

The Correctional Association of New York

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Analysis of Rockefeller Drug Law Reform Bill

PROS

- Restores judicial discretion for broad categories of individuals charged with drug offenses, including many second felony drug offenders.
- As an estimate, between 45 - 55% of the drug offenders currently confined in New York's prisons – from about 5400 to 6600 people – would have been eligible for judicial diversion at sentencing.
- Provides for a significant increase in funding for drug treatment and rehabilitation programs in the prisons, as community-based alternatives, and as a part of a continuum of pre-entry services.
- Calls for a greater role for the State's Office of Alcohol and Substance Abuse Services (OASAS) in monitoring and guiding drug treatment programs in the prisons.
- Expands retroactivity to limited categories of currently confined drug offenders who would be able to petition the courts for a reduction in their sentence.

CONS

- Broad categories of offenders are excluded from judicial diversion, for whom there can be no alternative penalties, and for whom mandatory sentencing provisions still apply:
 - people convicted of A-1 and A-2 level offenses¹
 - people convicted of second time B level offenses who are not substance dependent
 - people with a violent felony conviction within the last 10 years
 - adults who sell to minors

The issue is not that people who fall into these categories should never go to prison. The issue is that the prison sentence is mandatory, and a discriminating judgment cannot be applied that takes both the background of the offender and the circumstances of the crime into account.

- The main criterion for guilt is still the weight of drugs in people's possession at the time of arrest, not their role in the transaction.
- Over 10,000 drug offenders will be left behind bars without an opportunity to appeal for a reduction in their prison term.

¹ A-1 felonies involve the sale of 2 oz or possession of 8 oz of a hard drug; A-2 felonies involve the sale of ½ oz or possession of 4 oz of a hard drug