



## Memorandum in Support

### TASK FORCE ON RACISM, SOCIAL EQUITY, AND THE LAW

Racism, Social Equity, and the Law #2

April 14, 2023

S. 321

By: Senator Salazar

A. 531

By: M of A Walker

Senate Committee: Codes

Assembly Committee: Codes

Effective Date: Immediately

**AN ACT** to amend the criminal procedure law, in relation to authorizing certain persons confined in institutions operated by the department of corrections and community supervision to apply for a sentence reduction

**LAW AND SECTION REFERRED TO:** Section 440.45 of Criminal Procedure Law

#### **THE TASK FORCE ON RACISM, SOCIAL EQUITY, AND THE LAW SUPPORTS THIS LEGISLATION**

The Task Force on Racism, Social Equity and the Law strongly urges the New York State Legislature to pass the Second Look Act (S.321/A.531). This bill would empower courts to impose sentences appropriate for the case before it, allow for review of lengthy sentences, and reduce the amount of time New Yorkers spend incarcerated overall.

The Task Force on Racism, Social Equity and the Law (“Task Force”) has identified this bill as a significant and necessary step towards the goals of social equity. The Task Force is tasked with identifying and recommending concrete steps to build a criminal justice system rooted in true equity and justice for all New Yorkers. The current system itself is steeped in racial animus on a structural level and requires fundamental changes to reverse the decades of harm caused by decades of destructive policies. Decades of policies meant to increase average prison sentences overwhelmingly affect people of color, who represent over two thirds of those incarcerated in New York.

For those already sentenced, the Second Look Act (S.321/A.531) would allow for expanded review of sentences already issued after the individual has spent time in prison. As it stands, trial courts have no power to review sentences after a person has demonstrated significant rehabilitation, leaving review to the limited powers of the Appellate Division’s excessive sentence review upon appeal from the original sentence.

This review is extremely narrow in scope, does not consider a person’s growth since sentencing, and cannot be further appealed to the Court of Appeals. Under the Second Look Act, incarcerated people would have the ability to apply for a resentencing hearing

in front of a different judge after serving 10 years or when half their sentence is served if the term is over a decade. Presumptions would be created in favor of resentencing where a person is over 55 years old or was under 25 years old at the time the crime occurred.

By granting courts more discretion in sentencing, personalized to the case in front of them, and enabling review in more cases, this act would accomplish a key goal in the pursuit of racial justice: reduce sentence length for people affected by racially driven sentencing enhancements, which have a disparate impact on people of color.

Based on the foregoing, the Task Force on Racism, Social Equity, and the Law **SUPPORTS** this legislation.