



## The Star-Ledger

### Panel urges rehab over jail for drug crimes

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**BY RICK HEPP**  
Star-Ledger Staff

New Jersey should make it easier for drug offenders to get into a special probation program that allows them to avoid prison time by getting rehab and staying clean, a blue ribbon commission will recommend next month.

The New Jersey Commission to Review Criminal Sentencing has concluded that expanding the drug courts program could help more offenders deal with the underlying addiction that prompted them to turn to crime in the first place.

"Somewhere along the way there's got to be a realization that the drug issue, for the most part, is a health issue," said retired Superior Court Judge Barnett E. Hoffman, who chairs the 15-member panel. "We're not talking about people who are dangerous. We are talking about people who are dealing to feed their habit."

More than 4,300 adults entered New Jersey's drug courts since they were expanded to every county in April 2002. They avoid jail by attending a six-month inpatient rehabilitation program and remaining drug-free for five years.

The commission, which spent a year examining the effectiveness of drug courts, wants to open them to several hundred more offenders, including addicts who are facing mandatory jail time. It will make its recommendations in a report to the state Legislature.

More than 8,000 inmates in New Jersey state prisons -- about one-third of the total prison population -- were convicted of selling or possessing narcotics. Finding ways to reduce the high percentage of drug offenders in prison was one reason lawmakers created the commission.

Burlington County Prosecutor Robert Bernardi, who sits on the commission, said there is no guarantee drug offenders will be treated for addiction in prison.

"Prosecutors are hardliners, that's our jobs," Bernardi said. "But we also play it smart and there are certain people who could be better served through the drug court system and in the long run the public is better served."

The drug court system resembles a criminal court, with a judge, a prosecutor and a defense attorney. The key difference is that after the sentence is handed down, the judge continues to monitor the offender's progress in drug rehab and throughout the five-year probation period. The judge can reward success or punish relapses.

New Jersey began testing drug courts in 1996 with pilot programs in five counties. Six years later, state officials rolled out the program statewide.

Since 2001, only 10 percent of the 635 offenders who graduated from a drug court in New Jersey have been arrested again. Several national surveys have found the recidivism rates from offenders who went through drug courts is lower than that of addicted criminals who went to prison or were placed on regular probation. No comprehensive studies have been conducted in New Jersey.

One reason drug courts are gaining favor is because they help alleviate prison overcrowding and save money. The state Department of Correction spends about \$36,000 a year to house a prisoner, compared with an average of \$10,000 a year for offenders in drug court.

In addition to making it easier to qualify for drug courts, the commission wants to allow some offenders to get their rehabilitation on an out-patient basis, eliminate fines if they create hardships for the offenders, and allow judges to release offenders from probation after two years if they have made progress and are not likely to relapse.

Senate Majority Leader Bernard Kenny (D-Hudson), a member of the commission, believes the proposal to expand drug courts will get a good reception in the Legislature.

"It has merit," Kenny said. "There's probably good support for that."

Officials concede some drug courts across the nation were less effective when the pool of eligible offenders was increased. Deputy Attorney General Ben Barlyn, who is assigned to the commission, said those concerns can be addressed in New Jersey by having enough program specialists handling cases.

This is the second major proposal from the commission since it was created three years ago.

Two years ago, it recommended the Legislature shrink the state's drug-free zones, where mandatory sentences are given to those convicted of dealing drugs within 1,000 feet of schools, parks, libraries and public housing. It said the zones should be within 200 feet to make them "fairer and more effective" because 96 percent of those arrested are black or Hispanic. It also suggested the state stiffen the penalties for those arrested in the smaller zones to make the sentences a better deterrent.

That recommendation, however, quickly stalled in the Legislature because lawmakers feared it would make them appear soft on crime.

"The problem is that on its face it's very easily subject to political attack," Kenny said. "You can be assured your opponent will use it against you. It's ludicrous, but it's politics."

*Rick Hepp may be reached at [rhepp@starledger.com](mailto:rhepp@starledger.com) or (609) 989-0398.*

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