



## **COST SAVINGS THAT WOULD ACCRUE TO NEW YORK UNDER THE ASSEMBLY'S DRUG LAW REFORM BILL (A-7078 OF 2003)**

### **EXECUTIVE SUMMARY**

The Legal Action Center recently received a formal, written request from the New York State Assembly asking the Center to calculate the savings that would accrue to New York if the Assembly's drug law reform legislation (A-7078 of 2003) was enacted. The Legal Action Center has been at the forefront of efforts to identify the fiscal savings and other benefits which would result from reform of New York's Rockefeller-era drug laws. In June, 2001, the Center released a report that analyzed the numbers of individuals incarcerated in 2000 who would have been eligible, under various Rockefeller Drug Law reform bills and proposals, for judicial diversion. In April, 2002, the Center released a second report that calculated the cost saving associated with diverting second felony offenders who are mandated into prison under New York's current drug laws. This report combines the analysis of both reports, using updated data and new cost savings factors.

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### **IN SUM:**

- **3, 884 individuals incarcerated in DOCs in 2001 (the most recent data available) would have been eligible for judicial diversion under the Assembly's drug law reform bill.**
- **For every felony offender diverted from prison to community-based treatment under the Assembly bill, New York would save approximately \$60,000. The savings result from:**
  - ▶ **\$50,000 in total net criminal justice system-related savings**
  - ▶ **\$10,000 in savings in reducing health care and welfare costs and crime and increased tax contribution**
- **New York would save an additional \$24,384,000 under the Assembly bill by reducing the sentences of individuals serving certain drug offenses.**

**Assuming that 60% of those eligible for judicial diversion actually would be sent to treatment instead of prison, PASSING THE ASSEMBLY'S DRUG LAW REFORM BILL WOULD SAVE NEW YORK \$164,244,000 A YEAR.**

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## **BACKGROUND**

Under New York's current sentencing laws, individuals facing B felony charges<sup>1</sup> as their first felony offense face mandatory prison time. Individuals convicted of any second or subsequent felony offenses<sup>2</sup>, regardless of the nature of the offense, also face mandatory prison time. Judges have no independent authority, without consent of the District Attorney, to send any of these second felony offenders or individuals facing first time B felony drug charges to treatment or other community supervision and services instead of prison.<sup>3</sup> As a result of New York's drug laws, tens of thousands of people convicted of non-violent offenses, the majority of them addicted,<sup>4</sup> have been mandated into prison with no discretion on the part of judges who might have deemed another sentence more effective or appropriate. In addition, individuals convicted of selling 2 ounces, or possessing 4 ounces of cocaine or heroin, which constitutes a class A-I felony, must serve a minimum of 15 years to life. Individuals convicted of selling one-half ounce or possessing 2 ounces of cocaine or heroin, which constitutes a class A-II felony must serve a minimum of 3 years to life.

## **THE ASSEMBLY BILL**

Under Assembly bill 7078-b, second felony offenders charged with class B, C, D, and E felony drug possession or sale who have no prior violent felony convictions are eligible for judicial diversion.. First time felony offenders charged with or convicted of class B drug charges, who under current sentencing law face mandatory prison time, would also be eligible for judicial diversion to treatment from prison. First time felony offenders convicted of class A-I offenses who currently must serve a minimum of 15-life would face a sentence of at least 8-24 years, and first time offenders individuals convicted of class A-II offenses who currently must serve a minimum of 3-life would face sentences of at least 3-9 years.

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<sup>1</sup>Under New York State law, possession with intent to sell any amount of a narcotic drug is a class B felony.

<sup>2</sup>Hereafter described as second felony offenders, consistent with New York Penal Law §70.06.

<sup>3</sup>Under current law, individuals convicted of a second felony offense must be sentenced to prison. The only way they can avoid prison time is if the felony charges against them are dismissed (with the exception of the Willard Program, which allows a narrow category of second felony offender, some with the District Attorney's consent, to get an alternative sentence). Barring an acquittal, District Attorneys must agree to a dismissal before the charges can be dismissed. Thus, currently only District Attorneys have the authority to send individuals facing second felony charges to treatment as a condition of getting the charges dismissed.

<sup>4</sup>According to a recent February 2001 report by the New York State Office of Alcoholism and Substance Abuse Services, 70% of all offenders in the custody of DOCS are subsequently identified as substance abusers. 74% of the youth in the custody of the Office of Children and Family Services (OCFS) have a serious alcohol or drug problem.

## **METHODOLOGY**

### Judicial diversion

In order to determine the numbers of individuals who would have been eligible for judicial diversion under the Assembly bill, we examined statistics collected by DCJS. We looked at the first felony offender pool committed into DOCS facilities in 2001 convicted of class B non-violent felony offenses. We also looked at the second felony offender pool committed into DOCS facilities in 2001, examining the nature of the current offense (whether they had committed drug or other non-violent offenses), class of offense (whether they had committed B, C, D, or E felony offenses) and nature of prior felony offense(s) (violent or non-violent).

We then calculated the numbers of individuals committed into DOCS in 2001 who fit the category of drug offenders who are not now but would become eligible for judicial diversion under the Assembly's bill. These numbers represent the total pool of offenders who under current law were required to receive a sentence of incarceration, but under the Assembly's bill would have been eligible to be sentenced either to prison or to a non-incarcerative punishment at the discretion of the judge. Whether any of these individuals would have actually been diverted would have been determined by the judge, who would have decided if the offender was addicted and needed treatment or met other criteria determined by the court.

### First time offenders committed to DOCS in 2001 convicted of Class B drug offenses:

- 1,298

### Second felony offenders committed to DOCS in 2001 for drug offenses with no prior violent felony convictions:

Total number: 2,586. Breakdown as follows:

- 432 individuals were convicted of class B second felony drug offenses
- 780 individuals were convicted of class C second felony drug offenses
- 1039 individuals were convicted of class D second felony drug offenses
- 335 individuals were convicted of class E second felony drug offenses

**TOTAL NUMBER OF FIRST AND SECOND FELONY OFFENDERS WHO WOULD HAVE BECOME ELIGIBLE FOR JUDICIAL DIVERSION UNDER THE ASSEMBLY'S PROPOSAL: 3,884**

## Sentence Reduction

Under the Assembly bill, individuals incarcerated on class A-I, A-II and B drug offenses would be eligible to have their sentences reduced retroactively. 200 individuals currently serving class A-I sentences would be eligible to have their sentences reduced at least 2 years. A limited class of offenders currently serving class A-II sentences and class B drug felonies would also be eligible for sentence reductions.

## **COST SAVINGS**

If the Rockefeller Drug and Second Felony Offender laws are reformed to afford judges some increased discretion to divert appropriate offenders to treatment, increased numbers of offenders will be eligible for diversion into community-based drug treatment rather than prison. Reform of these laws would generate financial savings for New York State because increased numbers of offenders would not receive prison terms, thereby eliminating the costs associated with incarceration. For individuals who successfully complete treatment, reform also generates savings related to lower health care costs, smaller welfare rolls, increased tax contributions, reduction in crime, decreased burden on the foster care system, and increased local economic benefits resulting from higher employment and increased wages. While these savings would be offset partially by the cost of providing treatment in the community, treatment is significantly less expensive than prisons and jails.

In addition to affording judges discretion to divert appropriate offenders into community-based treatment, the Assembly's drug laws reform bill would reduce sentence for individuals sentenced to prison under New York's Rockefeller Drug and Second Felony Offender laws. Individuals convicted of class A-I offenses who currently must serve 15-life would face a sentence of at least eight years, and individuals convicted of class A-II offenses, who currently must serve a minimum of 3-life would face a sentence of at least three years. In addition, sentences would be lowered for non-violent individuals serving prison time for class B felonies.

Our findings take into account savings generated by the elimination of costs associated with incarceration, health care, and welfare, and increased tax contributions. Savings in the latter three categories were only calculated based on the first year after graduation, since numbers beyond the first year were unavailable; savings would almost certainly continue and increase in the following years. This study also includes, for the first time, savings associated with a reduction in crime. Savings associated with decreased burden on the foster care system, and increased local economic benefits resulting from higher employment and increased wages are not included as those numbers were not available to us.

## METHODOLOGY

Our analysis relies heavily on the methodology and statistics developed in two reports: the eleventh annual report of the Drug Treatment Alternative to Prison (DTAP) program issued by the King's County District Attorney, and the report issued by the Center for Court Innovation entitled *Cost-Benefit Analysis of the Brooklyn Treatment Court*. Both these reports based their analyses on the actual performance of program participants. The Center for Court Innovation report provided the most detailed explanation of the calculations and assumptions they made in arriving at the savings generated by the Brooklyn Treatment Court. We used their formula for calculating criminal justice costs and savings (adjusting for a number of variables described below). The Center for Court Innovation examined the savings associated with avoiding incarceration costs but not any other long-term post-release savings. The DTAP program included some of these post-release savings: those relating to health care, welfare and increased tax contributions.

Because these programs are both based in Brooklyn, and because results will differ depending on a number of variables, including different lengths and costs of treatment and sentencing policies, we examined numerous other studies and reports, including the report to Chief Judge Judith Kaye by the New York State Commission on Drugs and the Courts, and the New York State Department of Correctional Services *Characteristics of Inmates Discharged, 2000*. We also interviewed treatment providers throughout New York to come up with numbers that reflected the range of experience across the state.

We found that in three areas – annual cost of treatment, length of treatment, and graduations rates and number of crimes committed per offender – there was a considerable range in numbers. As a result, looking at a variety of variables, we came up with a range in the total savings per diversion of a second felony drug offender.

Based on the Center for Court Innovation's formulation, there are four basic components to our cost savings analysis. The first three relate to the criminal justice system:

- 1) Criminal Justice savings from diverting second felony offenders from prison into treatment are calculated by looking at the savings from not sending individuals to jail and prison.

To calculate net saving from not sending individuals to jail and prison, the additional costs associated with treatment and extra operational costs must be subtracted from savings as follows:

- 2) Costs associated with treatment.
- 3) Extra operational costs associated with administering a diversion program, including court costs as well as jail costs.<sup>5</sup>

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<sup>5</sup> Participants spend some time in jail before entering treatment, and may spend time in jail during treatment if the program is based on a model that uses jail time to sanction participants who relapse.

To calculate total savings, the following savings outside the criminal justice system are added to the above net criminal justice savings:

- 4) Post-release savings associated with lower health care costs and welfare rolls, increased tax contribution and reduction in crime.

Our calculations of savings associated with avoidance of incarceration costs are based on the following assumptions:

#### **Prison and Jail Costs**

- Estimates of prison costs per inmate per year comes to \$32,000/per year when debt service is added.<sup>6</sup>
- We calculated jail costs using the Center for Court Innovation's figure of \$68,985 per year.

#### **Length of Prison Sentence**

- Using DOCS' *Characteristics of Inmates Discharged: 2000* report, we calculated an average sentence length for predicate drug felons, excluding Class A-I and A-II felons, of 2.81 years

#### **Graduation Rates**

- The Center for Court Innovation reported an 81% graduation rate for individuals participating in the Brooklyn Treatment Court. Those who "graduate" have completed their mandated treatment successfully and by doing so have satisfied their obligations to the criminal justice system. The report to Judge Kaye noted a 61% graduation rate for all adult drug treatment courts throughout the State (participants in these courts include misdemeanants). Since, according to the Center for Court Innovation, the graduate rates for second felony offenders is higher than for first time offenders or misdemeanants, our calculations reflect the range of graduation rates from 65% - 81%.

Using these assumptions, we calculated criminal justice savings from diverting second felony offenders from prison into treatment by multiplying incarcerations costs by the length of time that would have been spent in jail and prison and graduation rates. Since graduation rates ranged from 65% to 81%, we made different calculations based on each of those rates.

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<sup>6</sup> The \$32,000 cost of prison is based on the 2003 DOCS budget and total number of inmates incarcerated in DOCS facilities.

## **COSTS ASSOCIATED WITH DIVERTING OFFENDERS INTO COMMUNITY-BASED TREATMENT**

To calculate net savings, the gross savings as calculated above must be reduced by the additional costs associated with diverting offenders into community-based treatment, which vary according to the following factors:

- the annual cost of treatment (for individuals who successfully complete treatment as well as those who do not);
- the length of treatment; and
- graduation rates.

### **Annual Cost of Treatment**

Our calculations of costs associated with diverting offenders into community-based treatment are based on the following assumptions:

- According to the report from the Center for Court Innovation and the report to Chief Judge Kaye, residential treatment costs approximately \$18,400 per person per year and outpatient treatment \$5,100 per person per year.
- These costs are in line with a report by the New York State Office of Alcoholism and Substance Abuse (OASAS) in *Collaboration: OASAS and the Criminal Justice System*, published in February, 2001, which estimates that residential treatment costs less than \$20,000 per person per year, and outpatient treatment costs range from \$4,300 to \$7,500 per person per year.
- In speaking with providers throughout the state, we found that residential treatment can cost as much as \$25,000 per year, and outpatient treatment as much as \$10,000 per year. Additional costs associated with court mandated clients, such as court appearances and monthly reporting, could account for much of this difference.

To ensure that our calculations reflected the range of treatment costs cited by reports and providers, we made different calculations using both sets of treatment costs.

### **Length of Treatment**

Our calculations regarding the length of treatment are based on the following assumptions:

- Under the Brooklyn Treatment Court model, second felony offenders spend an average of just over 18 months in residential treatment and just under 11 months in outpatient treatment.

- Other models anticipate a much shorter length treatment. The Assembly's drug law reform bill requires that defendants spend at least one year in treatment; but does not specify whether that treatment is done on a residential or outpatient basis.

To ensure that our calculations reflected the range in length of treatment, we made different calculations using the DTAP model as one treatment model, and a minimum of 6 months in residential treatment followed by a minimum of 6 months in outpatient treatment as a second model.

### **Graduation Rates**

- As noted above, the Center for Court Innovation reported an 81% graduation rate for individuals participating in the Brooklyn Treatment Court. We also used our more conservative estimate of 65%.

### **Operational Costs**

Extra operational costs associated with administering a diversion program include court costs as well as jail costs. Our calculations of operation costs are based on the following assumptions:

- Administrative court costs vary depending on how long offenders are required to participate in the program as well as success rates. We used the costs reported by the Center for Court Innovation and adjusted the number to calculate court costs for shorter programs and different graduation rates.
- Jail costs were calculated by looking at costs reported by the Center for Court Innovation and adjusting the number for shorter term treatment programs and different graduation rates.

## **SAVINGS ASSOCIATED WITH LOWER HEALTH CARE COSTS AND WELFARE ROLLS, AND REDUCED CRIME AND INCREASED TAX CONTRIBUTION**

Our calculations of post-release savings also included savings related to lower health care costs and welfare rolls, tax contributions<sup>7</sup>, and reduced crime (savings due to increased local economic benefits<sup>8</sup> and lower foster care costs<sup>9</sup> not included.)

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<sup>7</sup> While we do not have included cost savings associated with increased economic benefits, in looking at the employment boost experienced by DTAP graduates in the year following treatment (as discussed in the section on reduced welfare rolls), it is evident that successful drug treatment also creates financial advantages for those who complete the program and the extra money in graduates' pockets would inevitably help the local economies in which these people live, earn, and spend money.

<sup>8</sup> Research shows that drug treatment is much more effective than incarceration in reducing recidivism. The DTAP report asserts a 1-year re-arrest rate of 11% as opposed to 26% for those released from incarceration and a three-year re-arrest rate of 23% as opposed to 47% for those incarcerated. The report to Judge Kaye asserts that



Our calculations of savings associated with the above are based on the following assumptions:

- Health care: The DTAP report calculated health care savings by looking at program graduates and coming up with the average amount spent on health care for each graduate in the year prior to their entry into treatment and the year after their release (the difference came to \$1,017 per graduate). We adjusted this number to account for the variation in graduation rates.
- Welfare: The DTAP report found that prior to treatment, 60% of graduates received an average of \$879 per month in assistance for the year prior to treatment and that number dipped to 23% in the year following treatment. We used this number, adjusting it to account for the variation in graduation rates.
- Reduced crime: The National Center on Addiction and Substance Abuse (CASA) estimates, in their *Behind Bars* report, that the number of crimes committed by each drug addicted offender ranges from 89 to 191, at the cost of \$50 per crime. We used both the high and low estimates of numbers of crimes committed to calculate savings associated with the reduction in crime.<sup>10</sup>
- Tax contribution: The DTAP reports found that prior to treatment, 24% of the employable program graduates were working and paying an average of \$2,000 of taxes per year. After DTAP, 88% of the employable graduates were working and paying an average of \$2,000 in taxes per year. DTAP also reports that of the program graduates, 70% were deemed “employable” and that this number remains constant pre- and post-treatment. We adjusted these numbers to account for the variation in graduation rates.

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less than 10% of drug court participants were arrested while enrolled (less than 1% for violent crimes) and that among graduates, most drug courts report 1-year re-arrest rates of less than 15%. The Center for Court Innovations report on the Brooklyn Treatment Court reports a 1-year re-arrest rate of 12% (6% for drug crime) with a conviction rate of 7% (3% for drug crime). Because there is a wide range of data regarding how many crimes a drug addict can be expected to commit per year and how much financial damage these crimes do, we could not calculate a cost savings associated with a reduction in crime. However, no matter which of those numbers are used – and in combination with the court and incarceration costs that would result from such crimes – it is undeniable that treatment would save money as a result of reduced criminal activity, when compared to incarceration.

<sup>9</sup> In the report to Judge Kaye, it is estimated that the average cost of foster care is \$15,000 per child, per year, and as of 12/31/2000 there were 43,560 placements in New York State. The average length of a child’s stay in New York City foster care was 4.5 years as of 1997. We could not find a statistic on the number of children in foster care who have a custodial parent in prison. However, looking at above numbers, it is evident that successful drug treatment programs would result in significant savings to the foster care system.

<sup>10</sup> This is a very conservative estimate. For example, according to a draft cost/benefit analysis for the New Jersey Division of Criminal Justice in 1995, E.W. Zedekowski, in *Making Confinement Decisions*, cites a Rand Corporation study that found that “inmates averaged between 187 and 287 crimes per year exclusive of drug deals.” In order to ensure that costs savings numbers are not overinflated, we used this much more conservative estimate.

## FINDINGS

### Net Savings From Drug Law Reform in Criminal Justice System

#### *Incarceration Savings*

As noted above, in calculating the total savings, we first examined the savings that would be generated for each second felony offender who was diverted into treatment and thus saved the cost of incarceration. The following numbers remained constant in all of our calculations:

Average prison sentence for non-violent, Class B/C/D/E predicate felony offenders : 2.81 years  
Estimated proportions of time served in jail (awaiting transfer) and prison: 15.6% and 84.4%

Average annual jail bed cost: \$68,985

Average annual prison bed cost: \$32,477

The only factor that varied in our calculations was the graduation rate, meaning the percentage of offenders who successfully complete treatment in satisfaction of their sentence. Multiplying these figures together and using the more conservative 65% graduation rate, the total incarceration savings are **\$68,986 per offender diverted**. At the higher 81% graduation rate, this total rises to **\$85,968**.

These gross savings would be offset by additional costs incurred in providing treatment to the offenders diverted and in administering this type of diversion program, as follows:

#### *Treatment Costs*

The next factor that we examined was the cost of treatment. In this calculation, we examined different variables for each of the categories involved:

#### Length of Treatment

For our more conservative estimate, we used a treatment length of 553 days inpatient treatment and 333 days outpatient treatment for graduates and 57 days inpatient (0 days outpatient) for failures. In calculating the maximum possible savings, we used an inpatient stay of 180 days and an outpatient length also of 180 days for graduates and 19 days inpatient (0 days outpatient) for failures.

#### Cost of Treatment Per Year

In calculating the total treatment costs, we used the more conservative figure of \$25,000 per year in inpatient treatment costs and \$10,000 per year in outpatient treatment costs and, for the maximum possible savings, \$18,400 per year in inpatient treatment costs and \$5,100 per year in outpatient costs.

### Graduation Rate

The last figure adjusted was the graduation rate, which we again varied between 65% and 81%.

### Total Treatment Costs

In reaching our most conservative total, we used the higher treatment costs and length of stay together with the lower graduation rate, giving us a total treatment cost of **\$31,915** per offender. In calculating the maximum savings, we used the lower treatment costs and length of stay with the higher graduation rate, giving us a total treatment cost of **\$9,568**.

### ***Additional Criminal Justice Costs Associated with Administering a Diversion Program***

The additional criminal justice costs associated with administering a diversion program can be broken down into three areas: pre-placement jail costs, jail sanctions costs and administrative costs.

#### Pre-Placement Jail Costs

Pre-placement jail time remained constant at **\$1,987** throughout our calculation. The factors involved in making this calculation were:

Proportion of offenders remanded to jail prior to placement: 75%

Average time remanded to jail prior to placement: 14 days

#### Jail Sanctions Costs

The next area involved with the additional criminal justice-related costs calculation was jail sanction time. In some treatment court models, participants may spend some time in jail during treatment if they relapse. In this calculation, the annual jail cost remained constant at \$68,985. The other factors in the calculation varied according to the method we used. For our most conservative calculation, the average length of jail sanction time served by graduates was 6.55 days and the average time for failures was 29.54. In calculating the maximum savings, we used a jail sanction time of 2.13 days for graduates, 9.85 days for failures. We also altered the numbers to reflect the different graduation rates.

To calculate the most conservative total, we used the longer sanction lengths with the lower graduation rate, giving us a total cost of **\$2,756 per offender**. For the maximum savings, we used the shorter sanction length with the higher graduation rate, giving us a total of **\$689**.

#### Administrative Costs

The last area involved in calculating the additional total criminal justice costs were the administrative costs. In calculating this figure, we used the Brooklyn Treatment Court's constant figure of \$4.84 for each day a participant was in the active caseload. Other than the graduation

rate, the only number that varied in the different models was the length of time a participant spent in the active caseload. For our more conservative calculation, we used an average length of time of 688 days in the active caseload for graduates and 549 days for failures. In reaching our maximum saving figure, we used a figure of 280 days in the active caseload for graduates and 183 days for failures.

In our most conservative calculation, we used the longer caseload duration with the lower graduation rate, giving us a total cost of **\$3,094 per offender**. For the maximum figure, we used the shorter duration with the higher graduation rate, which gave us a total of **\$1,266**.

#### Total Additional Criminal Justice Costs

Thus, the total additional criminal justice related-costs using the most conservative (highest cost) assumptions are:

Pre-placement jail:	\$1,987
Jail sanctions:	\$2,756
Administration:	<u>\$3,094</u>
<b>Total</b>	<b>\$7,837</b>

Additional criminal justice related-costs using the lowest cost assumptions are:

Pre-placement jail:	\$1,987
Jail sanctions:	\$ 689
Administration:	<u>\$1,266</u>
<b>Total</b>	<b>\$3,942</b>

#### ***Total Treatment and Additional Criminal Justice-Related Costs***

Total treatment and additional criminal justice related-costs using the most conservative (highest cost) assumptions are:

Treatment:	\$31,915
Criminal justice:	<u>\$ 7,837</u>
<b>Total:</b>	<b>\$39,752</b>

Total treatment additional criminal justice related-costs using the lowest cost assumptions are:

Treatment:	\$ 9,568
Criminal justice:	<u>\$ 3,942</u>
<b>Total:</b>	<b>\$13,510</b>

#### ***Total Net Criminal Justice System-Related Savings***

To calculate the total criminal justice system-related savings from diverting second felony offenders from prison in community-based treatment, we took the savings generated by avoiding the cost of incarceration calculated above – \$68,986 per offender diverted using the most conservative (lowest savings) assumptions, \$85,968 per offender using the assumptions that would yield the highest savings – and subtracted the total treatment and additional criminal justice system-related costs, which came to \$39,752 using the most conservative assumptions and \$13,510 using the lowest cost assumptions. Thus, the net criminal justice savings reform would generate range from **\$29,234** (\$68,986 - \$39,752) to **\$72,458** (\$85,968 - \$13,510).

### ***Savings in Reducing Health Care and Welfare Costs and Crime and Increased Tax Contributions***

#### Health Care

To calculate the health care savings total, we used the DTAP report's figure of \$1,017 in reduced health care costs per graduate. We then applied our two graduation rates, giving us the more conservative saving of **\$661** per participant during the first year and a maximum savings of **\$824** per participant in the first year.

#### Social Welfare

In calculating the welfare savings, we again used the DTAP report's figures of \$879 per month (\$10,548 per year) in welfare payments with a 37% reduction in the welfare caseload among graduates. Using our two graduation rates, this gave us a first-year savings of **\$2,537** using the more conservative graduation rate and a **\$3,161** maximum first-year savings.

Reduced crime: To calculate the crime reduction savings, we used CASA's estimates, in their *Behind Bars* report of committed by each drug addicted offender which ranges (from 89 to 191 per year), at the cost of \$50 per crime. Using the more conservative 89 crimes per year and the more conservative graduation rate, we got a crime reductions saving of \$2,892 per participant. Using the higher figure of 191 crimes per year and the higher graduation rate, the savings estimate rose to \$7,735 per participant.

#### Tax Contribution

Here again we used the DTAP report's figures, which calculated that 70% of graduates were "employable," and that, on average, those who were working paid \$2,000 in taxes in the first year following treatment, and that there was a 64% increase in the number of graduates working after completing treatment. Using our two graduation rates, we calculated a conservative increase in the tax contribution of **\$582** per participant in the first year and a maximum of **\$726** per participant in the first year.

### ***Total Savings in Reducing Health Care and Welfare Costs and Crime and Increased Tax Contributions***

By adding up these figures, we reached a conservative savings figure of **\$6,672** (\$661 + \$2,537 + \$2,537 + \$582) and a maximum figure of **\$12,446** (\$824 + \$3,161 + \$7,735.50 + \$726) in the first year following treatment.

### ***Total Savings***

To calculate the minimum total savings that the Assembly's drug law reform legislation would provide, we added the most conservative figures for total criminal justice system-related savings and savings in other systems:

**Minimum Savings Total:** \$29,886 + \$36,672 = **\$35,906**

To calculate the maximum figure, we used the same model, this time using the maximum numbers.

**Maximum Savings Total:** \$72,458 + \$12,446 = **\$84,904**

**IN SUM, FOR EVERY FELONY OFFENDER DIVERTED FROM PRISON TO COMMUNITY-BASED TREATMENT UNDER THE ASSEMBLY DRUG LAW REFORM BILL, NEW YORK STATE WOULD SAVE FROM \$35,905 TO \$84,904. THIS AVERAGES \$60,000 PER OFFENDER.**

**IF ONLY 60% OF THE 3,884 INDIVIDUALS INCARCERATED IN DOCS IN 2001 WHO WOULD BE ELIGIBLE FOR DIVERSION UNDER THE ASSEMBLY BILL CHOSE TO BE DIVERTED, THIS WOULD RESULT IN A \$139,860,000 SAVINGS TO NEW YORK STATE.**

### **SAVINGS ASSOCIATED WITH SENTENCING REDUCTIONS**

Savings will also accrue when individual currently serving sentences for class A-I, A-II and B drug offenses become eligible, under the Assembly bill, to have their sentences reduced retroactively. As noted above, 200 individuals currently serving class A-I sentences would be eligible to have their sentences reduced at least 2 years. In addition, we estimate that 562 class A-II and B felony offenders would have their sentences reduced and be released next year by virtue of the provisions of the Assembly bill, for a total of 762 inmates. Multiplying 762 times the cost of incarceration, \$32,000, would result in a savings of an additional \$24,384,000 to New York State.

**COMBINING THE SAVINGS FROM DIVERSION \$139,800,000 AND THE SAVINGS FROM SENTENCING REDUCTION, \$24,384,000, NEW YORK STATE WOULD SAVE \$164,244,000.**

## INCREASED FUNDING FOR TREATMENT

In order for reform to succeed, drug treatment will have to be expanded substantially to accommodate increased diversion from incarceration of appropriate offenders.<sup>11</sup> According to OASAS, there are currently 9,319 long-term residential beds in the treatment system.<sup>12</sup> According to the Therapeutic Communities Association of New York, at any given point there is almost a 100% utilization.<sup>13</sup> Capital construction costs, which would represent a one-time expense, would eventually be more than compensated by the savings which the state would generate from diverting individuals into treatment instead of incarcerating them.<sup>14</sup>

## CONCLUSION

This report demonstrates that under the Assembly's drug law reform bill, which would send an increased number of non-violent addicted offenders to community-based treatment instead of incarceration and reduce the sentences for certain individuals currently in prison for drug offenses, is a win-win situation for the criminal justice system, for the people of the State of New York and for individuals whose criminal behavior is driven at least in part by their addiction. This report shows giving non-violent addicted offenders the opportunity to be diverted into community-based treatment will save New York State many tens of millions of dollars every year.

New York State could save \$164,244,000 each year, and indeed even more when savings accrued in other ways not addressed in this report are factored in. Studies have shown that treatment is more effective at reducing serious crimes committed against people and property by drug addicted individuals than mandatory minimum sentences. This report shows that it is considerably less expensive as well.

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<sup>11</sup> Funding for the full continuum of substance abuse treatment will be needed – both capital and operational funding – to create sufficient new capacity to treat the individuals who will be diverted through drug law reform.

<sup>12</sup> OASAS, "2002 County Resource Book, Volume 1: Service Need and Utilization", Table 6.

<sup>13</sup> Many individuals remain in residential treatment longer than is therapeutically necessary because they have no safe, stable housing in which to move. The lack of such housing both threatens long term recovery and produces a bottleneck in the treatment system which keeps individuals in higher levels of care longer than necessary. The State should, therefore, invest in increasing not only residential and outpatient treatment, but also halfway house capacity to open up residential beds sooner for those to follow.

<sup>14</sup> In 2001, DOB negotiated a \$55,000 a cost per bed number with a treatment programs in New York City that is building a new facility with a large number of beds. This number did not include the cost of the land, which in this program's case was not a major expense. Construction costs go up by approximately 5% a year; construction costs will increase by 20% in five years. Construction costs could vary from \$55,000 - \$70,000 per bed depending on size and location of the program