



Testimony by Center for Community Alternatives

Presented before the New York State Senate and Assembly
Joint Legislative Budget Hearing on February 13, 2025

Thank you for the opportunity to testify today. We are here to testify in support of including the **Second Look Act (S.158/A.1283)**, the **Earned Time Act (S.342/A.1085)**, and the **End Predatory Court Fees Act (S.318)** in the budget, and in opposition to the Governor's proposal to undo the landmark changes on discovery reform.

I. SECOND LOOK ACT (S.158/A.1283) & EARNED TIME ACT (S.342/A.1085)

Overview

New York's sentencing schema was created during the 1970s Rockefeller Drug Law era and the years following the 1994 Crime Bill, and have disproportionately impacted Black and brown communities. Right now, over 30,000 people are incarcerated in New York's prisons. [Nearly 75% are Black or brown](#). More than [105,000 children](#) have a parent serving time in a New York jail or prison, which devastates families, and increases the likelihood of a [child's future incarceration](#). Instead of excessive sentences, [survivors](#) of crime overwhelmingly prefer investments in the community, by a factor of 15 to 1.

The Second Look Act (S.158/A.1283) would allow judges to review and reconsider excessive sentences. Under current sentencing laws, incarcerated people have no opportunity to demonstrate to a judge that they have transformed while incarcerated or to seek a reconsideration of their sentences based on changes in law and norms. The Earned Time Act (S.342/A.1085) would strengthen and expand "good time" and "merit time" laws, supporting rehabilitative efforts in state prisons.

These reforms advance both safety and justice, allow judges to consider the individual factors in a case, and promote rehabilitation rather than perpetual punishment. [Judges have spoken out](#) about unjust sentences they have been mandated to impose and their inability to address excessive sentences. [Research](#), including from [DOCCS](#), shows that earned time opportunities help to prepare incarcerated people for reintegration, [reducing recidivism rates and correctional costs](#), and making prisons safer. Currently, New York lags far behind states like [Oklahoma and Alabama](#) in providing earned time opportunities. Nationally, second look bills are gaining momentum with legislation passed in five states and the [District of Columbia](#), and proposed in an additional 22 states. Federally, [U.S. Senator Cory Booker](#) has proposed second look legislation in Congress.

This legislation has broad-based support from judges, corrections, law enforcement, civil rights organizations and New Yorkers. The bills are supported by [over 200 organizations](#), the [American Bar Association](#), dozens of [labor unions](#), [judges](#), including the [Chief Judge](#) and [Chief Administrative Judge](#) of New York State, and [law enforcement](#), including the former [Commissioner](#) of the Department of Corrections and Community Supervision (DOCCS). These bills are also broadly popular with New Yorkers. Recent [polling](#) by EMC Research found that [74% of New Yorkers](#) support the Earned Time Act and [68% of New Yorkers](#) support the Second Look Act.



The Second Look Act

New York State has the third-largest population of people serving terms of life imprisonment in the country. Thousands of New Yorkers are currently serving life sentences. Prisons have become inadequate hospitals and long-term care facilities for thousands of sick and aging people. There are over 8,000 people today aged 50 and older in New York prisons and 44% of New Yorkers in state prison struggle with a chronic health condition. And many of these New Yorkers were given lengthy sentences for crimes they committed as young people.

Under current law, sentencing judges do not have an opportunity to review and reconsider excessive sentences. Even [judges](#) have spoken out about their inability to address sentences that are extreme or unjust. The Second Look Act allows incarcerated people to petition for resentencing and permits judges to revisit and reduce sentences, giving New Yorkers the opportunity to return to their families and communities, and to rebuild their lives. Nationally, second look bills are gaining momentum with legislation passed in four states and the [District of Columbia](#), and proposed in an additional 22 states. Federally, [U.S. Senator Cory Booker](#) has proposed second look legislation in Congress.

The Earned Time Act

Despite clear research that longer prison sentences harm individuals and families and do not increase community safety, New York has shifted focus from rehabilitation to warehousing people in prison for as long as possible. In response to the federal 1994 Crime Bill, which incentivized states to institute harsher sentencing laws, New York State slashed programs for incarcerated people and dramatically limited the amount of time people could earn off their sentences. This included eliminating financial aid for incarcerated college students, decimating college-in-prison programs. New York also restricted access to merit time based on conviction type, eliminating key opportunities for rehabilitative programming and earned time for thousands of New Yorkers each year.

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The Earned Time Act would strengthen and expand “good time” and “merit time” laws, supporting rehabilitative efforts in state prisons.

Support from Judges, Corrections & Labor

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II. END PREDATORY COURT FEES ACT (S.318)

The End Predatory Court Fees Act (S.318), would eliminate mandatory court surcharges, probation fees, mandatory minimum fines, as well as arrests and incarceration for unpaid fines and fees, and we call for its inclusion in the final enacted budget.

New York's Fiscally Irresponsible and Regressive Method of Raising Revenue

The U.S. Justice Department's [Ferguson Report](#) came out over five years ago, after police in Ferguson, Missouri, killed Michael Brown, and uncovered a pattern of racially discriminatory policing practices incentivized by the city's dependence on the criminal legal system to raise revenue. The report cites the use of warrants and jail time to coerce fine and fee payments and stark racial disparities in traffic stops, citations, and arrests. This pattern of discrimination, incentivized by revenue goals, contributed to "deep mistrust between parts of the community and the police department." Yet New York continues to depend on this toxic revenue source that criminalizes Black and Brown New Yorkers and low-income people. In fact, [thirty-four localities](#) in New York are about as reliant or even more reliant on fines and fees for revenue than Ferguson at the time of the USDOJ investigation.

Racial disparities across New York State mirror many of the DOJ's findings in Ferguson. Police acting as "armed debt collectors" risk Black and brown lives and extract wealth from New York's poorest communities. The COVID-19 pandemic and resulting financial crisis only intensify the negative racial, economic, and health impacts of policing in pursuit of revenue. And the problem of "policing for profit" continues, in the wake of the horrific death of Tyre Nichols, we must look at police-citizen encounters that are directly tied to raising revenue. Distrust of law enforcement is already entrenched in low-income and marginalized communities, and when police officers and members of the warrant squad are deployed to arrest people for failure to pay mandatory mandatory fines and surcharges, "it further [diminishes their credibility](#)." What's worse, is that the entire court system is involved in this "shakedown... judges preying upon the most vulnerable members of the general population" to fund the very system that keeps them trapped in the cycle of poverty and incarceration. "Debtors' prisons may have been abolished in 1833, but it is shockingly easy to end up behind bars if the state is your creditor."

New York's Mandatory Surcharge Amounts to Taxation-By-Citation

Fees (or surcharges) are extra costs that the government attaches to every conviction — even traffic tickets and minor infractions. They can total hundreds of dollars (not including the amount of any fine a court may impose). Individuals are often required to pay fees on top of a fine, or even when the judge decides not to impose a fine at all. These court fees are explicitly intended as revenue raisers; they function as a form of regressive taxation on New Yorkers who are often the least able to afford them.

New York's top predatory fee is the mandatory surcharge. The mandatory surcharge is a fee attached to every conviction in New York, from minor violations to felonies. Courts cannot waive or reduce these fees or surcharges, or even consider your ability to pay them, and ending this practice across the state calls for legislative reform. Depending on the type of conviction, a single mandatory surcharge can amount to hundreds of dollars. In addition to mandatory fees,



many charges come with a mandatory minimum fine, meaning that judges cannot consider someone's ability to pay.

New York's Court Fees Place an Undue Burden on the Poor

Fines and fees punish people living in poverty. When governments use predatory fines and fees to raise money, the result is a hidden, disproportionate tax on those who can least afford it. This system of taxation-by-citation encourages policing for profit, extracts wealth from some of the most vulnerable members of our society and exposes Black and brown New Yorkers to more encounters with police resulting in a disproportionate rate of court involvement. Fees have significant consequences, and they impact everything from housing stability to emotional well-being to relationships with friends and family. Paying just one traffic ticket and its mandatory surcharge could mean missing rent, going without healthcare, or living without basic necessities. These fines and fees often force an indigent defendant, or their family, to choose between paying a fine that if unpaid would land a family member in jail, or the ability to afford rent, food, and other daily essentials.

Moreover, data shows New York has not only increased fees over time, but also made certain fees *less affordable* and a much greater financial burden. Since the creation of the mandatory surcharge in the 1980s, the surcharge for violations has increased *178 percent more* than the expected inflation-adjusted amount. For misdemeanors and felonies, the surcharge increased 92 percent and 75 percent, respectively, relative to the inflation-adjusted amount.

New York's Fines and Fees Are a Racist Source of Revenue

Black and brown New Yorkers are significantly more likely to be stopped, questioned, frisked, and issued summonses by police, and are living everyday with the fear of being arrested and jailed for the inability to pay a fine or fee. Harsh policing of minor violations, driven by governments' dependence on fines and fees as revenue, does not lead to greater public safety. It instead exposes Black and brown people to unnecessary interactions with law enforcement and financial insecurity.

Jailing those unable to pay fines and fees is especially costly, and New York is wasting money to chase money that does not exist. Courts and law enforcement agencies are spending more time and resources than ever on unsuccessful collection efforts aimed at those least able to afford it.

Collecting Court Debt is a Waste of Time and Money

It is no secret that New York's courts are overwhelmed. In the wake of the pandemic, the backlog of cases continues to build, and everyone within the entire court system; judges, prosecutors, public defenders, court officers, and court clerks are desperately trying to catch up. This legislature held a hearing on Criminal Justice Date on January 30th of this year, and it was quite clear that this backlog is a problem, administratively, and financially for many agencies and organizations in the state. The Office of Court Administration testified that "there are limits to [their] resources, especially on the number of personnel available" and that "legislative reporting requirements do not include funding that may be needed to secure supplemental resources." One of these reporting mandates is the imposition and collection of fines and surcharges by the courts.



Yet, agencies in New York are not keeping legally mandated records on how the government assesses, collects, and distributes revenue from individual fees, including the mandatory surcharge. These agencies also fail to maintain data reporting infrastructure to track the amounts imposed and collected for specific fees, including the mandatory surcharge and associated revenue spending. The elimination of predatory court fees, such as the mandatory surcharge, along with the elimination of mandatory minimum fines would actually save New York Money. The cost to impose and attempt to collect these fines and fees, along with the personnel and infrastructure needed to track and maintain the data, is more than is actually collected. In many circumstances, money is never collected and state government agencies and localities are footing the bill in an attempt to raise uncollectible revenue for the state.

End Predatory Court Fees

The End Predatory Court Fees Act, (S.318) would address these injustices by first and foremost eliminating mandatory court surcharges, which is New York's most predatory fee. Probation fees would be eliminated so a person's ability to re-enter the community and the workplace isn't unnecessarily burdened by further financial obligations. Additionally, the practice of garnishing the commissary accounts to pay for fines and fees would be eliminated. These accounts are held by individuals who are incarcerated, and family members contribute their hard-earned money to these accounts so that incarcerated individuals can purchase things they need while in prison. This legislation would also eliminate mandatory minimum fines and create a mechanism for judges to consider a person's ability to pay before imposing a fine. And most significantly, this legislation would put a long overdue end to the draconian practice of incarceration for failure to pay a fine or a fee.

New York must start funding government equitably, not on the backs of those least able to afford it. This inefficient, extractive, and predatory practice of imposing predatory fees has far-reaching consequences that endanger individuals' attempts to secure stable housing and employment. In addition to systematically punishing people living in poverty, fines and fees disproportionately exposes Black and brown New Yorkers to more, potentially deadly, interactions with law enforcement.

III. REJECT GOVERNOR'S PROPOSAL TO UNDO DISCOVERY REFORM

The Governor has proposed sweeping changes to repeal our landmark discovery laws. These changes will not "reduce delays," "streamline case processing" or "close the loopholes," as the Governor claims. If enacted, her proposal would gut Kalief's Law while decreasing efficiency and increasing the potential for wrongful convictions and prolonged pretrial detention. We urge the legislature to wholly reject these misguided proposals to repeal our discovery laws.

The Governor's proposal will bring us back to the days when prosecutors decided which pieces of evidence are "relevant" and which allowed them to withhold evidence from the defense. The proposal also allows them to redact any information from discovery material that they deem irrelevant to the charges without getting approval from a judge. Together these changes enable prosecutors to withhold potentially favorable information from the defense. If adopted, this proposal would mark the end of open-file discovery in New York.



Currently, the law ensures that the police cannot hide evidence by requiring prosecutors to disclose all the evidence in the possession of the police before they can state “ready for trial.” This rule is vital because most evidence in a criminal case is collected by police. The Governor’s proposal removes that requirement. Instead, prosecutors would only be required to disclose evidence in their actual possession (anything in the possession of the police would be deemed only in their constructive possession). This means that police decide what evidence gets disclosed to the defense, creating a system that rewards police intransigence and will require protracted litigation to obtain basic evidence. At best, the police will have no incentive to turn over critical discovery.

The proposal turns a law that ensures fairness and transparency through meaningful enforcement into a toothless guideline that will lead to prolonged pretrial incarceration and wrongful convictions. Under the current law, prosecutors have expansive time frames to hand over all evidence in a case: 90 days for misdemeanor cases and 6 months for felonies, with numerous exceptions that expand the speedy trial clock, including necessary motions by both the prosecution and defense. Under the Governor’s proposal, prosecutors would be able to stop this clock without turning over evidence and with no meaningful consequence for their failure to do so. Cases will drag on, and people who can’t afford their bail will languish in jails waiting to see the evidence against them, as there would no longer be any incentive for timely disclosure of evidence.

To the extent that prosecutors currently struggle to obtain evidence from the police in a timely way, A825/S613 (Lasher/Myrie) provides a solution by giving prosecutors direct access to police databases.