

How to Advocate for Treatment Over Incarceration: A Practical Guide

Introduction: Why Treatment Over Incarceration Matters

When substance use disorders, mental health conditions, and trauma intersect with the criminal justice system, the results are often counterproductive for everyone involved. Incarceration alone rarely addresses the underlying issues that contribute to justice involvement, while evidence-based treatment offers a pathway to genuine rehabilitation and community safety.

At Aspire Impact Network, we've seen firsthand how appropriate treatment interventions can transform lives and communities across Nebraska. This guide offers practical strategies for advocates, family members, defense attorneys, and service providers who want to help divert individuals from incarceration to treatment when appropriate.

The stakes are high:

- **For individuals:** Treatment addresses root causes and creates opportunities for genuine rehabilitation
- **For families:** Maintains family connections and support systems
- **For communities:** Reduces recidivism and increases public safety
- **For systems:** Decreases costs and improves outcomes

As you use this guide, remember that advocacy requires persistence, preparation, and partnership. While not every case will result in a treatment alternative, each advocacy effort builds momentum toward more effective and humane responses to the intersection of behavioral health and justice involvement.

SECTION 1: Understanding the Landscape

The Treatment-Justice Gap

Despite widespread recognition that many justice-involved individuals would be better served through treatment, significant barriers exist:

- **Limited awareness** of treatment alternatives among legal professionals
- **Insufficient treatment resources**, especially in rural communities
- **Eligibility restrictions** that exclude many who could benefit
- **Process complexities** that discourage referrals to treatment
- **Stigma and misunderstanding** about behavioral health conditions
- **Institutional resistance** to change in established systems

Key Decision Points for Advocacy

Treatment alternatives can be accessed at multiple points in the justice process:

1. **Pre-arrest:** Law enforcement diversion programs
2. **Pre-charge:** Prosecutor-led diversion
3. **Pre-trial:** Conditional release to treatment
4. **Pre-sentencing:** Treatment as an alternative sentence
5. **Post-sentencing:** Treatment-focused probation or modified sentence
6. **Reentry:** Treatment as part of release planning

Understanding these decision points helps target advocacy efforts where they'll be most effective for a specific case.

Available Programs in Nebraska

Nebraska offers several pathways to treatment alternatives, though availability varies by county:

- **Problem-Solving Courts:** Drug courts, veterans courts, mental health courts
- **Diversion Programs:** County attorney-led programs for eligible offenses
- **Probation-Based Services:** Enhanced supervision with treatment requirements
- **Community Corrections:** Residential and outpatient treatment options
- **Specialized Reentry Programs:** Structured support for returning citizens

Regional Resources:

- Region 5 Systems (Southeast Nebraska)
 - TASC Programs (Treatment Accountability for Safer Communities)
 - Veterans Justice Outreach
 - Community-based providers (like Alcohol and Drug Solutions)
 - Heartland Boys Home (for juvenile cases)
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SECTION 2: Building Your Case

The ASPIRE Advocacy Framework

Effective advocacy for treatment alternatives follows our ASPIRE model:

A - Assess the Situation

Before advocating, gather comprehensive information:

Individual Factors:

- Mental health and substance use history
- Treatment history and response
- Motivation for change
- Support system availability
- Risk factors and needs

Legal Factors:

- Current charges and circumstances
- Criminal history
- Statutory eligibility for alternatives
- Local precedent for similar cases
- Potential community impact

System Factors:

- Available programs in your jurisdiction
- Eligibility criteria for each program
- Required assessments or evaluations
- Referral processes and timelines
- Funding sources for treatment

Assessment Tools:

- Standardized screening instruments
- Professional evaluations
- Personal and family interviews
- Medical and treatment records (with appropriate releases)
- Risk/needs assessments

S - Secure Appropriate Evaluations

Professional evaluations strengthen your case for treatment:

Types of Evaluations:

- Substance use assessment
- Mental health evaluation

- Trauma screening
- Cognitive/neuropsychological testing
- Risk/needs assessment

Finding Qualified Evaluators:

- Licensed addiction counselors
- Clinical psychologists
- Psychiatrists
- Forensic mental health specialists
- ASAM-certified professionals

Key Elements to Request in Evaluations:

- Clear diagnostic findings
- Treatment recommendations with specificity
- Level of care determination (outpatient, intensive outpatient, residential)
- Explanation of how treatment would address criminogenic factors
- Safety considerations and risk management strategies

Documentation Tips:

- Ensure evaluations address legal concerns directly
- Request language that non-clinical decision-makers can understand
- Include specific treatment recommendations rather than general statements
- Obtain written reports rather than verbal opinions
- Secure evaluations from credentialed, respected professionals

P - Prepare a Treatment Plan

A concrete, credible treatment plan is essential:

Components of an Effective Plan:

- Specific treatment provider(s) with confirmation of acceptance
- Level of care and intensity of services
- Duration and phases of treatment
- Addressing co-occurring disorders
- Supervision and accountability measures
- Housing and basic needs considerations
- Employment or educational components
- Funding sources and insurance utilization

Creating a Viable Plan:

- Secure provisional acceptance from treatment providers
- Address transportation and access issues
- Include contingency plans for potential challenges
- Build in graduated responses to non-compliance
- Consider family involvement and support

Treatment Plan Presentation:

- One-page executive summary for quick reference
- Full plan with supporting documentation
- Visual timeline of treatment phases
- Letters of support from providers
- Clear contact information for all involved parties

I - Identify and Engage Allies

Advocacy is more effective with multiple supportive voices:

Potential Allies:

- Treatment providers familiar with the individual
- Mental health professionals
- Community supporters (faith leaders, employers, teachers)
- Family members who can provide support
- Probation officers who support treatment approaches
- Other justice-involved individuals who have succeeded in treatment

Engaging Professional Support:

- Request letters of support from treatment providers
- Ask professionals to attend hearings when possible
- Secure testimony about treatment efficacy for similar cases
- Obtain statements addressing public safety considerations
- Develop relationships with prosecutors open to treatment alternatives

Community Support Strategies:

- Identify respected community members who can advocate
- Secure employment or volunteer opportunities
- Develop faith community connections
- Establish a community accountability team
- Create structured living arrangements with oversight

R - Research Legal Options

Different legal mechanisms allow for treatment alternatives:

Pre-trial Options:

- Conditional release to treatment
- Deferred prosecution agreements
- Pre-trial diversion programs
- Condition of bond modifications

Sentencing Options:

- Probation with treatment conditions
- Split sentences (brief incarceration followed by treatment)
- Deferred sentencing pending treatment completion
- Problem-solving court referrals
- Conditional discharge provisions

Post-sentencing Options:

- Sentence modification motions
- Probation instead of revocation
- Specialized reentry programs
- Furlough for treatment purposes
- Early termination after treatment compliance

Legal Research Resources:

- Nebraska Treatment Courts information
- State diversion program guidelines
- County attorney policies on treatment alternatives
- Local defense attorney networks
- Nebraska Probation Administration resources

E - Effectively Present Your Case

How you present your advocacy can be as important as the content:

Written Advocacy:

- Clear, concise language avoiding jargon
- Evidence-based arguments with citations
- Personal narrative that humanizes without excusing
- Visual elements (timeline, treatment plan diagram)
- Addressing potential concerns proactively

Verbal Advocacy:

- Prepared but conversational presentation
- Respect for court or institutional processes
- Emphasis on public safety and rehabilitation
- Clear explanation of supervision and accountability
- Concrete examples of similar successful cases

Key Messages to Emphasize:

- Treatment addresses root causes of criminal behavior
 - Public safety is enhanced through effective treatment
 - The individual has insight and motivation for change
 - Specific programs and providers are ready to accept the person
 - Accountability measures are built into the treatment plan
 - Cost-effectiveness of treatment versus incarceration
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SECTION 3: Navigating Common Challenges

Overcoming Objections

Anticipate and prepare for common objections:

"Public safety requires incarceration"

- Response: Present evidence on recidivism reduction through treatment
- Strategy: Include specific monitoring and supervision components
- Example: "This plan includes random drug testing, electronic monitoring, and twice-weekly check-ins"

"The offense is too serious"

- Response: Focus on underlying factors that treatment can address
- Strategy: Acknowledge seriousness while emphasizing rehabilitation potential
- Example: "While the charge is significant, addressing the underlying PTSD will reduce future risk"

"Previous treatment has failed"

- Response: Explain what's different about the current plan
- Strategy: Identify specific reasons previous attempts weren't successful
- Example: "Previous treatment didn't address the co-occurring disorders now identified"

"There aren't adequate resources"

- Response: Present specific programs with confirmation of availability
- Strategy: Develop relationships with providers willing to prioritize justice-referred clients
- Example: "Alcohol and Drug Solutions has confirmed a bed will be available next Tuesday"

"The defendant isn't motivated"

- Response: Provide concrete evidence of readiness for change
- Strategy: Have the individual write a personal statement of commitment
- Example: "Since initial detention, he has voluntarily attended all available groups"

Working with Resistant Systems

Justice systems can be slow to embrace alternatives:

Understanding Institutional Perspective:

- Recognize legitimate concerns about public safety
- Appreciate resource and workload constraints
- Acknowledge political and public relations considerations
- Understand risk aversion in decision-making

Building System Relationships:

- Develop ongoing connections with key decision-makers
- Educate about treatment approaches and outcomes
- Invite justice personnel to visit treatment programs
- Share success stories (with appropriate permission)
- Offer expertise as a resource rather than an adversary

System Navigation Strategies:

- Learn the formal and informal processes
 - Identify reform-minded individuals within the system
 - Present treatment as enhancing rather than opposing justice goals
 - Frame alternatives in terms of shared objectives (public safety, cost-effectiveness)
 - Document successes to build credibility for future cases
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SECTION 4: Special Populations and Considerations

Advocating for Youth

Juvenile justice involvement presents unique advocacy opportunities:

Key Differences in Juvenile Advocacy:

- Greater emphasis on developmental factors
- More treatment-oriented statutory framework
- Family involvement requirements
- Educational considerations
- Different confidentiality protections

Youth-Specific Strategies:

- Engage parents/guardians as partners
- Address educational needs and IEP implementation
- Focus on developmental appropriateness of interventions
- Utilize specialized youth treatment providers (like Heartland Boys Home)
- Consider trauma-informed approaches for justice-involved youth

Mental Health Considerations

When serious mental illness is present:

Specialized Advocacy Approaches:

- Secure comprehensive psychiatric evaluation
- Explore competency issues when appropriate
- Identify mental health court options if available
- Focus on medication management and compliance
- Address co-occurring disorders comprehensively

Mental Health-Specific Resources:

- Conditional release to mental health treatment
- Crisis response teams and stabilization services
- Assertive Community Treatment (ACT) teams
- Community Mental Health Centers
- Region 5 Systems specialized programs

Substance Use Disorder Focus

When substance use is the primary issue:

Effective Advocacy Elements:

- ASAM-based level of care assessment
- Medication-Assisted Treatment (MAT) when appropriate
- Peer recovery support services
- Relapse prevention planning
- Continuing care and recovery community connection

Substance Use-Specific Resources:

- Drug courts and diversion programs
- Licensed substance use treatment providers
- Recovery housing options
- Medication-Assisted Treatment providers
- Recovery community organizations

Veterans Justice Involvement

Justice-involved veterans have unique needs and resources:

Veteran-Specific Advocacy:

- Connect with Veterans Justice Outreach Specialists
- Explore VA treatment eligibility and options
- Consider veterans treatment courts if available
- Address service-connected conditions
- Utilize veteran-specific housing and support services

Veteran Resources:

- VA Nebraska-Western Iowa Health Care System
 - Veterans Justice Outreach program
 - Veterans Treatment Courts
 - Veteran-specific housing programs
 - Veteran peer support specialists
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SECTION 5: Beyond Individual Cases: Systems Change

Documentation for System Impact

Individual advocacy can fuel broader change:

What to Document:

- Successful and unsuccessful advocacy attempts
- System barriers encountered
- Resource gaps identified
- Cost comparisons between treatment and incarceration
- Outcome data for individuals diverted to treatment

How to Use Documentation:

- Identify patterns requiring policy change
- Support grant applications for new programs
- Educate policymakers about needs and solutions
- Develop media narratives about treatment effectiveness
- Create case studies for training and education

Collaborative Advocacy Initiatives

Join forces with others for greater impact:

Potential Collaborations:

- Criminal justice reform coalitions
- Behavioral health advocacy organizations
- Faith-based justice ministries
- Recovery community organizations
- Professional associations (legal, treatment, medical)

Collaborative Strategies:

- Joint training and education events
- Shared policy agendas
- Coordinated testimony for legislative hearings

- Combined resource development efforts
- Unified public messaging

Policy and Funding Advocacy

Individual cases illuminate system needs:

Policy Focus Areas:

- Expanded eligibility for diversion programs
- Increased treatment funding in justice settings
- Improved coordination between behavioral health and justice systems
- Enhanced reentry planning and support
- Specialized approaches for co-occurring disorders

Funding Advocacy:

- Document cost-effectiveness of treatment alternatives
 - Identify potential grant opportunities
 - Advocate for budget allocations for treatment services
 - Support Medicaid coverage for justice-involved populations
 - Promote reinvestment of correctional savings into treatment
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SECTION 6: Self-Care for Advocates

Sustaining Your Advocacy

Advocacy can be emotionally demanding work:

Burnout Prevention:

- Recognize the emotional impact of advocacy
- Set realistic expectations about outcomes
- Celebrate small victories and incremental changes
- Develop supportive professional networks
- Maintain boundaries between work and personal life

Resilience Practices:

- Regular reflection on motivation and purpose
- Connection with others doing similar work
- Professional development and continued learning
- Physical and emotional self-care routines
- Acknowledging both successes and disappointments

When Advocacy Isn't Successful:

- Process disappointment with peers or mentors
 - Identify lessons for future advocacy efforts
 - Recognize system limitations beyond your control
 - Maintain hope based on incremental progress
 - Continue relationship with the individual when appropriate
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Conclusion: The Power of Persistent Advocacy

Advocating for treatment alternatives to incarceration requires persistence, preparation, and partnerships. While not every effort will succeed, each case builds knowledge, relationships, and momentum toward more effective responses to the intersection of behavioral health and justice involvement.

Remember that today's unsuccessful advocacy may plant seeds for tomorrow's system change. By continuing to present well-prepared treatment alternatives, documenting outcomes, and collaborating with others, you contribute to a growing movement toward more effective, humane approaches to justice.

At Aspire Impact Network, we believe in the transformative power of appropriate treatment and support. Our experience with clients like those at Heartland Boys Home, Hope Gospel Rescue Mission, and Alcohol and Drug Solutions demonstrates that with the right interventions and support, people can overcome the challenges that contribute to justice involvement and build lives of meaning, purpose, and community contribution.

Additional Resources

Nebraska-Specific Resources

- Nebraska Problem-Solving Courts: court.neb.gov/problem-solving-courts
- Nebraska Probation: supremecourt.nebraska.gov/probation
- Region 5 Systems: region5systems.net
- Legal Aid of Nebraska: legallaidofnebraska.org
- Nebraska Mental Health Association: mha-ne.org

National Resources

- GAINS Center for Behavioral Health and Justice Transformation: samhsa.gov/gains-center
- The Council of State Governments Justice Center: csgjusticecenter.org

- National Drug Court Institute: ndci.org
- Treatment Alternatives for Safe Communities: tasc.org
- National Alliance on Mental Illness (NAMI):
nami.org/criminaljustice

Reference Materials

- "Principles of Drug Abuse Treatment for Criminal Justice Populations" (NIDA)
- "Essential Elements of Treatment Courts" (NADCP)
- "Sequential Intercept Model" (SAMHSA)
- "Trauma-Informed Care in Behavioral Health Services" (SAMHSA)
- "Mental Health Diversion Practices" (Council of State Governments)

For more information on Aspire Impact Network's reentry support, case management, and advocacy services, contact us at (402) 759-2210 or visit www.aspireimpactnetwork.com.

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