


# Reallocating Justice Resources: A Review of 2011 State Sentencing Trends

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CENTER ON SENTENCING AND CORRECTIONS



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# Executive Summary

Most states are facing budget crises, and criminal justice agencies are not exempt. With fewer dollars available, they are challenged to increase public safety while coping with smaller budgets. This report distills lessons from 14 states that passed research-driven sentencing and corrections reform in 2011 and is based on interviews with stakeholders and experts, and the experience of technical assistance staff at the Vera Institute of Justice. It is intended to serve as a guide to policy makers and others interested in pursuing evidence-based justice reform in their jurisdiction.

Legislatures throughout the United States enacted sentencing and corrections policy changes in 2011 that were based on data analysis of their prison populations and the growing body of research on practices that can reduce recidivism. Although this emphasis on using evidence to inform practice is not new in criminal justice, legislators are increasingly relying on this science to guide the use of taxpayer dollars more effectively to improve public safety outcomes.

In highlighting important legislative changes enacted in the past year, this report documents a new approach to reform in which bipartisan, multidisciplinary policy groups are using analysis of state population and sentencing data, harnessing the political will emerging from the budget crisis, relying on decades of criminal justice research, and reaching out to key constituencies. The result is legislation that aims to make more targeted use of incarceration and to reinvest the cost savings into community programs geared toward reducing recidivism and victimization.

Three distinct themes emerged from this year's legislation:

- > **STATES ARE GETTING SMARTER ON CRIME.** State policy makers are using data to understand how system elements like sentencing laws, parole revocations, and eligibility for "good time" affect their corrections populations, and they are relying on that data analysis to develop laws, policies, and practices that promote public safety in ways that are cost-effective and grounded in research.
- > **BIPARTISAN, MULTIDISCIPLINARY EFFORTS TYPICALLY HAVE THE GREATEST CHANCE OF SUCCESS.** Policy makers are working together to generate savings and other benefits for stakeholders throughout the system.
- > **IT IS CRITICAL TO MEASURE WHAT COUNTS AND EVALUATE THE OUTCOMES.** Government leaders have an urgent need to do better with limited resources and are increasingly requiring reliable data and trustworthy evaluations to improve future decision making.

Significant policy reforms invite important questions about how to support and sustain change. The authors' recommendations—including continuing to collect and analyze data (to determine outcomes and inform future planning), providing proper funding, and reaching out to create and foster partnerships with community-based organizations—can facilitate this process.

Although states will continue to face challenges in their quest to use resources effectively, the examples in this report show that policy makers can craft criminal justice policies that are tailored to a state's needs and reflect the best science available.

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## FROM THE CENTER DIRECTOR

Looking across the 2011 legislative and policy changes described in this report—and forward to a new round of reform in 2012—some things stand out:

- > State leaders are more likely to listen to evidence before enacting change. They are asking for hard information about their systems and populations, rather than making policy in reaction to a single high-profile case.
- > Support for reform is bipartisan and driven by many different concerns. Some officials are looking for a better return on public safety dollars; others worry about generations lost to crime and imprisonment; still others want a system that is both more efficient and more effective.
- > Reforms are comprehensive and nuanced. In the past, legislation often addressed a single incident or problem—and every term responded to new incidents and problems, leaving the criminal code a legal labyrinth.

The lesson hard learned from past efforts is how easily reforms can be dismantled by succeeding policy makers. Working with some of the states included here, Vera has seen that passing laws is just the beginning: sometimes it is even harder to implement reforms than to get them passed. We also have learned, however, things policy makers can do to make sure reforms last:

- > Early investments in capacity are crucial. Many courts and corrections agencies, for example, lack the expertise and software needed to project or track how reforms impact populations and budgets. Corrections agencies directed to introduce evidence-based practices need training to implement and monitor them. Adding this capacity early can protect changes over the long term.
- > The process of building support for reforms should not end with the governor's signature. Continuing work toward a broad understanding of what legislation achieves can create a bulwark against later attempts to undo it.
- > Policy makers should demand evaluations and impact analyses of implemented changes. If more offenses have become eligible for community-based sentences, for example, it is important to know of any trends in the incidence of those crimes. If felons can no longer serve their sentences to the last day in prison but now must be released with a period of supervision, policy makers must know if they do better, worse, or the same as those who "maxed out."

The progress in criminal justice reform over the past few years is heartening. But more must be done to ensure the clock is not turned back in a few years.



Peggy McGarry  
Director, Center on Sentencing & Corrections

# Introduction

The sustained economic downturn of the past four years has devastated families, communities, and government systems. Intense fiscal pressure has forced many state and local governments to examine their budgets to identify and quantify the cost effectiveness of specific expenditures. Corrections agencies have not been spared this scrutiny. Seeking better outcomes for their communities—less crime, lower rates of recidivism, and fewer victims—states are increasingly turning to data-driven decision making to reduce prison populations and investing the savings in other strategies to improve public safety.

Using research to guide criminal justice decision making is not new. In the 1960s, New York City instituted an early version of an actuarial risk-assessment process to make pretrial release decisions. A decade later, parole boards across the United States began using simple risk assessments to aid their release decisions. Similarly, the Wisconsin Risk Assessment System was widely adopted in the 1980s for probation and parole supervision, and evaluations demonstrating the ineffectiveness of boot camps led many states to abandon the practice by the early 1990s.

What is new, however, is that states are now using research to inform and drive comprehensive legislative reform. The embrace of “justice reinvestment”—a process introduced in Connecticut in 2003 that uses data analysis to reduce prison populations and redirects the dollars saved to strategies proven to decrease crime—is a good example.<sup>1</sup> Early in the current recession, many states focused only on achieving quick cost savings. Now state lawmakers are considering multiple, related policy changes that will have long-term fiscal impacts.

Using systemic data analysis of their prison populations, states have examined whether they are putting their prison beds to best use and whether some of those incarcerated can be managed safely and rehabilitated more effectively in the community, ultimately resulting in greater public safety. In 2011, Arkansas, Kentucky, Ohio, Oklahoma, North Carolina, and Vermont passed sweeping legislation aimed at reserving prison for serious offenders and making community corrections more effective by mandating the use of evidence-based practices. They joined other states that had already gone through a similar process, including—in addition to Connecticut—Colorado, Kansas, Rhode Island and Texas in 2007, Oregon in 2009, and South Carolina in 2010. Delaware, Florida, Idaho, Illinois, Louisiana, Maryland, Nebraska, and North Dakota have also passed bills in recent years that modify sentencing laws or support evidence-based practices in the criminal justice system.

This report offers lessons for policy makers interested in this comprehensive legislative approach. It begins with a discussion of conditions necessary for such change. This is followed by an account of specific, substantive policy changes of the past year. These include provisions to lower prison populations,

*States are now using research to inform and drive comprehensive legislative reform.*

expand evidence-based practices, improve supervision of high-risk offenders, reinvest cost savings into evidence-based programs, and evaluate outcomes of the legislation. The third and final section lays out key principles for successful implementation of comprehensive reforms.

## Laying the Groundwork

Comprehensive efforts to change policies rely on legislation that tackles a broad range of issues that impact prison and community supervision populations. Changes to sentencing laws, parole practices, calculations of earned time, and related changes aim to ensure that prison beds are reserved for dangerous offenders. Mandates that reallocate corrections dollars to proven community supervision policies and programs can lead to cost savings and improved public safety. Legislation also represents a commitment from lawmakers to maintain evidence-based approaches despite political or agency leadership changes. The common ingredients for successful legislative change are discussed in this section, as well as challenges states face as they work to reform their criminal justice systems.

### STAKEHOLDER INVOLVEMENT

Vera staff who provide technical assistance to states have found that a high-level policy body whose members represent the opinions and concerns of major stakeholders is a valuable prerequisite for comprehensive legislative and policy reform. Such a group—which should be empowered to review data analysis and vet policy proposals—should include bipartisan representation from all branches of government. This includes legislators who can share their constituents’ concerns and sponsor bills, key executive agency staff who will be responsible for implementing and measuring the effects of policy changes, and judges, defense attorneys, and prosecutors whose front-end decisions will play an important role in the new laws and policies having their intended impact.

In addition to a strong policy group, the policy change effort needs multiple champions who are influential in different communities. Unsuccessful and successful efforts alike prove the importance of multiple advocates, rather than the voice of a single visionary or vanguard.

Throughout the process, it is advisable to reach out to secure the views of those with a stake in these issues, including government and nongovernmental actors. Even after taking these steps, however, legislation can still fail because of disagreements among stakeholders.

In 2011, Kentucky’s General Assembly passed sweeping reform legislation: the Public Safety and Offender Accountability Act (House Bill 463).<sup>2</sup> The vote on the bill demonstrated its strong bipartisan support, passing the Senate



unanimously and the House by a vote of 96 to 1. The legislation, which aimed to ensure adequate prison space for violent and career criminals and to stop the revolving door for lower-risk, nonviolent offenders was based on policy recommendations of the Task Force on the Penal Code and Controlled Substances Act. The task force had only seven members, allowing for an intimate exchange of ideas. The group consisted of two legislators (one Democrat and one Republican), a former prosecutor, a former defense lawyer, the secretary of the Justice and Public Safety Cabinet (JPSC), a retired judge, and the state chief justice. Kentucky legislators passed the bill in a 30-day session.<sup>3</sup>

As JPSC Secretary J. Michael Brown explained, “Just as noteworthy as the bill itself is the manner in which it became law. House Bill 463 is the product of recommendations from an unprecedented bipartisan interbranch task force that included legislators, the chief justice, officials from the Justice Cabinet, prosecutors, and local officials. Anytime you can bring together that diverse a group and reach near unanimous support from the legislature, you know you’ve created something significant.”<sup>4</sup>

In contrast, Indiana did not succeed in passing justice reinvestment legislation in 2011. Its experience with the failed Senate Bill 561 highlights the limits of stakeholder groups in forging consensus. Indiana prosecutors convinced a Senate committee that any prison reform package needed to lengthen prison terms by requiring certain violent offenders to serve at least 85 percent of their sentence before release.<sup>5</sup> However, after senators added this provision to the bill, the governor threatened a veto on grounds that the provision would have undermined the legislation’s intended impact by increasing the state’s maximum-security population and possibly requiring a new prison to be built.<sup>6</sup> The bill was amended accordingly and died in the House.

## POLITICAL LEADERSHIP

Other recent examples reflect the forces driving lawmakers to take up systemic policy change, including the ongoing fiscal crisis; changes in political leadership; recent success passing smaller, similar criminal justice legislation; and specific corrections or criminal justice issues such as overcrowding or a lapse of time since the last systematic review.

Vermont’s most recent legislative revisions build on policy changes from previous years. After a near doubling of the state’s prison population between 1996 and 2006, Vermont’s 2008 justice reinvestment legislation slowed growth, and, over the past year, the population declined.<sup>7</sup> The policies established in response to the 2008 legislation allowed the state to close and reorganize several prisons, pilot screening and assessment processes to identify appropriate candidates for treatment and diversion programs, expand drug treatment programs, and increase the capacity of transitional housing and job training programs to reduce barriers to reentry. This reorganization set the stage for more policy changes in 2011’s War on Recidivism Act (Senate Bill 108).<sup>8</sup> The law continues efforts to reform the state’s correctional policies and





provides the Vermont Department of Corrections with some flexibility in how it deals with nonviolent offenders, especially people convicted of low-level drug-related crimes. Projections estimate that the new legislation will save the state \$1.6 million annually.

Although stability and continuity of political leadership can support broad-scale policy changes, in some cases changes in the political landscape can spur the overhaul of a criminal justice system. Despite a historic change in North Carolina's legislative leadership—with Republicans taking hold of the House and Senate in 2010 after continuous Democratic control since the late 1800s—the state was able to reach bipartisan interbranch support for new legislation. Governor Bev Perdue signed House Bill 642, the Justice Reinvestment Act of 2011, in June of 2011.

State Representative David Guice, a retired probation officer and sponsor of the bill, described the law as “a significant departure from business as usual,” and explained “In the last 10 years, North Carolina's corrections spending increased 68 percent to \$1.51 billion. Our prisons are over capacity and the prison population is projected to continue growing by at least 10 percent in the next decade. Such growth could cost upward of \$267 million in construction and operating expenses, all of which are avoided under this legislation.”<sup>9</sup>

## OUTSIDE ASSISTANCE

Although states may have the will and internal expertise to reform policy and legislation, an infusion of outside resources, perspectives, and experience can stimulate new energy and interest among policy makers and accelerate the process of change. Few states have the capacity to do the expedited and intensive data analysis needed to inform timely policy debates and decisions. An external research organization can dive into that work without ignoring other demands. Similarly, outside facilitators can manage focused, reasoned discussions of values, data interpretation, and the use of resources among stakeholders—debates that might be challenging for someone who has established relationships with the participants.

Because the advancement of justice reinvestment has been a policy goal of both the federal government and private funders, several states' efforts have benefited from outside assistance and expertise. The U.S. Department of Justice's Bureau of Justice Assistance (BJA) and the Pew Center on the States' Public Safety Performance Project (Pew) have offered support jointly and separately to many states in recent years. In 2011, for example, BJA and Pew funded justice reinvestment efforts in Alabama, Arkansas, Delaware, Georgia, Hawaii, Indiana, Kentucky, Louisiana, Missouri, North Carolina, Ohio, South Carolina, and Vermont. Funding for such work is often directed at research and technical assistance organizations as well as states. The Center on Sentencing and Corrections at the Vera Institute of Justice, the Council of State Governments' Justice Center, and Pew all have provided this technical assistance on a state-wide level.



External researchers and consultants bring their experience to bear on an examination of statewide criminal justice structures, equipping stakeholders with the information they need to make informed policy decisions.

## COMPREHENSIVE ANALYSIS

State leaders who seek to improve public safety for fewer corrections dollars should begin with a thorough review of the impact of existing policies on the prison population. This requires access to reliable data and analysis that can identify the laws and policies driving the prison population. The analysis should examine the state's prison population, the kinds of charges on which people are being held, their average length of stay by charge, and demographics. These should be compared to similar data over the past several years to indicate any trends over time.

It is also useful to forecast the population and future costs associated with maintaining the status quo, and to project how different policy options will affect the future population and costs—even if such projections invite risks (see sidebar).

Starting in 2009, Arkansas undertook a thorough analysis of its system, reviewing sentencing data and auditing corrections and community supervision policies for the purpose of making comprehensive policy changes. The analysis showed that as its prison population had more than doubled, the state was underutilizing probation, increasing sentence lengths for nonviolent offenses, departing substantially from its voluntary sentencing guidelines, and delaying transfer of inmates to parole.<sup>10</sup> The data analysis also revealed that sentencing and corrections policies and practices—and not increased crime—were the substantial contributing factors to Arkansas's prison population growth. These observations led policy makers to create a stronger community supervision system and make greater use of alternatives to incarceration.

North Carolina also took a comprehensive approach to examining its

## APPROPRIATE USE OF PRISON PROJECTIONS

Projections have risks: They can provide fodder for critics of these policies when future variances from the projections are used to call the legislation ineffective. In a conversation with Vera staff, Dr. James Austin, president of the JFA Institute, who has provided expert assistance to help state governments analyze their criminal justice data, shared advice for those who may be tempted to rely too heavily on the projected effects of proposed policy changes on costs and jail, prison, parole, or probation populations. "A projection simply reflects what would likely happen if a particular policy or law is implemented," he explains. Projections are based on a series of assumptions about factors likely to impact the population, such as the state's crime rate, prison and community supervision population, inmate length of stay, and other descriptive statistics such as recidivism rates and probation and parole revocations. These assumptions are subject to change for a variety of unforeseen reasons. As policies are reworked or other factors change, states must adjust the estimates and projections accordingly.

"But state governments need to keep in mind that a change to one policy, even if minor, may alter significant aspects of the projections." Austin says that projections are quite valuable, if taken in the correct context and used appropriately: "A projection should accurately show what the impact would be if no additional laws or policies are later implemented. But because the policy and legislative environments are constantly in flux, projections must constantly be updated." Austin points out that "inherent in this dynamic and ever-changing political process is the potential for misinformed critics to use any difference in projections a few years later to proclaim either that the projection was inaccurate or the legislation was not effective."



ARKANSAS

criminal justice data systemwide. Researchers analyzed the state’s prison, community corrections, crime, and recidivism data, including an examination of the prison population and factors driving prison growth. A working group subsequently determined that more than half of all admissions to prison were for probation revocations: In 2009, probation revocations accounted for 53 percent of prison admissions.<sup>11</sup> Responding to the data and to evidence about what would improve outcomes, policy makers expanded probation officers’ authority to impose a broader range of sanctions for violation behavior, allowed probation officers to impose house arrest with electronic monitoring without judicial approval in most cases, and limited the length of incarceration for those whose probation is revoked for technical violations rather than new crimes.

In addition, the analysis found that more than 85 percent of those released from prison received no supervision upon release. Research has demonstrated that individuals pose the greatest risk of reoffending in the days and weeks immediately following release.<sup>12</sup> State legislatures like North Carolina’s increasingly are requiring post-incarceration supervision to provide support in the community during this critical period, ultimately in the hope that it will reduce recidivism. North Carolina law now requires everyone convicted of a felony to receive at least nine months of post-release supervision.<sup>13</sup>

## 2011 Policy Change Legislation

Once the factors contributing to the size of the prison population and costs had been identified and analyzed, the states that undertook comprehensive reform developed policies to address these drivers. The legislative policies enacted in 2011 fall into four categories: (1) reducing the prison population safely; (2) requiring the use of evidence-based practices in corrections; (3) reinvesting cost savings in evidence-based practices in the community; and (4) requiring the evaluation of the policies’ impact on the prison population, costs, and public safety.

### POPULATION REDUCTION

In the 1970s, it was common for states to use an indeterminate sentencing structure, in which prison terms are expressed as a range of time. Under this structure, a parole board decides at what point within the range an offender should be released from prison. But in the 1980s and 1990s, states enacted truth-in-sentencing laws that required offenders to serve a substantial portion of their prison sentence. These laws greatly restricted or eliminated parole eligibility and “good time” credits.<sup>14</sup> Recently, however, the pendulum has been swinging back toward increasing credits for individuals in prison and on community supervision.

A number of new laws aim to address the immediate pressure of overcrowding and avoid looming construction costs by reducing the prison population directly and immediately. One common way to achieve this is to expand opportunities for individuals in state custody or under supervision to accrue good time or earned discharge credits. When applied to incarcerated populations, these measures focus on offenders believed to pose the lowest risk of committing new crimes, and returning them to the community more quickly. In the case of those under community supervision, states are looking to reward compliance with supervision conditions and program requirements by reducing the length of supervision, a step that can reduce an individual's exposure to possible revocation.

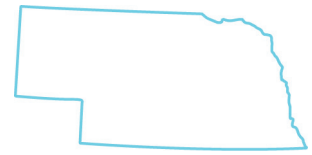
> **GOOD TIME CREDITS FOR INMATES:** Corrections administrators have long used “good time” as a way to encourage inmates’ compliance with disciplinary rules. Traditional good time laws apply automatically, shaving off time from people’s sentences for good behavior.<sup>15</sup> Studies examining this method of population reduction show that inmates released early do not have a significantly different rate of recidivism than those who serve full terms, and in some cases, they show reduced rates of reoffending.<sup>16</sup> Other policies that shorten the length of incarceration reward inmates for participating in certain educational or treatment programs. Recent legislation indicates that states are increasing good time and expanding credits for participation in programs that can help them succeed in the community.

In 2011, Nebraska passed a bill to increase good time credits for people in state prisons.<sup>17</sup> After a year of incarceration, inmates’ sentences will be reduced by three days per month (instead of only one day) for not committing certain disciplinary infractions. The law also extends good time to parolees, outlining how those on supervision can reduce those terms for good behavior.

A new law in North Dakota now allows inmates to earn a “performance-based sentence reduction” of up to five days per month for participating in treatment and educational programs and for good work performance.<sup>18</sup>

Also in 2011, the governor of Oklahoma signed Senate Bill 137, which adds associate’s and bachelor’s degrees to the list of educational programs for which inmates can receive earned time credits (“inmate conduct credits”).<sup>19</sup> Previously, inmates received credits only for completing a General Educational Development (GED) certification.

> **EARNED COMPLIANCE LAWS:** Similar to the way in which good time credits shorten incarceration lengths, “earned compliance” credits reduce the time on supervision for those on parole and probation who comply with the terms of their supervision and/or



NEBRASKA



NORTH DAKOTA



OKLAHOMA



TEXAS

who participate in treatment, vocational, or educational programs. Providing a way for those on supervision to reduce their supervision terms offers an incentive both to comply with conditions and, in some cases, to complete programming that will reduce their likelihood of reoffending.

In 2011, Kentucky expanded early termination of supervision to individuals under community supervision. Parolees can earn credits for complying with requirements and staying up-to-date on restitution payments. Probationers can also earn early termination of their supervision if they fulfill the terms of their case plan and comply with restitution payments, among other requirements.<sup>20</sup>

Texas now allows those on “community supervision” to earn time credits for completing treatment, education, and rehabilitation programs. The law also allows supervisees to earn time for fulfilling conditions of supervision such as paying court costs, fines, or restitution.<sup>21</sup>



COLORADO

> **MEDICAL PAROLE:** In an effort to save money and, at times, as a gesture of compassion, some states are expanding eligibility for early release for their elderly and sickest inmates. Medical release for this population promises cost savings at relatively low risk to public safety. Some states, therefore, are changing legislation and policies to allow early release of inmates who are so sick or disabled that they are considered incapable of committing new crimes.

In 2011, Colorado expanded eligibility for special needs parole, requiring the Department of Corrections to be proactive in identifying who is eligible for such parole.<sup>22</sup> Montana, Kentucky, Rhode Island, and Arkansas also expanded or streamlined medical parole eligibility, with Arkansas allowing the parole board to revoke parole if a released person’s condition improves.<sup>23</sup>

Not all states are following suit, however. Some policy makers are reluctant to consider medical parole laws because taxpayers want to know whether costs are simply being shifted to other state agencies, such as social service or health departments, or to the federal government through Medicare or Medicaid.<sup>24</sup> Others fear that a physical disability, even a severe one, may not keep an individual from committing a new offense.



MONTANA

### MANDATING EVIDENCE-BASED PRACTICES TO REDUCE RECIDIVISM

Decades of criminal justice research have identified policies and programs that are effective at reducing recidivism.<sup>25</sup> This research has led to the adoption of what are widely known as “evidence-based” practices. In the criminal justice system, these have been developed using the principles of risk, need, and responsivity, to determine who should be treated, what should be treated,



RHODE ISLAND

and how the treatment should be delivered for maximum risk reduction outcomes (see sidebar). These principles helped shape specific practices such as actuarial risk assessment, intrinsic motivation enhancement, and the application of targeted interventions.

Continuing a trend of the past several years, more states are investing in programs that result in less crime and fewer returns to prison among those released, whether or not the state is explicitly engaged in justice reinvestment efforts.<sup>26</sup> Changing to or expanding an evidence-based approach first requires implementing screening tools to ensure that the appropriate population is being targeted for interventions. Some legislation passed in 2011 explicitly requires the use or development of such tools. Some legislation prescribes specific interventions in prison or in the community (such as drug treatment or cognitive-behavioral treatment programs), while other states just require the use of evidence-based practices more generally.

Ohio's sweeping criminal justice reform package requires the use of evidence-based practices and the adoption of a common set of risk-assessment instruments.<sup>27</sup> These tools are intended to target community supervision and treatment resources to those who need them most.<sup>28</sup>

Kentucky's legislation focuses on increasing the use of evidence-based practices throughout its criminal justice system; it requires the Department of Corrections to allocate caseload and workload based on risk level, use evidence-based programs and measure their effectiveness, and provide appropriate training to supervision staff. To ensure that these practices are targeting the right offenders, the law mandates the use of a validated risk assessment instrument during the pretrial process, before sentencing, during prison intake, and again upon release to parole. Kentucky's embrace of risk assessment recognizes that it is "the engine that drives effective interventions with offenders."<sup>29</sup> As important to practitioners as it is to lawmakers, assessment helps identify those who are most at risk of reoffending, those who need intervention and those

## THE PRINCIPLES OF RISK, NEEDS, AND RESPONSIVITY

The risk principle: For the greatest impact on recidivism, the majority of services and interventions should be directed toward higher-risk individuals. "High-risk" refers to those people with a higher probability of reoffending; low-risk people are those with pro-social attributes and a low chance of reoffending. Research demonstrates that placing low-risk people in more intensive programs can often increase their failure rates, resulting in recidivism. This is because placing those who are low-risk in intensive programming or supervision can interrupt support or self-correcting behaviors that are already in place.

The need principle: Correctional treatment should focus on criminogenic factors—those needs that are directly linked to crime-producing behavior. Extensive research on recidivism among the criminal population has identified a set of factors that are most associated with criminal behavior.

The responsivity principle: Treatment programs should be delivered in a culturally appropriate and gender-specific manner, consistent with the ability and learning style of the individual. For example, for some who may have learning disorders and serious mental illnesses, both the treatment modality and the treatment provider must be sensitive and responsive to those disabilities. Some may thrive in an informal group setting, while others need individualized or structured treatment environments. In addition, interventions should be based on behavioral strategies, including cognitive-behavioral techniques, skill building, or social learning. Individual "counseling" based on a psychotherapeutic model is seldom useful for dealing with the criminogenic needs of this population.

who do not, and identifies needs that can be targeted for change, among other things.<sup>30</sup> All of this information can help guide resource allocation decisions and improve public safety outcomes.

North Carolina’s legislation also focuses on an increased use of evidence-based practices. Section 6 of House Bill 642, the “Treatment for Effective Community Supervision Act of 2011,” states that the bill is intended to “support the use of evidence-based practices to reduce recidivism and to promote coordination between State and community-based corrections programs.”<sup>31</sup> The bill requires that the Department of Corrections develop minimum program standards, policies, and rules for community-based corrections programs; consult with the Department of Health and Human Services regarding the oversight and evaluation of substance abuse service providers; and develop and publish a recidivism reduction plan for the state. The legislation also prioritizes the delivery of services to people convicted of felonies who are high-risk and moderate- to high-need.

### SUPERVISION OF HIGH-RISK PROBATIONERS

When states have analyzed their prison populations, many have found that large numbers of people admitted to their institutions are there for violating the conditions of their probation or parole. In searching for ways to reduce those revocations and improve the outcomes of supervision, states have implemented systems of graduated sanctions and interventions to respond

FIGURE: KEY TRENDS IN JUSTICE-REFORM LEGISLATION, 2011

State	REDUCED TIME SERVED IN PRISON OR ON COMMUNITY SUPERVISION			EXPANDED MEDICAL PAROLE	MANDATED RISK AND NEEDS ASSESSMENT	INCREASED OPTIONS FOR GRADUATED RESPONSES	EXPANDED COMMUNITY CORRECTIONS	REQUIRED EVALUATION OF POLICY CHANGES
	Probation	Parole	Prison				ENSURED REINVESTMENT	
Arkansas	•	•		•	•	•	•	•
Colorado				•	•			
Illinois						•		
Kentucky		•	•	•	•	•	•	•
Maryland						•		
Montana				•				
New Hampshire					•			
Nebraska			•					
North Carolina			•		•	•	•	•
North Dakota			•					
Ohio					•		•	•
Oklahoma			•		•		•	
Rhode Island				•				
Texas	•		•					
Vermont								•

to such behavior that offer probation and parole officers a guide for responding swiftly and appropriately to each technical violation. Responses vary but can include increased reporting, additional drug or alcohol testing, curfew, or “shock nights” in jail. Research indicates that swift, certain, and proportionate sanctions for these technical violations can improve compliance and reduce the number of violators sent to jail or prison.

One program that uses swift and certain sanctions is Hawaii’s Opportunity Probation with Enforcement (HOPE). Established in 2004, HOPE has made a significant dent in the high failure rate of people on probation in Hawaii. One of the challenges facing policy makers nationwide is how to help more people finish probation successfully, given that almost 40 percent fail to complete their terms, with many ending up in prison at greater costs to taxpayers.<sup>32</sup> HOPE targets high-risk probationers, applying swift, certain, and consistent sanctions, appropriate to the severity of the behavior, in response to violations of the conditions of their sentence. After three months in the program, participants’ rate of missed appointments and failed drug tests decreased by 75 percent, with the reduction peaking at 95 percent.<sup>33</sup> As a result, many states are looking to replicate the program and its outcomes.

Without adopting the HOPE model in every respect, some states have passed legislation that incorporates many of the same elements—including swift, certain, and consistent sanctions—into their laws. Illinois passed legislation requiring the chief judge of each circuit to adopt a system of structured intermediate sanctions for violations of the terms and conditions of probation.<sup>34</sup> Likewise, Maryland, Kentucky, and Arkansas passed legislation creating pilot programs based on the HOPE model.<sup>35</sup> Alabama also attempted to codify standards for creation of programs modeled on the HOPE program, but the legislation was not passed.

Eager to replicate Hawaii’s results, Alaska implemented the HOPE model as a pilot project in 2010, beginning with 29 medium- to high-risk probationers and expanding the number to 80. Although Alaska has a criminal justice system vastly different from Hawaii’s, the pilot was able to replicate core components of the model, including immediate consequences for failure to attend a probation office visit, a positive urinalysis test result or failure to show for a test, and prompt arrest of noncompliant probationers. The model produced positive results, but presented challenges for evaluation. As Deputy Commissioner Carmen Gutierrez of the Alaska Department of Corrections cautioned, to evaluate the impact of such a pilot, a state would need an electronic data collection infrastructure; a limited number of clearly defined, unambiguous outcome measures; and capable staff to record relevant information.<sup>36</sup>

## EXPANDED SUPERVISION PROGRAMS

The community corrections system supervises individuals who are under the authority of the criminal justice system but are not incarcerated. Community corrections staff oversee those on pretrial release, sentenced to probation,



ILLINOIS



MARYLAND

released on parole, or under post-incarceration supervision. In addition to routine supervision, community corrections agencies may address criminogenic factors by providing drug and alcohol treatment, educational programming, vocational training, and sex offender and domestic violence treatment. Community corrections programs typically include other programs that focus on punishment and incapacitation: electronic monitoring, home detention, community service, and day reporting centers.

States passing comprehensive legislation in 2011 expanded community corrections programs with the goals of both fiscal austerity and lowering recidivism rates. Oklahoma expanded eligibility for GPS monitoring and community sentencing.<sup>37</sup> North Carolina may now require an offender sentenced to community punishment to comply with a range of conditions, including community service, drug treatment, house arrest with electronic monitoring, a curfew, wearing a GPS tracking device, and participating in educational or vocational programs.<sup>38</sup>

## REINVESTMENT

Justice reinvestment legislation may identify the sources, amount, and targets of dollars to be reinvested. State legislation from 2011 provides examples of mechanisms for identifying reinvestment funds: requiring or permitting future averted costs to be reinvested into evidence-based programs and other criminal justice needs, and creating performance incentive funding programs.

Legislation that requires reinvestment dollars to be spent on evidence-based practices sends a clear message about how the legislature expects the business of corrections to be conducted. It also provides support for budget requests intended to further the legislation's goals. It does not, however, provide an absolute buffer against future economic downturns or changing political priorities.

By contrast, some states' legislation requires that cost savings be calculated for each substantive policy change and that reinvestment be tied to those specific savings. Kentucky's legislation requires the Department of Corrections to calculate the cost savings from portions of the new law, and it directs savings toward improving community corrections. The legislation also calls for reinvestment in expanded treatment programs and probation and parole services, as well as additional pretrial services and drug court specialists through the administrative office of the courts.<sup>39</sup>

Another type of reinvestment provides funding to local jurisdictions or agencies that can demonstrate that they have used evidence-based practices to reduce returns to prison. Performance-based incentive programs invest funds in community corrections programs and treatment efforts to stop the cycle of re-offending and avoid future prison costs. Arkansas's legislation, for example, establishes a funding program that provides onetime grants to five pilot jurisdictions to assist them in reducing their net burden on institutional corrections. Every year, grant recipients will receive additional funds equal to one half of the costs averted by reducing the number of people sent to the

*Legislation that requires reinvestment dollars to be spent on evidence-based practices sends a clear message about how the legislature expects the business of corrections to be conducted.*



Department of Correction.<sup>40</sup>

Although technically not reinvestment, another method of securing funds for recidivism reduction efforts is to institute or increase existing fees for treatment or community supervision. Arkansas's legislation directs the revenue from new and increased fees to fund "best practices," for example.<sup>41</sup>

Some states have not designated funds for reinvestment but have concentrated on reshaping their criminal justice systems' programs and resources, reallocating existing resources, streamlining processes, and achieving better criminal justice outcomes without new expenditures. Ohio's House Bill 86 reflects this approach. After analyzing the state's criminal justice population drivers, state officials saw that property and drug offenders in Ohio were serving repeated short prison sentences followed by releases to the community with no supervision.<sup>42</sup> To address the fragmented probation system—with more than 190 agencies supervising individuals—the new laws set minimum standards for any entity that oversees probationers.<sup>43</sup> The legislation also requires the Ohio Department of Rehabilitation and Correction (ODRC) to adopt standards specifying which categories of offenders are appropriate for community-based corrections facilities and programs. Because many of these facilities and programs are operated by independent organizations, the new measures give the ODRC the ability to set eligibility criteria to maximize effectiveness. ODRC can, for example, prevent the placement of low-risk offenders in expensive programs developed for high-risk offenders.<sup>44</sup>

Reinvestment mechanisms are designed to fund much-needed reforms in lean budget years. Legislation can direct cost savings back to the agency or program that avoided expenditures. However, as budgets continue to decline, the legislature can always reconsider reinvestments, threatening their sustainability over time. Texas provides a recent example. Even with demonstrated success, Texas' proposed 2012 budget threatens to cut the funding made pursuant to its 2007 reinvestment in probation and treatment programming. "Treatment Alternatives to Incarceration" would be cut by 90 percent.<sup>45</sup> In addition, reinvestment mechanisms in themselves do not ensure that community corrections or programming has adequate funding to protect public safety.



## EVALUATION

Recognizing the importance of demonstrating whether changes are working as intended, many states have established mechanisms to evaluate their policies' impact on crime and/or recidivism as well as on cost savings. These evaluations can also provide information policy makers need in order to determine how much additional money can be invested in evidence-based, recidivism-reduction programs.

Vermont's legislature appropriated funding to the Vermont Center for Justice Research to conduct an outcome assessment of the state's two work camps. In addition, the legislation directs the center to conduct a meta-analysis to evaluate the ways in which innovative programs and initiatives, best

practices, and research on program assessment can inform Vermont's approach to swift and sure sanctions and effective interventions. This portion of the legislation differs from other states' legislation because it directs a literature and practice review prior to adoption of a particular set of policies.

A new law in North Carolina requires the Department of Corrections' Division of Community Corrections to develop and publish a plan to reduce recidivism. The plan is required to describe steps the department will take to meet the goal of reducing community supervision revocations by 20 percent from the baseline rate in fiscal year 2009-2010. One component of the plan is to identify programs shown by research to reduce recidivism among individuals identified as high-risk and high needs. The plan must also examine the programs' cost-effectiveness and explain how the state will pay to expand the most cost-effective ones statewide. Subsequent annual reports to the legislature must describe the department's progress implementing its plan.

## Principles for Successful Implementation

Despite all that has been accomplished, much work remains if these states' efforts are to fulfill their promise. To ensure that approved legislation results in better outcomes for communities, policy makers should keep in mind the following principles, which Vera staff have learned from their experiences working in states. Recommendations that require significant investment of financial resources may not be immediately attainable in the current climate. Some states have kick-started the process of change with smaller, initial investments in the hope that future savings can be reinvested to add momentum. While it is important to aspire to these principles, it must also be acknowledged that systemic change can be slow.

### DATA IS PARAMOUNT

Data allows policy makers to base their decisions on evidence and not on anecdotal information or by reacting to critical incidents.

To make sound data-driven decisions, policy makers must be able to rely on the information and analysis provided to them. Too often, however, the information systems available in corrections agencies, the courts, and other key organizations were designed for day-to-day operational use. They capture information needed to manage cases on a docket or the population of a prison, to generate required reports, and to meet federal, state, and local requirements. The agencies created their systems to serve their own needs – rarely to gather data for use in cross-system analysis. Policy makers in the past rarely asked analytic questions of the data stored in these systems, so the quality of the

data and the ease with which it could be analyzed were not always prioritized.

For the process described here, complete and accurate data that can be linked across agencies for analysis is vital. Facing the difficulties described above, states have created data work groups with staff from multiple agencies to identify data sources and solve problems with their quality and use. Kentucky legislators recognized the limitations of the state's corrections data infrastructure and made a onetime appropriation to update the Kentucky Offender Management System. The enhanced system can track offender program participation and program effectiveness, among other information.<sup>46</sup>

States wishing to use a data-driven approach to decision-making must develop the means and capacity within their relevant agencies to gather quality data, to link it across agencies, and to use it to answer key policy questions quickly and reliably. Even when budgets are tight, it is necessary to invest resources in the skilled staff and hardware and software required to have this capacity going forward. This capacity is vital for policy development, but it is just as valuable to individual agencies for internal use, allowing them to spot problems and look for causes, examine trends, perform population projections, assess the capacity of programs to meet client needs, target services to offenders, and evaluate programs and policies.

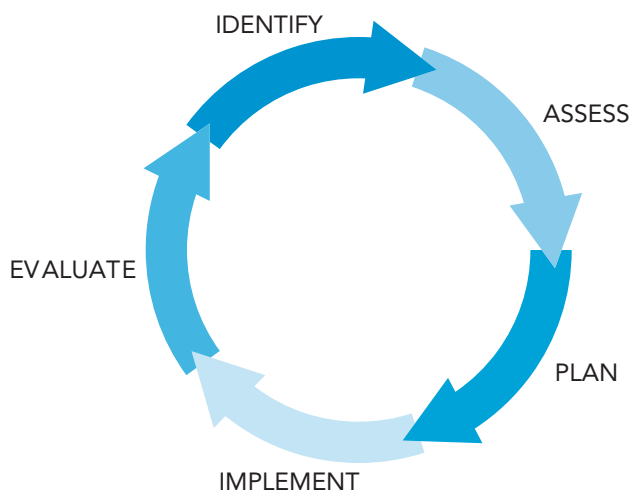
*Because strategic planning is cyclical, it is crucial to designate an entity to monitor progress on implementation.*

## STRATEGIC PLANNING IS A CYCLICAL PROCESS

The strategic planning cycle provides a framework for justice-reform efforts. The cycle is as follows: (1) identify the problem, (2) assess current research on alternative policies or interventions, (3) plan for implementing selected strategies, (4) implement the chosen strategies, and (5) evaluate implementation by monitoring and measuring performance.<sup>47</sup> As states monitor implementation, they will likely identify other issues to assess and address, beginning the cycle again. As a suggestion of what is possible with sustained planning, Vermont's comprehensive policy reform efforts culminated in the passage of its 2008 justice reinvestment legislation; the state followed up with additional policy

### STRATEGIC PLANNING CYCLE FOR JUSTICE REFORM EFFORTS

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changes, redoubling its efforts with the War on Recidivism Act of 2011.

Because strategic planning is cyclical, it is crucial to designate an entity to monitor progress on implementation. This may be the same group originally constituted for policy development or it may include additional criminal justice stakeholders affected by changes in policy. The group can determine whether laws or policies should be revised to address unintended consequences of the policy change. Finally, maintaining the bipartisanship of this group can help ensure that changes in the political landscape will not undermine or disrupt new programs and policies.

## INVEST AND REINVEST IN EVIDENCE-BASED PRACTICES

Although evidence-based practices cost money, investing in them allows agencies to create cost savings by reducing recidivism. Even if legislation does not mandate the use of such practices, it is important that jurisdictions dedicate sufficient resources to improving supervision practices and building agencies' capacity to use treatment and other programs shown to decrease crime.

If a state's legislation does not make funds available by mandating reinvestment, policy makers and other stakeholders should take steps to ensure that policy changes are funded through the normal budget process. Agencies will likely need to hire additional personnel, purchase equipment, train employees, or purchase or develop software to implement policy changes. The tough economic environment may prove fatal for these efforts, but without adequate resources an agency may not be able to adhere to an evidence-based model, potentially undermining its effectiveness. As described above, states have approached the funding question in a variety of ways—providing incentives for reducing parole or probation revocations, tying reinvestment funding to cost savings estimates, or instituting or raising fees. Additionally, states may consider phasing in reforms to ensure savings are available for reinvestment.

## PROVIDE AGENCIES WITH CAPACITY FOR IMPLEMENTATION

Expanding the use of community supervision will improve public safety only if responsible agencies are prepared and equipped to manage greater numbers of offenders. In some cases, the changes mandated by these legislative packages will require major shifts in the policies and practices of the state's criminal justice agencies. Moving toward or expanding evidence-based practices will require resources for planning, staff training, offender and program assessments, and more effective interventions. There is a risk inherent in shifting people from prison or jail into the community—if supervision agencies do not have adequate resources and time for planning and training staff, the policies may fail. The offenders may be at greater risk of committing new offenses and may end up incarcerated anyway. Community corrections agencies that incorporate evidence-based practices, secure adequate resources for staff and

services, and have the support of courts and other policy makers can potentially achieve impressive results. They can successfully manage offenders at lower costs than incarcerating them, and staff may better prepare those they supervise by providing support and guidance in their communities. But they cannot succeed without appropriate capacity.

## BUILD COMMUNITY PARTNERSHIPS

Offenders have a broad range of needs, and corrections agencies cannot by themselves provide for them all. Collaborating with community organizations and agencies from other government sectors—housing, health, mental health, education, and labor—can help make the best use of available resources. Ideally, as states are implementing legislation, corrections should convene treatment and service providers, health and housing agencies, and others who can partner with corrections agencies. Such collaborations can help corrections agencies meet their legislative mandates and deliver better outcomes for the people they supervise.

To implement new policies, government and community-based providers may need support and training on data collection, performance measurement, and evidence-based practices. An implementation oversight group or a centralized agency may be able to guide the state to help build its network of community partners, further stretching agency resources and assisting people in their transition back to the community.

## Conclusion

Throughout the United States, the use of research to drive systemic criminal justice change is gaining momentum. Legislatures are crafting bold, comprehensive policy change packages that seemed out of the question just a few years ago. There are common threads across the states that have achieved change: multi-disciplinary, bi-partisan leadership; the availability of data analysis and information; and the political will on all fronts to make it happen.

For policy makers to realize the promises of evidence-based policy changes, however, new laws must take into account the challenges that come with implementation, including the need for adequate resources. States that tie new policies to funding sources and build systematic policy or program evaluation into their legislation will likely see the greatest fiscal savings and improvements in public safety. The legislation and policies discussed in this publication reflect recent efforts to change criminal justice policy at the state level. It is the authors' hope that it can serve as a starting point for other states planning their own criminal justice policy changes.

## ENDNOTES

- 1 For a historical background on justice reinvestment, see Todd R. Clear, "A Private-Sector, Incentives-Based Model for Justice Reinvestment," *Criminology & Public Policy* 10, no. 3 (2011), 585-91. Clear writes that justice reinvestment is not easily defined. This report focuses on justice reinvestment policies at the state level, although it should be noted that local jurisdictions are also using similar strategies.
- 2 Kentucky House Bill 463 (2011).
- 3 The Kentucky General Assembly convenes its regular session on the first Tuesday after the first Monday in January. The session lasts for 60 days in even-numbered years and for 30 days in odd-numbered years.
- 4 E-mail from Secretary Brown's office to Lauren-Brooke Eisen on September 21, 2011.
- 5 Heather Gillers, "Daniels: I'll Veto Amended Prison Bill." *The Indianapolis Star*, A1, March 23, 2011.
- 6 Ibid.
- 7 Vermont Senate Bill 108, War on Recidivism Act (2011).
- 8 Ibid.
- 9 E-mail to Lauren-Brooke Eisen on September 21, 2011.
- 10 *Arkansas's 2011 Public Safety Reform Legislation to Reduce Recidivism and Curtail Prison Growth*, (Washington, DC: Pew Center on the States, July 2011).
- 11 Council of State Governments Justice Center, *Justice Reinvestment in North Carolina: Analysis and Policy Framework to Reduce Spending on Corrections and Reinvest in Strategies to Increase Public Safety* (New York: Council of State Governments Justice Center, 2011). Citing North Carolina Department of Correction Annual Statistical Reports and Department of Correction data.
- 12 Amy L. Solomon et al., *Putting Public Safety First: 13 Parole Supervision Strategies to Enhance Reentry Outcomes* (Washington: Urban Institute, 2008), 14.
- 13 *Justice Reinvestment in North Carolina: How North Carolina Is Reducing Corrections Costs and Recidivism* (Council of State Government's Justice Center, 2011).
- 14 Paula M. Ditton & Doris James Wilson, "Bureau of Justice Statistics Special Report Truth in Sentencing in State Prisons." January 1999.
- 15 Alison Lawrence, *Cutting Corrections Costs: Earned Time Policies for State Prisoners* (Denver: National Conference of State Legislatures, 2009). Todd Edwards, *Correctional Good Time Credits in Southern States* (Atlanta: Council of State Governments, 2001) available at <http://www.slcatlanta.org/Publications/HSPS/GoodTime.pdf>. States use different names for the reduction in sentences based on compliance with certain conditions. Here the term "earned time" refers to credits prison inmates can receive for participating in certain programs and classes. Earned credit compliance typically refers to reductions in probation or parole terms.
- 16 Carolina Guzman, Barry Krisberg, and Chris Tsukida, *Accelerated Release: A Literature Review* (Oakland: National Council on Crime and Delinquency, 2008).
- 17 Nebraska Legislative Bill 191 (2011).
- 18 North Dakota Senate Bill 2141 (2011).
- 19 Oklahoma Senate Bill 137 (2011).
- 20 Kentucky House Bill 463.
- 21 Texas House Bill 1205 (2011).
- 22 Colorado Senate Bill 241 (2011).
- 23 Montana House Bill 141 (2011); Kentucky House Bill 463; Rhode Island House Bill 5757 (2011); Arkansas Senate Bill 750 (2011).
- 24 Tina Chiu, *It's About Time: Aging Prisoners, Increasing Costs, and Geriatric Release*. New York: Vera Institute of Justice, 2010.
- 25 Roger Przybylski, *What Works: Effective Recidivism Reduction and Risk-Focused Prevention Programs*, 11-12 (RKC Group: 2008).
- 26 Adrienne Austin, *Criminal Justice Trends: Key Legislative Changes in Sentencing Policy, 2001-2010*. New York: Vera Institute of Justice, September 2010.
- 27 Ohio House Bill 86 (2011).
- 28 Council of State Governments Justice Center, *Justice Reinvestment in Ohio: Policy Framework to Reduce Corrections Spending and Reinvest Savings in Strategies that Can Reduce Crime* (New York: Council of State Governments Justice Center, 2011).
- 29 Edward J. Latessa & Brian Lovins, "The Role of Offender Risk Assessment: A Policy Maker Guide," *Victims and Offenders*, Vol. 5, No. 3, (Sept. 2010), 204.
- 30 Ibid.
- 31 North Carolina House Bill 642 § 6 (2011).
- 32 The Vera Institute of Justice: *More Than the Sum of Its Parts: Why Hawaii's Opportunity Probation with Enforcement (HOPE) Program Works*. New York: Vera Institute of Justice, February 2010.
- 33 Richard Kiyabu, Joachim Steinberg & Minako Yoshida, *Hawaii's Opportunity Probation with Enforcement (HOPE): An Implementation Analysis* (May 2010) Citing: Research and Statistics Office, Department of the Attorney General, State of Hawaii, 2009.
- 34 Illinois House Bill 2853 (2011).
- 35 Maryland Senate Bill 801 (2011); Kentucky House Bill 463. (2011); Arkansas Senate Bill 750 (2011).
- 36 Telephone interview with Lauren-Brooke Eisen on September 16, 2011 as well as e-mails sent back on forth on September 16, 2011.
- 37 Oklahoma House Bill 2131 (2011).

- 38 North Carolina House Bill 642 (2011).
- 39 Kentucky House Bill 463 § 68(5)(a) (2011).
- 40 Arkansas Senate Bill 750 §117 (2011).
- 41 Arkansas Senate Bill 750 §124 (2011).
- 42 Council of State Governments Justice Center, *Justice Reinvestment in Ohio: Policy Framework to Reduce Corrections Spending and Reinvest Savings in Strategies that Can Reduce Crime* (New York: Council of State Governments Justice Center, 2011).
- 43 \$10 million was included in the budget for probation incentive funding which will run competitive grants that the county probation offices can compete for in January 2012.
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- 45 See Grits for Breakfast Blog, "Texas Corrections Budget at Second Glance," January 9, 2011, <http://gritsforbreakfast.blogspot.com/2011/01/texas-corrections-budget-at-second.html>.
- 46 Kentucky HB 463 §109 (2011).
- 47 Peggy McGarry and Becki Ney, *Getting It Right: Collaborative Problem Solving for Criminal Justice* (Silver Spring, MD: Center for Effective Public Policy, 2006); Megan Guevara et al., *Implementing Evidence-Based Policy and Practice in Community Corrections, 2nd ed.* (Washington, DC: Crime and Justice Institute, 2009).

# Appendix

This appendix highlights laws passed by states in 2011 that aim to more effectively target the use of incarceration and justice resources.

## ENSURING REINVESTMENT

### ARKANSAS SENATE BILL 750 (2011)

- > Creates an incentive program to encourage state and local community supervision agencies to implement practices that result in fewer commitments to the Department of Correction (DOC).
- > Establishes the “Best Practices Fund” through increased supervision fees to be used to establish and maintain programs and services that implement practices proven to reduce recidivism by any agency whose program criteria meets DOC standards.

### KENTUCKY HOUSE BILL 463 (2011)

- > Provides that, once the cost savings from the bill are calculated, the legislature will fund expanded treatment programs, probation and parole services, and additional pretrial services and drug court case specialists.

### NORTH CAROLINA HOUSE BILL 642 (2011)

- > Reinvests \$4 million annually to expand community-based treatment for people on supervision. This represents a 40 percent increase over the current \$9 million.

### OHIO HOUSE BILL 86 (2011)

- > Requires the Ohio Department of Rehabilitation and Correction to establish and administer a probation improvement grant and a probation incentive grant for probation departments that supervise felony offenders. The purpose of the grants is to improve supervision services by encouraging adoption of research-driven practices and rewarding reduced revocations.

## EXPANDING COMMUNITY CORRECTIONS

### NORTH CAROLINA HOUSE BILL 642 (2011)

- > Grants the Division of Community Corrections discretion to impose a variety of conditions, such as participating in vocational or educational programs; complying with a curfew; and submitting to house arrest with electronic monitoring without judicial approval in most cases.

### OKLAHOMA HOUSE BILL 2131 (2011)

- > Expands eligibility for Global Positioning System (GPS) monitoring and community sentencing.

## EXPANDING MEDICAL PAROLE

### ARKANSAS SENATE BILL 750 (2011)

- > Expands the criteria for medical parole to include inmates who have a terminal illness and a life expectancy of two years or less.

### COLORADO SENATE BILL 241 (2011)

- > Expands eligibility for special needs parole by allowing some inmates convicted of violent offenses to be considered.

### KENTUCKY HOUSE BILL 463 (2011)

- > Clarifies process for recommending medical parole by requiring the medical director of the Department of Corrections (instead of the warden) to make recommendation regarding medical parole.
- > Requires the parole board to review medical parole cases if a majority of its members consent to the review. Crime victims must be provided an opportunity for a hearing if the prisoner has been convicted of a Class A, Class B, or Class C felony involving a violent or sex offense.

### MONTANA HOUSE BILL 141 (2011)

- > Expands eligibility for medical parole to any inmate not under sentence of death or life imprisonment without possibility of release; is unlikely to pose a detriment to the person, victim, or community; and has a medical condition requiring extensive medical attention or that will likely cause death within six months.

### RHODE ISLAND HOUSE BILL 5757 (2011)

- > Increases eligibility for medical parole to include inmates who are “severely ill,” i.e., significant and permanent or chronic physical and/or mental condition that requires extensive treatment with little to no possibility of recovery.



## INCREASING OPTIONS FOR MEASURED RESPONSES TO VIOLATIONS

### ARKANSAS SENATE BILL 750 (2011)

- > Grants the Department of Community Corrections administrative authority to sanction probationers for violating conditions of supervision without court approval.
- > Requires the Department of Community Corrections to develop and implement a graduated sanctioning grid that helps probation officers respond to violations using swift, certain, and proportional sanctions.

### ILLINOIS HOUSE BILL 2853 (2011)

- > Mandates the chief judge of each circuit to adopt a system of structured, intermediate sanctions for violations of probation, conditional discharge, or disposition of supervision.

### KENTUCKY HOUSE BILL 463 (2011)

- > Requires the Kentucky Department of Corrections to create administrative regulations requiring supervision and treatment in accordance with evidence-based practices, and implementation of swift, certain, and proportionate sanctions for noncompliant behaviors.
- > Authorizes the Department of Corrections to partner with courts to implement a 12-month pilot project based on Hawaii's Opportunity Probation with Enforcement (HOPE) model.

### MARYLAND SENATE BILL 801 (2011)

- > Requires the Department of Public Safety and Correctional Services to establish a pilot program in two counties that will implement a system of graduated administrative sanctions for parole violations.

### NORTH CAROLINA HOUSE BILL 642 (2011)

- > Expands the powers of probation officers to respond to probation violations swiftly by putting the offender in jail without a court hearing for up to three days.

## MANDATING RISK AND NEEDS ASSESSMENT

### ARKANSAS SENATE BILL 750 (2011)

- > Directs the Department of Community Correction to con-

duct risk-needs assessment at intake; to use the results to set supervision conditions, assign programming, and supervise probationers; and to assess inmates eligible for release to assist parole board decision making.

### COLORADO HOUSE BILL 1180 (2011)

- > Requires each presentence report to include the results of an actuarial assessment of risks and needs to assist the court in determining a defendant's suitability for a sentence other than incarceration.

### KENTUCKY HOUSE BILL 463 (2011)

- > Requires the use of a risk/needs assessment at initial court appearance to inform the pretrial release decision, during intake to probation or parole supervision, and upon eligibility for parole release.

### NEW HAMPSHIRE SENATE BILL 500 (2010)

- > Mandates the use of risk/needs assessments to inform decisions about the length of active supervision of all offenders on probation and parole.

### NORTH CAROLINA HOUSE BILL 642 (2011)

- > Requires the Department of Correction to use a validated instrument to assess probationers for risk and to place them in a supervision level based on risk and needs.

### OHIO HOUSE BILL 86 (2011)

- > Requires the Department of Rehabilitation and Correction to select a "single validated risk assessment tool" for adult offenders to be used by courts, probation departments, correctional facilities, the Adult Parole Authority, and the Parole Board.

### OKLAHOMA HOUSE BILL 2131 (2011)

- > Requires use of a risk assessment tool by local community corrections officers before an offender is sentenced.

## REDUCING TIME SERVED IN PRISON OR ON COMMUNITY SUPERVISION

### ARKANSAS SENATE BILL 750 (2011)

- > Authorizes reductions of probation or parole supervision terms of 30 days per month for each month of compliance with court-ordered conditions.

### KENTUCKY HOUSE BILL 463 (2011)

- > Establishes a compliance credit program that can result

in early discharge from supervision if parolees comply with requirements, have no new arrests, and make restitution payments; also provides a 90-day good time credit for inmates who complete a civics education program.

#### **NEBRASKA LEGISLATIVE BILL 191 (2011)**

- > Allows prison inmates who have served at least one year to earn sentence reductions of three additional days of good time each month by avoiding disciplinary sanctions and participating in programs.

#### **NORTH CAROLINA HOUSE BILL 642 (2011)**

- > Establishes "Advanced Supervised Release" and authorizes the Department of Corrections to create certain risk reduction incentives consisting of treatment, education, and rehabilitative programs. Certain incarcerated felons will be eligible for these incentives and will be released from prison earlier and placed on post-release supervision.

#### **NORTH DAKOTA SENATE BILL 2141 (2011)**

- > Reduces sentences based on performance criteria, including good work performance and participation in treatment and education programs.

#### **OKLAHOMA SENATE BILL 137 (2011)**

- > Creates program participation credits that reduce the terms of imprisonment for inmates in state correctional institutions for participation in certain programs, work, and educational assignments.

#### **TEXAS HOUSE BILL 1205 (2011)**

- > Allows those on probation to earn credit incentives for the completion of treatment and programming. Receipt of credit toward probationer's sentence is contingent upon the full satisfaction of victim restitution and judicial consent.

#### **TEXAS HOUSE BILL 2649 (2011)**

- > Expands earned credit programs for individuals in prison to up to 20 percent of their sentences for completing treatment, educational, and vocational programs.

use of evidence-based practices and the outcomes of the performance incentive funding program to the Board of Corrections. In turn, the board must report on the impact of the performance incentive funding program.

#### **KENTUCKY HOUSE BILL 463 (2011)**

- > Establishes requirements for the Department of Corrections to report on implementation of evidence-based practices and the mandatory reentry supervision program, and for the chief justice to report on state-funded crime reduction and recidivism reduction efforts.

#### **NORTH CAROLINA HOUSE BILL 642 (2011)**

- > Requires the Judicial Department, through the North Carolina Sentencing and Policy Advisory Commission, and the Department of Correction to conduct joint evaluation of the 2011 law's implementation. The commission is to present the first evaluation report to a joint legislative oversight body and other, select legislative leaders by April 15, 2012, followed by annual reports thereafter.

#### **OHIO HOUSE BILL 86 (2011)**

- > Requires the Department of Rehabilitation and Correction to evaluate the earned credit program and to determine the effectiveness of locally operated community corrections programs.

#### **VERMONT SENATE BILL 108 (2011)**

- > Requires the Department of Corrections to review the administrative burden placed on field officers; to reduce the paperwork handled by the officers by 50 percent as of July 1, 2012; and to report to the joint committee on corrections oversight regarding its progress.

## **REQUIRING EVALUATION OF POLICY CHANGES**

#### **ARKANSAS SENATE BILL 750 (2011)**

- > Requires the Department of Community Correction to provide, among other things, data and information on the

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