



## NY STATE LEGISLATIVE PRIORITIES FOR 2019 | END OF SESSION SUMMARY

The 2019 New York State legislative session ended on June 21 and included important victories and notable progress in criminal justice reform. Victories included the passage of the **Domestic Violence Survivors Justice Act**, the **One Day to Protect New Yorkers Act** (protecting New Yorkers against deportation), and the **Preserving Family Bonds Act** (allowing children to see their parents after parental rights have been terminated), as well as advances in the areas of **bail**, **speedy trial**, and **discovery reform**.

Disappointingly, reforms in our priority areas of visiting and parole release did not advance as far as we had hoped. Bills to consider proximity to children when placing incarcerated parents, to restore visiting buses, and to increase access to parole for older people in prison did not pass.

We will be meeting with advocates and elected officials to continue to build support for these bills, and will champion them in the legislative session that begins in January 2020. Unless amended, all bills will keep the same numbers for this upcoming legislative session.

## STATUS OF PRIORITY LEGISLATION

### CHILDREN AND FAMILIES

#### Proximity Bill, A6710A/S724 (Assembly Member Rozic/Senator Montgomery)

Requires the Department of Corrections and Community Supervision (DOCCS) to place incarcerated parents in prisons that are closest to their children after considering existing criteria of security level, health, and program needs.

*This bill passed through various committees in both houses, but was not brought to the Senate or Assembly floors for a full vote. The bill made it further than it has in previous legislative sessions. However, discrepancies between the Senate and Assembly versions need to be reconciled. OCJAG is working with the bill sponsors to reconcile the two versions.*

#### Visiting Bus Bill, A5942/S731A (Assembly Member De La Rosa/Senator Montgomery)

Restores the Family Visiting Bus Program that transported families and friends to visit loved ones incarcerated in New York State Prisons at no cost to visitors for close to 40 years. Buses would originate from Buffalo, Syracuse, Rochester, Albany, and New York City.

*This bill passed the Senate Finance Committee (a remarkable accomplishment given that this committee would not consider the bill in last legislative session), but was not brought to the Senate floor for a full vote. It remains in the Assembly Ways and Means Committee. The \$3 million annual cost to restore the buses was a barrier for garnering enough support for the bill. We will start early this fall to advocate that the funding be included in the NY State budget that will be finalized by April 1, 2020.*

#### Codification of Visits Bill, A2483/S2698 (Assembly Member Weprin/Senator Sepulveda)

Codifies the right to in-person visits within New York State law, proactively ensuring that in-person visits cannot be replaced with video conferencing, as has occurred in jails in other states.

*This bill passed in the Senate, but was not brought to the Assembly floor for a full vote.*



## AGING IN PRISON AND PAROLE JUSTICE

### Elder Parole Bill, A4319/S2144 (Assembly Member Weprin/Senator Hoylman)

Allows individuals who are 55 years of age and have already served 15 years to become eligible for parole, even though they have not yet reached their minimum sentence or would not otherwise be parole eligible.

*A4319 passed the Assembly Corrections Committee and was sent to the Codes Committee. Towards the end of the legislative session, Assembly Member Weprin amended the bill to exclude from eligibility individuals serving a sentence of life without parole and those convicted of the murder of a police officer or other first responder in the performance of their duties. His amended bill, A4319A, did not come to a vote in the Codes Committee. In the Senate, S2144 passed the Crime, Crime Victims, and Corrections Committee; it was then submitted to the Finance Committee for consideration, but it did not come up for a vote. S2144 was not amended with exclusions.*

*We do not support the amended changes made to the Assembly version.*

### Fair and Timely Parole Bill, A4346A/S497A (Assembly Member Weprin/Senator Rivera)

This bill was amended towards the end of session in both the Senate and Assembly to establish one standard of evidence for assessing risk of parole-eligible individuals. The amended bill requires the release of a parole-eligible individual unless the “parole case record determines a current and unreasonable risk” and “such risk cannot be mitigated by parole supervision.”

*A4346A was recommitted and voted out of the Assembly Corrections Committee and sent to the Codes Committee where a vote was not taken. In the Senate, S497A was recommitted to the Crime, Crime Victims and Corrections Committee and did not receive a vote. **We support the amendments made to this bill.***

### Fully Staff the Parole Board

*Good news! Though it was disappointing that new parole commissioners were considered only at the very end of the legislative session and in a rushed process, **the Senate approved five new parole commissioners.** Thanks to tremendous advocacy mounted by community activists—led by Release Aging People in Prison (RAPP) and the Parole Preparation Project—one individual being considered for appointment was not confirmed. His interview and professional history raised serious concerns about his perspective on redemption and transformation. While a fully staffed Parole Board would include 19 commissioners, these new appointments bring the Board to sixteen members—more than it has ever had under Governor Cuomo. **It must be noted here that the Board Chair’s term has expired and three other members’ terms will expire on August 31, 2019. We will work with our fellow advocates to apply close attention and public scrutiny to ensure that this gain in staffing is not a temporary victory.***



## ADDITIONAL RELATED JUSTICE REFORM EFFORTS

### Successful Introduction of New Reforms

#### ► Pre-trial Reforms became law as part of the New York State budget:

1. **Bail** – To address a bail system that has criminalized poverty, this law eliminates bail for most misdemeanors and non-violent felonies by expanding the use of Desk Appearance Tickets. The bill limits the use of risk assessment tools, mandates court appearance alerts, and expands data collection for public consumption of pre-trial conditions by pre-trial service agencies.
2. **Discovery** – What is now one of the strongest discovery statutes in the country, the new law requires prosecutors to automatically turn over all evidence against the accused no later than 15 days from arraignment. This evidence must be turned over prior to any plea deal and the prosecutors must file a “certificate of compliance” that they have submitted everything required under the law. The prosecutors are allowed to ask for an extension and also withhold certain evidence under a protective order for “good cause.”
3. **Speedy Trial** – To reduce delays and reign in harmful practices designed to stop the speedy trial clock, the new law requires prosecutors to certify on the record that they are ready for trial. If the court decides they are not ready, any claim by the prosecutor that they are ready would be invalid and the speedy trial clock will continue to run. Prosecutors will not be able to claim readiness for trial if they have not met their new discovery obligations. Vehicle and traffic law offenses are now also subject to Speedy Trial requirements.

- **Domestic Violence Survivors Justice Act (A3974/S1077)** was signed into law after years of determined advocacy. The act amends criminal procedure law to allow for reduced or alternative sentencing – i.e. suspended sentences, probation, fines, restitution, and community service – in domestic violence cases. Judges may now exercise discretion to sentence survivors whose abuse was a “significant contributing factor” in their crime to reduced sentences if the usual sentence would be unduly harsh. **The law permits currently incarcerated survivors, in some cases, to apply for re-sentencing and earlier release.**
- **Booking photographs** or “mug shots” are now prohibited from being made publicly available public prior to a conviction. The provision, which was included in the State budget, does allow the release of photographs that will serve a specific law enforcement purpose.
- **One Day to Protect New Yorkers Act** became law as part of the New York State budget. This law changes the maximum sentence for misdemeanors in New York from 365 days to 364 days, fixing a discrepancy between state and federal law that states that people with various immigration statuses can be deported if they face a charge that carries a sentence of one year or more. Under the new law, many immigrant New Yorkers will no longer be subject to deportation for misdemeanors. It also allows immigration judges more discretion in deportation cases to consider the whole of the person, not just the fact of their past conviction. This legislation applies retroactively, and anyone sentenced to one year can get a certificate stating their charge has been changed to 364 days.
- **Preserving Family Bonds Act (A2199/S4203)** was passed and awaits the Governor’s signature. This law provides New York State Family Courts with the jurisdiction to hear applications for continued visits between children and their parents at the dispositional stage of a termination of parental rights case. Prior to the passage of this bill, only parents who voluntarily surrendered their parental rights could negotiate to have ongoing contact with their child as a condition of the surrender.



## Justice Reform Legislation That Did Not Pass

- ▶ **End Solitary Confinement: The Humane Alternatives to Long Term Solitary Confinement (HALT) Act**, (A2500/S1623) did not pass, but legislators and the Governor made a last-minute agreement to enact some administrative changes, including capping solitary confinement at 30 days (HALT would cap it at 15 days, consistent with the United Nations Standard Minimum Rules for the Treatment of Prisoners). While these administrative changes were a positive step, they apply only in the state prison system and exclude city and county jails. **It is still critical to pass the HALT Act to replace solitary confinement in all facilities with humane practices that support rehabilitation and protect human rights and vulnerable populations.**
- ▶ **The Restoration of Seven Day Visiting Act** (A4338/S2689) at medium security correctional facilities did not pass through committee in the Senate or Assembly.
- ▶ **Efforts to codify voting rights for people incarcerated and on parole** (A4987/S1931) were not secured this legislative session. The Governor's 2018 executive order, a temporary measure that grants people on parole the right to vote, is still in effect.
- ▶ **The Less is More Act** (A5493/S1343) alters parole supervision by creating an earned time credit for "compliant behavior" and limits pre-trial detentions and time assessments for parole infractions. Among other provisions, the proposed legislation also creates shorter time restrictions for which preliminary and final revocation hearings are to be held. The bills were referred to the Senate Crime, Crime Victims, and Corrections Committee and the Assembly Corrections Committee. Neither bill was called for a committee vote. Towards the end of the session, both bill sponsors introduced separate bills for the earned time credit (A8313/S6490) and limitations to pre-trial detention (A8378/S6548). Both bills were referred to each Chambers' respective Rules Committee where they were not brought to a vote.

For more information or to get involved and support Osborne's policy advocacy priorities, please contact **Wendell Walters** at [wwalters@osborneny.org](mailto:wwalters@osborneny.org)