



NCSL

E-Bulletin: Sentencing and Corrections Policy Updates February 2013, Issue 8



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NCSL CONTACTS

Alison Lawrence
Criminal Justice
NCSL-Denver
303-364-7700
alison.lawrence@ncsl.org



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NCSL Resources on Justice Reinvestment

New web page highlights state work on justice reinvestment

Over the past few years, states have begun to examine their criminal justice systems and redirect corrections dollars toward strategies that are effective at reducing recidivism, holding offenders accountable and controlling corrections costs. These efforts, called "justice reinvestment," have been undertaken by at least 29 states. In more than a dozen of these states, significant reforms are showing promising results. NCSL has a growing number of resources available to inform and assist state legislatures with justice reinvestment efforts. Visit the [justice reinvestment web page](#) for a newly compiled web collection.

A public-private partnership of the [Bureau of Justice Assistance](#) (BJA) in the Justice Department's Office of Justice Programs and the [Public Safety Performance Project](#) (PSP) of the Pew Center on the States leads national efforts in justice reinvestment. A number of state efforts today are supported by BJA, which administers federal funds, and by Pew, which provides technical assistance. Assistance generally includes a comprehensive analysis of corrections systems to determine the drivers of

prison growth, collaborating with state policy makers and criminal justice stakeholders, and recommending strategies to reduce costs and increase public safety. Continued assistance in some states and localities can include training, improved practices in community supervision and offender accountability and assistance with data systems. NCSL web resources include recent [video interviews](#) with Kristen Mahoney, BJA's deputy director for policy and Adam Gelb, project director of the Public Safety Performance Project of the Pew Center on the States.

An article in the January 2013 edition of NCSL's *State Legislatures* magazine, "[High Yield Corrections](#)," describes how states have used justice reinvestment to reduce crime and corrections costs. Another article, "[Shrinking Prisons](#)," explores consolidations and closures of prisons as reforms decrease inmate populations and save costs. The January magazine also lists 'saving on corrections costs' among the [top issues](#) lawmakers will address in 2013. Continue reading to learn more about state justice reinvestment initiatives in 2013.

IN SESSION

Justice Reinvestment on 2013 Legislative Agendas

Five states pursue justice reinvestment in 2013

Georgia

Following sweeping reforms to adult corrections and sentencing in 2012, a Special Council on Criminal Justice Reform for Georgians turned its attention to juvenile justice. Recommendations provided in a [recent report](#) include moves to use facility placements only for the most serious young offenders and to strengthen community supervision via risk assessments and evidence-based programs. As with adult justice reinvestment reforms, the council is also focused on uniform data collection and reporting as well as implementation of systems to measure performance. Legislation expected in early February will address juvenile justice reforms and may include additional adult measures that build off the 2012 legislation.

Kansas

Legislation introduced in 2012 ([HB 2684](#)) established a bipartisan, inter-branch [working group](#) to renew justice reinvestment efforts. In 2007, Kansas was one of the first states to pursue a justice reinvestment strategy. Data-driven policies ([SB 14 2007](#)) adopted by the legislature strengthened community supervision, controlled the prison population and generated savings. But the prison population is starting to inch back up and the working group is now considering additional reforms. Policy recommendations include increased access to community-based programming for high risk probationers and those on post-release supervision; swift and certain responses to technical violations of supervision; incentives for supervision compliance; ensuring post-release supervision to improve reentry; and reinvestment in front line law enforcement and improved responses to people with mental illness. Legislation is expected in early February.

Oregon

An [Oregon Commission on Public Safety](#) worked in 2012 to develop corrections and sentencing reform policy options to be considered in 2013. A Commission [report](#) focused on prioritizing prison resources for the most serious and violent offenders by revising certain

presumptive and mandatory sentences; reducing recidivism with prison transition opportunities; earned time and earned discharge from community corrections; and enhancing evidence-based and cost-effective supervision strategies. Objectives also include establishing performance objectives, measures and oversight. The report states that these policy options would avert all of the projected 10-year prison population growth and recommends reinvestment in local crime prevention strategies. The legislature's Joint Public Safety Committee will consider the recommendations and corresponding legislation during the 2013 session.

South Dakota

Legislation ([SB 70](#)) in South Dakota responds to the recommendations of the South Dakota Criminal Justice Initiative Work Group. These [recommendations](#) include: strengthening offender supervision and holding offenders accountable by requiring evidence-based practices and interventions; controlling corrections spending and focusing prison space on violent and career criminals by creating tiered levels of offenses based on seriousness for certain nonviolent crimes; and ensuring quality and sustainability of proposed reforms through required training for decision makers and offender supervision officers.

West Virginia

A 22-member working group is [considering](#) policy recommendations that address a prison population that is growing three times faster than the national average as well as high rates of substance abuse among probation and parole violators. The [January 2013 recommendations](#) include use of risk assessments in sentencing and community supervision, swift and certain responses to technical violations and a mandatory term of post-prison supervision. As proposed, the recommendations are estimated to save taxpayers up to \$340 million, some of which will be reinvested into community-based substance abuse treatment.

Check out a summary of Georgia's 2012 reforms (HB 1176 and HB 742) on NCSL's [Sentencing and Corrections Legislation Database](#). The database is updated twice a year with significant state sentencing and corrections enactments.

ISSUE IN FOCUS

Three Strikes and You're Out: Changes in California's law

In November 2012, voters approved a ballot measure that revises the state's "three-strikes" sentencing law

Voters in California revised the state's "three strikes" sentencing law at the polls on Nov. 6, 2012. [Proposition 36](#), approved by a strong two-thirds of voters, changes three strikes sentencing to impose the required life sentence only when a new felony conviction is serious or violent. The life third strike is maintained for felons who have any prior convictions for rape, murder or child molestation.

Importantly, it authorizes resentencing of offenders who currently are serving a life sentence on a third strike that was not serious or violent.

The nonpartisan Legislative Analyst's Office's (LAO) [summary](#) of Proposition 36 predicted that the policy change would result in a reduction of state prison costs because of lesser sentences for future nonviolent third strikes, as well as shorter prison terms for current inmates who are eligible for resentencing under the new measure. LAO calculated that correctional savings could amount to \$70 million annually and grow close to \$90 million annually over the next few decades. The LAO also said the

measure would result in reduced state parole costs because the less serious offenders affected by the measure would generally be supervised by county probation, instead of state parole, upon their release.

This could result in some court, probation and jail costs for the state and counties in addition to short-term costs as a result of resentencing proceedings, the LAO said.

While proponents of the original California three strikes law opposed a softened policy, the Los Angeles County District Attorney told [National Public Radio](#) on Nov. 8, 2012, that the approved ballot measure will not result in large numbers of offenders becoming eligible for release.

Adam Gelb, project director of the Public Safety Performance Project of the Pew Center on the States, agrees that the measure is a modest change in terms of dollars and numbers of offenders affected, but politically, reflects a sharp change in direction. "It's a powerful message that citizens want violent offenders imprisoned, but are tired of spending a good deal of money to lock up non-violent offenders," he said. He expects the voter-voiced policy shift to resonate in other states as well.

While all states have some type of sentence enhancement that applies to habitual offenders, the early 1990s saw the popularity of mandatory "three strikes"-types of provisions. At least 24 states passed such laws and 16 have [made notable changes](#) since.

To search other criminal justice issues on the ballot this year, see NCSL's [ballot measures database](#).

FISCAL FRONT

By the Numbers: Corrections Populations

New December 2012 data reveals change in prison populations and corrections budgets

In 2011, the [state prison population](#) decreased for the second consecutive year, and for the third year in a row

the [probation and parole population](#) decreased, according to a new report from the [Bureau of Justice Statistics](#), Office of Justice Programs, U.S. Department of Justice. Highlights of the reports include:

- **After four decades of growth, the prison population is starting to decline.** From 2000 to 2010, the state prison population increased an average of 1.1 percent each year, then declined by .2 percent in 2010 and 1.5 percent in 2011.

FISCAL FRONT (CONT.)

- **The change among states varied greatly.** The prison population decreased in 26 states. Florida, Michigan, New Jersey, New York and Texas had decreases greater than 1,000 inmates and Connecticut and North Carolina declined by over 900 inmates. Of note, California's prison population declined by more than 15,000 inmates (see "[The California Effect](#)" on p. 5 for more information). Of the 24 states with an increase, Kentucky and Tennessee each grew by over 1,000 inmates while Illinois and Minnesota grew by fewer than 10 inmates.
- **Prison admissions and releases declined for the third year in a row.** Admissions into state prison fell by 6.4 percent, the smallest number of admissions since 2001. While releases decreased by 3.5 percent from 2010 to 2011, the number of inmates leaving state prison still outpaced the number entering prison.
- **Recent declines in the U.S. probation and parole population were preceded by nearly three decades of growth.** The number of offenders on community supervision grew from 1980 (the first year BJA began tracking this data) until 2008. A decrease of 1.5 percent in 2011 marked the third consecutive year of decline.
- **Five states accounted for the majority of the decline in the probation population.** Nationwide, the state probation population decreased by 2 percent in 2011, while declines in California, Florida, Georgia, Michigan, and Texas accounted for more than 75 percent of the decrease. A total of 32 states reported decreases. Increases were reported in 18 states, with Alabama and Maryland experiencing the greatest increases.

By the Numbers: Corrections Budgets

Three reports released in December 2012 focus on state budgets and corrections spending

Three and a half years after the official end of the recession, state budgets continue to experience a slow to moderate rate of recovery, according to the latest NCSL [State Budget Update: Fall 2012](#) report. The survey of state legislative fiscal officers found that state spending is generally in line with budgeted estimates, though more states appear to have spending overruns than at this time last year. Four states—Idaho, Maryland, Mississippi and Vermont—reported that corrections was over budget so far for FY 2013.

In FY 2011, state spending on corrections totaled \$52 billion, according to the National Association of State Budget Officers annual [State Expenditure Report](#). Spending on corrections has slowed in recent years and even declined slightly in FY 2010 before increasing by 1.1 percent in FY 2011 and a projected 2.5 percent increase for FY 2012.

The new report [State Corrections Expenditures, FY 1982 - 2010](#), by the Bureau of Justice Statistics, examines state corrections spending trends from 1982 to 2010. Findings include:

- Spending on corrections facilities represented about three-fourths of state corrections expenditures over the past three decades.
- The average cost per inmate in 2010 was \$28,000, although a quarter of states spent more than \$40,000.
- From 2001 to 2008, medical expenditures in prisons increased in 42 out of the 44 states for which information was available. In Texas and Illinois, spending decreased.

SENTENCING AND CORRECTIONS PUBLICATIONS

To what extent do probationers and parolees contribute to crime, as measured by arrests? A new report from the [Council of State Governments Justice Center](#) found that in four California cities probationers and parolees accounted for only 22 percent of total arrests over the 3.5 year study period. To learn more, see [The Impact of Probation and Parole Populations on Arrests in Four California Cities](#).

THE CALIFORNIA EFFECT

California's Public Safety Realignment has significant impact on national prison populations

In 2011, California lawmakers enacted legislation ([AB 109](#) and [AB 117](#)) to reduce the state prison population to approximately 110,000 inmates, as ordered by a federal three-judge court and affirmed by the U.S. Supreme Court. Known as Public Safety Realignment, offenders convicted on or after Oct. 1, 2011, of non-serious, non-violent and non-sex offenses serve their sentences in local jails rather than state facilities. Local probation departments supervise all inmates released to parole from jail and certain lower-level offenders released from state prison, while the Department of Corrections and Rehabilitation continues to supervise inmates on parole prior to Oct. 1, 2011, and higher-risk offenders released after Oct. 1, 2011. Additionally, all parole revocations, except for offenders serving a life term, are served in county jails.

California's inmate population is second only to Texas. The recent changes in California's correctional populations have had a significant effect on national numbers. For example, during the first three quarters of 2011, there were approximately 96,600 inmates admitted to California's state prisons and in the fourth quarter, when the law went into effect, admissions dropped to 10,600 inmates. Overall, the decrease in California's prison population was responsible for 70 percent of the total U.S. state prison population decline in 2011.

More information on implementation of and funding for California's Public Safety Realignment is available on the [CALRealignment](#) website.

MARK YOUR CALENDARS



Top Issues Webinar Series: Criminal Justice

Learn about policy innovations in adult corrections and sentencing, juvenile justice and pretrial release. Legislative interests and strategies include risk and needs assessments, improved community supervision, and state-local funding mechanisms. Join us for the Criminal Justice webinar on Feb. 11, 2013. [Register online](#) now.

2013 Spring Forum in Denver, Colo., May 2-4

The 2013 Spring Forum will take place in sunny Denver, Colo., May 2-4. Standing Committee meetings include developing policies that direct NCSL's advocacy efforts on behalf of the states. The Forum will also address challenging issues such as health reform, fiscal cliff analysis, education standards and more. [Learn more](#) online.



NOTE: Links to external websites and reports are for information purposes only and do not indicate NCSL's endorsement of the content on those sites.

This newsletter is prepared under a partnership project of NCSL's Criminal Justice Program in Denver, Colorado and the Public Safety Performance Project of the Pew Center on the States, based in Washington, D.C. The NCSL project is designed to help states tap the best research and information available to put a fiscal lens to sentencing and corrections policy options and reforms.