



Drug buffers may shrink

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New Jersey's 1,000-foot school-zone laws don't protect schoolchildren from drugs and unfairly hurt minorities in urban centers, a high-level state commission said Wednesday.

The New Jersey Commission to Review Criminal Sentencing recommends shrinking drug-free school zones to 200 feet and eliminating mandatory minimum sentences for drug offenders.

"The laws, as written, don't work," commission Chairman Barnett E. Hoffman said at a news conference Wednesday in Trenton. "They don't protect our children."

"What the zone laws do accomplish, however, is a serious unintended result - that is, to discriminate against minorities with devastating effect," Hoffman, a retired Superior Court judge, said in announcing the release of the long-awaited report.

Nearly 96 percent of those arrested for a drug-free-zone offense in New Jersey are black or Hispanic, the report says, directly attributing the racial imbalance to the size of school zones.

"The size of the zones actually dilutes the 'special' protection the laws are supposed to offer, undermining its ability to create incentives to drug dealers to relocate their operations away from schools," the commission said.

The report was released days after a state Assembly committee approved a bill to reduce the size of drug-free school zones to 200 feet. The bill is awaiting a vote by the full Assembly.

Senate Majority Leader Bernard F. Kenny Jr., D-Hoboken, said he plans to sponsor a similar measure in the upper house.

"I support [the commission's findings] and I intend to garner support for it," Kenny, a commission member, said at the news conference.

For the measure to gain momentum, however, it must attract the support of Governor-elect Jon Corzine, who will be sworn in next month. Corzine officials said he will address the issue after he takes office.

"We think this is an interesting proposal, and we're looking forward to discussing it with the legislative leadership," said Andrew Poag, a spokesman for Corzine's transition office.



CARMINE GALASSO / THE RECORD

▲ A drug-free school zone on Prospect Avenue in Hackensack. A state panel says the 1,000-foot zones should be shrunk to 200 feet.

One key lawmaker was cool to the recommendations.

"I will keep an open mind, but I don't believe we should be shrinking the 1,000-foot zone," said Sen. Paul Sarlo, D-Wood-Ridge, vice chairman of the Senate's Law and Public Safety Committee. "I feel we need to make sure our parks and schools are safe, and send a message to drug dealers to stay away."

If approved, the proposal would amend the 1987 law that lays down a mandatory three-year prison term for distributing drugs within 1,000 feet of a school.

The law was enacted at the peak of the nation's war on drugs, when states across the country were toughening laws to deter drug dealers. In some states, like New York and Michigan, the Rockefeller-era crackdown guaranteed a life term in prison for many drug offenders.

New Jersey's prison population rose from 14,000 in 1987 to more than 27,000 today, according to state Department of Corrections statistics. Drug offenders, who constituted 10 percent of all inmates two decades ago, now account for 36 percent.

In recent years, however, dropping crime rates and budget deficits have led many states, including New Jersey, to reconsider the harsh penalties.

The commission points out in its 39-page report that there is no evidence why the 1,000-foot radius was chosen as the ideal buffer zone. Arrest records reveal no evidence that drug dealers are aware of school zones, let alone deterred by them, the report says.

In Newark, for instance, where more than three-quarters of the city is a drug-free school zone, 84 percent of the 3,341 drug arrests between January and September 2005 were made in drug-free school zones, the report says.

The solution, it says, is to create smaller, more discrete and more recognizable zones.

Also, school zone laws often target defendants who had no intention to sell drugs to children, the report says. A study of 90 appellate and Supreme Court cases shows that the school-zone law was applied without regard to whether the defendant intended to sell drugs to a student, the commission found.

"Most telling, perhaps, is the fact that out of the 90 reported cases, not one involved the sale of illicit drugs to a minor," the report says.

The commission's report, while calling for the elimination of mandatory minimums, also recommends that selling drugs within 200 feet of a school zone be upgraded to a second-degree offense carrying five to 10 years in prison.

Judges can still impose extended prison terms for repeat offenders caught inside or outside school zones, the report says.

The report, which took 18 months to complete, focuses on three major cities - Newark, Jersey City and Camden. It involved an extensive review of court decisions, census figures, criminal arrest records from Newark, and statewide criminal history data, said commission member Bruce Stout.

The commission also employed mapping software to trace the locations of arrests.

Many lawyers, activists and other observers welcomed the recommendations.

"You could be stopped on a highway and, through bad luck, be within 1,000 feet of a school," said Vincent Basile, a Hackensack defense attorney. "You may have no intention to do anything with schoolchildren. but you would be facing a mandatory minimum term."

In fact, he said, school-zone cases rarely involve students.

"That statute has never served its purpose," he said.

Bergen County Prosecutor John Molinelli, who is also president of the New Jersey Association of County Prosecutors, said he would be pleased with the reduction of the size of the school zones.

"We have argued that 1,000 feet was a bit difficult to work with, especially in urban areas," he said.

The elimination of mandatory minimums would provide more flexibility for prosecutors and judges to determine penalties on a case-by-case basis, Molinelli said.

Laura Sager, executive director of Families Against Mandatory Minimums, a 38,000-member advocacy group, called the commission's report a big step forward.

"It's extremely important for a state to have an objective, data-driven approach to the fairness and proportionality of sentencing," she said.

Frank Belluscio, spokesman for the New Jersey School Boards Association, said the organization would support an objective finding if it shows that drug-free school zones have not been effective.

"We support the concept of drug-free school zones," he said. "But if there are ways that the concept should be altered, it would be something we support."

Gregg Edwards, who heads the conservative Center for Policy Research of New Jersey, agreed.

"Rigid requirements with mandatory minimums and school-zone laws make sense only if they work," he said. "If they are not working, we should look at other things."

Others said it wasn't time yet to look at other things.

"School zones are an effective deterrent for those involved in the distribution and purchasing of narcotics," said Passaic County Sheriff's Department spokesman Bill Maer. "The department strictly enforces these zones and would hope that they continue to exist."

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Recommendations

- Reduce drug-free school zones to 200 feet.
- Eliminate three-year mandatory minimums for drug-selling convictions in a school zone.

- Stiffen penalties in the new zones to five to 10 years in prison, with no mandatory minimums.
- Let judges keep discretion to extend sentences for repeat offenders.

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Commission members

- Barnett E. Hoffman, chairman
- Yvonne Smith Segars, vice chairman
- Attorney General Peter Harvey
- Commissioner Devon Brown, | New Jersey Department of Corrections
- John D'Amico, chairman of the New Jersey Parole Board
- Sen. Anthony Bucco, R-Morris
- Sen. Bernard F. Kenny Jr., D-Hoboken
- Assemblyman Michael Patrick Carroll, R-Morris
- Assemblyman Gordon Johnson, D-Englewood
- Robert Bernardi, designee | from New Jersey Association of County Prosecutors
- Richard Lehrich, designated | by the president of the New Jersey Bar Association
- Morris County Superior Court Judge Edwin H. Stern, | designated by Chief Justice Deborah Poritz
- Zulima Farber, public member
- Alberto Rivas, public member
- Bruce Stout, public member

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