



## Explaining Key Provisions of the *Less Is More Act*

Today there are nearly 35,000 people on parole in New York State. New York imprisons more people for non-criminal “technical” violations of parole -- 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 except Illinois.<sup>1</sup> Of people on parole whom New York sent back to prison in 2016, over 6,300 or 65% were reincarcerated for technical parole violations.<sup>2</sup> **That’s five times the national average.** The racial disparity is stark: Black people are incarcerated in New York City jails for technical parole violations at more than 12 times the rate of whites.<sup>3</sup>

Reincarceration for technical violations not only harms individual lives and families without commensurate public safety gains, but also drives up the population in the state prisons and local jails, wasting taxpayer money.

The **Less is More: Community Supervision Revocation Reform Act** would fix this problem. Developed by people on parole, people currently incarcerated, family members, Katal, Unchained, Justice Lab at Columbia, Legal Aid, and more, the bill is sponsored by Sen. Brian Benjamin (S.1343a) and Assm. Walter Mosley (number forthcoming). Here are explanations of the four key provisions of the *Less Is More Act*:

### 1. Creating the Incentive -- Earned Time Credits

The *Less Is More Act* would provide paroled people with 30 days of earned time credit for every 30 days in the community without a parole violation. For example, someone who has a four-year term of parole would complete supervision after two years if they had no 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. Early termination of parole will incentivize good behavior from paroled people and reduce caseloads for parole officers.

### 2. Establishing Recognizance Hearings

Under the current system, parole officers can issue warrants for alleged violations at their discretion, subject only to authorization from their supervisor. As soon as the warrant is

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<sup>1</sup> United States Department of Justice, Bureau of Justice Statistics, *Probation and Parole in the United States, 2016* (Apr. 2018), Appendix Table 7, available at [www.bjs.gov/content/pub/pdf/ppus16.pdf#page=22](http://www.bjs.gov/content/pub/pdf/ppus16.pdf#page=22).  
<sup>2</sup> *Id.*

<sup>3</sup> Vincent Schiraldi and Jennifer L. Arzu. *Less is More in New York: An Examination of the Impact of State Parole Violations on Prison and Jail Populations*. (2018), available: <https://academiccommons.columbia.edu/doi/10.7916/D8RZoQo6>

executed, the paroled person is taken directly to the local jail without first seeing a judge or parole hearing officer. In New York City, the paroled person is taken to Rikers, where they spend an average of 60 days waiting for an administrative hearing to determine whether their parole will be revoked and they will be sent back to prison.

**Under the *Less Is More Act***, the paroled person would first be taken to a local arraignment court for a hearing—similar to a bail hearing in a criminal case—before a judge to determine whether or not they will be held in jail while they wait for the administrative hearing on the alleged parole violation. The local judge would assess whether the paroled person is likely to return for their administrative hearing if they remained at liberty.

The recognizance hearing provides an opportunity for people under community supervision to see a judge and explain their situation before being sent to jail. These hearings will help ensure that people’s lives aren’t disrupted because of allegations of misconduct that have not yet been substantiated. It is extremely difficult for people on parole to secure housing, employment, and other community support and services, and any stability they have achieved should not be jeopardized.

### **3. Eliminating Incarceration for Certain Technical Violations**

The Less Is More Act would not permit paroled people to be reincarcerated as a punishment for violating certain conditions of parole. If a person is found to have committed one of these violations, they will be ineligible for the earned time credit for that 30-day period and their parole officer could impose additional “special conditions” to help address the issue. Violations for which a person cannot be returned to incarceration include, but are not limited to:

- **Curfew:** People miss their curfews due to a variety of factors: problems with transportation, family emergencies, or work commitments, for example. However, parole officers often do not consider the circumstances surrounding the curfew violation, and people are frequently returned to prison. **Under the *Less Is More Act***, the person on parole would not be returned to prison for a curfew violation; rather, they would be ineligible for earned time credit. Thus a curfew violation would not disrupt the progress someone has made in the community.
- **Fraternizing with people with criminal records:** Under current parole regulations, people on parole are not allowed to be in the company of people who have criminal records. Because of hyper-incarceration in certain communities, especially communities of color, many families and neighborhoods have multiple members with criminal records. This means that people under community supervision risk incarceration when they visit friends or family if there is anyone present who has a criminal record. Yet research shows that strong personal connections are important to establish a health reentry process. **Under the *Less is More Act***, a person under community supervision would no longer have to choose between incarceration and isolation.
- **Alcohol and other drug use:** Under current rules, people struggling with alcohol or other drug use may face incarceration if they fail a drug test. As a result, many people decide not to show up for parole appointments because they are worried that they will fail a drug test and be sent back to prison, compounding the problems with their reentry process. **Under the *Less Is More Act***, someone struggling with drug use would be incentivized to continue to meet with the parole officer, because he or she wouldn’t fear being sent back to prison immediately for a positive drug test.

- **Obtaining a driver license:** Under current rules, a person on parole is often not allowed to obtain a driver license. In NYC, access to public transit makes a car and driver license largely unnecessary for most people. But in other areas of the state, driving is often essential to obtain a job or attend programs mandated by community supervision. **Under the *Less is More Act***, people would not risk incarceration by either legally obtaining a license or driving without one in order to meet the other conditions of their parole.

#### 4. Capping Periods of Incarceration

Under today’s system, a person who is accused of *any technical violation* can be re-incarcerated -- first in jail, then in prison -- for months or even years. This approach is why New York reincarcerates more people for technical violations than any state in the nation except Illinois.

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 paroled person to ultimately return to society after the period of incarceration ends. And research from Columbia University has shown it provides no public safety benefit.

**Under the *Less Is More Act***, there are only a few technical violations for which a person is subject to incarceration, and for those few violations, there are limits to when incarceration can be used and for how long. For absconding (failing to report to the parole officer for the purpose of avoiding supervision), 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 such violations, a person on parole can be subject to short periods of incarceration, never more than 30 days. For non-technical violations – i.e. for alleged new crimes – a person is subject to up to 90 days incarceration for the violation in addition to any additional criminal penalties that may apply.

#### About the #LessIsMoreNY Campaign

#LessIsMoreNY is a statewide coalition of community groups, service providers, and public safety experts working together to pass the *Less is more Act* to reduce jail and prison populations; support people who are subject to community supervision in the reentry process; promote safety and justice for families and communities; and save taxpayers money. We call on the Governor and Legislature to pass the bill, capture the savings that will result from reform, and reinvest those savings back into the communities most harmed by mass incarceration and crime.

#### For more information, and to get involved with #LessIsMoreNY, please contact:

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