



2018 New York State YMCA

Youth And Government

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FOR YOUTH DEVELOPMENT®
FOR HEALTHY LIVING
FOR SOCIAL RESPONSIBILITY

Committee Assignment:

Bill #:

1 **Sponsors:** Zarib Alam

2

3 **An Act To:** An act to amend NY Penal Law §220.18 to change the classification of
4 the criminal possession of a controlled substance in the second degree from a Class
5 A-II felony to a Class A misdemeanor and thereby mandate the rehabilitation of
6 offenders.

7 *The People of the State of New York, represented in the*
8 *Senate and Assembly, do enact as follows:*

9

10 **Purpose:**

11 Currently, the nonviolent criminal possession of a controlled substance in the
12 second degree is classified as a Class A-II felony and bears the sentence of up to 10
13 years in prison. By changing that classification to a Class A misdemeanor, a 90-day
14 detoxification rehabilitation process for convicts is intended to be in place of
15 imprisonment. That will reduce New York's incarceration and re-incarceration rates,
16 provide a new pool of labor to promote the New York workforce, and benefit the
17 state's budget and taxpayers.

18

19 **Summary of Provisions:**

20 Section 1 - Definitions

21 1. A "controlled substance" is a drug or chemical whose manufacture, possession,
22 or use is regulated by a government. Such substances include prescription drugs,
23 cocaine, and heroin.

24 2. To possess "a controlled substance in the second degree" is to knowingly and
25 illegally possess a controlled substance.

26 3. A "Class A-II felony" is the classification of the possession of a controlled
27 substance in the second degree. It carries a sentence of up to 10 years in prison.

28 4. A "Class A misdemeanor" is the classification of a criminal act that carries a
29 sentence of up to 1 year in prison.

30 5. "Detoxification rehabilitation" involves removing the entirety of harmful
31 substances from a patient and psychosocial treatment to remove a person's
32 dependence on controlled substances.

33

34 Section 2

35 §220.18

36 8. Criminal possession of a controlled substance in the second degree is a ~~class A-II~~
37 felony class A misdemeanor.

38 a. Those charged with the criminal possession of a controlled substance are to be
39 immediately rehabilitated for up to 90 days in place of a prison sentence in state-
40 approved rehabilitation facilities.

41 b. Patients can be released prior to 90 days of rehabilitation at the discretion of an
42 approved rehabilitation psychologist.

43 c. Patients are to be on probation for 180 days immediately after release from
44 rehabilitation.



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46 **Justification:**

47 The dangerous heroin epidemic that plagues New York can be attributed to the
48 failure of current lackluster drug policies. Many help-seeking drug abusers are
49 incarcerated in prisons fueled by gangs, violence, and an internal drug trade, which
50 only aids the problem. That is represented by the national statistic that nearly 95%
51 of released offenders return to drug abuse and that an average 70% commit a new
52 crime (typically drug-driven) after release from imprisonment. The current
53 imprisonment policies for drug abuse ultimately hinder the economy of New York
54 direct the much-needed funds and taxes to the ever-growing prison population.
55 However, the rehabilitation mandated by this bill promises a solution. In effect,
56 rehabilitation will provide an opportunity for addicts to be rescued from their
57 addiction and it will result in a mass of reformed people contributive, rather than
58 obstructive, to society. Communities and the youth will be free from the plague of
59 drugs and drug addicts. Economically, the change in the offense classification from
60 a Class A-II felony to a Class A misdemeanor will make jobs more accessible to
61 former drug abuse offenders, promote the New York workforce and industry, and
62 lead to a more prosperous state.

63

64 **Fiscal Implications:**

65 In New York, the incarceration rate for the nonviolent criminal possession of a
66 controlled substance in the second degree, a Class A-II felony, is approximately
67 150 people per year. As the average annual cost per a prisoner in New York is
68 \$60,000 and the offense of §220.18 bears up to 10 years of imprisonment, New
69 York taxpayers spend approximately \$90 million dollars per year for incarcerated
70 offenders. However, the 90-day rehabilitation program, which will be in place of
71 imprisonment and cost approximately \$12 million dollars annually, will save New
72 York taxpayers up to approximately \$78 million dollars annually.

73

74 **Effective Date:**

75 This bill shall go into effect at the start of the tax season that follows its passage.

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