



**ASSEMBLY STANDING COMMITTEE ON CODES  
ASSEMBLY STANDING COMMITTEE ON JUDICIARY  
ASSEMBLY STANDING COMMITTEE ON CORRECTION  
ASSEMBLY STANDING COMMITTEE ON HEALTH  
ASSEMBLY STANDING COMMITTEE ON ALCOHOLISM AND DRUG ABUSE  
ASSEMBLY STANDING COMMITTEE ON SOCIAL SERVICES**

**NOTICE OF JOINT PUBLIC HEARING  
Oral Testimony by Invitation Only**

**SUBJECT:** The Rockefeller Drug Laws – 35 Years Later.

**PURPOSE:** To explore the impact of the “Rockefeller Drug Laws” on drug addiction, drug-related health problems and drug-related crime; to examine the impact of the 2004 and 2005 reforms of these drug laws in addressing drug abuse and the illegal drug trade; to examine the effectiveness of substance abuse treatment services as an alternative to incarceration and as a means to address offender recidivism; to determine the adequacy and effectiveness of existing substance abuse treatment services and resources; to explore whether the current criminal sentence structure should be continued or whether judges should have additional discretion to divert drug abusers into treatment as an alternative to incarceration; to examine access and barriers to social services for persons with a history of substance abuse released from incarceration.

<b>DATE</b>	<b>LOCATION</b>	<b>TIME</b>
<b>Thursday, May 8, 2008</b>	Assembly Hearing Room 250 Broadway, Room 1923, 19 <sup>th</sup> Floor New York, New York	<b>10:00 A.M.</b>
<b>Thursday, May 15, 2008</b>	City Hall Council Chambers 30 Church St., Room 302-A Rochester, New York	<b>10:30 A.M.</b>

May 8, 2008, is the 35<sup>th</sup> anniversary of the enactment of New York’s “Rockefeller Drug Laws.” The stated purpose of these laws was to deter the use and sale of drugs by imposing harsh mandatory prison sentences on drug offenders. There have been a number of amendments to those laws over the years. Recently, in 2004, New York amended the drug laws recognizing that a drug policy which focused purely on inflexible criminal sanctions was ineffective. At the time, both the Executive and the Legislature recognized that while significant, the 2004 reforms, as well as a 2005 amendment, represented just a first step towards meaningful reform and that other major changes to the drug laws were urgently needed. However, since 2004 only the Assembly has passed legislation to further reform New York’s drug laws.

Despite sentencing reforms, large numbers of drug offenders continue to be incarcerated in New York State prisons. As of January 1, 2008, 13,425 drug offenders were in state prison representing more than 21% of the male prison population and more than 33% of the female population. Statistics show that a large majority of this population has never been convicted of a violent offense and up to 40% are incarcerated for drug possession rather than for selling drugs. Notably, the Rockefeller Drug Laws have disproportionately impacted communities of color – more than 90% of all drug offenders in New York State prisons are Black or Latino.

After 35 years of a drug policy focused on punishment with concomitant spending of billions of dollars to put people in prison, the question raised is whether the effort has been worth it and if not, whether New York’s laws should be amended. Indeed, many argue that it may be time to broaden New York’s approach to addressing drug addiction.

Unquestionably, drug abuse is a serious public health problem that affects families and almost every community. Each year, even under the current scheme of drug law enforcement, drug abuse results in an estimated 40 million serious illnesses or injuries in the United States. Drug addiction is a treatable disease, so among issues raised is whether a system that focuses on preventing and treating drug addiction rather than simply incarcerating individuals will result in a reduction in the use and sale of drugs – something mandatory imprisonment laws have failed to accomplish.

In addition, another issue raised over the 35 years of experience New York has had under its drug laws is whether authorizing judges to sentence drug-addicted persons convicted of crimes to treatment as an alternative to incarceration would help break the cycle of addiction and crime and make our streets, homes and communities safer. Furthermore, more effective prison-based drug treatment programs may reduce the rate of recidivism among formerly incarcerated substance abusers and improve their prospects for successful reentry into the community. Such reforms may also produce significant fiscal savings by reducing correctional costs and the dependence on public assistance dollars thereby allowing the state to invest necessary resources in community-based alternative to incarceration and drug treatment programs.

This hearing will provide an opportunity to take a fresh look at New York's drug laws and examine how the criminal justice, social service and health systems treat drug abusers.

Persons wishing to present pertinent testimony to the Committees at the joint public hearing should complete and return the enclosed reply form as soon as possible. It is important that the reply form be fully completed and returned so that persons may be notified in the event of emergency postponement or cancellation.

**Oral testimony will be accepted by invitation** only and limited to **ten (10)** minutes' duration. In preparing the order of witnesses, the Committees will attempt to accommodate individual requests to speak at particular times in view of special circumstances. These requests should be made on the attached reply form or communicated to the Committees' staff as early as possible.

**Twenty (20)** copies of any prepared testimony should be submitted at the hearing registration desk. The Committees would appreciate advance receipt of prepared statements. In order to further publicize these hearings, please inform interested parties and organizations of the Committees' interest in receiving testimony from all sources.

In order to meet the needs of those who may have a disability, the Assembly, in accordance with its policy of non-discrimination on the basis of disability, as well as the 1990 Americans with Disabilities Act (ADA), has made its facilities and services available to all individuals with disabilities. For individuals with disabilities, accommodations will be provided, upon reasonable request, to afford such individuals access and admission to Assembly facilities and activities.

**JOSEPH R. LENTOL**  
Member of Assembly  
Chair, Committee on Codes

**HELENE E. WEINSTEIN**  
Member of Assembly  
Chair, Committee on Judiciary

**JEFFRION L. AUBRY**  
Member of Assembly  
Chair, Committee on Correction

**RICHARD N. GOTTFRIED**  
Member of Assembly  
Chair, Committee on Health

**FELIX ORTIZ**  
Member of Assembly  
Chair, Committee on  
Alcoholism and Drug Abuse

**KEITH L. T. WRIGHT**  
Member of Assembly  
Chair, Committee on Social  
Services

## **SELECTED ISSUES TO WHICH WITNESSES MAY DIRECT THEIR TESTIMONY:**

1. Has New York's drug policy over the last 35 years reduced drug use, drug-related health problems, and drug-related criminal behavior? If not, how should it change to more effectively reduce drug addiction and related problems?
2. Are mandatory sentences of imprisonment an effective part of a drug policy strategy? Should judges have discretion to sentence class B or above drug offenders and second felony drug offenders to drug treatment programs as an alternative to incarceration? Would expanding the number of drug offenders eligible for court ordered drug abuse treatment as a potential alternative to incarceration help break the cycle of addiction and crime and make our streets, homes and communities safer?
3. How many drug courts are currently operating in the state? Are there sufficient community-based treatment programs available to serve individuals participating in the drug court program? How are the community-based programs utilized by drug courts funded and what additional resources, if any, are necessary? What changes, if any, should New York's court system make to better address drug abuse and drug abuse related crime?
4. What role should prosecutors and judges play in determining which offenders are diverted into alternative to incarceration programs?
5. How effective is substance abuse treatment at reducing the rate of recidivism among persons convicted of crimes? What kinds of programs, supervision and resources would most effectively reduce the incidence of drug use and drug-related crime?
6. How effective have existing programs (for example, Drug Treatment Alternatives to Prison and "Road to Recovery") been in addressing substance abuse and dependency? Are there other prosecutor-sponsored and non-prosecutor sponsored initiatives that are as, or more effective?
7. What substance abuse treatment services exist within New York State's prisons and jails and do they sufficiently meet the needs of inmates with a history of drug and alcohol abuse?
8. What pre-release procedures used by the Department of Correctional Services and the Division of Parole help ensure successful community integration of persons released from prison who have a history of substance abuse? What steps are taken to ensure that there is a continuity of treatment between prison and community substance abuse treatment?
9. What substance abuse treatment programs and resources are currently available in the community for persons released from jail and prison, and do they adequately meet the needs of the tens of thousands of persons released from jail and prison in New York each year?
10. What are the barriers faced by formerly incarcerated individuals with a history of substance abuse in obtaining public benefits, medical assistance, and affordable, suitable and stable housing? Is specific legislation needed to improve the process and assist these individuals in applying for and obtaining public benefits? Are employment, training, and/or educational programs available through local Departments of Social Services for formerly incarcerated individuals with a history of substance abuse? What impact do such programs have on drug abuse relapse and recidivism? What can be done to improve employment and training opportunities for this population?
11. What is the cost to taxpayers of the current mandatory incarceration laws? Are there potential cost savings that can be derived from diverting more defendants into substance abuse treatment as a potential alternative to incarceration?
12. Two proposals have been offered recently that proponents say are designed to encourage addicted persons to seek treatment. One would decriminalize the possession of a small, residual amount of a controlled substance in a hypodermic syringe when the syringe is given to an authorized needle exchange program pursuant to section 3381 (1) of the Public Health Law (A.6337). A second proposal would encourage addicted persons and others to seek emergency assistance for persons seriously ill from a drug overdose (A.8740). This proposal would restrict the use in criminal court of evidence concerning the possession of a controlled substance when such evidence is obtained as a result of the person seeking or receiving health care services. Are these proposals meritorious?

**PUBLIC HEARING REPLY FORM**

Persons wishing to present testimony at the joint public hearing are requested to complete this reply form as soon as possible and mail, email or fax it to:

**Dee Levy, Legislative Analyst  
Assembly Committee on Codes  
AESOB, 23<sup>rd</sup> Floor  
Albany, New York 12248  
Email: [levyd@assembly.state.ny.us](mailto:levyd@assembly.state.ny.us)  
Phone: (518) 455-4313  
Fax: (518) 455-7250**

- I plan to attend the joint public hearing on the Rockefeller Drug Laws to be conducted by the Assembly Committees on Codes, Judiciary, Correction, Health, Alcoholism and Drug Abuse, and Social Services on **Thursday, May 8, 2008, in New York City.**
- I plan to attend the joint public hearing on the Rockefeller Drug Laws to be conducted by the Assembly Committees on Codes, Judiciary, Correction, Health, Alcoholism and Drug Abuse, and Social Services on **Thursday, May 15, 2008, in Rochester.**
- I would like to make a public statement at the joint hearing. My statement will be limited to ten (10) minutes, and I will answer any questions which may arise. I will provide twenty (20) copies of my prepared statement.
- I will address my remarks to the following subjects:

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- I do not plan to attend the above hearings.
- I would like to be added to the Committees' mailing lists for notices/reports.
- I would like to be removed from the Committees' mailing lists.
- I will require assistance and/or handicapped accessibility information.

**Please specify the type of assistance required:**

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**IF YOU PLAN TO ATTEND, YOU MUST BRING A FORM OF PHOTO IDENTIFICATION**

NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

ORGANIZATION: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

E-MAIL: \_\_\_\_\_

FAX TELEPHONE/TELEPHONE: \_\_\_\_\_

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