NEW YORK CITY BAR ASSOCIATION

Treatment Court Expansion Act

A proposal to restore discretion to judges, prevent coercive pleas, and reduce mass incarceration by ending mandatory prison sentences.

The Problem

Many people charged with crimes desperately need help with mental illness and other disabilities. Judges, prosecutors and defense attorneys have all witnessed situations where the rigidity of the system prevents providing treatment that would not only help the person charged with a crime, but make our communities safer by addressing the reasons a person committed a crime.

Many organizations, including the Office of Court Administration, support expanding access to mental health treatment in our courts. The reason is simple: when people cycle in and out of jails and prisons, their mental health gets worse, not better. The Treatment Court Expansion Act would reverse that criminogenic cycle and provide just outcomes that make our communities safer.

Impact on Public Safety

The Treatment Court Expansion Act would **increase public safety**. It would ensure that people receive treatment for the illnesses that have led them to commit crimes, rather than send them where their illnesses are often exacerbated. Prison sentences in these cases often worsen public safety.

The Solution

The Treatment Court Expansion Act builds on existing drug treatment court models by allowing judges to divert people into treatment for mental illnesses and other disabilities, even in cases where prison would normally be required. All but the most serious of crimes are eligible for diversion to ensure that judges can consider when public safety would benefit from providing an individual with a program over prison. Imprisonment, which lacks mental health supports for those who need them, worsens the stressors that contributed to the individual's involvement in criminal activity in the first place. In this way, we actually make the public less safe. Not all, or even most, individuals charged with violent crimes would be admitted to diversion, but judges must have discretion to allow programming rather than jail in all appropriate cases.

The Treatment Court Expansion Act does not require a person to plead guilty to receive treatment if they are charged with non-violent offenses. This ensures that access to treatment comes swiftly, without the burdens of reviewing discovery and assessing the legal and factual challenges to the case. It also increases incentives for those charged with crimes to accept a treatment program. When people are required to plead guilty before receiving treatment, especially when they do not face a mandatory prison sentence if convicted, it is often against their interests to plead guilty. They can be trapped in treatment programs for years on minor technical issues, and then still get sentenced to prison or have a conviction if they are deemed to have failed.

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