

My name is Alexandra Bailey, and I am the End Life Imprisonment Campaign Strategist for The Sentencing Project. I am writing to thank the New York State Senate Committee on Crime Victims, Crime, and Correction, and in particular Chair Julia Salazar, for the opportunity to present testimony today on the Elder Parole (S.15A-Hoylman) and Fair & Timely Parole (S.7514-Salazar) bills. I submit this testimony in support of both bills and respectfully urge the Legislature to call a vote on them finally.

Due to decades of extreme sentencing, even as the state's overall prison population has declined, the percentage of incarcerated people who are older adults has dramatically increased. A New Yorker dies in state prison more than once every three days, a crisis that academics have called New York's new death penalty. Political attempts to appear "tough on crime" by promoting extreme sentencing practices are under scrutiny for their rejection of criminological-based evidence. It is not "tough" to imprison people past their proclivity- or physical ability- to commit crime; to the contrary, it is a poor use of resources that could be put toward community-based violence interruption.

Research finds little deterrent value and substantial financial waste in lifelong and virtual life imprisonment of people who pose no threat to public safety.

The Elder Parole and Fair & Timely Parole bills will help to improve community safety by (1) reorienting parole release policies to value personal transformation and safety rather than outdated policies that do not support what criminological-based evidence tells us, (2) returning mentors and violence interrupters to struggling communities.

THE PROBLEM

Under current law, thousands of people in prison have no pathway whatsoever even to be considered for release, regardless of their transformation behind bars and whether they present any public safety risk. These include people who are serving life without parole sentences or sentences that exceed their natural lifetimes. Thousands more are or will become eligible for parole release consideration, yet current Board of Parole practices leave them little to no hope of getting approved. Specifically,

the Board routinely denies release to people based on the one thing they can never change, namely the nature of the offense for which they were convicted, however many years and decades ago. People in prison often transform themselves, accepting responsibility for their past actions, taking advantage of every opportunity for growth provided to them within the prison setting, and even creating new ones, all *before* being repeatedly rejected by the Board. In effect, the Board is acting outside its original purpose of evaluating people's rehabilitation and readiness for release, ignoring people's minimum sentences and re-sentencing them two years at a time with each denial.

Let us be clear: This is a racial justice issue. The vast majority of people in prison are Black and Latinx people due to systemic racism in our country. Furthermore, a comprehensive 2020 *Albany Times Union* investigation of parole hearing data found that the Board of Parole was significantly less likely to release Black and Latinx people than their white counterparts.

The grave injustice of mass incarceration extends beyond the harm inflicted on individual people in prison. Tens of thousands of families across our state are missing one or more loved ones: children, parents, grandparents, and great-grandparents. Furthermore, New York spends an average of \$60,000 annually to incarcerate just one person and between \$100,000 and \$240,000 annually per older adult in prison. This money should instead be invested in resources that deliver actual community health and safety.

THE FAIR & TIMELY PAROLE ACT

New York must reform its parole system by passing the Fair & Timely Parole Act (S.7514-Salazar/A.4231A-Weprin) to ensure that people have a meaningful opportunity to demonstrate their rehabilitation and be released. This bill would restore the Parole Board to its original purpose of evaluating people's readiness for release, changing the standard of parole release to primarily consider the person's rehabilitation while incarcerated and their current risk of violating the law.

Passing this bill will be a meaningful step towards ensuring fair parole hearings, increasing New York's dismally low parole release rate, and reducing the number of New Yorkers languishing behind

bars. This bill will not take away parole commissioners' discretion, and it still requires that the Board consider the nature of someone's crime and any victim impact statements in their release decisions.

ELDER PAROLE

New York must reform its parole system to provide hope for families across this state by passing Elder Parole (S.15A-Hoylman/A.8855-Davila). If enacted, this bill would allow older adults in prison who have served at least 15 consecutive years of their current sentence to be eligible for individualized parole consideration. It is not a "blanket release" policy nor guarantees release for anyone based on age. Instead, it would give people who have transformed themselves an opportunity to be heard by the Board of Parole and, subject to the Board's discretion, to be released to their families and communities to live out their final years with dignity. Importantly, reincarceration rates for older adults are vanishingly small. The age of eligibility in the bill is 55 for two critical reasons: (1) That is the age at which the state's prison agency, the Department of Correction and Community Supervision, like many other prison authors, classifies people as older adults, in line with the reality of accelerated aging behind bars. (2) The average age of death by so-called natural causes in New York State prisons is only 58. Sadly, the constant stress of the prison environment and separation from one's family, compounded by systemic malnourishment, unclean water, and other harms endemic to incarceration, causes, on average, what can only be called premature deaths.

CONCLUSION

Ultimately, we support these bills because we value the worth and dignity of all people. We believe no one is disposable, nor should anyone be defined by the worst thing they have ever done. Further, no one should die in prison. We believe in redemption and transformation. We believe in families, communities, and collective care.

We are pleased to be joined in our support for the bills by Gov. Hochul's key advisor Dr. Hazel Dukes (President, NYS NAACP), the Rev. Al Sharpton (President, National Action Network), Assembly Majority Leader Crystal Peoples-Stokes and Deputy Senate Leader Michael Gianaris, Brooklyn DA Eric Gonzalez and Manhattan DA Alvin Bragg, many of the state's largest crime victim & survivor advocacy groups, the Working Families Party, SEIU 1199, CWA District 1, Citizen Action of New York, and over 350 other organizations from Long Island to Buffalo.

2023 must be the year for parole justice. Again, we respectfully ask that you pass the Elder Parole and Fair & Timely Parole bills this session.