

NY **ATI** REENTRY COALITION

I am Corey Brinson, a Policy Associate with the Legal Action Center. I am providing testimony on behalf of New York's ATI/Reentry Coalition. This coalition was created by the Legal Action Center in 1984. Comprised of 11 prominent direct service and advocacy organizations, the Coalition helps upwards of 20,000 justice-involved individuals each year in New York City and State avoid incarceration and ease reentry. New York is facing significant issues concerning reentry of returning citizens, alternatives to incarceration, and reforming the criminal legal system. It is time to make the next round of major reforms to end long-standing inequities, including racial injustice embedded in the criminal legal system, which is now exacerbated by the disproportionate impacts of the Covid-19 virus on Black and Latinx New York communities.

The New York ATI Reentry Coalition has the following priorities for inclusion in the FY 2022 budget: Bringing ATI and reentry services to scale statewide; Enacting sentencing and decarceration reforms; Automatically expunging convictions (Clean Slate) and lowering other barriers to reentry, including restoring voting rights, removing ACDs from rap sheets for civil purposes, expanding educational release, and restoring higher education in New York State prisons.

Bring Alternatives to Incarceration/Detention (ATI/ATD) and Reentry Services to Scale Statewide

New York has the best array of ATI, ATD and reentry programs in the country. Yet at a total cost of less than \$23 million, these programs are underfunded and not evenly distributed in areas of need across the State. An essential component of achieving a win-win-win of better health and public safety outcomes with less cost is bringing alternative to incarceration, pre-release and reentry programs to scale across the State. The yearly cost of a state prison bed is almost \$70,000 as compared to an average annual cost of \$17,000 for a client of an ATI program, savings which are even more valuable in this extremely difficult budget climate. The necessary web of interventions includes training and job placement, education, and affordable housing, and access to evidence-based substance use disorder (SUD) and mental health (MH) services. The criminal legal system cannot be reformed without addressing policing and increasing community-based and driven resources. ATI and reentry programs keep people away from arrests, out of jails and prisons, save money and enhance public safety. As a significant first step toward bringing these services to scale, existing programs could both expand and provide technical assistance to other existing social service and health providers across the state interested in getting more involved.

Sentencing Reform

Giving judges the discretion to impose community-based sentences and expanding opportunities for the release of currently incarcerated people, are, as noted above, a win-win-win for New York – by addressing the epidemic of mass incarceration, protecting those most vulnerable to COVID-19, and saving taxpayer dollars. The ATI Coalition urges the passage of sentencing and other reforms that work to end racial disparities in the criminal justice and healthcare systems and emphasize treatment over punishment, people over prisons, and the recognition that people can change and reintegrate back into society. ATI Coalition urges the enactment of the following sentencing reforms:

- Empower Judges to Tailor Sentences to Circumstances of the Case – Eliminate Mandatory Minimums
- Provide for Sentencing Based on Current, Not Predicate Offense – Amend Penal Law section 70.70 (4)
- Increase Opportunity for the Release of Older People from Prison

- Empower Judges to Modify Prison Sentences
- Increase Grants of Parole
- Lower Maximum Sentences for Certain Offenses
- Eliminate Prison Sentences for Technical Parole Violations

Automatically Expunge Records of Conviction (Clean Slate)

Enact legislation that provides for the automatic expungement of convictions upon the passage of time. Conviction records endlessly perpetuate the harms of the criminal legal system by hindering people’s ability to meaningfully participate in their communities and society. Criminal records clearance provides crucial relief for people facing persistent barriers in employment, housing, and education, enabling them to better support their families and contribute to their communities. Very few New Yorkers have been able to take advantage of the current application-based sealing and expungement laws, which themselves are too limited. Making expungement automatic through passage of Clean Slate legislation will ensure that far more people benefit while simultaneously reducing the burden on the courts which are currently under greater stress due to the COVID-19 pandemic.

Lowering Other Barriers to Reentry

In addition to automatically expunging records of conviction, the ATI Coalition urges the removal of other barriers so that returning citizens can maximize their opportunities and potential.

- **Restore Voting Rights**

We urge New York to end disenfranchisement based on criminal convictions by allowing people to vote while they are on parole or serving a sentence in prison. As a major step towards full enfranchisement, we support codifying in law the Governor’s executive order to allow all New Yorkers to vote while on parole.

- **Amend Executive Law § 845-d and Judiciary Law § 212(2)(z) to Provide that Cases that are Adjourned in Contemplation of Dismissal (ACDs) are Not Reported for Civil Purposes**

This technical fix would bring Executive Law § 845-d and Judiciary Law § 212(2)(z) into alignment with last year’s amendment of Executive Law § 296(16) that prohibits covered entities from considering pending ACDs in evaluating applicants. It would provide that the Division of Criminal Justice Services (DCJS) and the Office of Court Administration (OCA) shall not disclose cases that are currently adjourned in contemplation of dismissal, or violation convictions on DCJS RAP sheets produced for civil purposes, or on the criminal history searches conducted by OCA for the public. (Please see attached memorandum.)

Furthermore, we encourage an investment in educational opportunities to provide the skills and training necessary for returning citizens to successfully reenter society by enacting the following bills:

- **Expand Educational Release**

Expand educational release programs to allow people who are incarcerated to leave their correctional facility during the day to attend educational courses, such as college, and then return to the facility each evening. Educational release helps people transition from incarceration to the community, and by providing a structured and supported transition, helps participants develop skills to succeed once they are released.

- **Restore Higher Education in New York State Prison Facilities**

We urge enactment of laws that would repeal the ban on incarcerated individuals receiving New York State student financial aid awards from the Tuition Assistance Program (TAP) and expands educational opportunities for those who are incarcerated. The federal government recently repealed an analogous ban on eligibility for Pell Grants; New York should do the same for TAP.

- **Continue to Strengthen Reentry and Transitional Health**

We urge State's health and criminal legal agencies and policymakers to facilitate better health care during incarceration and better transitions from correctional to community-based care upon reentry. These systems are vitally important for the estimated 65%-85% of justice-involved individuals with mental health and substance use disorders.

Following years of advocacy led in large part by LAC, New York resubmitted its application to the Centers for Medicare and Medicaid Services (CMS) requesting a **Medicaid waiver** to provide transitional care to individuals leaving incarceration. The waiver would circumvent the so-called "inmate exclusion" rule, which bars Medicaid from paying for any services inside prisons and jails. CMS has not yet responded to New York's application.

Increased support of New York's waiver comes as the COVID-19 pandemic has elevated the importance of transitional care to a national stage. In response, LAC and our partners in the [Justice Roundtable](#), a group of national criminal legal reform advocates, submitted recommendations to Congress, including urging lawmakers to approve the [Medicaid Reentry Act](#), which would accomplish for the whole nation what New York aims to achieve in its Medicaid waiver application. The Act was included in the House of Representative's fourth COVID-19 response bill (the Heroes Act) but not in the final relief package passed in December. With the change in administration, there is renewed support for bi-partisan embrace and inclusion of the Act in the next stimulus bill.

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- Reform the SNAP Employment Training (SNAP E&T) to Leverage More Federal and Non-Federal Resources to provide employment training services to job seekers with past convictions.

The COVID-19 pandemic has reinforced that providing SNAP access during a public health crisis or economic downturn is critical for the most vulnerable New Yorkers. Food security is a crucial resource at this time, but so is the E&T program component of SNAP as many individuals have lost - and will lose - their jobs due to COVID-19. Under SNAP E&T 50/50, states can request funds from USDA FNS to reimburse third-party partners half of non-federal funds to provide E&T services, such as work experience. Shifting to a cost-reimbursement framework for the Venture program will allow OTDA (with USDA FNS approval) to leverage more federal funding for Supplemental Nutrition Assistance Program Employment & Training and maintain its commitment to performance outcomes for service providers. Changing to a more traditional 50/50 cost reimbursement structure - like most other states do it - practically means NY could request more available funds from USDA and have providers themselves be responsible for the other 50% of the contracted E&T expenses, removing that financial burden from the state. The Coalition supports proposed changes to the SNAP E&T program to draw down more federal support for the E&T providers across the state so they can better serve SNAP recipients, particularly job seekers with past convictions.