

## **BEYOND CRIMINALIZATION:**

### **A SUMMARY OF NJ POLICY INITIATIVES TO ENHANCE CRIMINAL JUSTICE DIVERSION**

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*The National Alliance on Mental Illness is dedicated to building better lives for the millions of Americans affected by mental illness, including those at risk or who have already been involved in the criminal justice system. This means creating resources to support individuals in crisis, because a mental health emergency deserves a mental health response.*

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## **EVERYBODY PAYS: CRIMINALIZING MENTAL ILLNESS HARMS INDIVIDUALS AND COMMUNITIES**

Individuals in mental health crisis deserve help, not handcuffs. And yet, individuals living with serious mental illnesses are often met with a criminal justice response rather than the appropriate support and resources. During a mental health crisis, bystanders and the individual in crisis may not have access to resources besides the police. The resulting interactions may lead to violence or incarceration, both of which can exacerbate symptoms of mental illness in the short- and long-term.

Criminalization of mental illness harms individuals. Encounters with police during a mental health crisis are frequently fatal. Nearly one quarter of the individuals killed in shootings by police officers between 2015-2020 had a mental health condition (“Mental Health by the Numbers,” 2021). Oftentimes, police interactions escalate due to lack of training on interacting with individuals in crisis. While police Crisis Intervention Training (CIT) has become more prevalent with 2,700 programs nationwide, this figure represents only 15 to 17 percent of the total number of police agencies (Rogers *et al.*, 2019).

Arresting individuals with mental illness harms communities and contributes to the broader problem of mass incarceration. Nearly 2.3 million people are incarcerated nationwide (Sawyer & Wagner, 2020). In fact, the U.S. incarcerates more individuals than any other nation and accounts for about 25% of the world’s prison population (“Mass Incarceration,” n.d.). Individuals with mental health needs are drastically overrepresented within this rapidly growing incarcerated population; 37% of individuals incarcerated in state and federal prisons and 44% incarcerated in local jails reported a history of mental illness (“Mental Health by the Numbers,” 2021).

The overrepresentation of individuals with mental health needs within the prison system is a local problem as well. As of 2010, the odds of a mentally ill New Jersey resident being in jail or prison

compared to a hospital were nearly 1.6 to 1 (Torrey *et al.*, 2010). According to the Mercer County Reentry Taskforce, “In New Jersey, 32% of state inmates have at least one diagnosed chronic or communicable physical or mental-health condition” (Bonner Center, n.d.).

Incarceration has a huge economic cost, both for society and for the individual. In 2003, the annual “cost per inmate” in New Jersey was approximately \$46,000 (Bonner Center, n.d.). In contrast, NAMI estimates the annual cost of community mental health services to be approximately \$10,000 (Giliberti, 2015). Incarceration also has a long-term impact on an individual’s economic well-being. According to the Mercer County Reentry Taskforce, at least 10% of individuals released from prison are homeless, and individuals with a criminal record are nearly 50% less likely to receive a job offer (Bonner Center, n.d.).

Furthermore, the criminalization of mental illness disproportionately impacts people of color. Nationwide, Black people are 3.5 times more likely to be incarcerated in jail and 5 times more likely to be incarcerated in prison than their white counterparts (Pope, 2019). Even though people of color are more likely to be incarcerated, they are less likely to be identified as having a mental health problem within the criminal justice system and less likely to receive services while incarcerated (Perzichilli, 2020; Pope, 2019). This is especially unfortunate since access to specialized mental health services while incarcerated leads to an overall reduction in recidivism (NJ Reentry Corporation, 2017).

Given the negative impacts of arrest and incarceration, it is critical that communities develop resources to appropriately support individuals with mental health needs. Mercer County residents agree; more than half of the survey participants in the Mercer County Needs Assessment of 2020 identified community safety resources and social support as a critical need. “A key informant noted that crime is tied to a lack of services on all levels,” including, “unaddressed mental health issues” (Ronollo & McCullough, 2021, p. 31-32). Therefore, this brief will highlight current policy proposals for crisis response and pre-arrest diversion, prison reform, and re-entry services.

## **NJ POLICY PROPOSALS**

New Jersey legislators are actively advocating policies to end the criminalization of mental illness. Their proposals fall into the broad categories of crisis response and pre-arrest diversion, prison reform, and re-entry services to support those with mental health needs upon release from incarceration. Many of these are in line with [NAMI’s 2021 federal agenda](#), which includes:

- Expanding 9-8-8 Crisis Response Systems
- Diverting people from justice involvement at various points, such as by expanding the availability of Crisis Intervention Teams
- Improving health coverage, including for people with mental health conditions upon release from incarceration

See the tables below for a summary of related NJ policy proposals:

## Crisis Response & Pre-Arrest Diversion

Bill Number/Session	Summary
* <a href="#">A4366</a> / 2020-21	<p><b>Requires the Police Training Commission (PTC) to annually contract with a crisis intervention training center and requires every municipal and county police officer to complete the Crisis Intervention Team model during in-service training.</b> The officers must complete the training within 5 years of the effective date of the act. The act also requires officers to apply the crisis intervention model to people experiencing economic crisis and those struggling with a substance abuse disorder.</p>
* <a href="#">A3679</a> / 2020-21	<p><b>Requires every uniformed law enforcement officer assigned to patrol duty to complete a one-day, in-service training program to recognize and respond to mental health crises, and to divert individuals from the criminal justice system when appropriate.</b> They will be required to complete a refresher course once every five years.</p> <p><b>The Police Training Commission (PTC) must adopt CIT-NJ, the State’s county-based 40-hour training and certification program.</b> The goal will be to have 20% of officers complete this 40-hour training. The PTC will consult with the Division of Mental Health and Addiction Services to review the training curriculum every two years.</p> <p><b>The Department of Health and local government officials will create a Mental Health Services Coordinating Council in each county to identify mental health resources to share with law enforcement and facilitate diversion.</b></p> <p><b>The bill also authorizes officers to divert arrested individuals who appear in crisis to a mental health screening and referral system and to delay filing a criminal complaint until the individual receives treatment. If the officer does file a criminal complaint, the prosecutor still has the authority to approve diversion, assuming the defendant is not accused of certain serious crimes.</b> Furthermore, the court will review the defendant’s case every six months and may dismiss charges if certain conditions of the diversion agreement are met and the individual is no longer in crisis.</p>
* <a href="#">A5581</a> / 2020-21	<p><b>This proposal establishes a Statewide Mental Illness Diversion Program to divert eligible individuals away from the criminal justice system and into appropriate case management and mental health services.</b></p> <p>Eligibility: The individual must have a prior diagnosis or other indications of mental illness. Eligible offenses include, “a non-violent petty disorderly persons offense, disorderly persons offense, or crime of the third or fourth degree.”</p> <p>Intake: A law enforcement officer arresting someone for an eligible offense may process the person for diversion in lieu of filing a criminal complaint. After the filing of a criminal complaint, the individual’s legal counsel may apply for the individual to participate in diversion. The prosecutor grants final approval for admission into the program. After six months, the prosecutor may dismiss charges if certain conditions of the diversion agreement are met and may also move before the court to have records relating to the arrest or charge expunged.</p>

<p><b>*<a href="#">A5687</a>/</b> <b>2020-21</b></p>	<p><b>This proposal establishes a Crisis Response Support Team in the Department of Health. It mandates that each county contract with a nonprofit mental health organization to provide 24/7 support to police when responding to a call that involves a person with mental illness or substance use disorder who is in crisis.</b> The county will document costs associated with implementation, to be reimbursed by the Department of Health. Therefore, the bill appropriates \$2,000,000 from the General Fund to the Department of Health.</p>
<p><b>*<a href="#">S3500</a>/</b> <b>2020-21</b></p>	<p>In October of 2020 the <a href="#">National Suicide Designation Act of 2020</a> was signed into law and established 9-8-8 as a universal number for mental health crises and suicide prevention. The law also enables states to impose fees (similar to those in place for 9-1-1) to expand the local services available to receive and respond to crisis calls.</p> <p><b>S3500 establishes within New Jersey a Core Behavioral Health Crisis Services System.</b> Under the bill, the Commissioner of Human Services will designate at least one crisis hotline center to provide 24/7 crisis intervention services to anyone accessing the 9-8-8 hotline from anywhere within the state. The designated hotline center will coordinate with the National Suicide Prevention Lifeline (NSPL) to utilize their existing network of services. The hotline center will follow NSPL best practices and meet NSPL requirements for serving high risk and specialized populations.</p> <p><b>The designated hotline center will also have the authority to deploy mobile crisis teams and coordinate access to services by sharing information.</b> The mobile crisis team will include a behavioral health team, licensed behavioral health professionals, and certified peers who have experienced mental illness, addiction, or both. The team will include police as co-responders only as needed, when responding to high-risk situations.</p> <p><b>Finally, the Commissioner will establish a 9-8-8 trust fund to maintain the suicide prevention and mental health crisis system.</b> The fund will consist of money from a Statewide 9-8-8 fee, as well as any appropriations, grants and gifts, earnings on the fund, and other deposits. The fund will only be used for purposes specified in the bill.</p>

## Prison Reform

Bill Number/Session	Summary
* <a href="#">A5751</a> / 2020-21	Current law requires 20 hours of in-service training for State correctional officers. <b>This bill proposes increasing the requirement to 40 hours and establishing a curriculum that recognizes, “the core mission of a State correctional police officer is to treat every inmate with dignity, fairness, and respect.”</b> The training will include de-escalation training in interacting with inmates experiencing mental health crises. It will also include topics of cultural diversity and implicit bias, inmate rights, communication skills, and more.
<a href="#">A314</a> / 2018-19	This bill passed in 2019 and went into effect August 1, 2020. <b>It prohibits the use of isolated confinement in prisons and jails for more than 20 consecutive days, or for more than 30 days within any 60-day period. It also prohibits the use of isolated confinement for inmates from vulnerable populations, including individuals with mental illness or a history of psychiatric hospitalization.</b>

## Re-Entry Services

Bill Number/Session	Summary
* <a href="#">S1661</a> / 2020-21	<b>Establishes a 24-hour, toll-free, prisoner reentry hotline</b> for formerly incarcerated individuals to call for support following their release. The hotline operators would be peer recovery specialists certified in addiction support and would receive any additional training deemed necessary by the Commissioner of Human Services.
* <a href="#">A844</a> / 2020-21	<b>Requires each county in the state to create a nine-member “County Inmate Reentry Committee.”</b> The responsibilities of the Reentry Committee would be to identify services that may be needed by inmates upon release from a county correctional facility, including mental health care. The committee would also establish a health information exchange between the correctional facility and appropriate health providers, including mental health providers. Finally, the committee will establish best practices for reentry support and make recommendations for laws and regulations to promote successful reentry and reduce recidivism.
<a href="#">S2331</a> / 2020-21	<b>Requires the Commissioner of Corrections to provide State inmates with resources at least 10 days prior to release, to assist them in obtaining reentry benefits.</b> Among other things, these include: information on their right to expungement of their criminal record; information on availability of employment/vocational/educational rehabilitative programs; a written record of their participation in educational/training/treatment programs while incarcerated; assistance obtaining a Social Security card; a one-day NJ bus or rail pass; a two-week supply of prescription medication; and a non-driver identification card. It also requires the Commissioner to ensure the inmate is assisted at least 30 days prior to release with social services applications, including SNAP, Work First New Jersey, and Medicaid.

## NEXT STEPS: CONTACT YOUR LEGISLATOR

Many of these policies were proposed in the 2020-2021 NJ State Legislature, which is scheduled to adjourn in January 2022. Most of the bills that have not yet passed into law (marked with an asterisk) are currently in committee, where they will expire at the end of the legislative session. If you would like to support these bills, click on the bill number in the table or contact your legislator to find out which committee the bill has been assigned to and send a letter in support. You can also request that your legislator reintroduce the bill if they return in the next legislative session.

# How To Contact Your Legislators

For legislative information, including updates on the status of a bill:

- e-mail: [leginfo@njleg.org](mailto:leginfo@njleg.org)
- Find and contact your legislator(s):  
<https://www.njleg.state.nj.us/SelectMun.asp>

To express your support for a bill:



### Meet Virtually

Legislative sessions are occurring remotely and are streamed on the Legislature's website: [www.njleg.state.nj.us](http://www.njleg.state.nj.us). The public may sometimes participate in virtual committee meetings and/or submit written testimony through prior arrangement with the committee aide.



### Email or Write a Letter

Write to individual legislators or committee members. Keep it brief, identify the issue or bill number, and present your strongest points to support your position. To increase the effectiveness of your letter, consider adding a personal story.



### Make a Call

Call your legislator's office. Their numbers are listed in the legislative roster: <https://www.njleg.state.nj.us/members/roster.asp>. You may reach a staffer or leave a message. State the issue(s) and any specific legislation you'd like them to support.



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