

Vera Institute of Justice

Criminal Justice Issues and Prisoners' Rights

<https://www.vera.org/blog/will-mandatory-drug-courts-take-root-in-the-garden-state>

Public Facing Advocacy Writing

During his recent State of the State address, New Jersey Governor Chris Christie (R) called for a transformation in how the states courts address the interplay of substance use and criminal justice involvement. Christie and a bipartisan group of legislators have outlined a plan that would make drug court participation mandatory for people convicted of [nonviolent drug offenses](#).

There are reasons to be encouraged and others to be wary about this proposal.

The plan calls for: increased screening to identify people who are eligible for drug court; court-ordered clinical evaluations for substance dependence to determine who is suitable for drug court; and compulsory participation for everyone deemed appropriate for the program.

Christies enthusiasm for systemic change deserves praise. However, drug courts are not a magic wand to improve public health, enhance public safety, and reduce costs; New Jersey and other jurisdictions should exercise caution before signing on to support such compulsory, sweeping measures.

The governors good intentions notwithstanding, it is important to consider some of the potential consequences of this proposal. First, New Jersey legislators should carefully weigh what they mean by eligibility and suitability, lest they wind up widening the net or narrowing it too much. Not everyone arrested for a low-level drug possession charge needs an intervention as invasive as drug court. On the other hand, there are likely to be defendants with some violent history related to their substance use who may benefit from drug court. Will the law create blanket exclusions for all violent offenses, or include exceptions when all parties think court-monitored treatment is in the best interest of individual outcomes and public safety?

Second, state policy makers should get more input from experts on drug courts about whether mandatory participation is a good idea. Drug courts have proliferated rapidly, and there is some compelling [empirical evidence](#) supporting their effectiveness for certain people. While a degree of legal coercion is clearly a feature, voluntary participation is a central component of problem-solving courts. Its not clear whether any of the scientific evidence supporting the efficacy of drug courts holds up without the voluntary enrollment component. Furthermore, in an era of limited resources, policy makers focus on drug courts may rule out investing in evidence-based public health interventions. For court-ordered treatment to be effective, there must be sufficient capacity in the community to deliver individualized, evidence-based services. Elected officials should not push for such sweeping change without the public health infrastructure and treatment capacity to support it.

The proposals compulsory features give me pause. Mandatory minimums sentences the controversial laws imposing lengthy prison sentences for even the most minor, nonviolent drug offenses were supposed to deter drug use and crime and promote truth in sentencing, but instead swelled prison populations, exacerbated racial disparities, and fractured vulnerable communities. Replacing discretion with statutory absolutes runs the risk of unforeseen consequences counter to the original intent of the law.

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