



Memo Supporting the Passage of S2338/A4463

Purpose

This memo proposes the prioritizing of [Senate Bill 2338/Assembly Bill 4463](#) which would allow incarcerated seniors age 60 and older who have served at least 20 years of their sentence to petition the court for resentencing. In their 2024 report, the NJ Criminal Sentencing and Disposition Commission highlighted Senate Bill 2338/Assembly Bill 4463 as one of the key legislative reforms needed in the state in order to “reduce racial disparities, address inequities in sentencing, and advance the goal of rehabilitation” in New Jersey.¹ S2338/A4463 has received support from the Department of Corrections, NJ Office of the Public Defender, NJ Office of the Attorney General and the Governor’s Front Office.

Background

- New Jersey prisoners age 60 and older are the only demographic to steadily increase over the past 10 years.
- The cost of caring for aging people can be five times more than for younger prison populations, due to medical services and disability accommodations.
- Individuals aged 50 and older have a recidivism rate of less than 1% showing that this aging population poses minimal risk to public safety and are least likely to reoffend.
- People who spend more than 20 years in prison often “age out of crime,” and undergo significant transformation and rehabilitation.
- It costs the state \$74,000 per year to house one individual incarcerated person. These costs increase substantially with age, and could be exceed \$500,000 per year due to acute hospital care and rehab facilities. An additional \$304,000 in yearly overtime is required per patient for correctional officers who are mandated to oversee people receiving medical care.

Case Studies and Models:

- There have been second look legislation passed by 13 state legislatures which include²:
 - California
 - Colorado
 - Connecticut
 - Delaware
 - Florida
 - Illinois
 - Maryland
 - Minnesota
 - New York

¹ [CSDC Third Report](#)

² [The Second Look Movement: A Review of the Nation’s Sentence Review Laws – The Sentencing Project](#)



- North Dakota
- Oklahoma
- Oregon
- Washington
- Washington DC
- Six of these states permit the court to specifically consider factors such as age at the time of the offense and amount of time served. Those states are:
 - Connecticut: notably broader legislation than other states, allowing anyone sentenced after a trial, regardless of age or sentence length, to petition the court for sentencing review.
 - Delaware: youth are eligible for second look hearing after servicing a certain portion of their sentence, which is typically about 20 years.
 - Maryland: individuals convicted of crimes between the ages of 18 and 25, and those who have served at least 20 years are eligible.
 - Oregon: allows for judicial review of youth convicted as adults after serving half of their imposed sentence.
 - Florida: eligible if an individual was under age 18 and has served at least 15 years of their sentence (note: in the event of certain homicides, then they must serve a minimum of 25 years)
 - North Dakota: applies to final convictions that occur after 8/1/17. If the individual was under age 18 and has served at least 20 years, then there is potential eligibility.
 - Washington DC: Individuals who committed an offense before their 25th birthday and have served at least 15 years are eligible.

Definitions

- Rehabilitative Release – the release of an individual from prison with the goal of supporting reintegration into society by addressing the individual’s needs as well as providing necessary support and resources. Key components of rehabilitative release include focusing on reintegration, ensuring access to supportive services, and reducing recidivism by addressing root causes of criminal behavior.
- Second Look legislation – legislation authorizing courts to review sentences of individuals after they have served lengthy sentences. Second look legislation rests largely on the understanding that individuals can change over time and that lengthy sentences are often inappropriate and provide little to no benefits to public safety concerns.

Proposal Details

Establishment and Appropriations of S2338/A4463

- Would allow the Commissioner of the Department of Corrections to issue a Certificate of Eligibility for Rehabilitative Release to any incarcerated person who:

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- Age 60 or older and has served at least 20 years.
- In the case of individuals who have been convicted of the most serious crimes (i.e. murder), then the individual must be at least age 62 having served a minimum of 30 years.
- Would require the Office of the Public Defender to represent the incarcerated person in their petition, unless that person has retained private counsel.
- Factors taking into consideration for eligible individuals include, but are not limited to:
 - Age at the time the offense was committed and age at the time of petition.
 - Demonstrated readiness for reentry as demonstrated by participation in various educational, vocational or therapeutic courses and/or opportunities.
 - Reports submitted by the Department of Corrections (disciplinary record, medical records, psychological evaluations, etc.).
 - Statements from victim or victim's family members.
 - Statements from petitioner's community.
 - Potential cost savings to state.
- Anyone granted rehabilitative release under S2338/A4463 would be sentenced to a mandatory 5-year term of parole supervision.

Expected Benefits and Outcomes

Benefits include:

- Reduction in racial disparities and sentencing inequities
- Addressing New Jersey's history of excessive sentencing
- Taxpayers' cost savings
- Reduction in medical and disability costs, and in the financial strain on state's resources.

Outcomes include:

- Reduced recidivism in the state – by providing opportunities for rehabilitative release and successful reentry, S2338/A4463 has the potential to reduce the likelihood of recidivism while individuals become contributing members of their community.
- Shifting state's focus from punishment to rehabilitation – the successful adoption and implementation of S2338/A4463 can serve as a larger shift in the state's approach to criminal legal issues which is grounded in science about public safety and recidivism and recognizes the humanity of all people. That grounding would also center rehabilitation over punishment.
- Increased rehabilitation – more incarcerated individuals may be motivated to participate in programs designed to support successful reentry into society allowing them to contribute to their communities thereby extending the benefits of rehabilitation beyond the individual to the larger community and state.