



Legislation Details (With Text)

File #: Res 0391-2022 **Version:** * **Name:** Governor to exercise clemency power to release older adults who are incarcerated. (S15A/A8855A, and S7514/A4231)

Type: Resolution **Status:** Committee

In control: Committee on Criminal Justice

On agenda: 11/22/2022

Enactment date: **Enactment #:**

Title: Resolution calling on the New York State Legislature to pass, and the Governor to sign, S15A/A8855A, and S7514/A4231, and for the Governor to exercise clemency power to release older adults who are incarcerated.

Sponsors: Tiffany Cabán, Sandy Nurse, Shahana K. Hanif, Crystal Hudson, Rita C. Joseph, Amanda Farías, Gale A. Brewer, Carmen N. De La Rosa, Lincoln Restler, Chi A. Ossé, Jennifer Gutiérrez, Alexa Avilés, Kristin Richardson Jordan

Indexes:

Attachments: 1. Res. No. 391, 2. Hearing Transcript - Stated Meeting 11-22-22, 3. November 22, 2022 - Stated Meeting Agenda, 4. Minutes of the Stated Meeting - November 22, 2022

Date	Ver.	Action By	Action	Result
11/22/2022	*	City Council	Introduced by Council	
11/22/2022	*	City Council	Referred to Comm by Council	

Res. No. 391

Resolution calling on the New York State Legislature to pass, and the Governor to sign, S15A/A8855A, and S7514/A4231, and for the Governor to exercise clemency power to release older adults who are incarcerated.

By Council Members Cabán, Nurse, Hanif, Hudson, Joseph, Farías, Brewer, De La Rosa, Restler, Ossé, Gutiérrez, Avilés and Richardson Jordan

Whereas, According to Release Aging People in Prison (RAPP), the number of elders behind bars over the past 20 years has more than doubled; and

Whereas, According to the New York State Senate Crime Victims, Crime and Correction Committee, New York State holds the distinction of having the third largest population of people serving life prison terms in the country; and

Whereas, Housing an older adult in State prison, as defined by the New York State Department of Correction and Community Supervision (DOCCS) to be adults 55 years of age or older, costs New York

taxpayers between \$100,000 and \$240,000 annually; and

Whereas, Studies show that rearrest rates for older adults released from prison are low, particularly for those originally convicted of serious crimes; and

Whereas, Many older adult incarcerated men and women who have served decades in prison for crimes have taken responsibility, transformed their lives, developed skills and abilities and pose little if any public safety risk to the community; and

Whereas, In practice, the Parole Board rarely releases an incarcerated person on their first appearance if the underlying crime was violent, even if it took place more than 25 years prior to the board appearance and even when the incarcerated person has a low risk of reoffending; and

Whereas, Current law makes the board susceptible to political pressure to deny parole to incarcerated individuals with high profile crimes, even if they have been thoroughly rehabilitated with excellent prison records; and

Whereas, S15A, sponsored by Senator Brad Holyman, and A8855A, sponsored by Assemblywoman Maritza Davila, seek to provide a Parole Board interview in relation to parole eligibility for certain incarcerated persons aged fifty-five or older who have served at least 15 years; and

Whereas, S15A/A8855A authorize the Parole Board to determine if people incarcerated who are 55 or older should be released to community supervision within 60 days of their 55th birthday or the last day of the 15th year of their sentence, whichever is later, but if release is not granted then the person shall be given a subsequent interview no more than 24 months later; and

Whereas, To achieve transparency, S15A/A8855A require the Board of Parole to report quarterly to the Governor, Legislature, and public about the outcomes of elder parole; and

Whereas, S7514, sponsored by Senator Julia Salazar, and A4231A sponsored by Assembly Member

David Weprin, mandate the Board of Parole shall release incarcerated persons who are eligible for release on parole, unless such person presents a current and unreasonable risk of violating the law or such risk cannot be mitigated by parole supervision; and

Whereas, S7514/A4231 provide a more meaningful parole review process for incarcerated people who are already parole eligible and ensures that people are evaluated for release based on who they are today, including their rehabilitation efforts, personal transformation, and their current risk of violating the law; and

Whereas, S7514/A4231 establishes the Parole Board must be staffed with 19 commissioners as the law allows and should be comprised of people who share our values of redemption, transformation, and mercy; and

Whereas, The Governor of New York has clemency powers granted by the New York State Constitution; and

Whereas, Clemency as defined by the State Constitution (Article IV, Section 4) provides the Governor the power to grant reprieves, commutations, and pardons after convictions for all offenses except treason and cases of impeachment; and

Whereas, According to New Yorkers for Clemency, many people serving life sentences and sentences so long that they will surely die in prison before they are ever even eligible for parole, entered the prison system when they were teenagers, and have served decades of their sentence; and

Whereas, Over the course of their lengthy sentences, they have amassed admirable achievements, including mentoring younger people in and out of prison while encouraging them to realize their full potential; and

Whereas, The Governor of New York has the opportunity to save lives and reunite people with their families by granting clemency frequently, inclusively, and transparently; and

Whereas, Clemency should not be limited to once or twice per year as a gift for the holidays or new

year, but rather granted on an ongoing frequent basis throughout the year; and

Whereas, In the interest of inclusivity, clemency should not excluding anyone based on the nature of their crime, sentence, or time served as everyone is deserving of redemption and a second chance; and

Whereas, Elder prison reform legislation would bring hope to incarcerated older adults who have worked hard to change and would allow people the chance to safely return to their communities and families and save the state hundreds of millions of dollars that could be reinvested to meet critical community needs; now, therefore, be it

Resolved, That the Council of the City of New York calls on the New York State Legislature to pass, and the Governor to sign, S15A/A8855A, and S7514/A4231, and for the Governor to exercise clemency power to release older adults who are incarcerated.

CMB
LS #10536
11/9/22