities.pdf>.

⁴ Nims, Tyler, Kendra Bradner, Johnna Margalotti, Zachary Katznelson, and Vincent Schiraldi. 2021. *The Enormous Cost of Parole Violations in New York*. A More Just NYC and Columbia Justice Lab. Available: https://justicelab.columbia.edu/sites/default/files/content/Cost_Parole_Violations_in_New_York.pdf

homicide rate, it is still lower than it was 5, 15, or even 30 years ago.⁵ In New York City, the homicide rate is 70 percent lower than it was in the 1990s and 50 percent lower than it was in the early 2000s.⁶ While there have been a handful of recent high-profile violent crimes committed by people on parole, the vast majority of people on parole do not commit new crimes. Only 15% of people on parole in 2018 were returned to prison to serve a sentence for a new crime, representing fewer than 3% of all people on parole in New York State that year.⁷

1. Reincarcerating People for Technical Violations Destabilizes Individuals, Families, and Communities

There is no evidence that reincarcerating people for technical parole violations improves public safety. In fact, it hurts public safety by destabilizing individuals on parole, their families, and their communities. Most people released from prison struggle to obtain stable housing, find and maintain employment, and further their education because of systemic injustices, community disinvestment, and the stigma and discrimination associated with a felony record. Sending people back to jail for non-criminal rule infractions and automatically detaining them for the duration of their parole hearings erases their fragile progress, and they must start over again once they are released. This leaves many who are on parole even more vulnerable to homelessness and unemployment—conditions that make it more likely that they will be rearrested for crimes of poverty. This hurts individuals and families, especially those with children who may depend on them for care and financial support, as well as their broader communities, all with no benefit to public safety.

The Less Is More Act eliminates incarceration for many technical violations and severely restricts its use for others, allowing people to safely remain with their families and in their communities as they readjust to life outside of prison. It also ends automatic detention based on the mere accusation of a technical parole violation, preventing people from losing their housing, employment, and program enrollment because of an allegation that has not yet been sustained. People on parole who are accused of a new crime are subject to the same penalties from the criminal court system and the parole system as existed prior to the Less Is More Act, although they will benefit from stronger due process protections under Less Is More.

2. Incentivizing Good Behavior Promotes Rule Compliance and Participation in Services

The prior parole system utilized a punitive approach with very few rewards for good behavior. Instead of being incentivized to follow the rules, people on parole were threatened with punishment for breaking them, even when the rule violation resulted from circumstances beyond their control like appointments being scheduled at conflicting times, or a train or bus running late. While merit-based discharge mechanisms did exist, they were discretionary and unevenly awarded. This framework

⁵ Ware, Wendy. 2021. *Data Shows Violent Crime is Down and Decarceration Works*. Available:

<https://www.safetvandjusticechallenge.org/2021/06/data-shows-violent-crime-is-down-and-decarceration-works/>
<https://www.safetvandjusticechallenge.org/2021/06/data-shows-violent-crime-is-down-and-decarceration-works/>

⁶ Booker, Christopher and Sam Weber. 2021. *Is Criminal Justice Reform to Blame for the Rise in Crime in NYC?* Available:
<https://www.pbs.org/newshour/show/is-criminal-justice-reform-to-blame-for-the-rise-in-crime-in-nyc>

⁷ United States Department of Justice, Bureau of Justice Statistics. 2020. *Probation and Parole in the United States, 2017-2018*, Appendix Table 7. Available: <https://bjs.ojp.gov/content/pub/pdf/ppus1718.pdf>

discouraged people from seeking essential help when they needed it, like for a substance abuse disorder, because they were afraid of being returned to prison instead of referred to community-based services.

The Less Is More Act shifted parole from a punitive system to an incentive-based system, encouraging people to follow the rules and seek assistance when necessary. It established an earned time credits mechanism by which people who adhere to the conditions of their parole automatically earn early discharge from supervision. Without the threat of reincarceration deterring them, people who want support with substance use, mental health, or a variety of other needs can ask for help and be rewarded for participating in programs that strengthen their reintegration into society.

3. Reforms Included in Less Is More Have Worked in Other States Without Diminishing Public Safety

Conservative states like Alaska, Arkansas, Arizona, Georgia, Idaho, Kansas, Kentucky, Louisiana, Missouri, Mississippi, Montana, South Carolina, South Dakota, and Utah have all successfully implemented reforms similar to those included in Less Is More. At least 18 states have incentivized compliance with rules by allowing people to earn early discharge from parole. Additionally, 24 states have limited reincarceration to more serious and repeated violations, and 16 states have capped the length of time that people can be incarcerated for technical violations. Recidivism rates for new crimes in these states have remained flat, and in some states declined, illustrating that the Less Is More Act can continue to be implemented in New York without diminishing public safety.⁸

4. Reinvesting the Savings from Less Is More Will Create Stronger and Safer Communities

New York taxpayers spent more than \$680 million a year reincarcerating people for technical parole violations. In 2019, New York State spent \$319 to incarcerate people in state prisons for technical violations. New York City spent \$273 jailing people accused of technical violations, and the remaining 57 counties in the state spent a collective \$91 million.⁹ By ending the automatic detention of people accused of parole violations and eliminating or capping incarceration for technical violations, the state and its counties will save hundreds of millions of dollars every year, which can be reinvested into the communities most harmed by mass incarceration and mass criminalization. Providing critical funding for quality housing, employment and workforce development, education, and services to address substance abuse and mental health needs will create healthy and safe communities.

⁸ Independent Commission on New York City Criminal Justice and Incarceration Reform. 2021. *Parole Reform: Conservative States Leave New York Behind*. Available:

<https://static1.squarespace.com/static/5b6de4731aef1de914f43628/t/60a3cbe6862b67754b916d2a/1621347302580/Red+States+Parole+Report+Final.pdf>

⁹ Nims, Tyler, Kendra Bradner, Johnna Margalotti, Zachary Katznelson, and Vincent Schiraldi. 2021. *The Enormous Cost of Parole Violations in New York*. A More Just NYC and Columbia Justice Lab. Available:

<https://justicelab.columbia.edu/cost-of-ny-parole-violations>