

THE CRIMINAL JUSTICE SYSTEM RESPONSE TO OPIOIDS

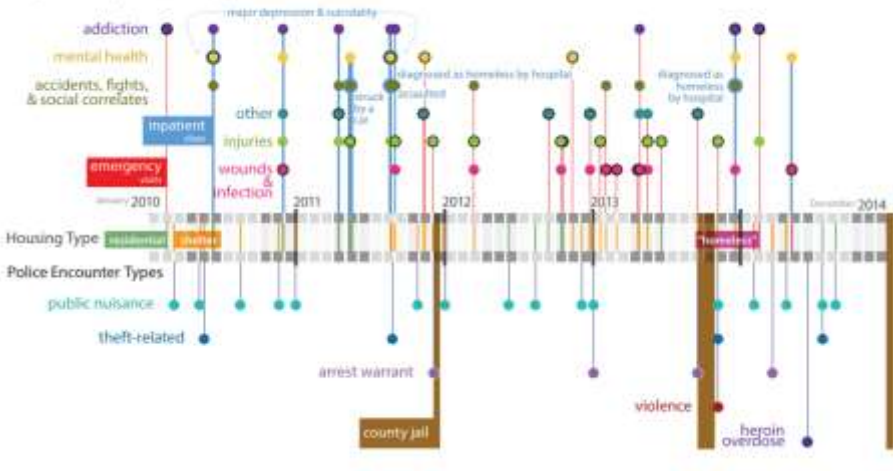
AMBER WIDGERY
JUNE 2018



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Figure 4. Case study of a cross-sector complex-care patient

Diagnosis Categories ○ primary diagnosis



Source: Milgram, Brenner, Wiest, Bersch & Truchil, Integrated Health Care and Criminal Justice Data, [Harvard Kennedy School](#) (April 2018).



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EARLY INTERVENTIONS



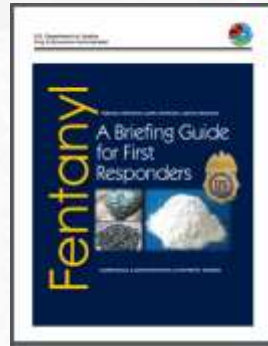
Naloxone Access Laws

- Prescribers
- Dispensers
- Lay Administrators
- Distribution by Lay Persons
- Possession Without a Prescription

- 3rd Party Prescriptions
- Prescription by Standing Order
- Distribution by Community Organization
- Administration by First Responders etc.



- All 50 states have a naloxone access law.
 - ▣ These provisions have often included access to naloxone for law enforcement for purposes of intervention when called to the scene of an overdose.
 - ▣ Naloxone can also be a tool for an officer's personal safety.



Source: [DEA Report](#)



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Good Samaritan/911 Overdose Immunity Laws



40 States and D.C. have a Good Samaritan Law

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Deflection

“Stopping a citizen from entering the criminal justice system who is at immediate risk of or is at likely future risk of entering the criminal justice system due to behavioral health challenges, and instead deflecting (moving) them into the community human services system.”

Sources: Jac Charlier, TASC

- Overdose Response
 - QRT – Quick Response Team
 - DART – Drug Abuse Response Team
 - PORT – Post Overdose Response Team
- Police Referral
 - LEAD – Law Enforcement Assisted Diversion
 - STEER – Stop, Triage, Engage, Educate, Rehabilitate
- Self-Referral
 - Angel Program



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Recent Deflection Enactments

- California SB 843 (2016)
 - LEAD pilot program and made a \$15 million appropriation.
- Colorado 2017 Budget
 - LEAD pilot program and co-responder programs. Appropriated \$5.2 million.
- Kentucky SB 120 (2017)
 - Authorized Angel Initiative programs.
- New Jersey AB 3744 (2016)
 - Authorized law enforcement assisted addiction and recovery program.
- New Mexico HB 2 (2017)
 - Authorized funding for the study of LEAD in Santa Fe.



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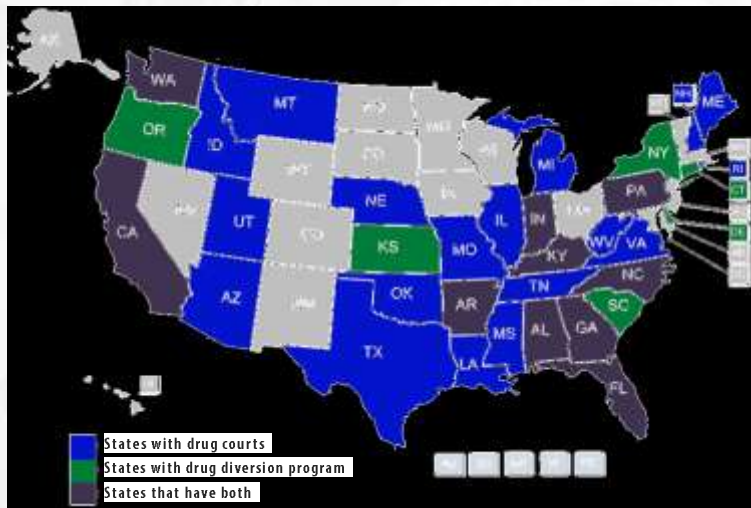
Deflection and Diversion

- Deflection is an emerging legislative trend that reroutes individuals with behavioral health needs before arrest or before contact with the justice system.
- Statutory pretrial diversion is well established in 48 states and the District of Columbia and reroutes defendants after arrest, but prior to adjudication or final entry of judgment.



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Statutory Pretrial Drug Courts and Diversion Programs



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Statutory Pretrial Diversion Database

General Population Diversion

The interactive map has been designed to allow users to compare state general population diversion courts and programs. Select the state on the map to learn about general population diversion programs and courts in each state.

Thirty-seven states authorize programs that are not population specific and address the needs of defendants more generally than the program listed above. These laws generally authorize who has jurisdiction to create a diversion program or designate administrative authority over a program to a specific individual or office such as prosecuting attorneys, local courts, or other state governmental agency. State statute also generally provides guidance on which defendants are eligible for participation in the diversion program and often specifies inclusion/exclusion criteria such as defendants who specified criminal histories, or cases where certain circumstances, the death or health of a victim, need a factor.

Population Specific Diversion

Population Status

- Adults (red)
- Juveniles (blue)
- Military (green)
- Veterans (yellow)
- Other (grey)

SYSTEM'S AHEAD

The 16 states in blue have statutorily authorized specialty courts aimed at addressing the needs of defendants charged with a drug offense or who have substance use related needs. The 6 states in yellow have statutorily created diversion programs for defendants charged with a drug offense or who have substance use related needs. The 4 states in green have statutorily authorized both specialty courts and diversion programs.

Check out statutory systems and a list of population specific programs.

Statutory Pretrial Diversion Database



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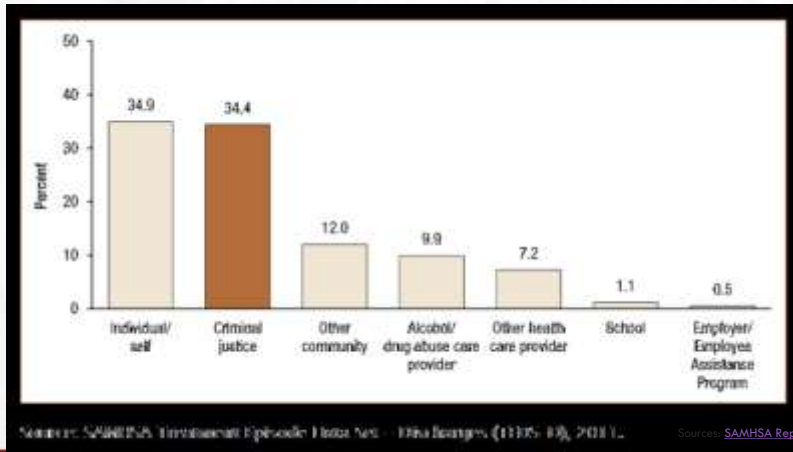
The Forum for America's Legislators

TREATMENT FOR THE JUSTICE INVOLVED



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According to Substance Abuse and Mental Health Services Administration (SAMHSA), the criminal justice system is the single largest source of referral to substance abuse treatment.



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States have expanded access to Medication Assisted Treatment (MAT) throughout the criminal justice system.

MAT has been authorized:

- During pretrial release
- As part of diversion
- As part of a probation/parole
- In prisons & jails
- As part of reentry



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Recent MAT Diversion Enactments

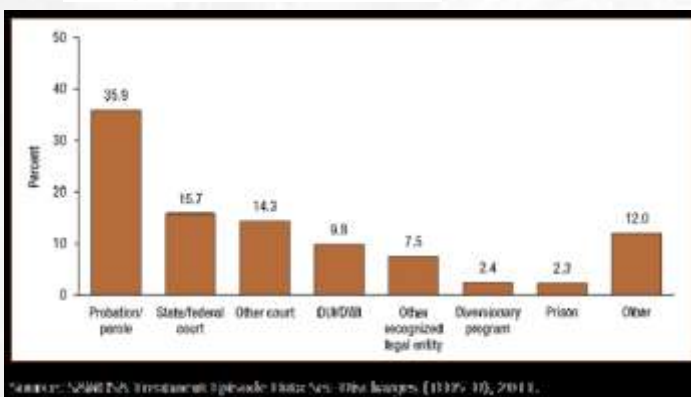
In recent years, at least 12 states have enacted new laws addressing the use of medication assisted treatment in treatment courts and diversion programs.

- Florida HB 5001 (2016)
- Illinois HB 5594 (2016)
- Indiana SB 464; HB 1304; HB 1448 (2015)
- Michigan HB 5294 (2016)
- Missouri HB 2012 (2016)
- New Jersey SB 2381 (2015)
- New York AB 6255 (2015)
- Ohio HB 59 (2013)
- Tennessee SB 2653 (2016)
- Virginia HB 30 (2016)
- Wisconsin AB 657 (2016)
- West Virginia HB 2880 (2015)



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Increasing Treatment for Incarcerated & Supervised Individuals



The majority of justice-involved referrals to treatment come from probation and parole.



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Recent MAT Enactments Affecting Incarcerated & Supervised Individuals

In recent years, at least 10 states have enacted new laws addressing the use of medication assisted treatment correctional facilities and by supervision agencies.

- California SB 843 (2016)
- Florida HB 5001 (2016)
- Indiana SB 464; HB 1304; HB 1448 (2015)
- Kentucky SB 192 (2015)
- Michigan HB 5294 (2016)
- Missouri HB 10 (2015); HB 10 (2013)
- New Jersey SB 2381 (2015)
- Pennsylvania HB 1589 (2016); SB 524 (2015)
- Tennessee HB 1374 (2015)
- West Virginia HB 2880 (2015)



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Medication Assisted Treatment: States with Recent Enactments



Updated August 2017



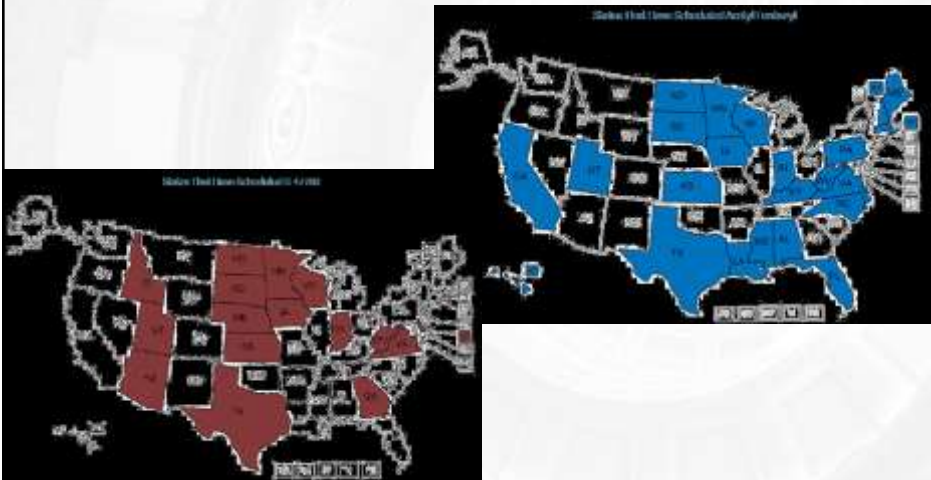
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SENTENCING AND PENALTIES



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Scheduling Synthetic Opioids

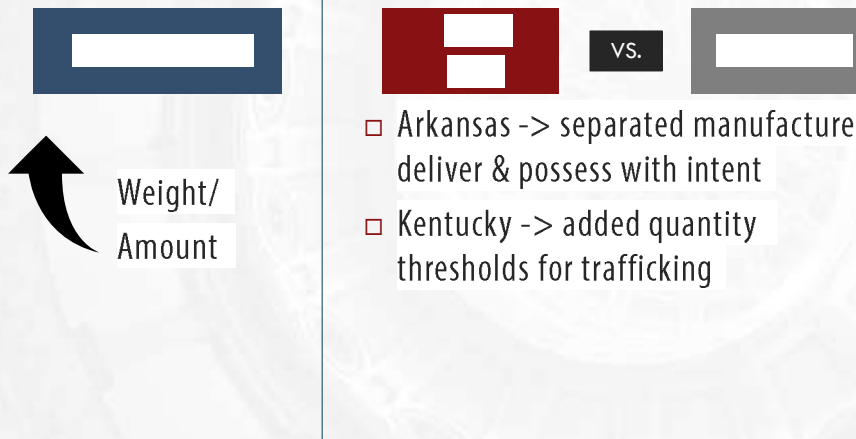


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Redefined Offense Elements



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Reclassified (Categorized) Offenses



- Drug Possession (excluding marijuana)
 - Alaska
 - California
 - Delaware
 - Indiana
 - Maryland
 - Minnesota
 - Mississippi
 - South Dakota
 - Utah



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Added Penalty Categories: Colorado

Felony Class	Sentence Range
1	Life / Death
2	8 – 24 years
3	4 – 12 years
4	2 – 6 years
5	1 – 3 years
6	1 year – 18 months

Drug Felony Class	Sentence Range
DF1	8 – 32 years
DF2	4 - 8 years
DF3	2 - 4 years
DF4	6 months – 1 year
Aggravated Range	
DF2	8 – 16 years
DF3	4 – 6 years
DF4	1 – 2 years



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Other Offenses of Note

- Drug Delivery Resulting in Death a.k.a. Drug Induced Homicide
 - ▣ Just under half the states have a homicide provision specific to overdose
 - ▣ Rising overdoses = increasing prosecution under these provisions and other reckless homicide/manslaughter laws
- Trafficking/Distribution
 - ▣ Increasing penalties and new offenses for trafficking in opioids or specified opioids like fentanyl



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Questions?

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