



# PUBLIC POLICY & INFORMATION

Promoting Addiction Prevention, Treatment and Recovery Through Advocacy and Education

## POSITION PAPER No. 13/213th Legislature (2008-09)

### ISSUE:

Authorizes courts to waive or reduce parole eligibility or to grant probation for drug-free school zone violations under certain circumstances.

### BILL NO.

S-1866 (Lesniak, Cunningham)

A-2762 (Watson Colman, Johnson)

### NCADD-NJ POSITION:

NCADD-New Jersey strongly supports S-1866/A-2762. It would return limited discretion to judges to determine appropriate sentences for drug-zone violators after considering certain statutory factors.

Addiction is a preventable and treatable disease and, as such, should be addressed as a public health problem. Many non-violent drug offenders need treatment, not incarceration. NCADD—New Jersey supports policies that encourage the use of law enforcement as a mechanism to intervene in the disease process and place individuals into treatment. Restoring judges’ discretion to determine the most appropriate sentence after considering the bill’s listed conditions will enable this to occur and will better protect children from drug use. This bill will enable judges to make the distinction between people who need treatment and people who should serve time in prison.

The link between drug consumption and drug distribution activities has long been established. Drug distribution or intent to distribute crimes account for 68 percent of the crimes committed by addicted individuals. Almost all distributors also consume illegal drugs, and most distributors are involved in dealing primarily to give them access to and money to afford the drugs they consume. Drug selling and involvement in low-level distribution roles is an offending behavior that drug treatment directly impacts. Drug user/seller involvement in illicit drug distribution roles is reduced by 50–80 percent when they participate in addiction treatment.<sup>1</sup>

Twenty-nine percent of New Jersey prisoners are incarcerated due to a base offense involving drugs. Eighty-one percent of New Jersey inmates have a serious drug or alcohol problem. Unfortunately, the vast majority of individuals released from prison have not received treatment. Prisoners with an untreated addiction will likely reoffend due to both drug-induced behavior and the commission of crimes to perpetuate their drug use. The revolving prison door of untreated addictions is extremely expensive not only in repeated court and prison costs but also in terms of poor health, damaged family relationships and lost productivity.

New Jersey spends over \$3.8 billion of its state budget on the consequences of untreated addiction. Yet little is spent on treatment and prevention. For every dollar spent on alcohol or drug related problems, 97 cents is spent on the resulting burden to public programs, 2 cents on treatment, and 1 cent on prevention<sup>2</sup>. The largest burden to state programs (31 percent) is to the criminal justice system, due primarily to the rising inmate population. In 2010, Corrections spending will be almost \$1.2 billion<sup>3</sup>, much of which will result from untreated addiction.

Scientific research shows that addiction treatment helps many drug using offenders change their attitudes, beliefs, and behaviors towards drug abuse, avoid relapse, and successfully remove themselves from a life of drug use and crime. Studies show that treatment can cut drug use in half, reduce criminal activity up to 80 percent, and reduce arrests up to 64 percent. By addressing the alcohol and drug problems of those convicted of school zone offenses, society will save billions of dollars in prison costs, reduced crime, reduced recidivism and reclaim thousands of individuals to live as responsible parents, members of the workforce, taxpayers and law-abiding citizens.

In addition, study after study has shown that the enhanced penalties for possession with intent or sale of drugs in school zones have not been successful in moving drug dealing away from schools, deterring such activity, or protecting youth. Less than 1 percent of individuals arrested for school zone violations were on school property or committed an offense involving minors. The drug zone penalties have served only to imprison addicted individuals when drug treatment would have been a more appropriate course.



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The New Jersey Commission to Review Criminal Sentencing and the Governor’s Efficiency and Reform Commission Task Force both concluded that the current drug-free school zone law fails to achieve its intended purpose of protecting children. They, in addition to the state prosecutors and the public, support allowing courts to exercise discretion when sentencing defendants under New Jersey’s drug-free school zone law.

“Prison costs are blowing holes in state budgets but barely making a dent in recidivism rates”<sup>4</sup>. The incredible rise in corrections spending in New Jersey is not a result of increased crime, but a result of policies such as the drug-free school zone. The amount of state money appropriated for the custody, care, treatment and training of inmates has grown 555 percent, while the growth in the total state budget over the past 20 years was 384 percent<sup>5</sup>.

Most leading researchers and many law enforcement officials agree that prison has done little to reduce either crime or drug use. Upon their release from prison, between 60 percent and 80 percent of untreated drug users commit a new crime (typically a drug-related crime) and, 85 percent to 95 percent relapse quickly to drug use<sup>6</sup>. Because addiction is a brain disease, mandatory minimum sentences do not have a deterrent effect on drug use - the threat or experience of incarceration has little impact on untreated addicts. Repeated use of addictive drugs eventually changes how the brain functions. These brain changes affect natural inhibition and reward centers, causing the untreated addict to use drugs in spite of the adverse health, social, and legal consequences. An untreated addict’s ability to exert self control and make sound decisions is often seriously impaired because the brain has become impaired<sup>7</sup>.

Again, imprisonment of drug offenders is not a cost-effective use of public resources. Research shows the costs associated with imprisonment of drug offenders far outweighed the public safety. There is a point beyond which increases in the incarceration rate are associated with higher crime rates. Researchers found that higher crime rates begin to occur when a state’s incarceration rate reaches between 3.25 and 4.92 inmates per 1,000 persons in the general population<sup>8</sup>. The rate of incarceration in New Jersey is significantly higher: 5.32 inmates per 1,000 citizens, in large part due to the increase in incarcerating

individuals for drug offenses.

This bill will make more individuals with a drug or alcohol problem eligible for addiction treatment. Ensuring that addicted individuals are able to access treatment is not an easy task. More than 50,000 residents of the state who sought treatment were unable to access it due to limited capacity. If enacted, New Jersey stands to save millions, possibly billions, of dollars in prison costs, reduced crime, and reduced recidivism. Some of these savings must be reinvested in expanding treatment capacity. S-1866/A-2762 will ensure that the punishment fits the individual and at the same it will help New Jersey achieve important public safety goals by reducing crime.

## Endnotes

- 1 Wexler, H.K.; Falkin, G.P.; and Lipton, D.S. “A model prison rehabilitation program: An Evaluation of the Stay’N Out therapeutic community.” A final report to the National Institute on Drug Abuse, August 31, 1988. New York: Narcotic and Drug Research, Inc.
- 2 Ibid
- 3 2010 State Budget
- 4 Pew Center on the States, the Public Safety Performance Project, One in 100: Behind Bars in America 2008
- 5 New Jersey Institute for Social Justice, October 2003
- 6 National Association of Drug Court Professionals, A Drug Court Within Reach of Every American in Need
- 7 Przybylski, supra p.2
- 8 Przybylski, Roger, Correctional and Sentencing Reform for Drug Offenders Lakewood, Colorado, September 2009

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