

Bill Allowing 'Elder Parole' Consideration for Older Inmates Gains Momentum in NY

The legislation would allow the state parole board to consider granting parole to inmates over the age of 55 who have served at least 15 years in prison, but it would not mandate the release of those individuals.

By **Dan M. Clark** | April 12, 2019 at 03:34 PM

A bill to allow so-called “elder parole” in New York gained momentum in the state Legislature this week when lawmakers on a key Senate committee voted to send it one step closer to a vote on the floor.

The legislation would allow the state parole board to consider granting parole to inmates over the age of 55 who have served at least 15 years in prison, but it would not mandate the release of those individuals.

It was approved earlier this week by the Senate Crime Victims, Crime and Correction, which is chaired by State Sen. Luis Sepulveda, D-Bronx. There was no debate on the bill at the meeting, where Sepulveda and other Democrats hailed the bill as a money-saver for the state that would change the lives of aging parolees.

“This is, in terms of fiscal policy, a no-brainer,” Sepulveda said. “If you look at the recidivism rate of people over 55 that are released, it’s minuscule.”

The measure is sponsored by Assemblyman David Weprin, D-Queens, and State Sen. Brad Hoylman, D-Manhattan, who said that allowing those individuals to be eligible for parole would save the state money without endangering public safety. The parole board would have to assess the individual’s potential risk to society as part of its decision on their release, according to the legislation, though Hoylman said most affected by the bill would clear such a test.

“I think it’s a landmark bill that recognizes people who are aging behind bars should have the opportunity to seek parole because they’re dying in prison,” Hoylman said. “They have been shown not to be risks to the community and it is a huge burden to taxpayers.”

The legislation didn’t make it through committee last year because Republicans who controlled the State Senate at the time opposed the measure. It’s also moved this year in the Assembly, where’s it’s already passed the Correction Committee. That committee is chaired by Weprin, who said the bill would make New York the first state to enact so-called “elder parole.”

“New York needs to reform its outdated criminal justice statutes and become the first state in the nation to allow older incarcerated individuals the opportunity for consideration of parole,” Weprin said. “I applaud Senator Brad Hoylman for pushing this bill through the Senate Committee on Crime Victims, Crime and Correction, where it has

languished for more than a decade, and look forward to enacting Elder Parole in New York State.”

The bill will now be considered by the Senate Finance Committee and the Assembly Codes Committee before it goes to the floor of both chambers for a vote. It hasn't yet been placed on the agenda of either committee, which won't meet for a few weeks while lawmakers take a short break from Albany. They're scheduled to return later this month.

The push behind the bill, on the advocacy side, has come from the Release Aging People in Prison campaign, which is led by Jose Saldana. The group has been advocating for the bill for several years with little success. This year its passage is more likely after Democrats secured a majority of both houses of the Legislature for the first time in nearly a decade.

“It would impact hundreds of elderly incarcerated men and women who are mentors and educators to countless people they've been incarcerated with,” Saldana said. “The bill offers hope and an opportunity for people to return to their families and home communities to continue to repair the harm they caused.”

RAPP is one of several criminal justice reform groups who have, in recent months, called on Gov. Andrew Cuomo to fully staff the state parole board. State law allows 19 commissioners on the board, but it's currently operating with just 12. Defenders have also called for the board to be fully staffed, which can only be done through appointments by Cuomo.

“Too many people have been unjustly denied release because of understaffing,” said Anthony Posada, supervising attorney of the community justice unit at The Legal Aid Society. “This devastates their families and communities, creates a lack of due process in the system and requires immediate action.”

A spokesman for the governor said he was deliberately considering the appointments and that his pace of selecting individuals to sit on the parole board has not been unlike that of governors in the past.

“Governor Cuomo has filled vacancies on the Board of Parole at the same level and pace as previous governors have for the past several decades,” the spokesman said. “He has prioritized the appointment of individuals with a diverse range of professional expertise, such as mental health professionals, attorneys, psychologists and others with criminal justice experience. The Governor has also supported additional reforms to the parole system.”

Cuomo and lawmakers secured funding for a total of 17 parole board members in this year's state budget, according to the spokesman, who said he would continue working with the Legislature to make these appointments throughout this year's legislative session.

Dan M. Clark is the Albany reporter for the New York Law Journal. He covers the state Court of Appeals, the state legislature, state regulators, and more.

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