



Rockefeller Drug Law Reform: What Happened and What Should Happen Now September 2006

In 2004, the New York legislature finally began to reform New York's infamous Rockefeller Drug Laws. It was the first step towards real reform to the draconian drug laws in more than 30 years since its passage in 1973.

State legislative leaders promised to continue the reforms and to create more alternatives to prison. They promised that hundreds of people would get out of prison quickly. However, the reality proved to be quite different.

New York's Drug Law Reform Act of 2004 (DLRA) lowered some drug sentences, but it fell short of allowing most people serving under the more punitive sentences to apply for shorter terms and did not increase the power of judges to place addicts into treatment programs, a key element of real reform.

Additionally, reform is slowed by some district attorneys who often fight re-sentencing by asking for high sentences for offenders. The reforms were a step in the right direction, yet further reform must take place if New Yorkers are to realize our demand for *real reform*. Legislative leaders in Albany understand this all too well: it was Senate Majority Leader Joe Bruno said of the DLRA, "This is not enough; we must do more."

New York's Drug Law Reform Act of 2004 (DLRA)

- Slightly lowered most drug sentences, though not nearly enough for real reform. Although prison terms were slightly reduced, they remain unduly long.
- Allowed those serving the most serious of the old sentences (the A-I cases) to apply to be re-sentenced to a term allowed by the new law. Few people have seen relief under this reform.
- Increased good time allowances for everyone else already serving drug sentences.
- Expanded eligibility for prison-based drug treatment.
- Reformed parole practices—after three years without incident, parole must be terminated for those who served time for a Rockefeller Drug Law offense.
- As of July 31, 2006, a total of 177 Class A-I drug cases have been resentenced and released (including 6 women). On average these 177 cases were released from DOCS' custody 43 months before their previously calculated earliest release dates (ERD's), saving taxpayers over \$18 million.

The DLRA Did Not

- Increase the power of judges to place addicts into treatment programs. Prosecutors maintain power to determine sentencing due to the mandatory sentencing provisions intact.
- Provide any more money to increase the availability of community-based drug treatment; community based treatment funding has not increased in over 20 years.
- Allow most people serving the old law draconian sentence—especially those serving B felonies—to apply for shorter terms.

One Year After the DLRA

- Hundreds of people did not get out of prison. Out of approximate 1,000 people convicted of A-1 and A-2 drug felonies that have applied for resentencing, less than 30% of those eligible for resentencing have been released. Thousands of people remain imprisoned under the failed Rockefeller Drug Laws
The re-sentencing process is much slower than expected. District Attorneys are often fighting re-sentencing and asking for high sentences. Judges may in some cases deny resentencing or in other instances may shorten the sentence.
- The DLRA did not significantly lower the prison population. The number of people incarcerated on a non-violent drug offense in 2005 was higher at 5,835 as compared to 5,657 in 2004.
- The State Department of Correctional Services has not expanded drug treatment in prison, as required. The small modifications made to the Rockefeller Drug Laws did not include any additional funds for drug treatment or alternatives to incarceration.

To Achieve Real Reform, the Legislature should

- *Restore Judicial Discretion*, letting the judge, not just the District Attorney, decide who gets into treatment. According to a poll conducted by the New York Times in 2002, 79% of New Yorkers are in favor of restoring sentencing discretion to judges in drug cases.
- *Increase funding for community-based drug treatment and harm reduction programs* which are proven to be more effective at reducing drug abuse than incarceration. The RAND Drug Policy Center's 1997 study determined that treatment is the most effective tools in the fight against drug abuse. It was found that treatment reduced 15 times more serious crime than mandatory minimum sentences.
- *Reduce sentences* and drop low level street sales out of the "B" felony category.
- *End the use of mandatory minimums*, which undermine justice and fairness.
- Allow those serving long "B" felony sentences to apply for re-sentencing.

Assembly bill, A-8098:

- Expands drug treatment diversion options for nonviolent drug offenders.
- Continues sentencing reform—NY's penalties are out of touch with the rest of the nation.
- Allows certain people serving time for "B" RDL felonies to apply for resentencing under the new reforms—a key piece missing in the 2004/2005 changes.
- Increases, but does not restore, Judicial Discretion.
- Allows for some people convicted of first-time and second time drug offenses to receive treatment and probation instead of prison
- Requires the State Comptroller to monitor, annually, the savings accrued from providing more treatment instead of incarceration.

About Real Reform New York:

The Real Reform New York Coalition is committed to replacing the ineffective, racist and wasteful Rockefeller Drug Laws with community-based, cost effective alternatives that promote real justice. Real Reform New York is made up of dozens of organizations representing thousands of community members, activists, advocates, policy and treatment experts, and Rockefeller Drug Law survivors and their friends and families.

Real Reform New York defines real reform as:

- **Reducing sentences** to levels proportionate to those for other nonviolent crimes, and to bring New York into line with national standards.
- **Restoring judicial discretion** so judges can fashion just sentences based on consideration of the particular case and, when appropriate, sentence people to community-based treatment.
- **Delivering retroactive sentencing relief** to currently incarcerated Rockefeller prisoners serving unjustly long sentences.
- **Expanding community-based drug treatment programs** and other alternatives to incarceration, to end the practice of treating addiction and poverty as a crime.

New Yorkers Support
Real Reform of the Rockefeller Drug Laws!