

Drug Courts and **NORA**

The Nonviolent Offender Rehabilitation Act of 2008



California's prison overcrowding problem has reached crisis levels. Meanwhile, some promising efforts to provide drug rehabilitation through the criminal justice system have been hampered by budget cuts and law enforcement opposition.

A new ballot measure, the **Nonviolent Offender Rehabilitation Act (NORA)**, would respond to both problems by dramatically reforming the prison system and parole policies, while also expanding court-supervised treatment programs. NORA ensures that adequate funding will be available for quality programs for all nonviolent offenders in the system.

NORA also provides funding for ongoing research to evaluate programs and to recommend best practices. Finally, the measure commits \$65 million per year, growing with inflation and population, to build a system of care offering substance abuse treatment and other support services to at-risk youth under the age of 18.

NORA is expected to appear on the Nov. 4, 2008, ballot. It is principally sponsored by the Drug Policy Alliance Network. It would have several positive impacts on the state's drug court system, as the measure builds upon existing models and encourages expansion across the board:

- **NORA creates a continuum of care for nonviolent drug offenders by unifying three disparate systems** that operate today in most counties: PC 1000 diversion programs; Proposition 36 programs; and drug courts. Under NORA, eligible people convicted of a nonviolent drug law offense will be assessed and placed in the appropriate level of care, based on addiction severity and criminal history. Those who fail to complete lower-level programs may be moved up to more intensive programs, or sanctioned for noncompliance.
- **NORA increases drug court resources and targets those resources for the more serious drug offenders** in need of more intensive supervision. Anticipating that more defendants will enter drug courts (or "Track III" under NORA), NORA roughly doubles the funding available for adult felon drug courts statewide, from about \$24 million today to nearly \$45 million starting in FY 2009-10. This funding is also made permanent, with adjustments for inflation and state population, and Track III funding may be supplemented by the Legislature directly.

continued

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Paid for by NORA Campaign, sponsored by Campaign for New Drug Policies and Drug Policy Alliance Network

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- **NORA leaves existing drug courts intact, while encouraging them to expand.** Drug court judges are given near-total discretion as to which nonviolent offenders to accept for placement in Track III treatment. Judges can take people who have failed out of Track II (i.e., Prop. 36-type) programs or who are not eligible for any other program. Judges may even place in Track III treatment persons who commit non-drug offenses that are nonviolent, and may require such offenders to first serve a part of their sentences and pay restitution before commencing treatment. With the consent of the district attorney, even persons with a prior serious or violent felony may be placed in Track III treatment if the court considers such a placement warranted and wise.
- **Under Track III, the court is given broad discretion to monitor defendants in any appropriate manner, including with drug testing paid for by NORA funds.** Judges are encouraged to use incentives and rewards to improve treatment retention and outcomes. The court may also impose jail sanctions in response to problems during Track III treatment. (The duration of jail sanctions is limited by NORA to 2 days for the first sanction, 5 days on the second sanction and 10 days for the third and subsequent sanctions.) Probation and treatment under Track III may be terminated at any time, in the court's discretion.
- **NORA seeks to improve treatment matching and overall treatment quality.** Every person placed in treatment Tracks I, II and III will receive both a clinical assessment of their addiction severity and a criminal history evaluation. NORA requires people to be placed in a treatment program consistent with their assessed needs. For example, where an assessment recommends – and the client requests – medication-assisted treatment (including narcotic replacement therapy, such as methadone or buprenorphine, or antipsychotic medication and mood stabilizers), the person must be provided such treatment. Judges supervising cases in Tracks I through III must annually complete an addiction training course that addresses medication-assisted therapies.
- **In addition to creating a continuum of treatment for drug offenders, NORA establishes and funds a single system of data collection for Tracks I-III.** For drug courts, this means that data standards will be raised considerably from current levels. Statewide, only two studies of drug courts have ever been published. They offer very limited data – failing to calculate annual participation rates or treatment completion rates, for instance. By contrast, Proposition 36 has generated a rich trove of offender and treatment data resulting in several voluminous reports that provide important insight into the program's successes and needs. By creating and funding a unitary system for data collection and analysis, NORA will help all of California's treatment courts, including its drug courts, to demonstrate, county-by-county, their efficacy and identify areas for improvement in the delivery of treatment services and retention.