Winnable criminal justice reforms

A Prison Policy Initiative report on promising state reform issues for 2025

PRISON POLICY INITIATIVE
https://www.prisonpolicy.org/

CONTENTS

Expand alternatives to criminal legal system responses to social problems 1
Protect the presumption of innocence so people receive a fair shot at justice 5
Decrease the length of prison sentences and provide pathways for all people to exit prison 6
Treat people humanely during incarceration 8
Treat people on community supervision fairly, and keep them thriving in the community 11
Set people up to succeed when they exit prisons and jails 13
Give incarcerated and formerly incarcerated people political representation and voice 15
Reduce spending on the criminal legal system and increase investment in communities 17
Tips to fight back against the return of 1990's style tough-on-crime measures 19

EXPAND ALTERNATIVES TO CRIMINAL LEGAL SYSTEM RESPONSES TO SOCIAL PROBLEMS

Fund and implement alternative response systems for emergency calls involving people who have disabilities or who are experiencing mental health crises

Problem: People with disabilities and mental illnesses are disproportionately arrested and jailed every year, but police and jail staff do not have the specific, in-depth training — nor the mandate — to treat mental illness or to accommodate those with other disabilities. As a result, approximately 20% of people killed by police were in a mental health crisis at the time of the shooting, and suicide is one of the leading causes of death in local jails.

Solutions: Cities, counties, and states should establish non-police crisis response systems. Ideally, these programs should include *only* civilian crisis responders, as opposed to "co-responder" models that still involve police.

Examples: More than a hundred alternative response programs now exist around the country. One of the earliest models was Eugene, Oregon's CAHOOTS program, which dispatches medical specialists rather than police to 911 calls related to addiction, mental health crises, and homelessness. Other promising programs include Atlanta, Georgia's PAD program, Chicago, Illinois's CARE program, Denver, Colorado's STAR program, and Durham, North Carolina's HEART program. For a series of principles to use in developing alternative crisis response services, as well as descriptions of various programs, see the University of Chicago Health Lab's Transform911 hub, https://www.transform911.org/.

More information: For a review of other strategies ranging from police-based responses to community-based responses, see the Vera Institute of Justice's *Behavioral Health Crisis Alternatives*, https://www.vera.org/behavioral-health-crisis-alternatives/; the Brookings Institute's *Innovative solutions to address the mental health crisis*, https://www.brookings.edu/research/innovative-solutions-to-address-the-mental-health-crisis-shifting-away-from-police-as-first-responders/; and The Council of State Governments' *Expanding First Response: A Toolkit for Community Responder Programs*, https://csgjustice center.org/publications/expanding-first-response/.

Use alternatives to arrest and incarceration for offenses that do not threaten public safety, including failures to appear in court

Problem: Spending time in jail leads to a number of collateral consequences and financial roadblocks to successful reentry, as well as to higher recidivism rates that quickly lead to higher state prison populations. Yet one out of every three people behind bars is being held in a local jail, most for low-level or non-person offenses. Many of the behaviors that lead to these arrests could be better addressed without jailing.

Solutions: Although jails are ostensibly locally controlled, the people held in jails are generally accused of violating state law, so both state and local policymakers have the power to reduce arrests and jail populations. State and local leaders can:

- Make citation, rather than arrest, the default response for low-level crimes.
- Institute grace periods for missed court appearances to reduce the use of "bench warrants," which lead to unnecessary incarceration for low-level and even "non-jailable" offenses.
- Establish "open hours court" for those who have recently missed court to reschedule without fear of arrest.

Examples: In 2020, the city of San Marcos, Texas created a successful local ordinance, Ordinance 2020-18, to require police to issue citations in lieu of arrest for certain low-level misdemeanors. Illinois' Pretrial Fairness Act, which went into effect in 2023, has a presumption of citation and release for low-level misdemeanors. The municipal court in Kansas City, Missouri has established a walk-in court that removes the possibility of arrest for people trying to resolve warrants: https://www.ideas42.org/15-years-of-ideas42/courts-without-fear/.

More information: See our report *Arrest, Release, Repeat*, https://www.prisonpolicy.org/reports/repeatarrests.html. For a discussion of how states handle responses to failures to appear in court, see our briefing *High Stakes Mistakes: How Courts Respond to "Failure to Appear,"* https://www.prisonpolicy.org/blog/2023/08/15/fta/. For a roundup of state legislative efforts to implement front-end diversion and deflection programs, see the National Council of State Legislatures' *The Legislative Primer Series on Front-End Justice: Deflection and Diversion,* https://www.ncsl.org/civil-and-criminal-justice/the-legislative-primer-series-on-front-end-justice-deflection-and-diversion.

Decriminalize drugs and adopt a health-centered approach to substance use

Problem: The drug war has responded to a health problem – unhealthy substance use – with arrests and incarceration. But instead of alleviating the impacts of drug use, the war on drugs denies people who use substances the resources and help they need to recover. The war on drugs has its roots in racially-targeted policies, and has led to heavy and disproportionate policing of Black and Brown communities, while having no substantial effect on rates of drug use or drug sales. Keeping drugs illegal means that they are not regulated by the government, making the drug supply for people who do use drugs more dangerous and increasing the risk of overdose and death.

Solutions: Legislatures can pass laws legalizing marijuana, a change 88% of US adults support. They can also make progress towards legalizing and regulating other drugs by taking the first step of decriminalizing them – making arrest and incarceration not an option or a less common option for drug charges. States can invest in health over incarceration by providing increased access to voluntary treatment, housing, and employment and adopting harm reduction measures like providing overdose prevention centers – locations where people can safely use drugs they have purchased in close proximity to trained staff who can provide sterile supplies and overdose reversal medication.

Examples: In 2023, Delaware, Maryland, Minnesota, Missouri, and Ohio joined the list of 24 states that have legalized and regulated recreational marijuana use. Marijuana is legal for medical use in an additional 14 states. In 2020, Oregon Measure 110 made possession of small amounts of a controlled substance punishable by a fine, but unfortunately, Measure 110 was repealed in 2024 (despite there being no rise in drug use, 911 calls, or crime during its enactment). In 2021, New York City became the first jurisdiction in the U.S. to authorize overdose prevention sites through the organization OnPoint NYC; after two years in operation, they have served almost 4,000 people and intervened in over 1,000 overdoses. Rhode Island is scheduled to open the first state-regulated Overdose Prevention Site in 2025.

More information: For information on the policy rationales for drug decriminalization, see Drug Policy Alliance's *Decriminalizing Drugs, Invest in Health Services "Deep Dive,"* https://drugpolicy.org/more-about-decriminalization/. For information about public support for marijuana legalization, see the Pew Research

Center's *Americans overwhelmingly say marijuana should be legal for medical or recreational use,* https://www.pewresearch.org/short-reads/2022/11/22/americans-overwhelmingly-say-marijuana-should-be-legal-for-medical-or-recreational-use/. For more information about Overdose Prevention Sites, see Drug Policy Alliance's *"Overdose Prevention Centers" Deep Dive",* https://drugpolicy.org/no-one-should-die-from-overdose-overdose-prevention-centers-save-lives/.

Reclassify low-level offenses as misdemeanors or non-criminal acts, including increasing the dollar threshold for felony theft

Problem: The difference between a felony conviction and a misdemeanor conviction — or no conviction at all — can have a major impact on a person's future. Criminal records of any kind, but particularly felony records, lead to decreased job opportunities, housing opportunities, and income potential. States should decrease the total number of behaviors that are considered crimes, and reduce felonies to misdemeanors where possible. Two main areas where states can act are:

- Increasing the dollar amount at which a theft is treated as a felony rather than a misdemeanor.
- Decriminalizing minor traffic violations like rolling through a stop sign instead of treating them as misdemeanors.

In many states, felony theft thresholds have not been increased in years, even though inflation has risen almost every year, making stagnant thresholds increasingly punitive over time. Five states (Idaho, N.J., N.C., Pa., and W. Va.,) have not increased their felony theft thresholds since before 2000. In 17 states (Ala., Alaska, Ark., Ga., Iowa, Miss., Mo., Mont., N.M., N.C., Okla., S.C., S.D., Tenn., Texas, W. Va., Wyo.), minor traffic violations are still criminalized — which means a broken taillight could land someone in jail.

Solutions: States should increase the dollar amount of a theft to qualify for felony punishment, and require that the threshold be adjusted regularly to account for inflation. This change should also be made retroactive for all people currently in prison, on parole, or on probation for felony theft. States should decriminalize minor traffic violations and should prohibit the use of arrest warrants for failures to appear or failures to pay fines on those charges.

Examples: For model legislation to raise felony theft thresholds, see the Public Leadership Institute's Felony Threshold Reform Act, https://publicleadership institute.org/model-bills/public-safety/felony-threshold-reform-act/. In 2023, Nevada became the 33rd state to decriminalize minor traffic violations through AB 116, joining the 32 other states that have done so.

More information: For the felony threshold in your state and the date it was last updated, see our explainer *How inflation makes your state's criminal justice system harsher today than it was yesterday*, https://www.prisonpolicy.org/blog/2020/06/10/felony-thresholds/. The Pew Charitable Trusts report *States Can Safely Raise Their Felony Theft Thresholds, Research Shows*, https://www.pewtrusts.org/en/research-and-analysis/articles/2018/05/22/states-can-safely-raise-their-felony-theft-thresholds-research-shows, demonstrates that in states that have recently increased their limits, there was no rise in the risk of theft, nor did it lead to more expensive items being stolen. For more information about decriminalizing traffic offenses, see the Fines and Fees Justice Center's *The Drive to Jail* report, https://finesandfeesjusticecenter.org/content/uploads/2023/11/The-Drive-to-Jail_Nov_2023.pdf.

Eliminate driver's license suspensions for nonpayment of fines and fees and for previous drug convictions

Problem: Thirty-one states (Ala., Alaska, Ariz., Ark., Conn., Fla., Ga., Ind., Iowa, Kan., La., Maine, Md., Mass., Mich., Mo., Neb., N.H., N.J., N.C., N.D., Ohio, Okla., Pa., R.I., S.C., S.D., Tenn., Texas, Wash., and Wisc.) suspend, revoke, or refuse to renew driver's licenses for unpaid traffic, toll, misdemeanor and felony fines and fees, resulting in millions of debt-related suspensions nationwide. License suspension prevents people from earning the money they need to pay their fines and fees, undercuts their ability to support themselves, and forces law enforcement to waste time stopping, citing, and arresting people for driving on a suspended license. Four states still automatically suspend licenses for all drug offenses, including those unrelated to driving. Our analysis shows that there are over 49,000 licenses suspended

every year for non-driving drug convictions. These suspensions disproportionately impact low-income communities and waste government resources and time.

Solutions: Stop suspending, revoking, and prohibiting the renewal of driver's licenses for nonpayment of fines and fees. Since 2017, 19 states (Calif., Colo., Del., Hawaii, Idaho, Ill., Ky., Minn., Miss., Mont., Nev., N.H., N.Y., Ore., Utah, Vt., Va., W. Va., and Wyo.) and the District of Columbia have eliminated all of these practices, and other states should follow suit. In addition, Alabama, Arkansas, Florida, and Texas should formally opt out of the federal automatic suspension law to stop suspending licenses for drug offenses.

Examples: Montana HB 217 (2019) provides that a person's driver's license may not be suspended for failure to pay a fine, fee, or restitution and allows those whose licenses have already been suspended to file a petition to have their license reinstated. Other recent reforms include Delaware's HB 244 (2021), New Mexico's SB 47 (2023), New York's AO7463B (2021) and Vermont's HB 53 (2023).

More information: See the Free to Drive Coalition's state-by-state analysis, https://www.freetodrive.org/, and the Legal Aid Justice Center's 2017 report *Driven By Dollars: A State-By-State Analysis of Driver's License Suspension Laws for Failure to Pay Court Debt*, https://finesandfeesjusticecenter.org/articles/driven-by-dollars-a-state-by-state-analysis-of-drivers-license-suspension-laws-for-failure-to-pay-court-debt/.

Decriminalize youth and stop prosecuting and sentencing them as adults, and end the use of life without parole sentences

Problem: The Supreme Court has affirmed that until someone is an adult, they cannot be held fully culpable for crimes they have committed. Research shows that children and young adults — including people up to age 25 — do not have fully-developed brains and have reduced decision-making capabilities. Research also shows that most people age out of crime by their mid-20s. Sentences that punish children and young adults permanently ignore their potential for rehabilitation and needlessly incarcerate people who are not a threat to others. However, in every state, youth under 18 can be tried and sentenced in adult criminal courts and, as of 2023, there was no minimum age for prosecution in at least 23 states and Washington, D.C. In addition, 27 states still allow children to be sentenced to life without the possibility of parole, and four of those states — Alabama, Georgia, Michigan, and Mississippi, have imposed life without parole sentences more than five times in the past five years.

Solutions: States should "raise the age" of juvenile court jurisdiction to reflect our current understanding that youth should not be held culpable as adults, "raise the floor" to stop criminalizing young children, end the transfer of youth to adult courts and systems of punishment, and move "status offenses" out of juvenile court jurisdiction. States should also eliminate life without parole sentences, especially for youth and young adults. Changes to life without parole laws must be made retroactive, so that people currently serving life without parole sentences for crimes they committed as children can be resentenced.

Examples: In 2024, Massachusetts became the first state to ban life without parole for people under 21 years old through the Mass. Supreme Court case *Commonwealth vs. Mattis*. In 2023, Illinois (Public Act 102-1128), Minnesota (SF 2909) and New Mexico (SB 64) became the most recent states to abolish life without parole sentences for people under 18. In 2019, North Carolina (SB 413) raised the age of juvenile court jurisdiction from 16 to 18, although those reforms were partially rolled back in 2024.

More information: For information on the youth justice reforms discussed, see The National Conference of State Legislatures, https://www.ncsl.org/research/civil-and-criminal-justice/juvenile-age-of-jurisdiction-and-transfer-to-adult-court-laws.aspx; the recently-closed Campaign for Youth Justice provides helpful resources summarizing legislative reforms to Raise the Age, limit youth transfers, and remove youth from adult jails, https://www.prisonpolicy.org/scans/cfyj_state_trends_youth_in_adult_courts_2005_2020.pdf and https://www.prisonpolicy.org/scans/Raising_the_Floor__Final.pdf; Youth First Initiative's No Kids in Prison campaign, https://www.nokidsinprison.org/solutions; and the Vera Institute of Justice's *Status Offense Toolkit*, https://www.vera.org/publications/status-offense-toolkit. For information on your state's laws on life without parole for juveniles, see the Campaign for the Fair Sentencing of Youth's *Unusual and Unequal* report, https://cfsy.org/wp-content/uploads/JLWOP-Unusual-Unequal-April-2024.pdf.

PROTECT THE PRESUMPTION OF INNOCENCE SO PEOPLE RECEIVE A FAIR SHOT AT JUSTICE

End pretrial detention for most defendants

Problem: Many people who face criminal charges are unnecessarily detained before trial, before they have been convicted of a crime. Often, the sole criteria for release is access to money for bail. This puts pressure on defendants to accept plea bargains even when they are innocent, since even a few days in jail can destabilize their lives: they can lose their housing, jobs, and even custody of children. Pretrial detention also leads to jail overcrowding, which means more dangerous conditions for people in jail, and it drives sheriffs' demands for more and bigger jails — wasting taxpayer dollars on more unnecessary incarceration.

Solutions: States should implement pretrial reforms that end the use of money bail, limit the types of offenses for which pretrial detention is allowed, establish the presumption of pretrial release for all cases with conditions only when necessary, and offer supportive pretrial services such as reminders to appear in court, transportation and childcare assistance for court appearances, and referrals to needed social services.

Examples: The Illinois Pretrial Fairness Act, HB 3653 (2019), and a follow-up revision bill, HB 1095 (2022), abolish money bail and limit pretrial detention, among other reforms. The legislation took effect in September 2023. A policy summary of the legislation can be found at https://pretrialfairness.org/legal-resources/. New Jersey eliminated almost all uses of cash bail in 2017; you can see information about that change and its effects at https://www.njcourts.gov/public/concerns/criminal-justice-reform.

More information: See our 2024 briefing on jail populations around the country: https://www.prisonpolicy.org/blog/2024/04/15/jails_update/, The Bail Project's *After Cash Bail*, https://bailproject.org/after-cash-bail/; Pretrial Justice Institute's website, https://www.pretrial.org; and Critical Resistance & Community Justice Exchange's *On the Road to Freedom*, https://bit.ly/3DlpgaQ. For information on how the bail industry — which often actively opposes efforts to reform the money bail system — profits off the current system, see our report *All profit, no risk: How the bail industry exploits the legal system*, https://www.prisonpolicy.org/reports/bail.html.

Properly fund and oversee indigent defense

Problem: With approximately 80% of criminal defendants unable to afford an attorney, public defenders play an essential role in the fight against mass incarceration. Public defenders fight to keep low-income individuals from entering the revolving door of criminal legal system involvement, reduce excessive sentences, and prevent wrongful convictions. When people are provided with a public defender earlier, such as prior to their first appearance, they typically spend less time in custody. However, public defense systems are not adequately resourced; rather, prosecutors and courts hold a disproportionate share of the resources. The U.S. Constitution guarantees legal counsel to individuals who are charged with a crime, but many states delegate this constitutional obligation to local governments, and then completely fail to hold local governments accountable when defendants are not provided competent defense counsel.

Solutions: States must either directly fund and administer indigent defense services, ensuring that it is funded as an equal component of the legal system, or create a state entity with the authority to set, evaluate, and enforce indigent defense standards for services funded and administered by local governments.

Examples: In 2023, Oregon allocated roughly $108 million to its public defense system and created a commission to hire more defenders (SB 337 and SB 5532). In 2024, Maine passed LD 653, which allocated roughly $4 million to create public defender offices around the state to reduce the state's reliance on private attorneys for indigent defense work.

More information: See our briefing *Nine ways that states can provide better public defense*, https://www.prisonpolicy.org/blog/2021/07/27/public-defenders/; the Sixth Amendment Center's Know Your State page, https://sixthamendment.org/know-your-state/, which provides an invaluable guide to the structure of each state's indigent defense system, including whether each state has an independent commission with oversight of all public defense services (most do not); the American Bar Association's 2023 report *Ten Principles of a Public Defense Delivery System*,

https://www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/ls-sclaid-ten-princ-pd-web.pdf; and the American Legislative Exchange Council's Resolution in Support of Public Defense, https://www.alec.org/model-policy/resolution-in-support-of-public-defense/.

DECREASE THE LENGTH OF PRISON SENTENCES AND PROVIDE PATHWAYS FOR ALL PEOPLE TO EXIT PRISON

Keep families together by considering the whole family when sentencing or incarcerating a primary caregiver

Problem: Numerous studies have linked parental incarceration to negative outcomes for both parents and children. Parental incarceration can result in the termination of parental rights and contribute to the cycle of incarceration, as children whose parents were incarcerated are more likely to become incarcerated themselves.

Solutions: States should seek to avoid parental incarceration. States should pass legislation requiring that a parent's status as a caregiver be considered at the time of sentencing and when considering alternatives to incarceration. If a parent is incarcerated, they should be placed as close to their family as possible, and meaningful transportation options (such as state-funded ride programs) should be available to guarantee that children are able to regularly visit incarcerated parents.

Examples: Tennessee SB 0985/ HB 1449 (2019) and Massachusetts S 2371 (2018) permit or require primary caregiver status and available alternatives to incarceration to be considered for certain defendants prior to sentencing. New Jersey A 3979 (2018) requires incarcerated parents be placed as close to their minor child's place of residence as possible, allows contact visits, prohibits restrictions on the number of minor children allowed to visit an incarcerated parent, and also requires visitation be available at least six days a week.

More information: See our briefing on legislative policies to address family separation by incarceration, https://www.prisonpolicy.org/blog/2023/02/27/caregivers/; see Human Impact Partners' *Keeping Kids and Parents Together: A Healthier Approach to Sentencing in MA, TN, LA*, https://humanimpact.org/hipprojects/primary-caretakers/, and the Illinois Task Force on Children of Incarcerated Parents' *Final Report and Recommendations*: https://ltgov.illinois.gov/news/ciptf-final-report-and-recommendations.html.

Repeal or reform mandatory minimum sentences & sentencing enhancements

Problem: Automatic sentencing structures have fueled the country's skyrocketing incarceration rates. For example, mandatory minimum sentences, which by the 1980s had been enacted in all 50 states, reallocate power from judges to prosecutors and force defendants into plea bargains, exacerbate racial disparities in the criminal legal system, and prevent judges from taking into account the circumstances surrounding a criminal charge. In addition, "sentencing enhancements," like those enhanced penalties that are automatically applied in many states when drug crimes are committed within a certain distance of schools, have been shown to exacerbate racial disparities in the criminal legal system. Both mandatory minimums and sentencing enhancements harm individuals and undermine our communities and national well-being, all without significant increases to public safety.

Solutions: The best course is to repeal automatic sentencing structures so that judges can craft sentences to fit the unique circumstances of each crime and individual. Where that option is not possible, states should adopt sentencing "safety valve" laws, which give judges the ability to deviate from the mandatory minimum under specified circumstances, make enhancement penalties subject to judicial discretion, rather than mandatory, and reduce the size of sentencing enhancement zones.

Examples: Several examples of state and federal statutes are included in Families Against Mandatory Minimums' (FAMM) *Turning Off the Spigot*, https://famm.org/wp-content/uploads/2018/04/State-Safety-Valve-Report-Turning-Off-the-Spigot.pdf. The American Legislative Exchange Council has produced model legislation, the *Justice Safety Valve Act*, https://www.alec.org/model-policy/justice-safety-valve-act/. Tennessee's HB 2517/SB 2734 (2020) reduced the

size of its drug-free zones and granted judges more discretion to avoid mandatory minimum sentencing for drug charges.

More information: See FAMM's briefing on mandatory minimums, https://famm.org/wp-content/uploads/2024/03/Mandatory-Minimum-Briefing-Paper-Final.pdf, and our *geographic sentencing enhancement zones* page, https://www.prisonpolicy.org/zones.html.

Make it easier to change excessive prison sentences

Problem: Nationally, one of every six people in state prisons has been incarcerated for a decade or more. While many states have taken laudable steps to reduce the number of people serving time for low-level offenses, little has been done to bring relief to people needlessly serving decades in prison.

Solutions: State legislative strategies include: enacting presumptive parole, second-look sentencing, compassionate or medical release, and other common-sense reforms, such as expanding "good time" credit policies. All of these changes should be made retroactive, and should not categorically exclude any groups based on offense type, sentence length, age, or any other factor.

Examples: Federally, S 2146 (2019), the Second Look Act of 2019, proposed to allow people to petition a federal court for a sentence reduction after serving at least ten years. California AB 2942 (2018) removed the Parole Board's exclusive authority to revisit excessive sentences and established a process for people serving a sentence of 15 years to life to ask the district attorney to make a recommendation to the court for a new sentence after completing half of their sentence or 15 years, whichever comes first. California AB 1245 (2021) proposed to amend this process by allowing a person who has served at least 15 years of their sentence to directly petition the court for resentencing. The National Association of Criminal Defense Lawyers has created model legislation that would allow a lengthy sentence to be revisited after ten years, https://www.nacdl.org/get attachment/4b6c1a49-f5e9-4db8-974b-a90110a6c429/nacdl-model-second-look-legislation.pdf. Many states have some form of compassionate release; Families Against Mandatory Minimums (FAMM) identifies Illinois (730 ILCS 5/3-3-14), Colorado (§17-22.5-403.5), and Rhode Island (§13-8.1) as having model legislative schemes.

More information: For a discussion of reasons and strategies for reducing excessive sentences, see our reports *Eight Keys to Mercy: How to shorten excessive prison sentences*, https://www.prisonpolicy.org/reports/longsentences.html, and *Reforms Without Results*, https://www.prisonpolicy.org/reports/violence.html. For materials on second-look sentencing, including a catalog of legislation that has been introduced in states, see Families Against Mandatory Minimums' (FAMM)'s Second Look Sentencing page, https://famm.org/secondlook/. FAMM also produces fact sheets and report cards on each states' compassionate release and clemency laws, which you can find at https://famm.org/our-work/second-chances/compassionate-release-your-states-laws/.

Repeal "truth in sentencing" and "habitual offender" or "three strikes" laws

Problem: Some long prison sentences are caused by legislative decisions that tie the hands of judges and parole boards by making it impossible to release people after a reasonable amount of time, even if they have shown rehabilitation and good behavior. "Truth in Sentencing" laws require that people serve a certain percentage of their sentences — usually 85%-100% — before they can be eligible for release, while "three strikes" or "habitual offender" laws impose hefty mandatory penalties — often life without parole — for lower-level crimes because of someone's criminal background.

Solutions: Ideally, states should repeal their "truth in sentencing" and "three strikes" laws entirely. At a minimum, states should decrease the number of charges that can act as "strikes" for three strikes laws and/or put limits on how far in the past convictions can be to be considered a "strike." States can also reduce the number of sentences that are required to be served at 85% or 100%, and make those changes retroactive so that they apply to people currently in prison.

Examples: California reformed its infamous three strikes law in 2012 with Proposition 36; in the following 12 years, over 3,400 people were freed from life sentences, saving the state millions. Washington state has made a series of reforms to its habitual offender laws, most recently in 2019 and 2021, removing unarmed robbery from the list of "strikes." In 2023, Colorado (HB23-1292) authorized second-look resentencing for people convicted under habitual offender laws who had served at least 10 years. In 2021, Illinois (HB 3614) made modest reforms in its truth-in-sentencing schemes, reducing the percentage of time that some people must serve before release.

More information: For a comprehensive look at how Washington has reformed its three strikes laws — and what problems still remain — see the Korematsu Center for Law and Equality's *Justice is not a game* report: https://digitalcommons.law.seattleu.edu/korematsu_center/125/. For materials about the harms of "truth in sentencing" laws, see FAMM's "Truth in Sentencing" fact sheet: https://famm.org/wp-content/uploads/2024/04/FAMM-Truth-in-Sentencing-Fact-Sheet.pdf.

Stop mandating programming requirements that impede release on parole

Problem: The release of individuals who have been granted parole is often delayed for months or years because the parole board requires them to complete a class or program (often a drug or alcohol treatment program) that is not readily available before they can go home. In some states, thousands of people whom the parole board deemed "safe" to return to the community remain incarcerated simply because the state has imposed this bureaucratic hurdle.

Solutions: Parole boards can waive these requirements or offer community-based programming after release. Research shows that these programs are effective when offered after release as part of the reentry process.

Examples: New Jersey's "Earn Your Way Out Act," NJ S761 (2020) contains a provision preventing people from being excluded from presumptive parole if required programming was unavailable to them. In Michigan, parole reforms in 2018 (HB 5377) prohibit the parole board for using someone's failure to complete programming against them if they did not have an opportunity to enroll.

More information: See our briefing *When parole doesn't mean release*, https://www.prisonpolicy.org/blog/2020/05/21/program-requirements/.

TREAT PEOPLE HUMANELY DURING INCARCERATION

End solitary confinement to comply with international human rights standards

Problem: Studies abound that recognize the many negative consequences of the use of solitary confinement on mental and physical health and on long-term public safety outcomes. The United Nations has condemned the use of solitary confinement in American prisons and jails as a form of torture. Nevertheless, solitary confinement remains a common form of punishment in prisons, jails, immigration detention, and youth detention centers around the country. There are at least 122,000 people in solitary confinement nationwide. These people are more likely to die by suicide, both during their incarceration and after, and are more likely to experience challenges in reentry and end up back in prison. Solitary confinement is not an effective way to control prison violence — in fact, prison systems that have decreased their use of solitary confinement have seen their rates of prison violence drop.

Solutions: States should seek to comply with the United Nations Standard Minimum Rules for the Treatment of Prisoners (Mandela Rules), which prohibit solitary confinement of more than 15 consecutive days and prohibit the use of solitary confinement for people with mental and physical health needs, and note "Solitary confinement shall be used only in exceptional cases as a last resort, for as short a time as possible and subject to independent review." Solitary confinement should also be banned for children, emerging adults, and pregnant people.

Examples: New York's HALT Solitary Confinement Act, A2277 (2021), restricts the use of segregated confinement and creates alternative therapeutic and rehabilitative confinement options, limits the length of time a person may be in segregated confinement, and excludes children and young adults, elderly people, people with disabilities, and pregnant people from solitary confinement. In 2022, Connecticut passed the PROTECT Act (SB 459), mandating at least eight hours of out-of-cell time daily.

More information: Solitary Watch acts as a clearinghouse for information about solitary confinement, including a useful FAQ section: https://solitarywatch.org/facts/faq/; the Unlock the Box campaign provides a tracker of legislation about solitary confinement around the country: https://unlocktheboxcampaign.org/data-tracker/, and the American Psychological Association has passed a resolution against solitary confinement for youth: https://www.apa.org/about/policy/isolation-youth.pdf.

Offer evidence-based opioid treatment to reduce deaths and re-incarceration

Problem: Despite a growing body of evidence that medication-assisted treatment (MAT) is effective at treating opioid use disorders, most prisons and jails are refusing to offer those treatments to incarcerated people, exacerbating the overdose and recidivism rate among people released from custody. In fact, studies have stated that drug overdose is the leading cause of death after release from prison, and the risk of death is significantly higher for women.

Solutions: States can pass legislation requiring their Department of Corrections to implement MAT to eligible patients in their custody. MAT pairs counseling with low doses of opioids that, depending on the medication used, either reduce cravings or make it impossible to get high off of opiates.

Examples: New York SB 1795 (2021) establishes MAT for people incarcerated in state correctional facilities and local jails. In addition, Rhode Island launched a successful program to provide MAT to some of the people incarcerated in their facilities. The early results are very encouraging: In the first year, Rhode Island reported a 60.5% reduction in opioid-related mortality among recently incarcerated people.

More information: See our explainer on preventing opioid overdose deaths in prison, https://www.prisonpolicy.org/blog/2018/12/07/opioids/, and our report *Chronic Punishment*, https://www.prisonpolicy.org/reports/chronicpunishment.html, which details the high number of people in state prisons with substance use disorders. The Substance Abuse and Mental Health Services Administration published a useful guide to using MAT for opioid use disorder in jails and prisons, https://tinyurl.com/ql7lpe4.

Eliminate medical fees (or "copays") in prison and jail

Problem: While many states suspended medical fees (or "copays") at least temporarily in response to the COVID-19 pandemic, most state departments of corrections, and many local jails, charge incarcerated people a copay to see a doctor. Though these fees appear inexpensive, $2-$13.55 for a person in prison can amount to a day's wages (or more). As a result, medical fees often deter sick people from seeking medical attention — they create health problems in prisons and high healthcare costs for people leaving prison.

Solutions: Pass legislation ending medical fees in prisons and jails.

Examples: California AB 45 (2018) and Illinois HB 2045 (2019) eliminated medical and dental fees for people in prison and jail; the Illinois law also applies to youth confined by the juvenile system. More recently, Nevada passed SB 416 (2023), which eliminated most medical fees, but included some harmful exceptions, such as fees for self-inflicted injuries.

More information: For information about the harms caused by medical copays, see our briefing on how they reduce healthcare access, https://www.prisonpolicy.org/blog/2024/08/29/fees-limit-healthcare-access/; also see our analysis showing which states charge people in prison copays, and illustrating the cost burden of each state's copay on incarcerated patients, https://www.prisonpolicy.org/blog/2017/04/19/copays/, our 2019 update, https://www.prisonpolicy.org/blog/2019/08/08/copays-update/, and our most recent analysis of the state of medical fees in 2022, https://www.prisonpolicy.org/blog/2022/02/ 01/pandemic_copays/.

Protect postal mail in prisons and jails

Problem: Letters and cards give incarcerated people a vital link to their loved ones, but mail to and from correctional facilities is under threat. A sharply growing number of prisons and jails are scanning and destroying incoming mail — providing those incarcerated only with the scanned copies — while others have banned incoming mail that is any larger than a postcard. Corrections officials often claim that these policies are for reducing dangerous drug contraband, but their effectiveness in this regard is disputed.

Solutions: States can send a clear message about the importance of protecting family communication by passing a bill or administrative rule requiring correctional facilities to allow individuals who are incarcerated to receive mail in its original form and bar restrictions on the dimensions or number of pages for personal correspondence.

Example: States should pass rules with language like the following: incarcerated people are permitted to send as many letters of as many pages as they desire, to whomever they desire. Incarcerated people may receive postal correspondence in any

quantity, amount, and number of pages. This mail will be promptly distributed to recipients in its original form. (This language is based on an older version of the Texas Administrative Code, which has since been modified.)

More information: For information about how mail scanning and visitation restrictions did not reduce overdoses in Texas prisons, see The Marshall Project's 2021 investigation: https://www.themarshallproject.org/2021/03/29/texas-prisons-stopped-in-person-visits-and-limited-mail-drugs-got-in-anyway; also see *Mail scanning: A harsh and exploitative new trend in prisons*, *https://www.prisonpolicy.org/blog/2022/ 11/17/mail-scanning/*, *Protecting Written Family Communication in Jails: A 50-State Survey*, https://www.prison policy.org/postcards/50states.html, and *The Biden Administration must walk back the MailGuard program banning letters from home in federal prisons*, https://www.prisonpolicy.org/blog/2021/07/29/mailguard/.

Protect in-person family visits from the video calling industry and ensure maximum access to contact visitation

Problem: Video calling is quietly sweeping the nation's prisons and local jails. Unfortunately, rather than providing the video technology as an additional way for families to stay connected, private companies and sheriffs are working together to replace traditional in-person family visits with expensive, grainy computer chats. Removing in-person visitation harms incarcerated people and their families by weakening family bonds and cutting incarcerated people off from supportive forces that are key to their successful reentry.

Solutions: Follow the lead of Texas, California, and Massachusetts, which have passed legislation that requires jails to preserve in-person visits.

Legislation: Section 92 of Massachusetts' S 2371 (2018) requires people in jails be provided with at least two in-person visits per week and prohibits jails from replacing in-person visits with video calls.

More information: For information about the importance of maintaining contact visitation in prisons and jails and a toolkit for how to fight in-person visitation bans locally, see Civil Rights Corps' Right 2 Hug campaign, https://www.right2hug.org/; also see our report *Screening Out Family Time* and other resources on our *prison and jail visitation* page, https://www.prisonpolicy.org/visitation/.

Eliminate or lower the cost people in prison or jail must pay for calls

Problem: For people behind bars, communicating with loved ones at home is extremely costly because the prison and jail telecom industry offers facilities hefty kickbacks in exchange for exclusive contracts. While the Federal Communications Commission — acting in line with the 2022 Martha Wright-Reed Act — issued an order in 2024 that will rein in most of the abusive charges for phone and video calls, certain vital communications services for incarcerated people are not covered by the order, and others may or may not be covered**.**

Solutions: The FCC's July 2024 order, scheduled to take effect in the spring of 2025, caps prison and jail phone rates at 6¢-12¢/minute (depending on facility size) and video calling rates at 16¢-25¢/minute. However, the order does not cap the cost of non-real-time communications services: voicemails, video messages, and electronic messages. These services are greatly overpriced, with most states charging upwards of 25¢ for a single electronic message. States can address this problem by ensuring that all communication options in prisons and jails (not just phone calls) are affordable. This can be done through legislation that requires state prison systems and counties to negotiate for non-real-time communications services based on ensuring the lowest cost to the end user. States can also go further than the FCC's rate caps for phone and video calls by passing legislation that provides for state-sponsored telecommunications for people in prisons and jails (several states, recognizing that communication is crucial for reentry success, have already done this). Public utilities commissions in many states can also regulate the industry, and critically, by FCC rule, any lower rate caps enacted at the state level will supersede the FCC's own rate caps.

Examples: Legislation like Connecticut's Public Act 21-54 (2021) ensures that the state — not incarcerated people and their families — pays for the cost of both phone calls and e-messages. Short of that, the best model for further telecom regulation at the state level is New York Corrections Law § 623 (2021), which requires that contracts for phone service be negotiated on the basis of the lowest possible cost to consumers and bars the state from receiving any of the revenue. (An obvious improvement to the New York approach would include all communications services and also

include local jail contracts.) States can also increase the authority of public utilities commissions to regulate the industry as Colorado recently did; the California Public Utilities Commission, for instance, has produced some of the strongest regulations of the industry to date.

More information: For more reform ideas, including data on the highest rate charged in each state, see our reports *SMH: The rapid & unregulated growth of e-messaging in prisons*, https://www.prisonpolicy.org/reports/emessaging.html, and *State of Phone Justice 2022: The problem, the progress, and what's next*, https://www.prisonpolicy.org/phones/state_of_phone_justice_2022.html. For more information on the FCC's recent order and rulemaking, see our July recap, https://www.prisonpolicy.org/blog/2024/07/18/fcc-vote/, or see the full report and order, https://docs.fcc.gov/public/attachments/FCC-24-75A1.pdf.

TREAT PEOPLE ON COMMUNITY SUPERVISION FAIRLY, AND KEEP THEM THRIVING IN THE COMMUNITY

End punitive probation and parole conditions that impede success and are unrelated to the crime of conviction

Problem: Probation and parole are supposed to provide alternatives to incarceration. However, the conditions of probation and parole are often unrelated to the individual's crime of conviction or their specific needs, and instead set them up to fail. For example, restrictions on associating with others and requirements to notify probation or parole officers before a change in address or employment have little to do with either public safety or rehabilitation. Additionally, some states allow community supervision to be revoked when a person is alleged to have violated — or believed to be "about to" violate — these or other terms of their supervision. Adding to the problem are excessively long supervision sentences, which spread resources thin and put defendants at risk of lengthy incarceration for subsequent minor offenses or violations of supervision rules. Because probation is billed as an alternative to incarceration and is often imposed through plea bargains, the lengths of probation sentences do not receive as much scrutiny as they should.

Solutions: There are a number of solutions available to address these problems. For example, states should:

- Set upper limits for probation and parole sentences.
- Enable early discharge from probation and parole for successfully meeting probation's requirements for a given time period.
- Bar the inability to pay financial obligations from making a person ineligible for early discharge.
- End punitive conditions of probation and parole that set people up to fail and require that any condition imposed be reasonably related to the crime of conviction, including ending default mandatory drug testing.
- Prohibit the revocation of probation or parole for a violation that does not result in a new conviction.

Examples: California AB 1950 (2020), Louisiana SB 139 (2017), New York S 4664A (2014), and Virginia HB 5148 (2020) have shortened probation sentences by eliminating minimum sentences, setting caps on probation sentences, or awarding compliance credits. Michigan S 1051 (2020) requires conditions of parole be tailored to the "assessed risks and needs of the parolee." That law also states a person may not be ineligible for early discharge from probation because of the inability to pay probation or court fees. There are also interventions outside of legislation: some courts and probation agencies have the power to implement changes to conditions, like in Monroe County, Indiana (2023).

More information: See our report *Punishment Beyond Prisons: Incarceration and supervision by state*, https://www.prisonpolicy.org/reports/correctionalcontrol2023.html, for details on how probation often leads to incarceration, and our report *One Size Fits None: How 'standard conditions' of probation set people up to fail*, https://www.prisonpolicy.org/reports/probation_conditions.html, for details about how courts and probation agencies impose a standard set of unnecessarily burdensome and incredibly vague rules on everyone under their supervision. To learn more about your state's parole system and whether restrictions are placed on association, see Appendix A of our report *Grading the parole release systems of all 50 states*, https://www.prisonpolicy.org/reports/grading_parole.html.

Eliminate re-incarceration and the use of jail sanctions for non-criminal “technical” violations of probation or parole rules

Problem: Technical violations are behaviors that break parole rules that would not count as “crimes” for someone not under community supervision, such as missing curfew or a check-in meeting, failing to maintain employment, associating with people who have conviction histories, or failing a drug test. Incarcerating people for “technical violations” of probation and parole conditions — whether in jail for a so-called “quick dip” or “flash incarceration” or in prison — is a common but harmful and disproportionate response to minor rule violations. These unnecessary incarcerations make it harder for people under supervision to succeed and lead to higher correction costs. Technical violations account for almost 1 in 4 admissions to state prisons and 2.8 billion in annual incarceration costs.

Solutions: States should only incarcerste as a response to supervision violations when the violation has resulted in a new criminal conviction and poses a direct threat to public safety. If incarceration is used to respond to technical violations, the length of time served should be limited and proportionate to the harm caused by the non-criminal rule violation.

Examples: New York S 1144A (2021), the “Less is More” Act, restricts incarceration for technical violations of parole. For information on the implementation of New York’s reforms, see this report from the #LessIsMoreNY campaign: https://lessismoreny.org/wp-content/uploads/2022/03/New-Yorks-Less-Is-More-Act-A-Status-Report-on-Implementation-March-1-2022.pdf. Michigan S 1050 (2020) restricts the amount of time a person can be incarcerated for technical violations of probation.

More information: In partnership with Arnold Ventures, the Institute for State and Local Governance launched the Reducing Revocations Challenge, https://islg.cuny.edu/case-study-reducing-revocations-challenge, where jurisdictions across the country explore the drivers of probation revocations and implement policy changes. The Council of State Governments’ report *Confined and Costly*, https://csgjusticecenter.org/publications/ confined-costly/, shows how many people are admitted and incarcerated for technical violations in your state’s prisons. See also the Pew Charitable Trusts’ report *To Safely Cut Incarceration, States Rethink Responses to Supervision Violations*, https://www.pewtrusts.org/-/media/assets/2019/07/pspp_states_target_technical_violations_v1.pdf.

End electronic monitoring for people on community supervision

Problem: Between 2005 and 2021, the number of people on electronic monitoring in the United States increased nearly fivefold. Electronic monitoring imposes unnecessary, often contradictory, conditions on recently released individuals, hindering their movement and creating serious barriers to successful reentry.

Solutions: States can introduce and enforce legislation that would outlaw the imposition of electronic monitoring devices for individuals on pretrial supervision, probation, or parole. Until then, individuals forced to wear electronic monitors should not be required to pay for those devices nor be fined or re-incarcerated for their inability to pay monitoring fees. When ordered as a condition of pretrial supervision, defendants should be credited for time served on electronic monitoring, and people placed on electronic monitoring should not be confined to their homes, but rather allowed to work, attend medical appointments, and spend time with their families and communities.

Examples: Illinois’ pretrial law (720 ILCS 5/110-5) requires that prosecutors bear the burden of proving a person should be monitored pretrial and requires judges to reconsider the necessity of pretrial monitoring every 60 days. Illinois also guarantees a person on pretrial electronic monitoring limited freedom of movement to complete certain essential functions, and requires that people receive credit for time spent on pretrial electronic monitoring that will count as time served at sentencing (730 ILCS 5/5-8A-4).

More information: Fact sheets, case studies, and guidelines for respecting the rights of people on electronic monitors are available from the Center for Media Justice, https://mediajustice.org/challengingecarceration/. Vera Institute of Justice published a comprehensive report on the use of Electronic Monitoring in both the criminal legal system context and in immigration enforcement, https://www.vera.org/publications/people-on-electronic-monitoring. For information on the failures of pretrial Electronic Monitoring, see our briefing *Not an alternative: The myths, harms, and expansion of pretrial electronic monitoring, https://www.prisonpolicy.org/blog/2023/10/30/electronic_monitoring/*. More recommendations can be found in the ACLU’s *Rethinking Electronic Monitoring, https://www.aclu.org/report/rethinking-electronic-monitoring-harm-reduction-guide*.

Eliminate fines and fees that punish poverty and keep people trapped in the criminal legal system

Problem: Many states and localities charge a wide range of fines and fees to people moving through the criminal legal system, even for minor charges. These fees can include monthly probation fees, fees for electronic monitoring, bail processing fees, fees for public defenders, fees that attempt to recoup the cost of incarcerating someone, and a wide variety of other administrative fees. They are often assessed without any regard for a person's ability to pay them, and failure to pay can lead to incarceration, as well as damage people's credit scores and harassment by debt collectors. Sometimes, government budgets rely on these fees for revenue, creating perverse incentives for courts to impose more fees to fund their own departments.

Solutions: Jurisdictions should eliminate all justice administrative fees and probation fees. At a minimum, courts should be required to hold hearings on ability to pay before assessing fees, and allow generous, interest-free payment plans, and eliminate late payment fees. Special attention should be paid to eliminating fees assessed against juveniles.

Examples: California AB 1869 (2020) eliminated the ability to enforce and collect probation fees. Prior to the passage of this legislation, multiple counties had passed ordinances to address probation fees. 25 states have made at least some progress reducing or eliminating fines and fees; for a comprehensive list of recent legislative reforms around the country, see End Justice Fees' reforms page: https://endjusticefees.org/reform/.

More information: For policy guidance on how to go about reforming fees in your jurisdiction, see the Fines and Fees Justice Center's *Policy Guidance for Eliminating Criminal Justice Fees and Discharging Debt*: https://finesandfeesjusticecenter.org/content/uploads/2022/01/FFJC-Policy-Guidance-Fee-Elimination-1.13.22.pdf. To see whether your state includes probation fees in its standard conditions, see the appendix to our briefing *One Size Fits None*: https://www.prisonpolicy.org/reports/probation_conditions_appendix2.html.

SET PEOPLE UP TO SUCCEED WHEN THEY EXIT PRISONS AND JAILS

Stop prisons and jails from requiring people being released to receive their money on fee-ridden "release cards"

Problem: Correctional facilities often use fee-riddled cards to repay people they release for money in their possession when initially arrested, money earned working in the facility, or money sent by friends and relatives. Before the rise of these release cards, people were given cash or a check. Now, they are given a mandatory prepaid card instead, which comes with high fees that eat into their balance. For example, the cards charge for things like having an account, making a purchase, checking the balance, or closing the account.

Solutions: States have the power to decisively end this pernicious practice by prohibiting facilities from using release cards that charge fees, and requiring fee-free alternative payment methods.

Legislation: See our model bill, https://www.prisonpolicy.org/releasecards/model.html.

More information: See our *Release Cards* page, https://www.prisonpolicy.org/releasecards/.

Bar discrimination against people based on conviction history, and allow people to clear their criminal records when they have finished their sentences

Problem: The impacts of incarceration extend far beyond the time that a person is released from prison or jail. A conviction history can act as a barrier to employment, education, housing, public benefits, and much more. Additionally, the increasing use of background checks in recent years, as well as the ability to find information about a person's conviction history from a simple internet search, allows for unchecked discrimination against people who were formerly incarcerated. The stigma of having a conviction history prevents individuals from being able to successfully support themselves, impacts families whose loved ones were incarcerated, and can result in higher recidivism rates.

Solutions: Pass laws or ordinances that make people with conviction histories a protected class under civil rights statutes, and pass generous expungement and sealing laws that remove arrests and criminal convictions from peoples' backgrounds automatically after a sufficient period of time has passed. At a minimum, states should ensure that occupational licenses and other prerequisites to employment do not unfairly bar people based on conviction history.

Examples: Ordinance 22-O-1748 (2022), passed in October 2022 by the Atlanta City Council, bars discrimination on the basis of "criminal history status" in most circumstances. The Clean Slate Initiative provides standards for state legislators to use to craft expungement and sealing laws; to date, 12 states have passed legislation that meets their criteria (Colo., Conn., Del., Ill., Ky., Mich., N.Y., Mo., Pa., N.C., Texas, and Utah). You can find links to summaries of those legislative efforts on their website: https://www.cleanslateinitiative.org/states. The Institute for Justice provides a comprehensive guide to recent changes to occupational licenses in their *Barred from Working* Report: https://ij.org/report/barred-from-working/.

More information: See *Ending Legal Bias Against Formerly Incarcerated People: Establishing Protected Legal Status*, https://escholarship.org/content/qt5r22z75t/qt5r22z75t_noSplash_85baf0dd0835cad764b414906737ca0a.pdf?t=qc3180, by the Haas Institute for a Fair and Inclusive Society (now the Othering & Belonging Institute), and Barred Business's The Protected Campaign for information about the campaign to pass Ordinance 22-O-1748 in Atlanta, https://www.barredbusiness.org/protected-campaign. For information about unemployment among formerly incarcerated people, see our publications *Out of Prison & Out of Work*, https://www.prisonpolicy.org/reports/outofwork.html, and *New data on formerly incarcerated people's employment reveal labor market injustices*, https://www.prisonpolicy.org/blog/2022/02/08/employment/.

Provide public benefits that will help individuals have a successful reentry

Problem: Individuals who experience incarceration are more likely than the average person to have had lower incomes, lacked health care coverage, and experienced housing insecurity prior to their incarceration. However, when exiting a prison or jail, individuals are often not connected with necessary supports. While mortality rates and recidivism risk are highest shortly after release, those exiting prison may be released with little more than a one-time stipend, a train or bus ticket, some clothes, and items that they had at the time of admission. Frequently, individuals are not connected to public benefits that can help set them up to succeed.

Solutions: States and the federal government should link people up with benefits that increase stability. For example, the federal government should end bans on access to SNAP (Supplemental Nutrition Assistance Program) and TANF (Temporary Assistance for Needy Families) benefits, and states should opt out of enforcing the lifetime ban on access to these food assistance programs. Twenty-five states have already done so. States should also provide reentry cash assistance for incarcerated people upon release.

Examples: The federal RESTORE Act of 2023 (HR 3479) proposes to lift the ban that prevents people with drug offenses (and their families) from receiving benefits under SNAP. You can find a summary of the laws that states have passed to opt out of the federal SNAP and TANF bans at the Collateral Consequences Resource Center: https://ccresourcecenter.org/national-snap-tanf-drug-felony-study.

More information: See the Center for Law and Social Policy's *No More Double Punishments: Lifting the Ban on SNAP and TANF for People with Prior Felony Drug Convictions*, https://www.clasp.org/ publications/report/brief/no-more-double-punishments/, the Center on Budget and Policy Priorities, *How SNAP Can Better Serve the Formerly Incarcerated*, https://www.cbpp.org/research/food-assistance/how-snap-can-better-serve-the-formerly-incarcerated, and the Center for Employment Opportunities' *Providing Cash Assistance through Decarceration and Reinvestment*, https://ceo works.org/assets/downloads/CEO-RCS-Reinvestment-Concept-Paper.pdf.

Change Medicaid and Medicare rules to increase access to affordable medical care after incarceration

Problem: Medicaid's "inmate exclusion policy" leaves state and local governments solely responsible for financing the healthcare of incarcerated people, even when they were covered by Medicaid prior to their incarceration. In most states, Medicaid coverage is terminated when someone is incarcerated, and formerly incarcerated people often struggle to get coverage restored upon their release from prison, leaving them without health care coverage.

Solutions: States should ensure that people have access to health care benefits prior to release. They should screen and help people enroll in Medicaid benefits during incarceration and prior to their release, and ensure that people leave prison or jail with proof of insurance coverage. States can also act to avoid unenrolling incarcerated people in the first place by collaborating with their state Medicaid agency. In addition, states can apply for Section 1115 Medicaid demonstration waivers to test new approaches in Medicaid, including coverage of pre-release medical services for people in jail and prison (at least 11 states' waivers have already been approved by the Centers for Medicare & Medicaid Services, including California, Illinois, and New York). For more on Section 1115 waivers for people in jails and prisons, see the Kaiser Family Foundation's Section 1115 Waiver Watch: https://www.kff.org/medicaid/issue-brief/section-1115-waiver-watch-medicaid-pre-release-services-for-people-who-are-incarcerated/.

Examples: The Medicaid Reentry Act of 2023 (HR 2400/S 1165) would remove the Medicaid payment exclusion for all incarcerated Medicaid enrollees in the 30 days prior to their release from prison, allowing states to receive federal matching funds for any Medicaid-covered services during those 30 days.

More information: See our briefings *How a Medicare rule that ends financial burdens for the incarcerated leaves some behind*, https://www.prisonpolicy.org/blog/2023/01/03/medicare-part-b/, and *Why states should change Medicaid rules to cover people leaving prison*, https://www.prison policy.org/blog/2022/11/28/medicaid/. See also the Kaiser Family Foundation's *States Reporting Corrections-Related Medicaid Enrollment Policies in Place for Prisons or Jails*, https://www.kff.org/medicaid/state-indicator/states-reporting-corrections-related-medicaid-enrollment-policies-in-place-for-prisons-or-jails/.

GIVE INCARCERATED AND FORMERLY INCARCERATED PEOPLE POLITICAL REPRESENTATION AND VOICE

End prison gerrymandering to ensure equal representation

Problem: The Census Bureau's practice of tabulating incarcerated people at correctional facility locations (rather than at their home addresses) leads state and local governments to draw skewed electoral districts that grant undue political clout to people who live near large prisons and dilute the representation of people everywhere else.

Solutions: States can pass legislation to count incarcerated people at home for redistricting purposes, as Calif., Colo., Conn., Del., Ill., Maine, Md., Minn., Mont., Nev., N.J., N.Y, Va., and Wash. have done. Ideally, the Census Bureau would implement a national solution by tabulating incarcerated people at home in the 2030 Census, but states must be prepared to fix their own redistricting data should the Census fail to act. Taking action now ensures that your state will have the data it needs to end prison gerrymandering in the 2030 redistricting cycle.

Examples: See our model bill, https://www.prisonersofthecensus.org/models/example.html.

More information: See our *Prison Gerrymandering Project* website, https://www.prisonersofthecensus.org.

End restrictions on jury service for people with conviction histories

Problem: In courthouses throughout the country, defendants are routinely denied the promise of a "jury of their peers," thanks to a lack of racial diversity in jury boxes. One major reason for this lack of diversity is the constellation of laws prohibiting people convicted of crimes from serving on juries. These laws bar more than 20 million people from jury service, reduce jury diversity by disproportionately excluding Black and Latinx people, and actually cause juries to deliberate less effectively. Such exclusionary practices often ban people from jury service forever. Only six states (Colo., Ill., Ind., Iowa, Maine, and N.D.,) allow all people with felony convictions to serve on juries starting when they are released from prison.

Solutions: End restrictions that exclude people with conviction histories, as well as people who are charged with a felony or misdemeanor, from jury service. States and U.S. territories have changed restrictions on jury service through legislative reform, amendments to court rules, and changes to executive clemency rules.

Examples: Louisiana HB 84 (2021) ends the state's lifetime jury service ban on people with felony convictions and restores the right to serve on a jury for people who have been free from incarceration and off of probation and parole for five years. In addition, the Jury Plan for the Superior Court of the District of Columbia was amended in 2020 to reduce the time a person must wait after completing their sentence to serve on a petit jury from 10 years to 1 year, and in March 2021, Florida changed its executive clemency rules to allow people to regain their right to serve on a jury after completion of sentence.

More information: See our report *Rigging the jury*, https://www.prisonpolicy.org/reports/juryexclusion.html, and the Collateral Consequences Resource Center's chart for your state's laws on when, or if, people with a conviction history qualify for jury service, https://ccresourcecenter.org/state-restoration-profiles/chart-1-loss-and-restoration-of-civil-rights-and-firearms-privileges/#2_Voting_Jury_Service_Public_Office_State_Law_on_Firearms.

Abolish felony and misdemeanor disenfranchisement

Problem: Most states bar some or all people with felony convictions from voting. However, the laws across states vary: Only two states (Maine and Vermont), Washington D.C., and Puerto Rico never deprive people of their right to vote based on a criminal conviction, while over 20% of states have laws providing for permanent disenfranchisement for at least some people with criminal convictions. Additionally, while approximately 40% of states limit the right to vote only when a person is incarcerated, others require a person to complete probation or parole before their voting rights are restored, or institute waiting periods for people who have completed or are on probation or parole. In at least six states, people who have been convicted of a misdemeanor lose their right to vote while they are incarcerated. Given the racial disparities in the criminal justice system, these policies disproportionately exclude Black and Latinx Americans from the ballot box. As of 2022, 1 in 22 Black adults nationwide was disenfranchised because of a felony conviction (and in sex states, it's more than 1 in 10).

Solutions: Change state laws and/or state constitutions to remove disenfranchising provisions. Additionally, governors should immediately restore voting rights to disenfranchised people via executive action when they have the power to do so.

Examples: Since 2020, the following states have restored voting rights for people on parole: California (2020), Connecticut (2021), Minnesota (2023), New Jersey (2020), New Mexico (2023), New York (2021), and Washington (2021). In 2024, Nebraska (LB 20) and Oklahoma (HB 1629) restored voting rights to people who have fully completed their sentences (including any required parole term). In 2020, Washington, D.C., joined Maine and Vermont in allowing people convicted of felonies to vote while still incarcerated.

More information: See the Sentencing Project's *Voting Rights in the Era of Mass Incarceration*, https://www.sentencingproject.org/publications/felony-disenfranchisement-a-primer/, and *Locked Out 2022*, https://www.sentencingproject.org/reports/locked-out-2024-four-million-denied-voting-rights-due-to-a-felony-conviction/, and the Brennan Center's *Criminal Disenfranchisement Laws Across the United States*, https://www.brennancenter.org/our-work/research-reports/criminal-disenfranchisement-laws-across-united-states.

Eliminate barriers to the ballot for currently eligible, jailed voters

Problem: Many people who are detained pretrial or jailed on misdemeanor convictions maintain their right to vote, but many eligible, incarcerated people are unaware that they can vote from jail. In addition, state laws and practices can make it impossible for eligible voters who are incarcerated to exercise their right to vote, by limiting access to absentee ballots, when requests for ballots can be submitted, how requests for ballots and ballots themselves must be submitted, and how errors on an absentee ballot envelope can be fixed.

Solutions: Because the voting systems vary from one state to the next, the reforms needed in states may also vary. However, states should guarantee that voting protections are in place. These protections may include providing polling places within facilities, ensuring access to registration services and ballots, allowing community-based organizations access to facilities to provide voter registration and voting assistance, and making election-related communications from and to incarcerated people expedited and free of charge.

Examples: Colorado SB 72 (2024) requires sheriffs to provide information about voter registration and requires that jails provide in-person jail voting. Illinois SB 2090 (2019) established a polling location at Cook County Jail and required election authorities and county jails to work together to facilitate absentee voting. The Colorado Secretary of State adopted a rule requiring the state's 64 sheriffs to coordinate with county election clerks to facilitate voting in jails (see 8 CCR 1505-1, Rules 7.4, 7.4.1). Similarly, Nevada AB 286 (2023) requires jail administrators to work with county clerks to ensure all detained eligible voters can register same-day and vote privately; along with Massachusetts S 2554 (2022), the Nevada law also requires jails to provide necessary forms and post information about voting rights and procedures in each jail. Maryland passed two bills in 2021 requiring the state correctional authority to provide voter registration applications to everyone eligible (HB 222) and to create a secure ballot drop box in the Baltimore City booking facility and notify eligible voters in writing about how to vote using the drop box (SB 525).

More information: See our report *Eligible, but excluded*, https://www.prisonpolicy.org/reports/jail_voting. html, for ways to remove barriers for eligible voters held in jails, and our briefing *Jail-based polling locations*, https://www.prisonpolicy.org/blog/2022/10/25/jail_voting/, showing that people will vote from jail if ballots are accessible.

REDUCE SPENDING ON THE CRIMINAL LEGAL SYSTEM AND INCREASE INVESTMENT IN COMMUNITIES

Redirect public funds currently spent on incarceration and policing to community organizations that provide social services

Problem: Many overpoliced communities in the U.S. are deprived of resources they could use to prevent crime without punishing or surveilling community members, such as youth programs and affordable housing.

Solutions: Shift funding from local or state public safety budgets into a local grant program to support community-led safety strategies in communities most impacted by mass incarceration, over-policing, and crime.

Examples: States can use Colorado's "Community Reinvestment" model. In fiscal year 2021-22 alone, four Community Reinvestment Initiatives provided $12.8 million to community-based services for reentry, harm reduction, crime prevention, and crime survivors. At the local level, Harris County, Texas (Houston) launched the Harris County Youth Justice Community Reinvestment Fund in 2022, which provided an initial $4 million to seven organizations focused on youth diversion and intervention.

More information: See the Colorado Criminal Justice Reform Coalition's *Community Reinvestment* memo, https://www.ccjrc.org/wp-content/uploads/2021/04/April-2021-Community-Reinvestment-in-Colorado.pdf; the Center for American Progress's *How to Reinvest in Communities when Reducing the Scope of Policing*, https://cdn.americanprogress.org/content/uploads/2020/07/28150215/Reducing-the-Scope-of-Policing.pdf; and the Urban Institute's *Investing Justice Resources to Address Community Needs*, https://www.urban.org/sites/default/files/publication/96341/investing_justice_resources_to_address_community_needs.pdf.

Establish moratoriums on costly jail and prison construction

Problem: Proposals and pushes to build new carceral buildings and enlarge existing ones, particularly jails, are constantly being advanced across the U.S. These proposals typically seek to increase the capacity of a county or state to incarcerate more people, and have frequently been made even when criminal justice reforms have passed — but not yet been fully implemented — which are intended to reduce incarceration rates, or when there are numerous measures that can and should be adopted to reduce the number of people held behind bars.

Solutions: States should pass legislation establishing moratoriums on jail and prison construction. Moratoriums on building new, or expanding existing, facilities allow reforms to reduce incarceration to be prioritized over proposals that would worsen our nation's mass incarceration epidemic. Moratoriums also allow for the impact of reforms enacted to be fully realized and push states to identify effective alternatives to incarceration.

Examples: Massachusetts S 2030/H 1905 (2021) proposed a 5-year moratorium on jail and prison expansion by prohibiting the state or any public agency from building a new facility, studying or identifying sites for a new facility, or expanding or converting portions of an existing facility to expand detention capacity. Hawaii HB 1082/SB1245 (2021) proposed a 1-year moratorium on the construction of new correctional facilities.

More information: For a discussion of Massachusetts activists' efforts to create a prison and jail moratorium, see Truthout's reporting on the effort: https://truthout.org/articles/massachusetts-proposed-prison-moratorium-is-a-first-step-toward-abolition/. For examples of reforms you can argue should be adopted to reduce jail populations, and which a moratorium could give time to take effect, see our report *Does our county really need a bigger jail?*, https://www.prisonpolicy.org/reports/jailexpansion.html.

End civil asset forfeiture

Problem: Police are empowered to seize and keep any personal assets, such as cash or cars, that they suspect are involved in a crime, even when there is never a related arrest or conviction. The use and scope of civil asset forfeiture was greatly expanded because of the war on drugs. But while it was intended to disrupt major criminal organizations, it is disproportionately used against poor people who cannot afford to challenge the seizures (unlike a criminal proceeding, there is generally no right to free counsel in a forfeiture case). Civil asset forfeiture makes poor communities poorer and incentivizes aggressive policing.

Solutions: Legislatures can pass laws requiring a criminal conviction for permanent forfeiture, creating a presumption that low-value seizures are not connected to a crime and therefore not eligible for forfeiture, ending participation in the federal "equitable sharing" program, creating a right to court-appointed counsel in forfeiture cases, and requiring proceeds from forfeitures to instead go to the state's general fund or a fund dedicated to community development, education, or crime victim compensation.

Examples: Maine LD 1521 (2021) brings Maine among the ranks of Nebraska, North Carolina, and New Mexico in ending civil asset forfeiture. In 2024, Kansas passed a law exempting drug crimes from civil asset forfeiture (SB 458). The Institute for Justice provides model legislation aimed at requiring criminal conviction for seizure and increasing due process protections: https://ij.org/wp-content/uploads/2024/06/10-01-2024-Criminal-Forfeiture-Process-Act-FINAL.pdf.

More information: See the Institute for Justice's End Civil Asset Forfeiture page, https://endforfeiture.com/legislative-reforms/, and the Center for American Progress report *Forfeiting the American Dream,* https://cdn.americanprogress.org/wp-content/uploads/2016/04/01060039/CivilAssetForfeiture-reportv2.pdf.

TIPS TO FIGHT BACK AGAINST THE RETURN OF 1990'S STYLE TOUGH-ON-CRIME MEASURES

Although we use this yearly publication primarily to talk optimistically about the successes criminal legal system advocates have had moving reforms forward across the country, the reality is that this year, most advocates were playing defense, not offense. With the 2024 election results installing a federal government largely hostile to criminal legal system reform, advocates will have to work harder than ever to maintain the ground that they have already gained and make more progress towards decarceration. Across the country, major repeals of reform policies have moved through legislatures or ballot propositions. Some of the ones we wrote about this year include:

- California passing Proposition 36, a penalty-enhancement bill that repeals a decade of work reinvesting prison spending into communities, https://www.prisonpolicy.org/blog/2024/10/17/prop-36/.
- Oregon's repeal of Measure 110, which had been a historic law decriminalizing possession of small amounts of drugs, https://www.prisonpolicy.org/blog/2024/02/15/oregon-110/.
- Louisiana's elimination of virtually all parole, a move that is projected to double its prison population within 10 years, https://www.prisonpolicy.org/blog/2024/08/21/louisiana_parole_reform/.

These are only a few examples of "tough-on-crime" measures succeeding around the country. To help advocates fight back, we wrote a briefing called "Zombie Politics", which is a roundup of some of the regressive policies we saw passed in 2023, and a guide for advocates on how to fight back on those issues, https://www.prisonpolicy.org/blog/2024/01/24/zombie-politics/. More generally, advocates can follow a couple key strategies in their arguments against rollbacks:

- Remind decision-makers of the evidence that reform had made us safer, not less safe. People who spend even a day in jail have higher rates of re-arrest than those who do not. Meanwhile, reforms that keep people out of jail and prison have not caused the crime spikes that their opponents predicted.
- Focus on the research about what crime victims really want. Surveys show that by and large, people who have experienced violent crime want investment in impacted communities and restorative justice approaches, not more criminalization and incarceration.
- Help policymakers understand the massive financial cost of increasing prison populations. It can be especially impactful to compare that spending to what we could be spending it on instead: housing, social programs, education, and more.
- Provide concrete, evidence-based alternative responses to social problems. Policymakers want to do *something* about issues like homelessness and drug use — it can be helpful to introduce them to strategies like "housing first" approaches to homelessness and harm reduction approaches to drug use. These are evidence-based programs that have a proven track record of making an impact on these social problems.

For more interesting reports that can help you make the case for criminal justice reform in your state, see https://www.prisonpolicy.org/reports.html and https://www.prisonpolicy.org/briefings/.

To contact our advocacy department to discuss support and collaboration that we can offer to local groups seeking to reform the criminal legal system, email us at advocacy@prisonpolicy.org. You can learn more about our advocacy department on our Advocacy Toolkit page, http:/www.prisonpolicy.org/trainings, where you'll also find more resources to help you advocate for change in your community.

PRISON
POLICY INITIATIVE