

TREATMENT NOT JAIL ACT

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GUIDING PRINCIPLES

INTRODUCTION TO TNJ

The Treatment Not Jail Coalition represents a broad cross-section of advocates in the fields of mental health and substance use, along with concerned community members, academics, and elected officials across New York State. Despite our diverse backgrounds, we are all united in the firm belief that those who are brought into the criminal legal system due to underlying substance use and mental health challenges should receive medically appropriate treatment and services, rather than jail. These are our guiding principles.



WHO WOULD BENEFIT FROM TNJ?

TNJ will directly impact individuals involved in the criminal legal system who have mental health, substance use or other challenges, as well as their loved ones, and their broader communities.

WHY IS THIS BILL NECESSARY?

- TNJ will ensure that problem-solving court models reduce rather than reproduce disparities along race, income, gender/gender identity, and ethnic lines in the health and criminal legal systems.
- People with substance use, mental health challenges, and other disabilities are entitled to freedom from over-policing, over-prosecution, criminalization, incarceration, dehumanization and stigmatization. Mental health rights are human rights, which must include access to housing, healthcare, income stability, education and employment opportunities.
- TNJ expands upon existing but outdated New York statutory authority that only permits judicial diversion for a limited number of drug and property-related offenses and for people who are diagnosed with substance use disorders. TNJ expands judicial diversion to include people who are accused of any offense, and to those who live with a mental health diagnosis or other disabilities.

WHY IS TNJ URGENT?

- Nearly one in five U.S. adults live with a mental illness at some point in their lives.
- The system is traumatizing and re-traumatizing for anyone, but especially for those with existing mental health and substance use challenges.
- COVID-19 has disproportionately affected less affluent communities of color and has exacerbated existing mental health and cognitive challenges, and presented new ones, including post-pandemic-stress-syndrome. [2]
- People accused of violent offenses are as likely to succeed in community-based treatment as those charged with non-violent offenses. [3]
- We must rely on facts, not fear-mongering. People living with mental illness are 10 times more likely to be victims of violent crime. [4]

- Contrary to inflammatory headlines and transparently racist scare tactics, jailing those entangled in the criminal legal system leads to more – not less – criminal involvement and actually jeopardizes overall public safety.
- Indeed, as the research and our collective experience demonstrates, incarceration is a profoundly destabilizing and traumatizing experience. That is especially true for those with mental health and substance use challenges, who are often brought into the criminal legal system precisely because of a fundamental lack of basic services, like stable housing, treatment and community supports. In our current carceral system, these individuals lose whatever semblance of stability they previously possessed when they become confined, and emerge from jail even more unmoored and unsupported.
- Both untreated mental health challenges and incarceration increase the risk of suicide, which is the 10th leading cause of death in the United States. In fact, suicide accounts for the loss of more than double the number of lives lost to homicide. [5]
- TNJ, by adopting a much needed and widely recommended harm reduction model, will reduce dangerous overdoses and deaths related to substance use. A harm reduction model recognizes that “cold turkey” approaches to treating substance use is dangerous and counterproductive to meaningful, autonomous, and safe recovery.
- TNJ recognizes that 1 in 5 New Yorkers have a mental health diagnosis, and 1 in 5 people have a family member who lives with serious mental illness. Just imagine if 1 in 5 persons with a broken arm were incarcerated rather than given medical treatment.
- TNJ will reduce incarceration of people who live with mental health and substance use challenges and other disabilities.
- TNJ will effectuate change by requiring judges to base their decisions to grant or deny diversion on the assessments of mental health and substance use professionals.
- TNJ will ensure that treatment plans are individualized in an evidence-based, health-focused, non-punitive manner to best support the participants.
- TNJ will significantly expand diversion from jails and prisons and promote reinvestment into impacted communities.
- TNJ removes incarceration as a punishment for instances of program non-compliance and reduces the time it takes from arrest to program entry.

WHAT DOES TREATMENT LOOK LIKE UNDER TNJ?

- Treatment in client-centered, voluntary and non-coercive ways, regardless of charge. (Self-determination of participants is paramount, including in matters concerning medications.)
- Trauma-informed and harm-reduction models of treatment - not surveillance, punishment, or by requiring that all participants engage in abstinence-based treatment.
- Accessible, community-based and culturally-safe treatment centers.
- TNJ breaks down barriers to treatment, notably lack of insurance, unwarranted exclusions of certain diagnoses, financial instability and immigration status.

SOURCES

[1] [HTTPS://WWW.NIMH.NIH.GOV/HEALTH/STATISTICS/MENTAL-ILLNESS.SHTML](https://www.nimh.nih.gov/health/statistics/mental-illness.shtml)

[2] [HTTPS://WWW.SCIENCENEWS.ORG/ARTICLE/COVID-BRAIN-CORONAVIRUS-SYMPOM-STROKE-ANXIETY-DEPRESSION & HTTPS://WWW.PSYCHIATRICTIMES.COM/VIEW/POST-COVID-STRESS-DISORDER-EMERGING-CONSEQUENCE-GLOBAL-PANDEMIC](https://www.sciencenews.org/article/covid-brain-coronavirus-symptom-stroke-anxiety-depression)

[3] CAN PERSONS WITH CO-OCCURRING DISORDERS AND VIOLENT CHARGES BE SUCCESSFULLY DIVERTED? (RESEARCHGATE.NET)

[4] [HTTPS://WWW.MENTALHEALTH.GOV/BASICS/MENTAL-HEALTH-MYTHS-FACTS](https://www.mentalhealth.gov/basics/mental-health-myths-facts)

[5] [LEARN MORE ABOUT MENTAL HEALTH PROBLEMS: HTTPS://WWW.MENTALHEALTH.GOV/WHAT-TO-LOOK-FOR](https://www.mentalhealth.gov/what-to-look-for)