Staff:

Alana Sivin, Legislative Counsel

Kieshorne Dennie, Policy Analyst

Peter Butler, Legislative Financial Analyst



**THE COUNCIL OF THE CITY OF NEW YORK**

***Committee Report of the JUSTICE DIVISION***

Brian Crow, Deputy Director

**COMMITTEE ON CRIMINAL JUSTICE**

Hon. Keith Powers, Chair

**May 28, 2019**

**Proposed Res. No 143-A:** By Council Member Dromm

**Title:** Resolution calling on the New York State Legislature to pass and the Governor to sign the Humane Alternatives to Long-Term Solitary Confinement Act.

**Res No. 829** By Council Member Powers

**Title:** Resolution calling upon the New York State Legislature to pass, and the Governor to sign, S.1343B/A.5493, which would reform revocation presumptive release, parole, conditional release, and post-release supervision.

1. **INTRODUCTION:**

On May 23, 2019 the Committee on Criminal Justice, chaired by Council Member Keith Powers, will vote on Proposed Resolution No. 143-A and Res No. 829. The Committee previously held a hearing on these resolutions on May 1, 2019 and received testimony from representatives of the Department of Correction (DOC), as well as advocates and other interested members of the public.

1. **BACKGROUND**

The pieces of legislation at issue serve to improve the conditions of individuals who are justice-involved, both while they are incarcerated and when they are released on community supervision. Proposed Resolution No. 143-A is in support of the Humane Alternatives to Long-Term (HALT) Solitary Confinement, which eliminates long-term solitary confinement, while Resolution No. 829 is in support of the Less is More Act, which restricts the use of incarceration for technical violations of parole.

1. **PROPOSED RESOLUTION NO. 143-A: The HALT Solitary Confinement Act (A2500/S1623)**

Solitary confinement has harmful psychological consequences[[1]](#footnote-1) and is prohibited under the United Nations Standard Minimum Rules for the Treatment of Prisoners.[[2]](#footnote-2) Proposed Resolution No. 143-A calls on the New York Legislature to pass, and the Governor to sign, the HALT Solitary Confinement Act (A2500/S1623). This act would create more humane and effective alternatives to isolated confinement, including Residential Rehabilitation Units (RRU), which would provide programs, therapy, and support to address underlying needs and causes of behavior. In addition, it would end isolated confinement for more than 15 consecutive days, ban special populations from isolated confinement such as those over the age of 55 or under 21, create mechanisms for release, and allow access to legal representation by pro bono attorneys, law students, or approved paralegals at hearings that could result in isolated confinement. This law would apply to both local and state correctional facilities.

1. **AMENDMENTS TO RESOLUTION 143**

This resolution has been amended from the previous version to reflect updated bill numbers in Assembly and State.

1. **RESOLUTION NO. 829: The Less is More Act (S.1343B/A.5493)**

New York State incarcerates more people for technical parole violations than any state other than Illinois.[[3]](#footnote-3) As of April 2019, 709 people were incarcerated for technical parole violations in city facilities.[[4]](#footnote-4) Resolution No. 829 calls on the New York Legislature to pass, and the Governor to sign, the Less is More Act (S.1343B/A.5493). This act would restrict the use of incarceration for technical violations and provide 30-day earned-time credits. It would also increase due process by affording people under community supervision with a recognizance hearing in local criminal court before detention and by providing speedy hearings. Furthermore, the act would require the parole board to ensure the presence of non-profit organizations at revocation hearings to help those who are on parole avoid future supervision.

Proposed Res. No. 143-A

..Title

Resolution calling on the New York State Legislature to pass and the Governor to sign the Humane Alternatives to Long-Term Solitary Confinement Act.

..Body

By Council Member Dromm

Whereas, Solitary confinement typically constitutes a special form of imprisonment by segregating an incarcerated person for 23 hours a day and disallowing any contact with the outside world; and

Whereas, According to various sources, an increasing number of jurists throughout the world have concluded that solitary confinement constitutes cruel and unusual punishment and view solitary confinement as a form torture; and

Whereas, Thousands of incarcerated individuals are housed in solitary confinement each day in New York prisons and jails, according to various source; and

Whereas, Incarcerated people in solitary confinement are generally deprived of all meaningful human interaction or mental stimulation, confined to small barren cells; and

Whereas, New York State must take a more proactive approach to not only properly protect incarcerated people in New York prisons and jails, but must adopt better standards that reaffirm the State's commitment to respect inmates' human dignity; and

Whereas, A.2500, sponsored by Assembly Member Jeffrion L. Aubry and currently pending in the New York State Assembly, and companion bill S.1623, sponsored by State Senator Luis R. Sepulveda and pending in the New York State Senate, seek to amend the New York State Correction Law by restricting the use of segregated confinement and creating alternative therapeutic and rehabilitative confinement options; and

Whereas, A.2500/S.1623 is also known as the Humane Alternatives to Long-Term Solitary Confinement Act or "HALT Solitary Confinement Act"; and

Whereas, The HALT Solitary Confinement Act would amend the New York State Correction Law by limiting the time an incarcerated individual spends in segregated confinement to a maximum of 15 consecutive days and a total of 20 days during a 60-day period; and

Whereas, The HALT Solitary Confinement Act would end the segregated confinement of vulnerable people, including, but not limited to, individuals with physical or mental disabilities; and

Whereas, Furthermore, the HALT Solitary Confinement Act would create alternatives to isolated confinement by providing a new Residential Rehabilitation Unit for meaningful human contact and therapeutic services and rehabilitative programs aimed at addressing underlying causes of behavior; and

Whereas, New York State should establish parameters on who can and cannot be placed in solitary confinement and provide appropriate therapeutic services to individuals who are in need; 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 the Humane Alternatives to Long-Term Solitary Confinement Act.

WJH

LS 490/ Res. 53 - 2014

1/4/18

LS 1116

KMD

Rev. 4/11/19

LS116/Reso 143 - 2018

Res. No. 829

..Title

Resolution calling upon the New York State Legislature to pass, and the Governor to sign, S.1343B/A.5493, which would reform revocation presumptive release, parole, conditional release, and post-release supervision.

..Body

By Council Member Powers

Whereas, In 2017, about sixteen percent of New York City’s jail population were parole violators, according to the Mayor’s Office of Criminal Justice; and

 Whereas, In 2016, about sixty-five percent of parole violators in New York State were incarcerated for technical violations, meaning the person broke conditions of their release, such as missing curfew or a parole appointment, or testing positive for marijuana; and

 Whereas, In New York City, the number of people detained on technical parole violations has grown significantly since 2014, accounting for forty-eight percent of the incarcerated parole population in 2017, according to Columbia Justice Lab report; and

 Whereas, Of people on parole whom New York officials sent back to prison in 2016, over 6,300, or 65%, were re-incarcerated for technical parole violations, as opposed to new crimes; and

Whereas, According to Criminal Justice Lab, black people are detained in New York City’s jails for technical parole violations at more than 12 times the rate of white people, making parole reform a racial justice issue; and

 Whereas, In a recent *New York Daily News* opinion piece, New York and Kings County District Attorneys acknowledged that parole is a significant contributor to mass incarceration and must be reformed to be less punitive and more rehabilitative; and

Whereas, Governor Cuomo has stated, “New York jails and prisons should not be filled with people who may have violated the conditions of their parole, but present no danger to our communities;” and

Whereas, This has occurred while the number of people released from state prison into city homeless shelters nearly doubled from 2014 to 2018; and

Whereas, the increasing number of persons detained for state parole violations in New York City’s jails not only overuses incarceration for crimeless, technical violations but is also slowing the closure of the city’s jails on Rikers Island and increasing the estimated size of replacement, borough-based facilities; and

Whereas, S.1343B, introduced by State Senator Brian Benjamin, and companion bill A.5493, introduced by State Assembly member Walter Mosely, would reform parole: conditional release, revocation presumptive release, and post-release supervision to reduce the number of people held in jails and prisons in New York State; and

Whereas, S.1343B/A5493 grant “earned time credits” to parolees to encourage positive behavior and accelerate discharge from supervision and ensures parolees who are alleged to have violated the terms of their release receive a hearing in a local criminal court to ascertain whether they should be detained in jail pending adjudication of the alleged violation; and

Whereas, S.1343B/A5493 also shortens the timeframe for adjudicatory hearings and limits technical violation terms and jail time for such terms to ensure people on parole are not needlessly re-incarcerated; and

Whereas, Other states, such as Arizona, South Carolina, Utah, Arkansas, Georgia, Idaho, Louisiana, and Mississippi, have implemented similar reforms proposed in S.1343B/A5493 and, as a result, have experienced a decline in recidivism and compliance revocations; and

Whereas, New York County, Bronx County, and King County District Attorneys have expressed their support for S.1343B/A.5493, asserting that it would increase public safety and reduce unnecessary incarceration; and

Whereas, Without parole reform, the growing number of technical parole violators in New York City’s jails could potentially hamstring the city's efforts to reduce the city jail population and close Rikers Island; and, now, therefore be it

Resolved, That the Council of the City of New York calls upon the New York State Legislature to pass, and Governor to sign, S.1343B/A5493, which would reform revocation presumptive release, parole, conditional release, and post-release supervision

LS10247

3/22/19

KMD

1. Haney, Craig; Lynch, Mona (1997). "Regulating Prisons of the Future: A Psychological Analysis of Supermax and Solitary Confinement". NYU Rev. Law & Social Change. [↑](#footnote-ref-1)
2. United Nations Standard Minimum Rules for the Treatment of Prisoners, *available at* http://www.unodc.org/documents/justice-and-prison-reform/GA-RESOLUTION/E\_ebook.pdf [↑](#footnote-ref-2)
3. U.S. Department of Justice Office of Justice Programs Bureau of Justice Statistics, Probation and Parole in the United States, 2016, *available at* https://www.bjs.gov/content/pub/pdf/ppus16.pdf [↑](#footnote-ref-3)
4. Department of Criminal Justice Services, Jail Population in New York State, Average Daily Census by Month, *available at* https://www.criminaljustice.ny.gov/crimnet/ojsa/jail\_population.pdf, 2. [↑](#footnote-ref-4)