



NCSL

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FRONT PAGE

Trends in Sentencing and Corrections

A new NCSL report highlights recent legislative trends

The NCSL report, [Trends in Sentencing and Corrections: State Legislation](#), describes recent trends in sentencing and corrections legislation that are contributing to declines in the number of persons under correctional supervision, safer communities and more effective use of corrections resources. Actions in a growing number of states are setting a new course that involves data-driven strategies and with results measured in terms of reductions in crime and recidivism.

of states have changed their drug crime classifications and penalties in recent years. Many have authorized diversion for low-level drug offenders while maintaining or increasing penalties for larger quantities of drugs. At least 15 states have relaxed mandatory minimum sentences since 2009 and at least seven have adjusted penalties for certain repeat offenders. Felony theft thresholds also have been reviewed and adjusted in at least 14 states in recent years.

Improving Community Supervision: An emerging trend in states is requiring that agencies supervising offenders employ policies and practices proven to reduce recidivism. This includes about one-third of states who have addressed the use of validated risk and needs assessments to determine treatment, program placement and supervision level. At least eight states have provided fiscal incentives to localities that successfully supervise some offenders in the community rather than sending them to prison.

A distinguishing feature of some of the most comprehensive legislation has been cross-governmental and bipartisan planning. At least 27 states have engaged in a "justice reinvestment" process that involves data collection and analysis of trends affecting prison populations and costs, and development and adoption of policies addressing those factors.

Significant trends detailed in the report include:

Adjusting Sentences: State legislatures are reexamining who goes to prison and for how long, with a focus on preserving costly prison space for the most dangerous offenders. Nearly half

Responding to Probation and Parole Violations: Offenders sent to prison for breaking the rules of their supervision can contribute substantially to prison populations

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[Learn more](#) about NCSL's Fall Forum.

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and costs. More than half of state legislatures have taken action since 2007 to create non-prison options for rule violations. This includes more than 20 states permitting use of graduated sanctions, short jail stays authorized in 17 states and creation of specialized violator facilities in nine states.

Addressing Offender Needs: To address the high proportion of offenders who exhibit mental health and substance abuse disorders, states are appropriately matching offenders with suitable treatment options. For example, 19 states have authorized specialized veteran's courts and supervision services to respond to needs of military veterans who become involved in the criminal justice system. Additionally, to ensure effective delivery of treatment services, at least 17 states have codified best practices or created state oversight for community-based diversion programs.

Attention to Release and Reentry: Recent legislation has focused on prison release policies and providing offenders with skills, services and supervision to help them succeed after release. This includes at least 26 states that have expanded or created earned-time policies that provide sentence credits to inmates who successfully participate in education, vocation, work and other rehabilitative programs.

The NCSL [Trends report](#) provides information on five recent policy trends, examples of state legislative actions and the positive results being achieved in a number of states.

Continue reading to learn how states have acted on these legislative trends so far in 2013. (See "Legislative Trends" below.)

IN SESSION

Preliminary Look at 2013 Sentencing and Corrections Enactments

States have enacted 266 significant sentencing and corrections enactments through July 31, 2013.

Legislative Trends

The following are summaries of preliminary 2013 state legislative enactments related to recent legislative trends. (See "Trends in Sentencing and Corrections", p. 1).

Adjusting Sentences: At least 17 states have made changes to criminal sentences so far this year. Six states—Colorado, Indiana, Oregon, South Dakota, Vermont, and Washington—made changes to drug crime classification and penalties. Drug diversion opportunities were created or expanded in Colorado, Connecticut, Louisiana, Oregon, Vermont, and West Virginia. Mandatory minimum sentences or penalty enhancements have been modified in Arkansas, Arizona, Georgia, Hawaii, Indiana, Minnesota

and Oregon. Felony theft thresholds have been adjusted in Indiana, Kentucky, North Dakota, South Dakota and Vermont. The laws in Indiana, Kentucky, South Dakota and Vermont create degrees of theft based on the value of stolen property.

Colorado and Indiana made substantial changes to their sentencing schemes this year. Colorado [established](#) a separate drug offender sentencing grid that places a greater emphasis on community-based treatment and supervision for some low-level drug offenders. The [SB 250 fiscal note](#) estimates that increased probation caseloads and information technology needs will initially increase state costs. However, beginning in FY 2014-15, a reduction in the number of drug offenders sent to prison will create an overall state savings.

Indiana [replaced](#) a four-level felony classification system with six levels and reassigned current crimes accordingly. The [HB 1006 fiscal note](#) estimates that changes made will result in a reduction of the prison population through 2020.

Improving Community Supervision: Four states have addressed the use of risk and needs assessments for community supervision. South Dakota, Texas and West Virginia now require use of risk and needs assessments for all offenders on probation or parole, with the Texas and West Virginia laws also requiring assessments be used to identify appropriate prison reentry programs and services. Colorado and West Virginia limited eligibility for certain intensive community supervision programs to those offenders assessed as medium- or high-risk and medium- or high-needs.

Responding to Probation and Parole Violations: Kansas, South Dakota, and West Virginia have authorized the use of graduated sanctions for rule violations this year. All three laws authorize short jail stays as permissible sanctions. South Dakota also permits supervision officers to order increased substance use testing; participation in treatment, programs or community service; and house arrest.

Addressing Offender Needs: Ten states—Arkansas, Arizona, Colorado, Louisiana, Missouri, Montana, Oregon, South Dakota, Texas and Washington—have codified best practices or created state oversight to ensure the effectiveness of treatment-based diversion programs, such as drug courts. Louisiana, Missouri, Nevada, South Dakota and Texas addressed specialized treatment options for defendants who are veterans or active military.

Attention to Release and Reentry: Indiana, Kentucky, Louisiana and West Virginia have expanded earned time opportunities for inmates in 2013. Indiana and Louisiana increased the maximum amount of time inmates can earn for completing certain rehabilitative programs. Kentucky now allows inmates completing certain online and correspondence courses to earn credit, and West Virginia created a credit for certain jail inmates who successfully complete approved programs.

Other Notable Actions

Controlling Inmate Health Care Costs: So far in 2013, seven states—Arkansas, Kentucky, Minnesota, New Hampshire, Nevada, Oregon and Texas—have addressed the ability of state corrections departments and local jails to seek reimbursement for medical care for inmates who are eligible for Medicaid or similar state medical

assistance. Seeking reimbursement for Medicaid is one policy states are adopting to reduce corrections health care costs. NCSL's [Reducing Correctional Health Care Spending](#) LegisBrief (March 2013) provides more information on these policy options.

Repurposing Prisons: NCSL recently [reported](#) that during 2011 and 2012, at least 15 states closed one or more corrections facilities. In 2013, state legislatures are addressing what to do with vacated prison property. [Colorado](#) is repurposing a recently closed prison to provide support services to the homeless. [One facility](#) in New York will be used for crime victim support services and offender rehabilitation and reentry services while [another](#) is being turned into an animal shelter and wildlife center.

A number of states are using prison land for other governmental purposes. Lawmakers in Michigan and North Carolina have approved the transfer of prison land to local governments. In Michigan, the City of Detroit will be re-opening the Mound prison as a local jail. New Jersey has [authorized](#) the sale of prison property to the state Economic Development Authority. Prison land in [Texas](#) is being transferred to Sam Houston State University to support criminal justice education and training. Washington state inmates will now have the opportunity to participate in job skills training in land and water maintenance at McNeil Island. Illinois is [transferring](#) a recently shuttered prison to the U.S. government for use as a federal detention center.

Older prisons can be more expensive to operate and newer facilities may provide greater opportunity for in-prison programming and rehabilitation. Nevada closed the State Prison last year and the Legislature has [requested](#) a study into preservation of that facility. [North Dakota](#) and [Utah](#) have authorized studies on potential options for relocating prisons.

The NCSL Sentencing and Corrections Legislation [database](#) provides detailed summaries of enacted legislation. Legislators, legislative staff and others interested in state policy can filter research results by state, topic, year, primary sponsor or keyword. The database contains enactments from 2010 through mid-year 2013, and 50-state charts are available for laws in [2009](#), and [2008 and 2007](#).

ISSUE IN FOCUS

Earned Compliance Credits

A growing number of states are adopting earned compliance credit laws that allow probationers and parolees to earn time off the active portion of their sentence.

Earned compliance credits allow probationers and parolees to earn credit toward supervision by complying with the conditions of their supervision, including payment of restitution. Adoption of these policies has expanded as states work to more effectively allocate funding through [justice reinvestment](#). Compliance credits can help states focus resources on moderate- to high-risk offenders who need more intensive supervision and services.

Since 2007, 13 states have established policies for the use of earned compliance credits. In 2010, the South Carolina Sentencing Reform Commission issued a [report](#) to the General Assembly recommending legislation to allow probationers and parolees to reduce their time under supervision by up to 20 days for each month of compliance with supervision rules. The General Assembly adopted this recommendation as part of a larger sentencing [reform package](#).

Parolees in Kentucky are now eligible to receive credit for abiding by their individual case plans and making restitution payments. Under the [2011 law](#), probationers must meet the same requirements plus exhibit reduced criminal risk, as determined by a risk assessment. A task force monitoring implementation of the law [estimated](#) that use of the parole “good time” credit will save the state \$2.7 million in FY 2013 and \$10.4 million in FY 2014.

South Dakota’s [2013 law](#) allows parolees to earn one day of credit for each day served. It also requires the state Supreme Court of Appeals to establish a compliance credit policy that will allow probationers to earn at least 15 days per month. The policy is [estimated](#) to eventually reduce the number of people on parole by up to 37 percent and will allow supervision officers to focus on more high-risk offenders.

ADOPTION OF COMPLIANCE CREDIT LAWS, 2013-2007



Learn more about compliance credits in the [Policy Framework to Strengthen Community Corrections](#) from the Public Safety Performance Project of The Pew Charitable Trusts.

ON A RELATED NOTE

Justice Board Game

An innovative way to teach legislators about corrections policy and costs

Two Colorado Joint Budget Committee staff, Steve Allen and Amanda Bickel, were recently awarded the [National Association of Legislative Fiscal Officers](#)' (NALFO) Staff Achievement Award for development of an innovative way to teach legislators about corrections policy and costs. The "Adult Felony Justice Journey: An Instructional Exercise for New Legislators" is a [board game](#) with [accompanying instructions](#) that helps new legislators learn about adult corrections cost and make more informed policy decisions. The two also developed a [juvenile justice version](#) of the game, with [instructions](#). More information about the game is on NCSL's 2013 Legislative Summit [resources page](#) (scroll to Tuesday, Aug. 13, 7:30 – 8:30 a.m., NALFO business meeting).

On the Hill

Recent events related to federal sentencing and corrections policy

United States Attorney General Eric Holder recently announced a series of policy changes aimed at slowing the growth of the federal prison system. A major goal of the changes is to reduce federal mandatory minimum sentencing in certain low-level drug cases. In his [speech](#) to the American Bar Association, Holder acknowledged the leading role that states have played in paving the way for more effective criminal justice strategies, but called upon them, along with Congress and localities, to make more changes to existing practices. The report [Smart on Crime](#) provides further detail about the federal policy changes. Holder's announcement raises the question of impact for states if the federal government steps back from prosecuting and sentencing certain crimes. Two related bills are currently pending before Congress:

- The Justice Safety Valve Act of 2013 ([S 619](#)), introduced in March 2013 by Senators Patrick Leahy and Rand Paul, would give federal judges more flexibility to impose sentences below the mandatory minimum.
- Smarter Sentencing Act of 2013 ([S 1410](#)), introduced in July 2013 by Senators Richard Durbin and Michael Lee, would relax mandatory minimum sentences for some low-level, non-violent drug offenders.

Recent Reports

Related to Justice Reinvestment:

- NCSL's *Justice Reinvestment* [crime brief](#) details efforts by a growing number of states that have engaged in the justice reinvestment process and provides short synopses of enacted legislation.
- A [matrix](#) of policies adopted by states as part of justice-reinvestment reforms has been compiled by the Public Safety Performance Project of The Pew Charitable Trusts.
- Pew also recently [interviewed](#) four governors about why they believe justice reinvestment is right for their states.
- The *Justice Reinvestment Initiative: Experiences from the States* [policy brief](#) by the Urban Institute of Justice describes experiences from some of the states that have engaged in the justice reinvestment process.
- The state prison population declined for the third year in a row in 2012. [Prisoners in 2012 – Advance Counts](#) was released by the Bureau of Justice Statistics (BJS) at the end of July. BJS annually reports on state and federal corrections populations.
- *The Potential of Community Corrections to Improve Safety and Reduce Incarceration*, a new [report](#) by the Vera Institute of Justice, provides an overview of state community corrections, identifies newly emerging practices and makes policy recommendations.

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.