



New York State Coalition Against Sexual Assault

Working for a World Without Violence.

New York State Coalition Against Sexual Assault • 28 Essex Street, Albany, NY 12206 • 518-482-4222

Memo of Opposition

(S.3963-Reichlin-Melnick/A.6071-Lawler)

The New York State Coalition Against Sexual Assault (NYSCASA) opposes S.3963/A.6071, which would expand life without parole (LWOP) sentences when New York State should be eliminating them as a step toward ending mass incarceration.

NYSCASA is a private, non-profit coalition of community-based rape crisis programs located throughout New York State. NYSCASA's mission is to end all forms of sexual violence and exploitation, and to address the impacts of sexual assault. As an organization that seeks to empower and advocate for survivors of crime, including survivors who are criminalized and incarcerated, we are committed to supporting mechanisms that promote meaningful accountability and healing. NYSCASA believes that endless incarceration poses a systemic barrier to accountability. Moreover, it does not keep victims—or any of us—safe, and it certainly does not deter crime or promote the well-being of survivors.

BACKGROUND

New York State already has a moral and fiscal crisis of aging and dying in prisons due to decades of extremely harsh sentencing and a racially-biased parole system that values vengeance and endless punishment above redemption, personal transformation, healing, and safety. Approximately 1,000 people have already died in New York prisons in the last decade and another 1,000 are currently sentenced to die behind bars in the coming years with no hope of release, no matter how much they have done to improve themselves and regardless of whether they pose a risk to public safety. 280 of them are serving LWOP sentences and the remainder are serving sentences that will exceed their natural lives. Even as the state's overall prison population has declined, the percentage of incarcerated people who are older adults has dramatically increased. One-in-four are 50 or older, and many were sentenced when they were as young as 16.

The vast majority of people in prison are Black and Latinx people as a result of systemic racism in our country. 60% of New Yorkers serving LWOP sentences are Black. 75% are People of Color. Many were sentenced as teenagers and older adolescents and have already languished in prison for decades. They are now in their mid-fifties or even older. Studies show that the brains of young people are not fully developed until age 25, yet under existing law they can be condemned to grow old and die in prison. While New York State technically does not permit LWOP sentences for 16 and 17 year olds, it does permit minimum sentences that will or will

likely exceed their natural lifetimes. Young people aged 18 or older can be and have been sentenced to LWOP.

The grave injustice of New York's mass incarceration extends beyond the harm inflicted on individual people in prison. Tens of thousands of families across our state are missing one or more family members: children, parents, grandparents and great-grandparents. The terrible pain of losing a loved one in isolation amid COVID-19 without being able to say goodbye is sadly nearly always the case for incarcerated people and their families in the event of a death.

While the human toll of this crisis is paramount, the fiscal burden is directly related. New York spends an average of \$60,000 annually to incarcerate just one person, and between \$100,000 and \$240,000 annually per older adult in prison. This is money that should instead be invested in resources that help to deliver real community health and safety.

THE MOVEMENT TO END 'LIFE WITHOUT PAROLE' SENTENCES

Across the country, there is a growing movement to bring an end to LWOP sentences, and other prison sentences that exceed people's natural lives, both because of a humanitarian concern for directly impacted people and families, who are disproportionately Black and Latinx, and because the best available research shows they serve no community safety purpose.

Pope Francis has called LWOP sentences "hidden death sentences" and we agree. We have no more right to condemn a person to die in prison, without any hope of release regardless of their rehabilitation, remorse, and change, than we do to execute them. The plain truth is that the intolerable racial disparities, inefficacy at deterring crime and promoting public safety, and inherent immorality that define the death penalty apply in equal measure to endless incarceration without any possibility for release.

One might think that a punishment as extreme and costly as LWOP sentences would be grounded in social science research but in fact it is not. The opposite is true: studies show limited or no deterrent effects for long sentences and any benefits of incapacitation diminish quickly as people age out of crime.

The reality is that, long sentences, most starkly LWOP sentences, mostly serve to strengthen the leverage of prosecutors in coercing plea deals from people facing charges – predominately Black and Latinx people – regardless of their guilt or innocence. Faced with the prospect of aging and dying in a cage, many make the rational choice of pleading guilty in exchange for some hope of release.

Notably, these sentences also reinforce the racist punishment paradigm of mass incarceration precisely when people across the country are rising up to dismantle it.

S.3963/A.6071

This legislation goes against the national movement, expanding the circumstances in which LWOP sentences may be imposed. The circumstances addressed by the bill would still amount to

a very serious crime: inflicting sexual violence or abuse upon and murdering a young person under the age of 18. (Existing law requires the person to be under 14). We cannot minimize the harm of this grievous act. In such cases, surviving loved ones must be provided with immediate and lasting material support, community safety must be assured to the greatest extent possible, and anyone who commits this devastating crime must be held accountable. However, this legislation accomplishes none of this. Like other efforts to expand LWOP, this one appears to be rooted in an insatiable appetite for vengeance, which should not be a factor in our legal system. Moreover, we know the ill effects of long sentences, as noted above, will disproportionately impact Black and Latinx people, families, and communities. Like all other harsh sentencing bills, this bill would, in particular, disproportionately be applied to Black and Latinx young people. To continue to throw away Black and Latinx kids is wrong. Even if there were any legitimacy to LWOP sentences – and there is not – no fair and reasonable legislature would view the structural inequities of our legal system and permanently condemn people to its judgements with no hope of relief.

CONCLUSION

For the reasons stated above, the New York State Coalition Against Sexual Assault **OPPOSES** S.3963/A.6071 and urges lawmakers to oppose it, as well. We further urge the legislature to take affirmative steps to end LWOP sentences and provide fair and meaningful release opportunities for incarcerated people who demonstrate their readiness to return to the community.

Thank you for considering our comments.