

Increasing Diversion Opportunities in New York

Background

Mental health diagnoses and substance use disorders are highly prevalent within the New York correctional system. An estimated 83% of people in NY prisons have a substance use disorder and roughly 50% of those in NYC jails face mental illness. People with mental health histories tend to have higher recidivism rates, serve longer sentences, and have more expensive medical needs than those without mental illness. New York has continued to defund public health services, cutting total spending by up to 42% between 2011 and 2017, leaving many counties with inadequate mental health and substance use treatment services. By 2020, 68% of NY counties reported that they need more drug crisis services and 84% reported not having the resources to adequately house people with behavioral health issues.

In the absence of proper services, incarceration is often the default outcome for people suffering mental health or substance use-related crises, despite the fact that imprisonment has a criminogenic effect on reoffending. Less than 1 in 5 people in jail who have a mental illness receive treatment in jail and studies show that incarceration exacerbates mental health problems. Similarly, 3 out of 4 people with substance use disorders do not receive drug treatment in jail, and even 1 year after release, recently incarcerated people are more than 10 times more likely to die from an overdose than their counterparts who were never incarcerated.

While NY's public health services have experienced declining funding, total NY DOCCS expenditures have remained largely constant, despite a 45% decrease in state prison population over the last decade. The average cost to house one person for one year in NY prisons has since increased by 79% to \$115,000, the highest incarceration cost in the country.

1,300

Estimated number of people who could be diverted from NY prisons annually

2,200

Estimated number of people who could receive treatment instead of a NYC jail sentence annually

Opportunity

By expanding access to NY's diversion programming, the Treatment Not Jail Act (S. 1976B / A. 1263B) provides vulnerable populations with the opportunity to receive necessary treatment, while addressing the root causes of recidivism and incarceration. Diversion cuts reoffending rates in half and grows quarterly employment rates by nearly 50 percent over 10 years. Investing in treatment-based alternatives to incarceration saves the state \$2.21 for every \$1 spent, based on lower crime rates and reduced costs to society. This analysis provides an estimate of the reduction in jail and prison admissions based on historic NY diversion rates and the associated potential for correctional cost avoidance.

The proposed policy could help over **3,500 people receive treatment** instead of a sentence of incarceration each year.

By the numbers:

- During 2021 and 2022, there was an annual average of 7,600 individuals newly admitted to the NYS prison system and 18,100 individuals admitted to NYC jails.
- As of FY 2023, roughly half of the NYC jail population suffers from a mental health diagnosis, and nearly 20% of those in custody suffer from a "serious" mental health diagnosis.
- A 2021 analysis showed 83% of those incarcerated in NY prisons and 58% of those in NYC jails have a substance use disorder.
- Under TNJ, anyone with a "functional impairment" including a mental health diagnosis or substance use disorder would be eligible to apply for diversion.
- Assuming an estimated 21% diversion rate for those eligible, based on the results of increased NY drug diversion programming in 2009, over 1,300 prison sentences and over 2,200 jail sentences could be diverted.

Treatment Not Jail could give back over **17,000 years outside of prison** to people with mental health diagnoses or substance use disorders over 5 years.

What it costs:

- Based on current sentencing patterns and an estimated 52% graduation rate¹, this could lead to over 17,000 years of prison sentences and over 1,600 years of jail sentences avoided over 5 years.
- At an average of \$114,831 per person per year, the NY prison costs associated with these prison sentences come to \$178 million per year and \$894 million over 5 years.
- At an average of \$556,539 per person per year, the NYC jail costs associated with this detention total \$182 million per year and \$908 million over 5 years.

People recently released from incarceration are **42 times more likely to die from an overdose**

in the two weeks following their release when compared to the general population.

¹This diversion graduation rate is a conservative estimate based on 2016 New York drug court data. New York mental health courts have reported higher graduation rates, between 74-96%, as of 2023.