

Rockefeller Drugs Laws: Ripe for Reform

By Sarah Arnold
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At the first meeting held by the [Drop the Rock Campaign](#) following last November's elections, the New York-based drug policy reform organization cheered what it saw as an "opening in the wall" for reversing the state's notorious [Rockefeller drug laws](#). For years, Drop the Rock has held rallies, collected petitions and lobbied lawmakers to repeal the mandatory minimum sentencing laws, which date to 1973 and are among the harshest drug laws in the country--with no success. But with Democrats now in control of the State Legislature and a sympathetic governor in the Statehouse, activist groups like Drop the Rock find themselves in a new position, faced with an opportunity to finally bring about real reform.

The New York State political landscape has never appeared more conducive to a change in the laws. In November, the Democrats secured a majority in the State Senate for the first time in forty-three years. Governor David Paterson, who urged a "major prison sentencing overhaul" as a state senator in 2004, returned to that theme during his [2009 State of the State address](#). Paterson called for granting judges the discretion to recommend drug treatment instead of jail and expanding the availability of treatment programs, claiming that "few public safety initiatives have failed as badly and for as long as the Rockefeller drug laws." State Senator Eric Schneiderman, another outspoken critic and a past sponsor of legislation to reform the Rockefeller laws, says he is "excited" and "very hopeful" that reform will finally happen this year.

Activists also note that New York's fiscal crisis--the state's projected budget shortfall for the coming year is close to \$14 billion--could provide otherwise hesitant lawmakers with leeway to make politically risky changes to state policy. After all, it is exorbitantly expensive to lock people up. A recent [study](#) by the Legal Action Center found that drug law reform coupled with some prison closures could save New York State around \$270 million annually.

While nearly everyone involved in efforts to overturn the Rockefeller laws sees opportunity on the horizon, it remains unclear how far-reaching the change will be. Recent reforms have been fairly tepid--the last came in 2004, with the Drug Law Reform Act. That act [reduced the mandatory sentence](#) for convicted A-1 offenders from fifteen years to life to eight to twenty years, and doubled the amount of drugs needed for an A-1 conviction. A-1 convictions apply to the most egregious offenses--before the change, the laws applied to anyone caught selling at least two ounces or in possession of four ounces of cocaine or heroin--and had previously carried the same sentencing guidelines as a murder conviction. In 2005 the sentencing guidelines for A-2 convictions were also reduced. Advocates welcomed the changes but insisted they were not nearly enough. State Assemblyman Jeffrion Aubry, a longtime ally of the repeal movement, is hopeful for further reforms in 2009 but believes changes to the laws still "won't be 100 percent. Just a better prescription for where we are going to go."

Although excited by much of what Governor Paterson said in his State of the State address, reform advocates were not entirely pleased. Paterson followed his harsh words for the Rockefeller laws by promising to review the recommendations of the [New York State Commission on Sentencing Reform](#), rather than outlining a specific plan to immediately repeal or significantly reform the laws. Established in March 2007, the commission released a preliminary report that many critics, like Assemblyman Aubry, felt was "bland" on sentencing for drug offenses. The report only acknowledged that "it will be challenging to reconcile...opposing views" on mandatory minimums, and delayed a final opinion on the Rockefeller laws until a review could be conducted of the results of 2004 reforms. "We were disappointed with [Paterson's] reference to the sentencing commission," says Robert Gangi, executive director of the Correctional Association of New York. "We don't expect the commission's final report to include meaningful reform proposals." The report will be released at the end of January.

As reform advocates are quick to point out, their campaign necessarily extends beyond simply putting an end to mandatory minimums. At its heart is the need to move from a criminal justice to a public health approach to addressing the problem of drug abuse. Meaningful reform will have to include a commitment to maintain and expand New York State's drug treatment infrastructure. According to a report released on January 13 by the New York Association of Alcoholism and Substance Abuse Providers (ASAP), the treatment facilities needed to accommodate reform of the drug laws can become quickly available--ASAP estimates that the 1,600 in-patient openings can be ready within a year--provided the Legislature commits to adequate funding. Meanwhile, the state budget crisis is taking a heavy toll on other already starved programs: in November, the state [canceled](#) \$8.6 million in contracts with the Department of Correctional Services, the Division of Parole and nonprofit groups that help recovering drug addicts. The Division of Parole has eliminated funding for all of its drug treatment programs, claiming that funding for many of the services will still be available through the New York State Office of Alcoholism and Substance Abuse.

These cuts are especially onerous given that they will more than likely cost the state money in the future. John Coppola, executive director of ASAP, argues that if 90 percent of the roughly 2,800 former inmates who would normally go through the Division of Parole's now defunct Relapse Prevention Program end up back in prison, the additional costs would erase what the state is saving by cutting the program. "No matter which way you slice it or dice it, we don't have enough," Coppola says. "If someone picked up the phone today and said 'I need treatment,' you might be able to find it, you might not."

Whether New York reformers will be successful in overturning the harsh sentencing guidelines encoded by the Rockefeller drug laws, and rejecting the punitive approach to drug policy they represent, remains to be seen. Meanwhile, members of Drop the Rock and other advocacy groups are collecting signatures, pressuring lawmakers and, this time, expecting results. "I honestly believe that ten or twenty years from now," Senator Schneiderman says, "we're going to look back at this decade and the 1990s and say, 'How on earth did we lock so many people up?'"