

#LessIsMoreNY

Less Mass Supervision = More Safety and Justice



Explaining the Less Is More Act

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This fact sheet explains the main provisions of the Less Is More Act, which took effect on March 1, 2022 after being signed into law by Governor Kathy Hochul on September 17, 2021.

Background:

Problem: Prior to Less Is More, there were more than 34,000 people on parole in New York State. New York imprisoned more people for “technical” violations of parole rules -- like missing an appointment with a parole officer, being late for curfew, or testing positive for alcohol and other drugs -- than any state in the country.¹ Of people on parole whom New York sent back to prison in 2019, approximately 85% were reincarcerated for technical parole violations.² The racial disparity was stark: across the state, Black people were 5 times more likely and Latinx people were 30% more likely than whites to be re-imprisoned for a technical parole violation. In New York City jails, Black people were incarcerated for technical parole violations at *12 times* the rate of whites.³ This not only harmed individual lives and families without any proven public safety gains, but also drove up the population in state prisons and local jails, wasting money. New York taxpayers spent more than \$680 million annually to reincarcerate people for technical parole violations.⁴

Solution: The **Less Is More: Community Supervision Revocation Reform Act (S.1144A – Benjamin / A.5576A – Forrest)** was created to address these problems and fix how New York handles technical violations of parole by focusing on public safety through effective reentry. As a result of Less Is More, people doing well on parole will be rewarded with time off their parole terms, incentivizing their compliance with the parole rules. Only in the most serious cases will re-incarceration for technical violations be an option, incarceration periods will be capped at 30 days, and people will get a lawyer and a speedy hearing before that can happen. Parole officers will have reduced, reasonable caseloads. Then, the hundreds of millions of dollars that are saved can be invested in housing, small business grants, family programs, mental health care, and more. This will not only reduce racial disparities, but public safety will be improved.

Developed by people on parole, people who are or were incarcerated, family members, and others including [Katal](#), [Unchained](#), [A Little Piece of Light](#), the [Columbia Justice Lab](#), the [Lippman Commission](#), and the [Legal Aid Society](#), the Less Is More Act was sponsored by former

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://www.bjs.gov/content/pub/pdf/ppus1718.pdf?utm_content=ppus1718&utm_medium=email&utm_source=govdelivery

² NY State Assembly, Standing Committee on Correction. 2019. *2019 Annual Report*, at 1-2. Available:

https://assembly.state.ny.us/write/upload/postings/2020/pdfs/20201110_0094293.pdf

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

Senator Brian Benjamin ([S.1144A](#)) and Assemblymember Phara Souffrant Forrest ([A.5576A](#)). It pulls from the best of successful parole reforms in dozens of other states, including Red states like Louisiana, Missouri, and South Carolina. The Less Is More Act is supported by a [unique coalition](#) of district attorneys, sheriffs, current and former corrections and law enforcement officials, faith communities, and nearly 300 community, faith, labor, and advocacy groups around the state.

The main provisions of the Less Is More Act:

1. Creating Incentives -- Earned Time Credits (aka “30 for 30”).

While other states created avenues for people on parole to be discharged early for good behavior, in New York there were too few mechanisms for people on parole to shorten their time on community supervision, even after extended periods of compliance and success. The mechanisms that existed in New York prior to Less Is More were discretionary and applied arbitrarily.

Under the Less Is More Act, 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 reduction in parole time for the 30-day period following the violation and may face additional sanctions depending on the violation. The opportunity for early termination will incentivize good behavior from people on parole and reduce caseloads for parole officers. People who were on parole at the time the law took effect (March 1, 2022) will be awarded a maximum of two years of *retroactive* earned time credits.

* This provision applies to everyone on parole, except for those on life parole. Existing discretionary mechanisms for early termination of parole remain unchanged and available to all eligible people on parole, including those on life parole.

2. Bolstering Due Process and Ending Automatic Incarceration Based on a Mere Accusation of a Violation.

Prior to Less Is More, as soon as parole authorities issued a warrant for an alleged technical violation, the person on parole was taken directly to the local jail -- without first seeing a judge or parole hearing officer -- where they would remain detained for up to 105 days while their parole revocation hearings were conducted. In New York City, the person on parole was taken to Rikers, where they spent an average of two months waiting for an administrative hearing to determine whether they in fact violated their parole and whether they would be sent back to prison. It is extremely difficult for people on parole to secure housing, employment, and other community support and services, and under prior practice, any stability that they achieved was too quickly jeopardized without strong reason.

Under the Less Is More Act, due process is bolstered for everyone on parole by:

- Establishing the right to counsel at all parole revocation hearings;
- Raising the standard of proof at every stage of the violation process;
- Requiring that parole revocation hearings be conducted in courthouses or other community locations rather than inside jails, which increases transparency and access for witnesses, loved ones, and the general public;
- Speeding up hearings by requiring they be completed in 35 days for people detained and 55 days for people not detained, rather than 105 days; and

- Eliminating automatic detention based on the mere accusation of a violation.

For people on parole accused of technical violations (i.e. non-criminal rule violations): People accused of a technical violation will be given a written notice of the violation and will remain at liberty in the community while they await their administrative parole hearing.* If the person intentionally skips the hearing and is facing a more serious technical violation, then they can be arrested. At that point, they will be taken to a local criminal court for a recognizance hearing—similar to a bail hearing in a criminal case—before a criminal court judge to determine whether or not they will be held in jail while they wait for the administrative parole hearing. There is a presumption of release at this hearing for the person on parole unless it is found that release cannot reasonably assure the person’s appearance at their revocation hearings.

For all people on parole accused of non-technical violations (i.e. alleged new crimes): All people on parole who are detained for a non-technical violation will receive a recognizance hearing before a judge within 24 hours (or as soon as court is open for any business) to determine whether they will be detained pending revocation proceedings. There is a presumption of release at this hearing for the person on parole unless it is found that release cannot reasonably assure the person’s appearance at their revocation hearings.

* This provision does not apply to everyone on parole even because of a caveat, added by the legislature, for people on parole for sex offenses. Allegations of certain non-criminal violations against people on parole for sex offenses will be treated as *non-technical* violations if parole can demonstrate that the violation is reasonably related to their original offense and efforts to prevent another sex offense, which means they will receive a recognizance hearing rather than receiving a written notice of violation.

3. Eliminating Incarceration for Certain Technical Violations.

Prior to the Less Is More Act, a person who was found to have committed *any technical violation* could be sent back to prison for years. This approach is why New York reincarcerated more people for technical violations than any state in the nation. Sending someone back to prison wipes away the progress that the person has made since being released on parole and makes it harder for that person on parole to ultimately return to society after the period of incarceration ends. In other states, community-based efforts to deal with issues, combined with graduated sanctions, have proven far more effective than incarceration.

Under the Less Is More Act, a technical violation is defined as “*any conduct that violates a condition of community supervision in an important respect, other than the commission of a new felony or misdemeanor offense under the penal law.*” Notably, the “important respect” language has been the law in NYS for decades. The Less Is More Act will no longer permit people on parole to be reincarcerated as a punishment for many technical violations. If a person is found to have committed one of these violations, they will face consequences short of incarceration: they will be ineligible for earned time credits for the following 30-day period and their parole officer can impose additional “special conditions” to help address the issue, including mandatory treatment. Violations for which a person cannot be returned to incarceration include, but are not limited to: being late for curfew, changing a job or program without permission, or using alcohol or drugs (unless serving a sentence for DWI).*

More serious technical violations such as absconding will continue to be punishable by short incarceration periods proportionate to the seriousness or repetition of the violation.

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means they could still face incarceration for them if parole can demonstrate the violation is reasonably related to their original offense and efforts to prevent another sex offense.

4. Capping Periods of Incarceration.

Under the Less Is More Act, there are only a limited number of technical violations for which a person is subject to incarceration, and for those few violations, there are limits to the length of incarceration. For absconding (intentionally failing to stay in contact with parole officials and failing to tell parole of a change of address), the first violation can result in a short period of incarceration. For all other technical violations, there can be no incarceration for the first two violations. After repeated instances of a limited number of technical violations, a person on parole can be subject to short periods of incarceration, but never for more than 30 days.*

For non-technical violations – i.e. for alleged new crimes – Less Is More leaves intact the current law that establishes potential parole penalties for new criminal conduct. However, people on parole will now have the right to de novo judicial review of the sustained non-technical violation and the punishment imposed. *This applies to everyone on parole.*

* This provision does not apply to everyone on parole even because of a caveat, added by the legislature, for people on parole for sex offenses. Allegations of certain non-criminal technical violations against people on parole for sex offenses will be treated as *non-technical* violations, which means they could still face incarceration of more than 30 days for them if parole can demonstrate the violation is reasonably related to their original offense and efforts to prevent another sex offense.

Implementation timeline:

All provisions went into effect on March 1, 2022, except for the application of retroactive earned time credits. DOCCS anticipates that they will finish awarding the earned time credits by July 15, 2022, at which point the Less Is More Act will be fully implemented.

About the #LessIsMoreNY Campaign

#LessIsMoreNY is a statewide coalition of community groups, service providers, and public safety experts who worked together to develop and pass the #LessIsMoreNY Act. Restricting the use of incarceration for technical parole violations and giving people incentives to comply with parole conditions will support them as they reenter their communities; reduce jail, prison, and supervised populations responsibly; promote safety and justice for families and communities; and save taxpayers money. The coalition, led by the [Katal Center](#) for Equity, Health, and Justice and [Unchained](#), is working to ensure the new law is implemented fully and properly. For more information, visit www.lessismoreny.org.

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