



Legislation Text

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Proposed Res. No. 241-A

Resolution calling upon the New York State Legislature to adopt meaningful reform of the Rockefeller drug laws, which should include, among its elements, judicial sentencing discretion, a decrease in the amount of prison time for certain types of drug offenses, an increase in the amount of narcotics required to secure certain convictions, adequate funding of alternative to incarceration programs, and stiffer penalties for drug trafficking.

By Council Members Monserrate, Clarke, Baez, Barron, Brewer, Comrie, DeBlasio, Foster, Gioia, Jennings, Martinez, Quinn, Reed, Reyna, Rivera, Sanders, Jr., Seabrook, Serrano, Stewart, Vann, Weprin, Boyland, Lopez, McMahon and Davis

Whereas, The Rockefeller drug laws include some of the most disproportionately punitive provisions in the nation; and

Whereas, The Rockefeller drug laws often keep non-violent addicts, who pose no threat to the community, incarcerated for unduly long periods of time, with no opportunity for effective treatment; and

Whereas, Under the current Rockefeller drug laws, for example, a defendant with no criminal history who is found guilty of selling two ounces of a narcotic substance, or who is convicted of possessing four ounces of a narcotic substance, is subject to a mandatory minimum sentence of 15 years to life, the equivalent mandatory minimum for second-degree murder; and

Whereas, The Rockefeller drug laws, which have been plagued by doubts as to their effectiveness ever since they first were enacted by the Legislature at the request of then-Governor Rockefeller in 1973, have since proven themselves to be a costly, yet ineffective method for dealing with the complexities of drug addiction; and

Whereas, A 1997 Rand corporation study found, for example, that drug treatment was 15 times more effective at reducing serious crimes committed against people and property by drug offenders than mandatory minimum sentences; according to Chief Administrative Judge Jonathan Lippman, graduates of drug court diversion programs operated by the court system commit 67% fewer crimes than drug offenders who are incarcerated for a period of time; and

Whereas, In addition, the Rockefeller drug laws have a disproportionate impact on Blacks and Hispanics; according to a report that appeared in the New York Law Journal, the Rockefeller drug laws have swelled the state prison population, with New York State now sending approximately 10,000 people, nearly all of them Black or Hispanic, to prisons annually for drug crimes, at an annual cost of approximately \$32,000 per prisoner; and

Whereas, As a result, New York taxpayers have borne the financial burden of building over 40,000 new prison beds since 1981 at a cost of over four billion dollars; and

Whereas, Although numerous proposals to reform these draconian drug laws have been proposed, it is clear, based on the data accumulated over the many years of enforcement of the Rockefeller drug laws, that any meaningful change must include a number of key elements; and

Whereas, First, sentencing discretion must be given to trial judges in all drug cases so that each case is judged on its own merits; instead of applying an inflexible sentencing standard that allows for no discretion whatsoever, a trial judge, having regard to the nature and circumstances of the crime and the history and character of the defendant, must have the option of imposing a

sentence, including mandatory drug treatment, that is not unduly harsh but fits the particular individual and crime, and which will be more effective at eliminating the substance abuse that often lies at the core of criminal behavior; and

Whereas, In addition, meaningful reform must include a decrease in the amount of prison time for certain types of drug offenses, particularly possession of small amounts of narcotics by a first time offender; too often, an addict with no history of violence is sentenced to a longer prison term than a convicted violent felony offender, a situation that produces terrible injustice; and

Whereas, Another important element of this drug reform is that the amount of narcotics required to secure a conviction for possession should be increased, particularly where the laws harshest penalties are concerned; currently, a first time offender who possesses narcotics is subject to extraordinarily stiff penalties; and

Whereas, All of these amendments to the Rockefeller drug laws will be meaningless without adequate funding of alternative to incarceration (ATI) programs; such programs, by addressing the root causes of addiction, play a vital role in breaking the cycle of crime and making our streets, homes and communities safer; it has been demonstrated through numerous comprehensive studies that these services are a significantly more effective and cost-effective means of reducing crimes committed by drug offenders than incarceration; and

Whereas, While changing the current sentencing guidelines, allowing for more judicial discretion and expanding ATI programs, meaningful reform must also recognize the scourge that drug related gun violence and drug dealers have on our communities; any change to the Rockefeller drug laws must also include stiffer penalties for drug trafficking, those who use a child to commit a controlled substance offense, as well as increased sentencing for those who use a gun during a drug sale; and

Whereas, Because of the benefits of such changes, it is important that any Rockefeller drug law reform not include increased penalties for certain drug offenses in exchange for these meaningful reforms; and

Whereas, Adoption of these reform proposals would provide a fair, effective and humane solution to achieving the dual objective of rehabilitating addicts while protecting the safety of our communities; and

Whereas, Because a large number of those incarcerated in the State of New York for major and minor drug offenses come from New York City, it is imperative that the government and the citizens of the City express our support for a change to the unfair and rigid mandatory sentencing requirements currently existing under the Criminal Procedure Law and advocate for reform that includes these necessary and key elements; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the New York State Legislature to adopt meaningful reform of the Rockefeller drug laws, which should include, among its elements, judicial sentencing discretion, a decrease in the amount of prison time for certain types of drug offenses, an increase in the amount of narcotics required to secure certain convictions, adequate funding of alternative to incarceration programs, and stiffer penalties for drug trafficking.