

# CRIMINAL JUSTICE REFORM:

## State Approaches to Improving Outcomes & Reducing the Scope of the Criminal Justice System

### **Introduction**

At the 2020 Future Summit the Millennial Action Project (MAP) announced a partnership with Represent Justice and the film *Just Mercy* to launch the MAP [Criminal Justice Reform Advisory Council](#). The Advisory Council is a bipartisan group of ten state legislators leading the conversation about creating a more equitable criminal justice system in their states and across the country. The 2020-2021 Advisory Council is co-chaired by Reps. Leslie Herod (D-CO) and Tanner Magee (R-LA) and includes legislators from Oklahoma, Illinois, Louisiana, Colorado, Oregon, and Wisconsin.

The Advisory Council focused on four issue areas: court fines and fees, sentencing reform, recidivism reduction, and justice reinvestment. In partnership with multiple policy organizations, the Advisory Council deepened legislators' understanding of these issues and their potential solutions through a series of webinars and conversations with experts. This brief will include highlights of that work and update members of the State Future Caucus Network on the innovative policy solutions being considered around the country that reduce the scope of the criminal justice system while improving outcomes for individuals and their communities.

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### **The Challenge**

The United States has the highest incarceration rate in the world, holding 2.3 million people in state, federal, and juvenile detention facilities across the country and US territories, and the COVID-19 pandemic brought many of the imbalances of our criminal justice system into stark relief.<sup>1</sup> As our country recovers, policymakers have an opportunity to translate temporary yet impactful measures implemented throughout COVID-19 into more permanent solutions and capitalize on a growing agreement that criminal justice and incarceration policies in the United States are in drastic need of review. Ultimately, the challenge for lawmakers is to take advantage of the broad based momentum around reforming and improving our criminal justice system to lessen the burden on communities, boost legitimacy of the system in the eyes of citizens, and materially improve the prospects of offenders to end a cycle of distrust and demoralization.

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### **Solutions**

- 1. Court Fines and Fees**
- 2. Sentencing Reform**
- 3. Reducing Recidivism**
- 4. Justice Reinvestment**

#### **[Court Fines and Fees](#)**

Court fines are monetary penalties imposed to deter criminal action, while court fees are payments to the court for “using” the criminal justice system through public defenders, incarceration, and court proceedings. While court fines and fees were originally conceived to discourage crime, there has been an alarming increase in the monetary burden imposed on defendants since their creation. Resolving the disparity around fines and fees is a critical component to fixing our broken criminal justice system.

Innovative solutions to tackling court fines include prompt pretrial justice, risk-based assessments in pretrial release programs, reforming bail policies, and empowering individual agency during the pretrial process. In addition to court

finer, court fees often overburden defendants by charging them for their “use” of the criminal justice system. Some policy solutions that aid in reforming or abolishing court fees include abolishing juvenile fees accrued while incarcerated, drivers license suspensions, and voting rights suspensions. Instead of charging defendants a monetary penalty or taking away a person’s ability to vote or drive legally the court system can offer community service.

**Case Study:**

New Jersey became one of the first states to reform pretrial proceedings with [The New Jersey Criminal Justice Reform Act](#), which passed in January 2017. New Jersey was the first state to essentially eliminate cash bail. Since 2017 many additional states have passed legislation reducing, adapting or abolishing cash bail in all circumstances or for young offenders. Once passed, New Jersey saw a [20](#) percent reduction in their jail population, thus lowering the amount of tax-payer money funneled into the prison system.

### **Sentencing Reform**

Sentencing reform legislation has worked to roll back, reform, or abolish certain predatory practices that place excessive and unnecessarily long prison sentences for certain crimes.<sup>2</sup> In bipartisan coalitions, policymakers have introduced and passed effective legislation to reform the sentencing system in the courtroom, for those currently incarcerated, and those who will interact with the system in the future. Some examples of innovative sentencing reforms include changes to mandatory minimums, lowered mandatory parole limits, rescheduled classifications and decriminalization of certain drugs, promoting earned time credit, ensuring young people are tried in juvenile court, and encouraging alternatives to incarceration.

**Case Study:**

Second Look Legislation allows courts to reevaluate a person’s sentence after a significant period of time served in prison and determine if that sentence is still necessary.<sup>3</sup> This is especially important for young offenders and allows for early release for those who have aged out of the crime. [VA HB35](#) is one of the most recent bipartisan bills which allows youth to be eligible for parole after a minimum of 20 years have been served. Similar legislation has been introduced in [Florida](#), [Maryland](#), and the [District of Columbia](#).

### **Reducing Recidivism**

Over 95 percent of those incarcerated in the criminal justice system will eventually be released.<sup>4</sup> However, former inmates returning to their communities face a slew of major obstacles, such as lack of education, limited contact with family, housing instability, unemployment, and the burden of a criminal record. Supporting access to in-prison and post-release rehabilitation programs provides three key benefits: it lowers recidivism, the tendency of a convicted criminal to reoffend; increases employability; and saves taxpayers on average \$5 for every \$1 spent—money which could be reinvested into communities.<sup>5</sup>

**Case Study:**

Automatic record expungement and ban the box are similar legislation models that work to reduce recidivism by making it easier for formerly incarcerated people to reenter society by improving access to employment and housing. Many states have worked to pass bipartisan legislation to ban housing applications and employers from asking about criminal history allowing formerly incarcerated people to have access to affordable housing and employment. One bipartisan policy to ban the box is “clean slate,” which uses technology to automatically clear criminal records if a person stays crime-free.<sup>6</sup> Several states have recently passed these laws including: [CO HB1025](#) (2019), [NM SB96](#) (2019), [UT HB431](#) (2019).

## **Justice Reinvestment**

Justice reinvestment is a robust model used to collect and analyze the sources and efficacy of criminal justice expenditures, then implement legislation and procedures to better use those resources—thereby moving funding towards safer, equitable, and more effective community based programs, and prioritizing the well-being of all Americans.<sup>7</sup> The model is endorsed by the U.S Department of Justice through the [Bureau of Justice Assistance](#) (BJA) in the Office of Justice Programs, which coordinates the [Justice Reinvestment Initiative](#) (JRI), a program that awards grants to state and local governments for justice reinvestment efforts.

Many states have advanced legislation to address recidivism rates, overwhelming prison populations, substance use disorders, and mental health; justice reinvestment seeks to better understand and fund the most effective of these efforts. With justice reinvestment, legislators are prioritizing cost-saving measures, a reduction of the criminal justice system's scope, and creating smarter outcomes for offenders.

Currently, 31 states have received grant funding through the JRI; some states including Oregon, Pennsylvania, and Kansas have filed and received technical assistance to audit their criminal justice systems multiple times. In addition to applying for JRI auditing, legislators can also introduce policy solutions at the state legislature including auditing prison populations to decrease incarceration numbers, promoting community supervision programs and alternatives to incarceration, and reinvesting resources into juvenile justice and recidivism reduction programs.

### **Case Study**

In May 2021, Kansas Governor Laura Kelly signed a bipartisan justice reinvestment package, [HB2026](#), designed to increase public safety and improve community supervision. After auditing Kansas' criminal justice reform system with technical assistance aid, they discovered more Kansans were incarcerated because of drug offenses and incarceration was far more expensive than community supervision. This package will expand current drug treatment infrastructure, encourage prosecutors to divert more defendants to drug rehabilitation, and bolster community supervision programming.

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## **Conclusion**

The four topics discussed above are by no means a comprehensive offering of solutions. However, each addresses an area of critical importance and reinforces one another in prioritizing better outcomes for those involved in the criminal justice system while reducing the overall size and cost of state expenditures of incarceration. The Millennial Action Project will continue working on criminal justice reform with a new group of Advisory Council members focused on advancing bipartisan solutions with special attention paid to juvenile justice.<sup>7</sup> The Criminal Justice Reform Advisory Council will work to build coalitions that sustain momentum from lawmakers' recent action and explore how juvenile justice can aid young Americans that interface with the criminal justice system to prevent the loss of opportunity and talent while breaking the cycle of distrust.

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## **Endnotes**

[1]<https://www.prisonpolicy.org/reports/pie2020.html>

[2]<https://famm.org/secondlook/>

[3]<https://famm.org/our-work/sentencing-reform/sentencing-101/>

[4][https://prisonstudiesproject.org/why-prison-education-program-s/#\\_ftn1](https://prisonstudiesproject.org/why-prison-education-program-s/#_ftn1)

[5][https://www.rand.org/pubs/research\\_reports/RR266.html](https://www.rand.org/pubs/research_reports/RR266.html)

[6]<https://cleanslateinitiative.org>

[7]<https://www.aecf.org/blog/what-is-juvenile-justice>

## **Sample Legislation**

*All bills included below were introduced with bipartisan co-sponsorship and/or received bipartisan support at some point. Bills are presented in no particular order and inclusion does not reflect a MAP endorsement. Email [policy@millennialaction.org](mailto:policy@millennialaction.org) for more info or to submit your legislation.*

### **Court Fines and Fees**

- [CO SB191](#) - Requires a prompt bond hearing within 48 hours of an arrest in order to aid speedy pretrial justice.
- [TX HB2048](#) - Repeals the Driver Responsibility Program, which suspended nearly [1.4 million](#) Texans drivers for unpaid debts.
- [TN HB547](#) - Restores the voting rights of persons with felony convictions upon completion of sentence, parole, or probation.

### **Sentencing Reform**

- [IA HF2064](#) - Reforms mandatory minimums on certain drug classifications and crimes, earned time credit, and work/parole release.
- [LA SB139](#) - Broadens eligibility for parole and other prison release provisions; expands eligibility for probation; reduces maximum probation terms, and adopts evidence-based sanctions and incentives to improve community supervision outcomes.
- [VA HB972](#) - Decriminalizes simple marijuana possession and provides a civil penalty of no more than \$25.
- [KS HB2484](#) - Raises the cap on Kansas' good-time credit program from 15-20% to 50% of a sentence in an effort to decrease prison populations.
- [CO HB1039](#) - Tackles communication issues within restorative justice practices

### **Reducing Recidivism**

- [TN HB353](#) - Allows for occupational training in high school and post-high school programs to receive equivalent credit toward occupational licensure.
- [WA HB2299](#) - Creates prison to postsecondary education pathways with equivalence to a high school diploma and subsequent vocational training.
- [NJ AB2063](#) - Establish standards for prisoner reentry transitional housing
- [ME HB1201](#) - Allows and supports prisoner reentry transitional housing.

### **Justice Reinvestment**

- [OR HB3333](#) - Justice Reinvestment bill which directs the Department of Corrections to develop a release matrix with the goal of maintaining the annual average population of 12,000 adults in custody.
- [TX HB2442](#) - Relates to the creation of the Justice Reinvestment Incentive Program which implements a 2 year justice reinvestment plan to reduce the number of persons convicted of felony offenses and otherwise interacting with the criminal justice system.
- [CO HB1393](#) - Expands mental health diversion pilot program to include more judicial counties to increase the number of participants.