

The Second Look Act

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WHY?

New York's criminal justice system is far from perfect. Everyone deserves a second chance for a judge to review their case, and some people have been unjustly incarcerated and should be released. The Second Look Act would grant that chance.

New York ranks third in the country when it comes to incarcerating people for indeterminate life sentences, following Utah and California.¹ As of June 2021, over 6,800 people in prison had been there for at least 10 years.² Many of the people serving these excessively long sentences have spent their time incarcerated earning advanced degrees, mentoring others, and learning new professional skills. They deserve a chance to go home and prove they can do the same good in the community.

SUMMARY

The Second Look Act would finally allow judges to review and reconsider excessive sentences, giving people who are incarcerated the opportunity to receive a reduction in their sentence when it is in the interest of justice.

An incarcerated person would be able to ask the court to review their sentence if they have served 10 years, or if they have served half of a 10+ year sentence, whichever occurs first. The prosecuting attorney could also ask the court to review a sentence at any time.

- **The Legislation creates a rebuttable presumption of release for people who were 25 years or younger during the commission of the crime.** Prevailing research around brain development recognizes full brain development is not complete until the age of 25, affecting executive brain functions.³ People who were very young at the time of their offense deserve a chance to show that they have changed.
- **It also creates a rebuttable presumption of release for people who are over the age of 55.** The Second Look Act follows recidivism research, which shows that people released from prison in their 50s or later are very unlikely to commit new crimes or get rearrested.⁴

IMPACT

Every year of incarceration in New York's prison system costs taxpayers close to \$100,000 per year. These are dollars that could be invested into proven public safety practices with a significantly higher return than unnecessarily long prison terms. The Second Look Act could save millions of dollars by allowing judges to evaluate and release certain people in prison with long sentences who pose no threat to the community and can safely return home to their families.

THE SECOND LOOK ACT WILL KEEP NEW YORKERS SAFE

It allows judges to consider a host of factors that should be contemplated when deciding whether a sentence reduction is appropriate, including history of abuse and trauma, the potential benefit to children and family members of release, rehabilitation while incarcerated, efforts to participate in available programming, circumstances of the crime, whether a trial tax—that is, a lengthier sentence for exercising the right to go to trial—was imposed, and the cost of incarceration.

To ensure that any resentencing is in the interest of justice, judges would also be required to consider any statement from a victim or a victim's family in response to a person's request for a second look. Taken together, these requirements will allow judges to reach decisions that advance justice, take into account the perspectives of victims, and protect public safety.

ENDNOTES

- 1 The Sentencing Project, "Still life: America's Increasing Use of Life and Long-Term Sentences," 2017, <https://www.sentencingproject.org/reports/still-life-americaos-increasing-use-of-life-and-long-term-sentences/>.
- 2 Vera Institute of Justice, "Empire State of Incarceration," February 18, 2021, <https://www.vera.org/empire-state-of-incarceration-2021>.
- 3 Arain et al., "Maturation of the adolescent brain," *Neuropsychiatric Disease and Treatment*, April 3, 2013, <https://www.dovepress.com/getfile.php?fileID=15666>.
- 4 Vera Institute of Justice, "Aging Out: Using Compassionate Release to Address the Growth of Aging and Infirm Prison Populations," December 2017, <https://www.vera.org/downloads/publications/Using-Compassionate-Release-to-Address-the-Growth-of-Aging-and-Infirm-Prison-Populations%E2%80%94Full-Report.pdf>.