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## Report Recommends Revising New York's Drug Laws

By [JEREMY W. PETERS](#)

ALBANY — In a step that Democrats hope will lay the groundwork for the most significant overhaul of the state's drug penalties in a generation, a state commission on Tuesday recommended creating more uniform sentencing guidelines and allowing judges to send more drug offenders to treatment centers instead of prison.

Legislative leaders said they saw the report as the first step toward broader reform of New York's drug penalties. The subject is expected to be revisited in the coming weeks as newly empowered Democrats, who now control both chambers of the Legislature and the governor's mansion, move to put their imprint on the state's social policy.

Gov. [David A. Paterson](#), who championed changing drug sentencing as a state senator and has said the issue would be a top priority of his administration, has dispatched senior members of his staff to work with leading lawmakers to draft legislation that would rewrite the Rockefeller-era drug laws.

Mr. Paterson's top public safety aide, Denise E. O'Donnell, who also served as the chairwoman of the Commission on Sentencing Reform, said Tuesday that she expected substantive discussions on legislation to begin immediately.

After working for two years, the commission recommended creating uniform standards for determining which offenders are drug-addicted and allowing judges greater authority to select treatment instead of mandatory incarceration. Currently, judges are highly limited in the kinds of sentences they can give drug offenders.

In a sign that the issue is ripe in the Capitol, many Democratic lawmakers and advocates for changes to drug laws said on Tuesday that the recommendations did not go far enough. Some pledged to press for changes that would do more to roll back the Rockefeller-era laws' mandatory sentence requirements, which have long been criticized as overly punitive.

[Sheldon Silver](#), the Assembly speaker, who strongly backs an overhaul of drug sentencing laws, called the report a "missed opportunity." In a letter to Ms. O'Donnell, Mr. Silver said any plan the Assembly adopted would go further toward a complete revision of the laws by eliminating

mandatory minimum sentences for low-level, nonviolent offenders and expanding the authority of judges to impose sentences.

“The commission held in its hands a unique opportunity to help undo 35 years of failed drug policy,” Mr. Silver wrote. “I am saddened that it failed to do so.”

Some commission members, including Ms. O’Donnell, said the report was merely a blueprint for legislative action and was not meant to constrain any action legislators and the governor might want to take.

Significantly, the only members of the 11-member commission who serve in the Legislature, [Senator Eric T. Schneiderman](#) of Manhattan and Assemblyman Joseph R. Lentol of Brooklyn, endorsed a plan that goes further than the commission’s. Both men head the committees in their respective chambers that will hear debate on drug sentencing changes.

The plan they put forward would, among other things, double the existing weight requirements for most major felony drug sale and possession crimes, make many lesser first-time felony drug offenders eligible for probation or a jail term rather than mandatory prison, and expand parole as an option for convicted offenders.

Mr. Schneiderman said on Tuesday he believed that the Legislature would approve many elements of his proposal.

Referring to the commission report as a whole, he said, “I think we can build on its work to craft a bill.”

Because the members disagreed about how far the commission’s recommendations should go, the report says its findings represent “a measured approach.”

“New York must continue to reserve costly prison resources for high-risk, violent offenders while making greater use of community-based alternatives to incarceration,” the report says, adding, “While it is important to continue to reform New York’s drug laws, such reforms should be carefully tailored so that the state’s significant gains in public safety are not lost.”

Advocates for changing the drug laws, while critical of some elements of the report, were optimistic that the Legislature would take more action than the commission recommended.

“You have the three key leaders in Albany all identifying with very strong reform,” said [Robert Gangi](#), executive director of the Correctional Association of New York, which has pushed for new drug sentencing laws. “We hope that indicates that they will take advantage of this opportunity for the most significant change in these laws since they were passed in 1973.”

[Malcolm A. Smith](#), the Senate majority leader, echoed the suggestion that the commission report would be a template for reform. “This report is an important first step in revising the criminal justice process, and will serve as an invaluable asset to the Legislature as we begin to reform these outdated criminal laws,” Mr. Smith said in a statement.