

Newsday

NY commission calls for prison sentence reform

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ALBANY, N.Y. A state commission has recommended changing New York's drug laws to emphasize addiction treatment for low-level offenders and reserve long prison terms for high-risk criminals, but some lawmakers don't think the call for reform went far enough.

The Commission on Sentencing Reform studied the issue for nearly two years before releasing a report Tuesday calling for simplified sentencing rules and drug law reform that would give judges more discretion when sentencing addicts.

New York's strict drug laws have long been controversial. Reform of the '70s-era "Rockefeller drug laws" in 2004 led to fewer offenders going to prison because more drug treatment is available. Now many lawmakers and lobbyists want more change.

"I think all three players have the will to do something," said Sen. Eric Schneiderman, a Democrat representing Manhattan and the Bronx. "The governor is serious, and the Assembly is serious, and I can assure you we're serious."

Gov. David Paterson had no immediate comment on the report, but Assembly Speaker Sheldon Silver said the commission missed an opportunity to pitch real reform. Judges would have more sentencing discretion in many cases, including for nonviolent first- and second-time offenders. Despite that, Silver said the commission's recommendations would too often take control away from judges _ for example, some defendants who have violent records from their youth may not be eligible for diversion to treatment programs.

"We spend almost \$45,000 per year incarcerating each drug offender in state prison, many of whom are nonviolent individuals suffering from substance abuse," Silver said in a written statement. "This is money that could be spent on breaking the cycle that has driven New York's apparent addiction to sending people to prison, rather than ending the drug abuse and recidivism."

According to the commission, if their proposed model of judicial diversion had been put in place in 2006, roughly 3,000 offenders—89 percent of them black or Hispanic—might have been spared prison and steered instead toward treatment. That could save the state money in a period of massive budget deficits.

"Until New York state learns this lesson and unties the hands of judges by giving them real discretion and real sentencing options, the cost in human lives and tax dollars will continue to mount," said JoAnne Page, president of the Fortune Society, a nonprofit that helps convicts return to society.

Silver also criticized the commission for not creating a method for current prisoners to seek re-sentencing and, possibly, early release.

The report says community-based drug treatment should be available statewide through the criminal justice system, but the state has to carefully maintain the same level of public safety and preserve the existing diversion programs and drug courts.

The problem with the current system is that many people who could be helped by addiction treatment are not eligible, leaving many addicts at a disadvantage _ especially a disproportionate number of minorities, the commission said.

Robert Gangi, executive director of the Correctional Association of New York, said the report was pushing drug reform in the right direction. Now the group is going to focus its energy on getting Paterson and legislative leaders to make the recommendations law.

Silver said he wants judges to have the power to craft meaningful, individualized sentences. He said the commission didn't go far enough on this because they didn't eliminate mandatory minimum sentences for low-level, nonviolent offenders.

"Judges should have the ability to make an informed decision whether circumstances warrant imposing a state prison sentence in drug crimes, just as they do in cases of many assault, larceny, property damage and any number of other crimes," Silver said in a letter to the commission.

The commission said tough mandatory minimum sentences may still be appropriate for drug dealers and repeat offenders who either aren't addicted or fail to take advantage of drug treatment. But they also said that kind of sentencing may be too harsh for first-time, nonviolent felony drug offenders.