

#LessIsMoreNY

Less Mass Supervision = More Safety and Justice



What Does the *Less is More Act* Do?

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This fact sheet provides a short outline of the transformative parole reform bill, the *Less Is More: Community Supervision Revocation Reform Act* (S.1144A—Benjamin/ A.5576A—Forrest). This legislation was developed by people on parole, people currently incarcerated, family members, and the community, advocacy, and legal groups in the #LessIsMoreNY Campaign (www.lessismoreny.org). The New York State Legislature passed the bill on June 10, 2021. The bill would go into effect in March 2022; however, *before the bill become law, it must be signed by Governor Hochul*. (As of August 24, 2021, the governor *has not yet* signed the bill.) The bill includes a provision that allows for the governor to implement the bill *before* the March 2022 effective date.

1. Creates Incentives – Earned Time Credits (aka “30 for 30”)

Under *Less is More*, most people on parole can earn 30 days of time credit for every 30 days in the community that they adhere to parole rules. For example, someone who has a four-year term of parole will complete supervision after two years if they have no sustained violations during that period. If the person on parole is found to have violated a condition of parole, they will not earn the 30-day reduction in parole time and may face additional sanctions depending on the violation. People on parole when the law takes effect will be awarded a maximum of two years of retroactive credits. This provision does not apply to people on life parole, but existing discretionary mechanisms for early termination of parole remain unchanged and available to all eligible people on parole, including those on life parole.

2. Bolsters Due Process

- a) Establishes the right to counsel at all parole revocation hearings and raises the standard of proof at every stage of the violation process
- b) Speedy hearings: For people detained, requires hearings to be completed within 35 days; for people at liberty in the community, hearings must be completed within 55 days, rather than 105 days
- c) Requires that all hearings be conducted in the community rather than inside jails, increasing transparency and access for witnesses, loved ones, and the general public

3. Ends Automatic Detention Based on the Mere Accusation of a Violation

- a) People accused of technical violations (non-criminal rule violations) will receive a written notice of violation, like an appearance ticket, with a hearing date and location and will remain at liberty in the community to attend their hearings. Allegations of certain non-criminal technical violations against people on parole for sex offenses will be

treated as *non-technical* violations if parole can demonstrate the violation is related to preventing another sex offense.

- b) People accused of non-technical violations (new crimes) will receive a recognizance hearing before a judge within 24 hours (or as soon as the court is open) to determine whether they will be detained while their revocation hearings are conducted. The recognizance hearing will most often be conducted at the same time as the arraignment on the new charges. At the end of the hearing, the court will release the person on their own recognizance (“ROR”) subject to existing parole conditions until the parole revocation hearings unless this will not reasonably assure the person’s appearance at the hearings. Bail law still applies to the new charges.

4. Eliminates Incarceration for Certain Technical Violations

- a) The following technical violations (non-criminal violations) will no longer be eligible for incarceration: missing curfew, alcohol or other drug use (unless on parole for a DWI), failing to notify PO of a change in employment or program status, failing to pay surcharges and fees, obtaining a driver’s license or driving with a valid license (unless explicitly prohibited by the conviction), failing to notify PO of contact with law enforcement (unless intending to hide illegal behavior), and failing to obey any special conditions (unless the failure cannot be addressed in the community and all reasonable community-based methods to address the behavior have been exhausted). If a person is on parole for a sex offense and parole can demonstrate that a violation of this nature is related to preventing another sex offense, the violation will be treated as a non-technical violation and will be subject to incarceration.
- b) Instead of incarceration, if a person is found to have committed one of these violations, 30 days of earned time credits will be withheld, and parole could impose additional conditions in response to the violation.
- c) No parole conditions or violations will be permitted for legal activities related to marijuana or for fraternizing with other people with criminal records.

5. Caps Periods of Incarceration

- a) For other more serious technical violations, incarceration may still be imposed, but there are strict limits to the length of incarceration, as follows: no incarceration for the first two sustained violations (except absconding, which is eligible for incarceration of up to 7 days on the first offense), up to 7 days incarceration for a third violation, up to 15 days for a fourth, and up to 30 days for any subsequent violation.
- b) There are no caps on parole punishment of non-technical violations (new crimes and certain technical violations committed by people on parole for sex offenses), leaving the current law intact. However, a person sanctioned for a non-technical violation related to new criminal activity will now have the right to *de novo* judicial review (essentially an appeal) of the sustained violation and the punishment imposed.

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