

Newsday

Repeal Rockefeller drug laws, cut prison costs

BY ROBERT GANGI
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■ **Mandatory jail terms hurt society more than help, are ineffective against traffickers and cost the state millions**

New York's elected officials face two critical challenges in the 2008 legislative session: how to close the \$4.4-billion deficit confronting the state, and how to break political stalemates and enact significant policy advances. One way they can both save money and show they can govern is to repeal the Rockefeller drug laws.

Enacted in 1973, when Nelson Rockefeller was governor, the laws require harsh prison terms for the possession or sale of relatively small amounts of drugs. The penalties apply without regard to the circumstances of the offense or the individual's character or background. Whether the person is a first-time or repeat offender, for instance, is irrelevant.

The modifications Albany approved in 2004 and '05 did not amount to real reform. While reducing prison terms slightly, the amendments left intact the statutes' harshest provisions and didn't address the serious problems they cause.

As of Jan. 1, there were more than 13,400 drug offenders in New York State prisons, the vast majority of whom had no history of dangerous behavior. It cost the state about \$1.5 billion to construct the prisons to house drug offenders. And the operating expense for confining them comes to about \$500 million per year.

Major traffickers usually escape the sanctions of the laws, because the Rockefeller statutes place the main criterion for culpability on the weight of the drugs in a person's possession when he or she is apprehended, not on the actual role played in the narcotics transaction. Aware of the law's emphasis, drug kingpins rarely carry narcotics. Teenagers employed as couriers by those kingpins are more likely to be picked up on the street and charged with a serious felony for possessing a relatively small amount of drugs.

As a principal weapon of the so-called war against drugs, this statute results directly in law enforcement agencies focusing on minor offenders who are the most easily arrested, prosecuted and penalized, rather than on the drug trade's true profiteers.

The drug laws, moreover, have a harsh and disproportionate impact on communities of color. The majority of people who use and sell drugs in New York State and the nation are white. Yet, 90 percent of the people doing time in New York State prisons for a drug offense are African-American or Latino. As of the beginning of this year, African-

Americans comprised 58.5 percent of the drug offenders in state prison; Latinos, 31.5 percent; whites, 8.9 percent.

Remedies are available to address these problems. Many studies have demonstrated that drug treatment programs are, on the whole, more successful than imprisonment in reducing drug abuse and crime rates and in increasing drug offenders' ability to find and hold jobs. The cost of keeping an inmate in a New York State prison for one year is \$36,835. In comparison, the cost of most drug-free outpatient care runs between \$2,700-\$4,500 per person per year, and the cost of residential drug treatment is \$17,000-\$21,000.

Although alternative programs are more effective and less expensive than imprisonment, mandatory-sentencing laws limit the court's ability to use them. Nassau County District Attorney Kathleen Rice's new drug diversion program is a step in the right direction, except that judges and not prosecutors should decide which offenders take part in such alternatives.

As long as the Rockefeller drug laws remain on the books, a governor and legislature of more than three decades ago will have more to say about the outcomes of today's narcotics cases than the judges who sit on the bench today and hear all the evidence presented.

The state's current leaders can reverse the terrible mistake of their long-ago predecessors by removing the stain of these laws from New York's penal code. If they are wary of political liabilities, they can seek insulation and take courage from the widespread support that the public has shown for reforming the Rockefeller drug laws.



ILLUSTRATION BY RYAN INZANA

This past June, the United States Conference of Mayors, which represents the mayors of large cities, unanimously approved a resolution stating that the war on drugs has failed.

The resolution also condemned mandatory minimum sentences and the incarceration of drug offenders, and called for more funding for treatment programs.

By adopting the Rockefeller repeal, the governor and legislative leaders will achieve substantial government savings - more than \$200 million annually, according to a Correctional Association analysis - demonstrating to a skeptical press and public that Albany can govern in sensible and strategic ways to deal with its serious fiscal problems. They would also advance a constructive policy reform that will result in the reduction of drug-trade-related crime and the restoration of fairness to the administration of justice.

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