Legislative Trends Impacting Jails

Amber Widgery
Montana Representative Barry Usher
Illinois Senator Elgie Sims
The Broad Reach of Jails: By the Numbers

Jails have almost 19x the number of annual admissions as prisons.

Three out of five people held in jail have not been convicted of any crime.

Nearly 75% of people in jail are there for nonviolent traffic, property, drug, or public order offenses.
The SJC Network
Safety & Justice Challenge Network: Strategies
2021 Legislation Impacting Jails

- Law Enforcement Alternative Responses
- Citation in Lieu of Arrest
- Pretrial diversion
- Pretrial Release Policy
- Alternatives to Jail
- Data Reporting and Collection
- Population Control Measures
- Health and Wellbeing
- Reentry and Community Connections

Jail Legislation 2014-2021

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The Sequential Intercept Model

Intercept 0
Community Services
- Crisis Lines
- Local Law Enforcement

Intercept 1
Law Enforcement
- 911

Intercept 2
Initial Detention/Initial Court Hearings
- Initial Detention
- First Court Appearance

Intercept 3
Jails/Courts
- Specialty Court
- Jail
- Dispositional Court

Intercept 4
Reentry
- Prison Reentry
- Jail Reentry

Intercept 5
Community Corrections
- Parole
- Probation

The Sequential Intercept Model as a Filter

0. Best Clinical Practices: The Ultimate Intercept

I. Law Enforcement/Emergency Services

II. Post-Arrest: Initial Detention/Initial Hearings

III. Post-Initial Hearings: Jail/Prison, Forensic Evaluations & Forensic Commitments

IV. Reentry from Jails, State Prisons, & Forensic Hospitalization

V. Community Corrections & Community

Munetz & Griffin, 2006
Surveys of Deflection Programs

- Most deflection programs are new since 2016.
- The majority are created and led by law enforcement agencies.
- More than half provide a “warm handoff” to treatment case managers.
- 65% provide transportation for clients to the first treatment or appointment.

See here and here for survey information.
Citation in Lieu of Arrest & Summons in Lieu of Warrant

- 24 states have enacted laws since 2012.
- Recent enactments have required or encouraged expanded use of citations and summonses.
Recent legislation has:

- Eliminated or reduced fees for participation.
- Authorized courts to waive fees for indigent defendants or required an ability to pay consideration for fees.
- Prohibited removal from a program for inability to pay fees.
- Restricted prosecuting attorneys’ control over program eligibility or eliminated the ability to prohibit participation by eligible defendants.
- Expanded overall eligibility for diversion.

Many additional programs operate without enabling state law or funding.
2021 Pretrial Release and Case Processing Enactments

- Limitations on court use of financial conditions of release and a complete prohibition in Illinois.
- Presumption of release on recognizance
- Pretrial data collection.
- Requirements to release on the least restrictive conditions.
- Required release for specific cases.
Other Trending Jail Policies

- Alternatives to jail
- Data reporting and collection
- Population control measures
- Health and wellbeing
- Reentry and community connections
Notable Bills from Illinois and Montana

Illinois
- HB 3653

Montana
- HJR 34