



# E–Bulletin

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## *Sentencing and Corrections Policy Updates*



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## Front Page

### State of Recidivism

*A recent report from the Public Safety Performance Project of the Pew Center on the States offers policy solutions aimed at reducing recidivism rates.*

More than four in 10 offenders are returned to prison within three years of release, according to the report [State of Recidivism: The Revolving Door of America's Prisons](#), by the [Public Safety Performance Project](#) of the [Pew Center on the States](#); that rate has remained relatively stable. Nearly 43 percent of prisoners released in 2004 and 45 percent of those released in 1999 were reincarcerated within three years, either for committing a new crime or violating the terms of their supervised release.

Of the states that reported data for both 1999 and 2004, Kansas, Louisiana, Michigan, New Jersey, Oregon and Utah had decreases in recidivism of at least 10 percent during that time period—Oregon had the greatest drop at 31.9 percent. On the other end, South Dakota and Washington reported increases greater than 30 percent, and Massachusetts, Minnesota, Mississippi, Missouri, Nebraska and South Carolina had increases above 10 percent.

Differences in recidivism rates vary widely from state to

The [U.S. Department of Justice Bureau of Justice Statistics' prisoner recidivism analysis tool](#) allows users to calculate recidivism rates for offenders released from state prisons, including rates for certain demographics, sentences or criminal histories. Howard Snyder is chief of Recidivism, Reentry and Special Projects for the Bureau of Justice Statistics. Read [NCSL's interview of Snyder](#) and his take on the challenges and significance of recidivism data in sentencing and corrections policymaking.

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state and can be the result of policy choices such as the types of offenders sentenced to prison, how inmates are selected for release, and responses for how offenders who break the rules of their parole. This can limit the usefulness of comparing one state to another. Tracking recidivism rates within a state over time, however, can provide useful information about “what works” to reduce recidivism. The report highlights three states—Michigan, Missouri and Oregon—that have achieved reductions in recidivism by putting into practice research on “what works”.

Offenders who have participated in [Michigan's](#) Prisoner Reentry Initiative—a statewide reentry program that aims to equip every released offender with tools to succeed in the community—have a 33 percent lower prison return rate than those who did not participate in the program.

In [Missouri](#), recidivism has decreased from 46 percent in FY 2004 to 36.4 percent in FY 2009 due to evidence-based supervision for parolees that includes use of a risk assessment tool to set supervision levels and community-based sanctions in lieu of prison for technical violations of parole.

From 1999 to 2004, [Oregon](#) experienced a 32 percent decline in recidivism, the greatest of the reporting states

In 2004, its recidivism rate was the lowest in the country at 22.8 percent. The report noted the success in Oregon can be attributed to a comprehensive approach to reform that included instituting risk and needs assessments; case management and transition planning in prison; as well as graduated, non-prison sanctions for violations of parole.

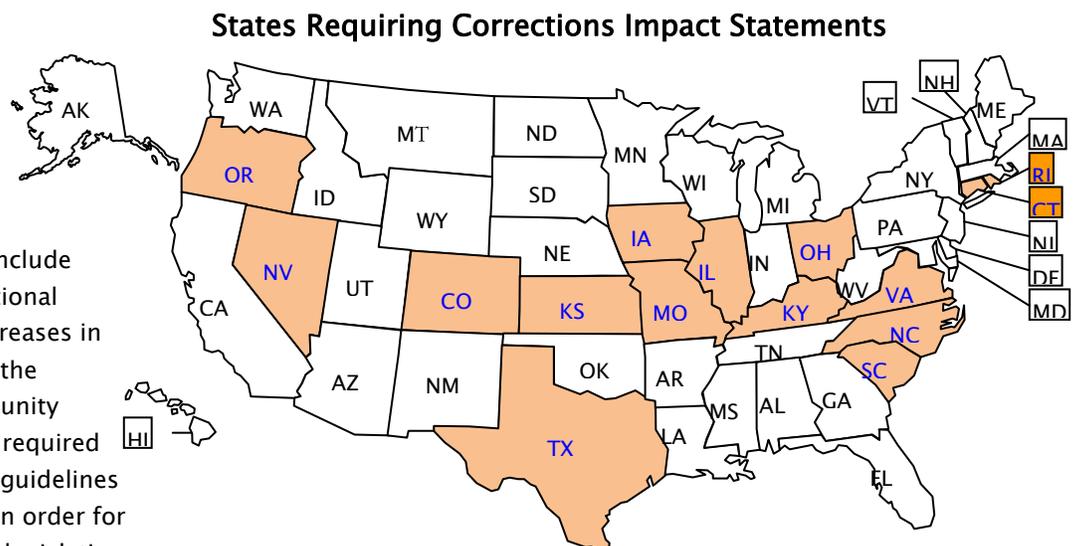
## On the Fiscal Front

### Corrections Impact Statements

*States put a price tag on sentencing and corrections legislation.*

Fiscal impact statements put a price tag on proposed legislation. At least 15 states require the use of specialized corrections impact statements, which provide information to legislators that is unique to sentencing and corrections policies.

In Virginia, a [corrections impact statement](#) is required when a proposal will have a fiscal impact on correctional populations or criminal justice resources. Impact statements in Virginia include a six-year projection of correctional populations and associated increases in operating costs, an analysis of the impact on local jails and community corrections programs, and any required adjustments to the sentencing guidelines to conform with the proposal. In order for the General Assembly to adopt legislation that would result in a net increase in prison populations, a one-year appropriation is required in the amount equal to the highest single-year increase in operating costs identified within the six-year projection. As part of a larger corrections reform effort, Kentucky adopted a similar [requirement](#) in 2011.



Source: NCSL, June 2011

*To link to the individual state laws, click on the state*

Corrections statements often provide an analysis of the impact on existing programs, services and policies. In North Carolina, [legislative fiscal research staff](#) provide a five-year projection on correctional populations and bed capacity and the associated costs, including any capitol costs for proposals that would increase prison populations. In addition, for bills that would create a new crime or change the classification or penalty range of an existing crime, the [Sentencing and Policy Advisory Commission](#) advises whether the provision is consistent with the statutorily defined crime classification and punishment criteria. The criteria was established to ensure a systematic and rational basis for classification that is based on harm to the victim.

#### Minority Impact

A [2007 study](#) by The Sentencing Project that reported Iowa's black-to-white incarceration ratio of 13.6 to 1 was the highest in the country. In 2008, Iowa became the first state to [require an impact statement for](#) proposed correctional policies on minority populations. Legislation proposing a new criminal offense; amending an existing offense; or modifying sentencing, probation or parole procedures includes the proportion of women, those with disabilities, Blacks, Latinos, Asians, Pacific Islanders, American Indians and Alaskan Native Americans who are involved at various stages in the criminal justice system. The Connecticut General Assembly adopted a [similar law](#) later in 2008. A 2009 article published by the American Bar Association, [Racial Impact Statements: Changing Policies to Address Disparities](#), provides more information from the Sentencing Project work on racial impact.

## Issue in Focus

### Studies Prompt Sentencing and Corrections Reforms and Reinvestments

*States are using data-driven methods to identify corrections policies that are smart on crime and easier on taxpayers.*

In 2011, states are getting smart on crime by enacting laws aimed at controlling corrections populations and costs while increasing the public safety. Behind these criminal justice reforms are bipartisan, multi-branch task forces and working groups that have studied state-specific criminal justice data and made recommendations to the legislature based on their findings. These task forces and working groups were at work in at least 23 states in 2011, scrutinizing sentencing, offender supervision and related corrections policies, as well as the fiscal impact of old and new criminal justice policies. To help states craft more successful and cost-effective approaches, NCSL formed the Sentencing and Corrections Policy work group in 2010. The 18-member, bipartisan work group has developed a framework for legislatures to use in creating sentencing and corrections policies that both manage state spending and protect the public. The group has compiled its findings into a report, [Principles of Effective State Sentencing and Corrections Policy](#). Below are four examples of state action in 2011.

#### **Arkansas**

Facing a prison population that had doubled over the course of 20 years, the Arkansas legislature created a bipartisan working group that

Analyzed sentencing and community supervision policies, consulted with community stakeholders. Its recommendations to the legislature in 2011 were aimed at reserving prison space for the most dangerous offenders and distinguishing between drug users and career criminals.

#### *Action*

The resulting act, [2011 Ark. Acts, Act # 750, the Public Safety Improvement Act](#), increased felony theft thresholds; amended penalties for low-level drug crimes; required evidence-based practices for community supervision, including intermediate sanctions for technical violators; directed the parole board to create new policies and procedures that use evidence-based practices and risk assessments to improve reintegration success rates for parolees; authorized a pilot probation program modeled after the Hawaii Opportunity Probation and Enforcement (HOPE) program; and created incentive funding for supervision agencies that reduce commitments to the Department of Corrections. The bill also created data reporting requirements for both the Department of Corrections and the Department of Community Corrections to monitor the effectiveness of the changes.

#### *Impact*

The [Public Safety Performance Project](#) of the [Pew Center on the States](#), which provided technical assistance to the Arkansas working group, [estimates](#) that the Public Safety Improvement Act will save Arkansas \$875 million in prison construction and operating expenses through 2020.

#### **Kentucky**

Kentucky's prison population was one of the fastest growing in the nation, [increasing by 45 percent from 2000–2009](#). In response, the Kentucky General Assembly [created the Task Force on the Penal Code and Controlled Substances Act](#) during the 2010 legislative session and directed the task force to study and report on recommended changes to the state's penal code and controlled substances act. For more information on the creation of the task force, see [Representative John Tilley's presentation](#) at the 2010 NCSL Legislative Summit session, [A Data-Driven Approach to Reducing Prison Spending](#).

#### *Action*

The [Task Force's January 2011 report](#) prompted [2011 Ky. Acts, Ch.2, the Public Safety and Offender Accountability Act](#), which made comprehensive changes to penal and controlled substances law and established mechanisms for tracking the progress of the new laws under the bill. The bill changes definitions and creates new thresholds for controlled substance offenses; incorporates risk and needs assessments and evidence-based practices at all stages of the criminal justice system, including presentence reports, pretrial release, corrections intake, probation and parole, mandatory reentry and post-incarceration supervision, and treatment programs; establishes graduated sanctions for technical probation and parole violators; creating incentive funding for pilot community corrections programs; and authorizes the Department of Corrections and local courts to

establish a pilot probation program modeled after the Hawaii Opportunity Probation and Enforcement (HOPE) program.

#### *Impact*

Changes made by the bill are expected to save Kentucky taxpayers \$422 million over 10 years, according to the [fiscal note](#) prepared by Kentucky Legislative Research Commission. Kentucky will reinvest more than half of those savings into a local corrections assistance fund; expansion of treatment programs, probation and parole services; and additional pretrial services. More information on the effects of the act is available in a [report](#) prepared by the Public Safety Performance Project of the Pew Center on the States, which offered technical assistance to the task force.

#### **North Carolina**

In 2010, the governor and other state leaders created an inter-branch working group to recommend policy options aimed at preventing a forecasted state prison growth of 10 percent by 2020, and to address gaps in community supervision policies and inefficient use of treatment resources.

#### *Action*

The legislature used the working group's recommended policy options to create [2011 N.C. Sess. Laws, Chap. 192, the Justice Reinvestment Act](#). The act requires post-release supervision for all felony offenders; authorizes administrative sanctions for technical violations; focuses supervision and treatment resources on offenders with the highest risks and needs; offers incentives allowing earlier release to community supervision for offenders who choose to participate in programming; and expands the felony drug diversion program.

#### *Impact*

The legislation is [expected to save North Carolina \\$290 million in the next five years](#); the state will annually invest at least \$4 million of the savings to expand community-based treatment programming for offenders on community supervision.

#### **Ohio**

A bipartisan working group in Ohio analyzed the state's prison system, which was 33 percent over capacity and growing in 2008, as well county probation policies. In response to these and other corrections issues, the

group presented the General Assembly with a [13-point policy recommendation](#).

#### *Action*

The working group's policy recommendation was combined with several other policies to create one justice reinvestment initiative, [Vol. 129, 2011 Ohio Laws, H. 86](#). The act requires first-time property and drug offenders to serve probation and participate in treatment; establishes statewide requirements for community corrections programs; gives priority placement in community corrections programming to those offenders most likely to benefit from them; and creates statewide standards for probation.

#### *Impact*

The laws, which avert forecasted prison growths, are [expected to save \\$500 million in prison construction spending](#), and an additional \$46 million in corrections spending by 2015 as current prison populations decline. The state plans to reinvest \$20 million of the savings over four years to improve felony probation supervision through incentive funding to those agencies that reduce recidivism.

These and other state actions are part of the Justice Reinvestment Initiative, a national initiative supported by the U.S. Department of Justice Bureau of Justice Assistance with the Pew Center on the States, which provides technical assistance and financial support to local governments that would like to engage in justice reinvestment. For more information about justice reinvestment work in the states, visit:

- [U.S. Bureau of Justice Assistance Justice Reinvestment Initiative](#)
- [The Vera Institute of Justice, Justice Reinvestment Initiative](#)
- [The Council of State Governments, Justice Reinvestment](#)

For more information about the specific policies and programs mentioned in this article, see NCSL's [Principles of Effective State Sentencing and Corrections Policy](#).

## On A Related Note

### Crime Solutions

Crimsolutions.gov is an online resource for practitioners and policymakers that offers detailed, expert-rated reviews of research in criminal justice, juvenile justice and crime victim services; it is managed by the U.S. Department of Justice Office of Justice Programs. The reviews offer expert ratings based on whether the programs achieved their goals, as well as key information and findings from the rated programs. See [crimesolutions.gov](http://crimesolutions.gov).

### Federal Interagency Reentry Council

The Reentry Council, an interagency group representing 18 federal departments and agencies, was created to discuss and create reentry policies that improve public safety; help offenders who are returning to their communities to become productive, tax-paying citizens; and minimize the effects of collateral consequences of incarceration to save taxpayer dollars. The council began in January 2011, and will continue to meet every six months. More information is available on the [Reentry Council website](#).

### Recent Reports

#### *NCSL Report: Ex-Offender Employment Opportunities*

NCSL's new report, [Ex-Offender Employment Opportunities](#), explores how states can balance business interests with employment opportunities that help ex-offenders become productive members of the community. The report discusses employer incentives, record-clearing policies, skills training, and reentry services and support. The report was prepared under an NCSL partnership with the [Public Welfare Foundation](#) in Washington, D.C.

#### *NCSL Report: Principles of Effective State Sentencing and Corrections Policy*

To help states craft more successful and cost-effective approaches, NCSL in partnership with the Public Safety Performance Project formed the Sentencing and Corrections Policy work group in 2010. The 18-member, bipartisan work group developed a framework for legislatures to use in creating sentencing and corrections policies that both manage state spending and protect the public. The group has compiled its findings into a report, [Principles of Effective State Sentencing and Corrections Policy](#) that was released at [NCSL's Legislative Summit](#) on August 9, 2011. The report includes seven principles of effective sentencing policy and corrections, action items for legislators, a glossary and resources for more information. This report is designed to provide broad, balanced guidance to legislatures on policies and budget decisions that may affect community safety, management of criminal offenders, and allocation of corrections resources.

**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.

## Mark Your Calendars

### NCSL's Fall Forum

The **Fall Forum** gives you the chance to **advance the States' Agenda** and tackle the difficult policy issues of our time—budget gaps, health care coverage, education affordability, transportation funding, energy costs and many others.

Check out the [Fall Forum webpage](#) for the agenda and more details.

