Wellbeing & Equity Innovations

Decarceration

RESEARCH REPORTS COMPENDIUM

WEI's work originated at major academic institutions, including Washington University in St Louis and Florida State University. We continue to build on these academic and data-driven approaches, with a strengthened emphasis on the translation and delivery of scientific findings to the people doing the day-to-day hard work – including practitioners, advocates, policymakers, businesses, government and nongovernment institutions.

We want our historical work to be as accessible as our work going forward. These compendiums are a resource to the work our team has done in the past and have maintained their origin affiliations as reference with appropriate crediting of where the work began.

Wellbeing & Equity Innovations

RESEARCH REPORTS

Decarceration

- Reforms of Policy Barriers to Positive & Productive Community Engagement of Individuals with Felony Histories
- The Economic Burden of Incarceration in the US
- A Point-In-Time Survey of State Department of Corrections Prison-Based Programming
- Reverse Civil & Legal Exclusions for Persons with Criminal Charges & Convictions

IJRD @FSU

WORKING PAPER
03-2018

Reforms of Policy Barriers to Positive & Productive Community Engagement of Individuals with Felony Histories

Carrie Pettus-Davis, MSW, PhD | Florida State University
Christopher Veeh, MSW, PhD | University of Iowa
Sheree Hickman | Washington University in St. Louis

INSTITUTE FOR JUSTICE RESEARCH AND DEVELOPMENT
FLORIDA STATE UNIVERSITY • COLLEGE OF SOCIAL WORK • IJRD.CSW.FSU.EDU

Reforms of Policy Barriers to Positive & Productive Community Engagement of Individuals with Felony Histories

INTRODUCTION

Over the past four decades, civil disability policies have proliferated throughout the United States in tandem with the rising use of criminal sanction as social policy. At any given time, there are approximately 6.74 million individuals under some form of correctional supervision,[1] and this has led to between **70 million and 100 million** individuals having a criminal record.[2] In particular, a criminal record that includes a felony conviction, which has been estimated to impact 16 million individuals,[3] can severely limit a person's ability to positively engage the community as a productive and contributing citizen.

There are currently more than 45,000 different state and federal statutes that impose a type of civil disability on individuals with a felony conviction.[4] This preliminary report provides a brief overview of the reform efforts that have thus far been enacted, but not introduced, to either eliminate or ameliorate existing civil disability policies at the state level between 2010 and 2017. The first section of the report includes a state-level analysis of the reforms. Next, the second section takes an aggregate view of the reform efforts organized by United States Census regions and divisions. Lastly, an overall review of reform types is presented to identify those reforms with either high or low momentum.

At this point, a total of 244 civil disability reforms have been undertaken by state legislation or executive order from governors.

CIVIL DISABILITY REFORMS

For the purposes of this report, the different civil disability reforms have been grouped i nto 13 categories:

• **Employment** - Reforms that target an individual's ability to obtain and/or keep employment within either government or private business.

• **Expungement** - Reforms that delete entirely from the public record an individual's criminal conviction.

• **Sealing** - Reforms that limit the public's access to an individual's criminal conviction unless approved by a court order.

• **Status of Offense** - Reforms that allow, at the court's discretion, the downgrading of an individual's conviction status during and/or upon completion of a sentence. This pertains most commonly to non-violent felonies (i.e., drug possession) and the offense status is usually downgraded from a felony to misdemeanor.

• **Certificate of Relief [CoR]** - Reforms that allow an individual to petition the court for a specific relief or a certificate of relief based on defined eligibility criteria.

• **Food Stamps** - Reforms that target an individual's ability to apply and obtain federal assistance through the Supplemental Nutrition Assistance Program, commonly known as food stamps. Also includes reforms that allow an individual to gain access to a state's general assistance benefits.

• **Medicaid/Disability** - Reforms that target an individual's ability to apply, maintain, and/or keep benefits provided through either Medicaid or Social Security Disability Insurance. Examples include the suspension of eligibility, rather than termination, while an individual is incarcerated.

• **Identification Documents [ID]** - Reforms that target an individual's ability to obtain and/or keep official identification documents (i.e., driver's license, birth certificate, state identification card, etc.). Examples include the waiving of fees to obtain identification or the automatic issuance of a state identification card upon release from prison.

• **Notice of Collateral Consequences** - Reforms that require the court, upon an individual entering a plea or at sentencing, to inform the defendant of the various civil disability policies that will result from a conviction.

• **Voting** - Reforms that target an individual's ability to successfully register and/or vote within local, state, and federal elections.

• **Housing** - Reforms that improve an individual's ability to live within certain types of housing (i.e., publicly subsidized) or at certain locations (i.e., a specified amount of feet from schools or playgrounds). An example includes protection for a landlord against lawsuits based solely for leasing to a tenant with a criminal conviction.

• **Education** - Reforms that target an individual's ability to achieve a higher level of education. This includes policies that target student loan eligibility, admission to a college/university, or barriers to attain a general equivalency diploma.

• **Guardianship and Custody** - Reforms that provide an individual the ability to restore his or her parental rights after being incarcerated. Examples include policies that allow an incarcerated parent to be a participant in permanency hearings via teleconference, and the development of permanency plans that aim to reunite the incarcerated parent with his or her child.

TABLE 1 is organized from highest to lowest incarceration rate and provides a broad summary of the types of civil disability reform that have been enacted by each state and the District of Columbia. TABLE 1 excludes reform efforts that have so far only been introduced as legislation.

TABLE 1 Civil Disability Reform by State from Highest to Lowest Per Capita Incarceration Rate, 2010-2017

STATE	INCAR. RATE	EMPLOY	EXPUNGE	SEALING	OFFENCE STATUS	CoR	FOOD STAMPS	MEDICAID/ DISABILITY	ID	NOTICE	VOTING	HOUSING	EDUCATION	GUARDIAN/ CUSTODY
LA	1019	X	X		X	X	X		X				X	
OK	948	X	X											
MS	803		X											
AL	790		X					X	X		X			
AZ	781													
AK	774	X	X	X					X				X	
TX	769	X	X	X		X	X	X				X		X
MO	687	X	X				X							
GA	666	X		X		X	X		X					
KY	634	X	X						X					
FL	621	X												
ID	590				X	X				X				
VA	588	X						X						
OH	580	X				X								
NV	577	X		X		X		X	X					
DE	561	X	X		X		X				X			
MI	551	X	X				X	X	X					
TN	549	X	X			X	X	X						
SD	548		X											
IN	541	X	X	X	X			X						
WY	541					X					X			
SC	532													
PA	489	X		X										
WV	486				X				X					X
WI	485	X												
OR	477	X	X		X			X						
CO	473	X		X		X			X					
IL	466	X	X	X		X		X	X	X				
MT	455		X											
NC	455	X	X			X								
DC	446	X												
NM	440	X				X						X		

TABLE 1 (CONTINUED)

Civil Disability Reform by State from Highest to Lowest Per Capita Incarceration Rate, 2010-2017

STATE	INCAR. RATE	EMPLOY	EXPUNGE	SEALING	OFFENCE STATUS	CoR	FOOD STAMPS	MEDICAID/ DISABILITY	ID	NOTICE	VOTING	HOUSING	EDUCATION	GUARDIAN/ CUSTODY
MD	437	X	X	X		X	X				X			
KS	436													
CA	428	X	X	X	X	X		X	X	X	X			X
AK	409													
CT	396	X												
NE	371	X		X				X						
IA	367							X						
HI	335													
NY	330			X		X			X		X			X
WA	325	X						X				X		X
UT	309	X	X											
ND	302				X		X							
NJ	293	X	X				X							
NH	271	X		X										
MN	256	X	X									X		
VT	255	X				X				X				
RI	254	X	X	X		X								
MA	225	X							X					
ME	163													

NOTE: Incar. rate = Incarceration Rate per 100,000; Employ = Employment; Expunge = Expungement; CoR = Certificate of Relief; ID = Identification Documents; Notice = Notification of Collateral Consequences

STATE-LEVEL ANALYSIS

The states with the largest variety of civil disability reforms are detailed in TABLE 2. California has made reform efforts across 10 of the 13 categories. Followed by Texas with reforms in eight of the possible types and Illinois and Louisiana with seven each. Across all the states with the most diverse reforms, Employment and Expungement were the most common. However, no single reform was addressed by all states.

TABLE 2

Diversity of Civil Disability Reforms by State

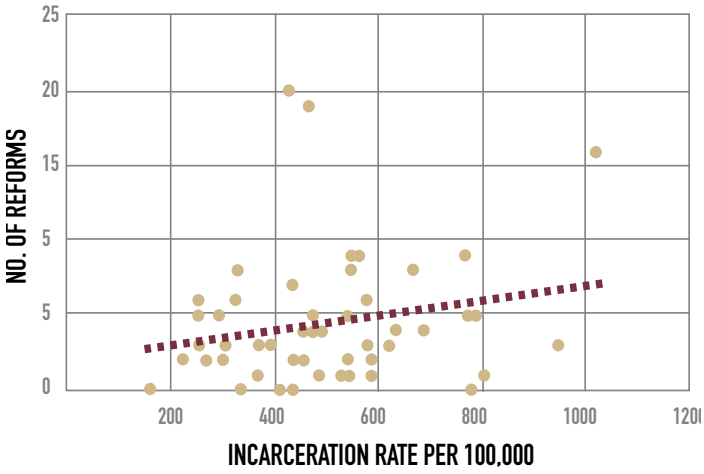
STATE	NO. OF REFORM TYPES
CALIFORNIA	10
TEXAS	8
ILLINOIS	7
LOUISIANA	7

There was a strong correlation between diversity of reforms and the number of total reforms (r = .88). Three of the four states with the most total reforms between 2010 and 2017 were also the most diverse. California with 23 reforms was the most active, followed by Illinois with 20, and Louisiana with 16. On the flip slide, there was also a group of states with no reforms, including: Alaska, Hawaii, Kansas, and Maine.

A visual comparison of the states with the most total reforms relative to the states with no identified reform efforts appeared to show no relationship to a state's per capita incarceration rate. Correlation analysis confirmed a weak but positive relationship between a state's incarceration rate and the total number of reforms (r = .20; see FIGURE 1).

FIGURE 1

Number of Reforms and Incarceration Rate



Diffusion of civil disability reforms across adjacent states was found among two pairs of states. The first was Illinois and Michigan, which share a border with Lake Michigan, with 20 reforms and 9 reforms, respectively. In addition, the southern states of Louisiana (16 reforms) and Texas (11 reforms) were the second notable pair. Both pairs of states also ranked high in terms of the diversity of reforms passed.

CENSUS REGION AND DIVISION ANALYSIS

An aggregate view of civil disability reforms was undertaken by grouping the states into both regions and divisions as defined by the United States Census Bureau. The nine divisions are subunits within each of the four regions (see link for more details).

Within the group of states that make up each Census region, there was a difference in the momentum of reform efforts (see FIGURE 2). Both the South and Midwest regions had between 90% and 100% of states enact at least one reform. In contrast, less than 85% of states in the West region enacted any type of civil disability reform.

Based on the difference between the four regions, additional analysis was conducted by drilling further into the Census divisions. FIGURE 3 orders the nine divisions by the average per capita rate of incarceration found in each group of states.

FIGURE 2

Percentage of State with a Reform by US Census Region

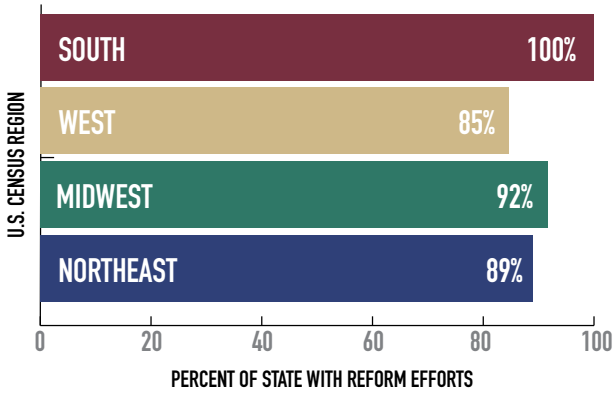
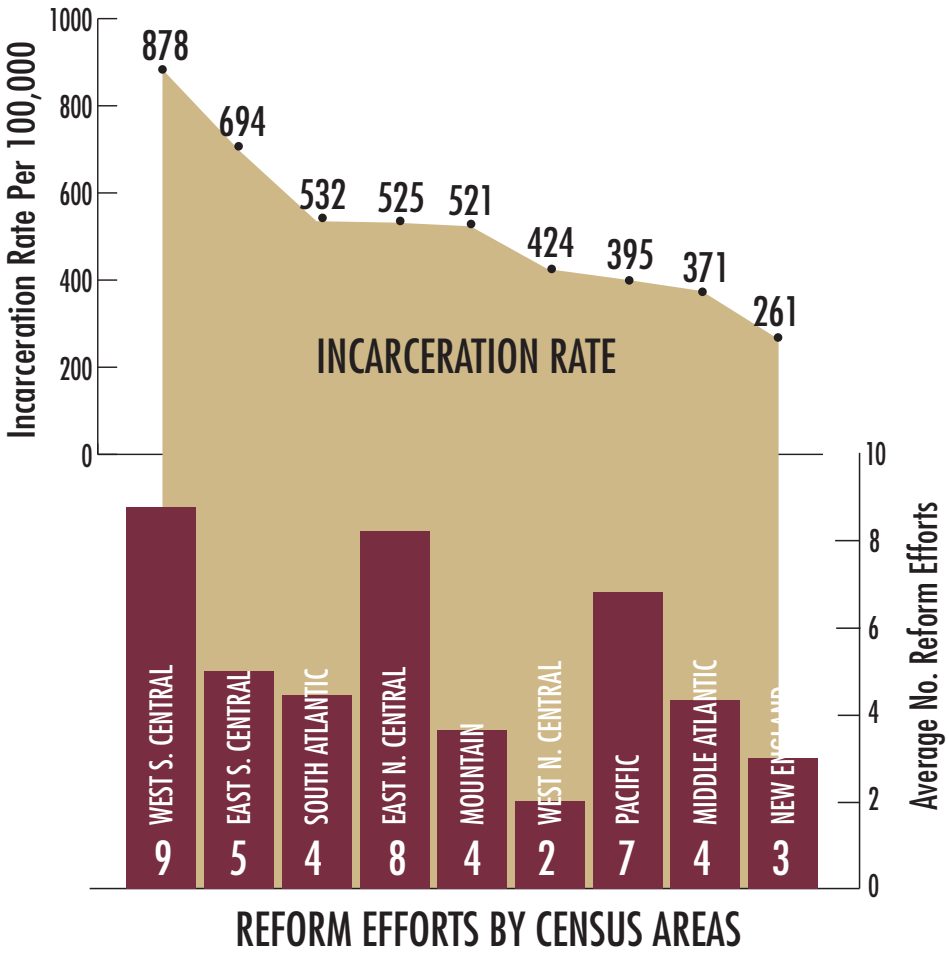


FIGURE 3

Average Number of Reforms and Incarceration Rate by US Census Division



The West South Central division, which includes Louisiana, Texas, Arkansas, and Oklahoma, has both the highest incarceration rate as well as the highest average number of reforms. The East North Central division, encompassing Michigan, Illinois, Indiana, Ohio, and Wisconsin, has the next highest average number of reforms but an incarceration rate considerably lower than the West South Central division (525 vs. 878). The division of the country that appears to be lagging in reform momentum the most is the Mountain division, which includes Montana, Idaho, Wyoming, Utah, Colorado, Arizona, and New Mexico. Despite the Mountain region having a mean incarceration rate that exceeds 500 per 100,000, the average number of reforms passed is only 3.63, the third lowest of any region in the United States.

ANALYSIS OF REFORM TYPE

States have shown the most momentum toward reforms that target an individual's ability to obtain and/or keep employment following a criminal conviction (see FIGURE 4). Expungement and sealing has also shown to be common as a relief of civil disabilities. While a sealed record still exists but is no longer accessible to the public, expungement results in the deletion of any record that an arrest or criminal charge ever occurred. Though not often directly stated, it can be assumed that sealing and/or expungement of a criminal record can provide broad relief to a range of civil disabilities.

The combined reforms that target an individual's eligibility for either Medicaid/disability or food stamps represents important momentum in policies to ameliorate civil disabilities. Often formerly incarcerated individuals are released with minimal resources; thus, the reform efforts targeted at medical and food assistance can provide a vital safety net. Similarly, the improved ability to obtain identification documents, such as a driver's license or birth certificate, are necessary for individuals trying to obtain the basics of housing and a job.

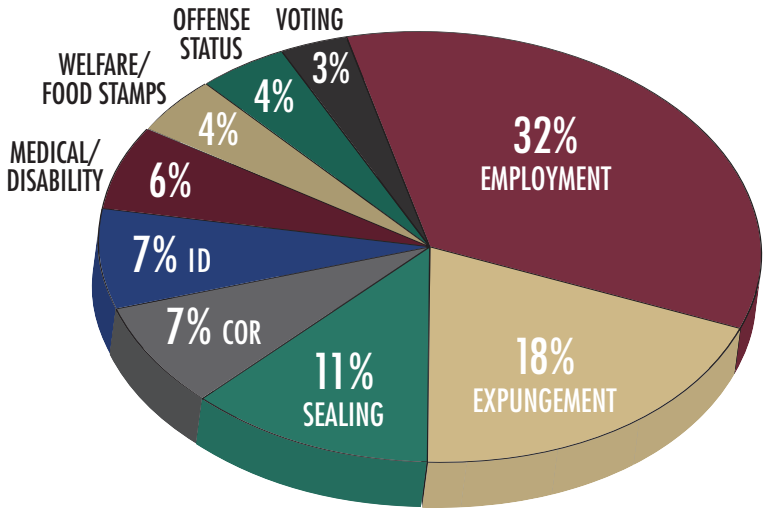
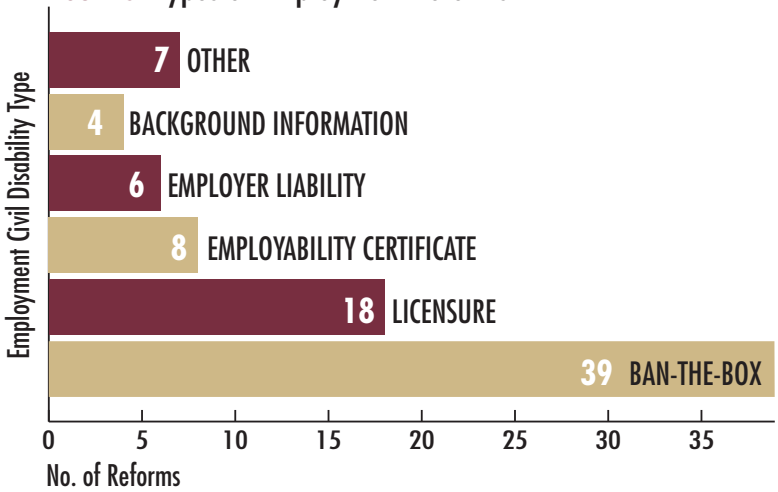


FIGURE 4 Proportion of Total Reforms Enacted

In comparison, the areas of guardianship and custody, housing, and education have so far received little attention by state reformers.

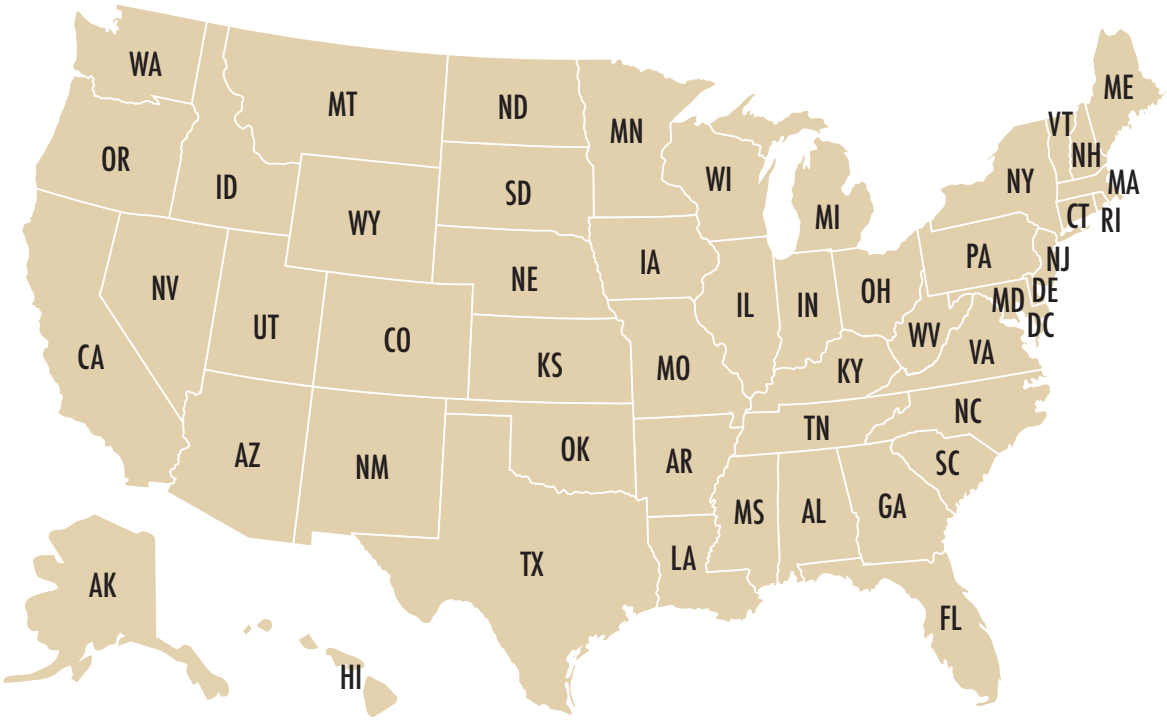
State reforms to employment for individuals with a criminal conviction are by far the most common between 2010 to 2017. An in-depth examination of the 82 different reform efforts that target employment found that states have most often focused on instituting a ban-the-box policy – or limiting an employer's ability to ask about criminal history on a job application or during a job interview. Second, reforms to professional licensure requirements that limit the ability to simply refuse a license to an individual because of a past criminal conviction have also been taken up in several states. While not receiving as much attention as ban-the-box and licensure, perhaps the most substantive reforms are the employability certificate – an official designation of one's suitability for employment – and employer liability – policies that limit an employer's legal liability for hiring an individual with a criminal conviction. Moreover, there have also been important efforts to limit the dissemination of criminal background information to private businesses.

FIGURE 5 Types of Employment Reforms



MAP OF CIVIL DISABILITY REFORMS

The remainder of this preliminary report is a state-by-state breakdown of every identified civil disability reform. This map is a work in progress and will be updated as more reforms are found.



ALABAMA

– 2017 –

• **HB282 added Section 17-3-30.1 of the Code of Alabama 1975** to restore voting rights to those with a prior felony conviction by standardizing which felonies disqualify a citizen from voting, previously varied by county and was discretionary.

• **SB102** gave authority to the Commissioner of Department of Corrections and Secretary of the Alabama State Law Enforcement Agency to establish a program to issue nondriver identification documents to resident parolees upon release.

– 2016 –

• **SB186 amended Section 15-22-36.1 of the Code of Alabama 1975** to revise some of the application procedures for the Certificate of Eligibility to Register to Vote to expedite the process to within a specified timeframe; specified fees that must be paid prior to an application for eligibility; and required each state or county correctional facility, prison, or jail to post materials provided by the Secretary of State and the Board of Pardons and Paroles relating to requirements and procedures for restoring one's right to vote.

• **SB268 amended Section 22-6-12 of the Code of Alabama 1975** to provide for eligibility for Medicaid to be suspended when the person is in custody, and provided for applications for Medicaid under certain conditions prior to release from custody.

– 2014 –

SB108 amended Section 15-27-2 of the Code of Alabama 1975 to authorize expungement of a felony record for successful completion of a drug court program, mental health court program, diversion program, veteran's court, or any court-approved deferred prosecution program after one year from successful completion of the program.

ARIZONA

– 2017 –

• **Executive Order 2017-17** directed the Department of Administration to establish hiring procedures that prohibit executive branch agencies from asking about criminal records during the initial stages of the hiring process, and from disqualifying an applicant from an interview because of a criminal record. Exceptions apply to certain agencies (including state universities, the department of public safety, and public corporations) and to positions where a state or federal law prohibits a person from holding a job due to prior criminal conduct.

ARKANSAS

– 2015 –

• **HB1977 amended Sections 5-4-303(c)-(e), 5-4-903(b), 5-4-907(a), 5-4-908(b), 5-4-913, 12-29-309, 16-90-1404, 16-93-303, and 16-93-1207 of the Arkansas Code** to require a court to order consistent suitable employment or participation in a prescribed course of study as a condition of probation or a suspended sentence. Required completion of any vocational or technical education that was required as a condition of probation or parole in order to be eligible for record sealing.

• **SB472 amended Sections 12-29-112 and 27-16-801 of the Arkansas Code** to require an identification card or driver's license be issued to eligible inmates within 120 days from release.

– 2011 –

• **SB806 amended Sections 6-82-107, 11-2-123, 12-28-107 of the Arkansas Code** to authorize a criminal conviction shall not be used as a basis to disqualify a person from eligibility for a scholarship, grant, loan forgiveness program, or other benefit subsidized by state funds under this chapter unless there is a specific statutory reason for denial that relates to the basis of assistance.

• **HB1608 repealed Section 5-4-105 and amended Section 5-64-413 of the Arkansas Code** to allow that a defendant placed on probation as part of a deferred judgment for a misdemeanor controlled substance offense have his or record expunged according to established procedure. Permitted any person petitioning for expungement of a criminal conviction to file a uniform petition to seal records in the court where s/he was convicted. Required the court to grant all petitions for expungement of misdemeanor convictions except where it finds clear and convincing evidence not to.

CALIFORNIA

– 2017 –

• **AB1115 amended Section 1203.42 of the California Penal Code** to grant courts authority to set-aside convictions of those sentenced to county jail for a felony under the "realignment" legislation enacted in 2011. A waiting period of two years from completion of sentence applies. Following set-aside, the individual is "released from all penalties and disabilities resulting from the offense," with exceptions for certain driving restrictions.

• **Proposition 64 - Adult Use of Marijuana Act amended Sections 11361.5 to 11361.8 of the California Health and Safe Code** to make a number of low-level, now decriminalized, marijuana offenses immediately eligible for dismissal and set-aside, either directly or by reclassifying felony offenses as misdemeanors. Convictions for decriminalized conduct are immediately eligible for dismissal and sealing.

– 2016 –

• **AB1843 amended Section 432.7 of the California Labor Code** to prohibit an employer from asking an employment applicant to disclose, or from utilizing as a factor in determining any condition of employment, information concerning certain criminal processes while a person was subject to the juvenile court process and jurisdiction. Provided that a conviction excludes a certain adjudication. Prohibited an employer at a health facility from inquiring into certain events.

CALIFORNIA

– 2016 –

• **AB2466 amended Sections 2101, 2106, and 2212 of the California Elections Code** to define parole and define imprisoned as currently serving a state or federal prison sentence. Clarified that conviction does not include juvenile adjudication. Required specified information in an election statement by a person entitled to register to vote. Required a court statement furnishing information related to incarcerated individuals.

• **AB2765 amended Section 1170.18 of the California Penal Code** to extend until Nov. 4, 2022, or later upon a showing of good cause, the deadline to file petitions for relief for persons seeking reductions of prior felony convictions to misdemeanors under Proposition 47 which lowered penalties for drug possession and theft.

– 2015 –

• **AB610 repealed and added Section 4007.5 of the California Family Code** to require the suspension of a child support order to occur by operation of law when an obligor is incarcerated or involuntarily institutionalized, unless the obligor has the means to pay support, or the obligor was incarcerated or involuntarily institutionalized for either an offense constituting domestic violence or the failure to pay child support.

• **AB1156 amended Sections 1170, 1170.3, 3451, 4852.01, 4852.03, 4852.04, 4852.06, 4852.1, and 4852.21 of the California Penal Code**, and Section 41500 of the California Vehicle Code to extend the right to petition for a certification of rehabilitation and pardon to certain felony offenders in county jail.

– 2014 –

• **AB2396 amended Section 480 of the California Business and Professions Code** by adding a new provision that prohibits state licensing boards from denying a license solely on the basis of a conviction that was set-aside or dismissed.

– 2014 –

• **AB1702 added Section 480.5 to the California Business and Professions Code** to provide that an individual who has satisfied requirements needed to obtain a license while incarcerated, who applies for that license upon release from incarceration, and who is otherwise eligible for the license shall not be subject to a delay in processing or a denial of the license solely on the basis that some or all of the licensure requirements were completed while the individual was incarcerated.

• **AB2308 added Section 3007.05 to the California Penal Code** to require the Department of Corrections and Rehabilitation and the Department of Motor Vehicles to ensure that all eligible inmates released from state prisons have valid identification cards.

•**SB530 amended Section 432.7 of the California Labor Code and 4852.22 of the California Penal Code** to prohibit an employer from asking an applicant to disclose, or from utilizing as a factor in determining any condition of employment, information concerning a conviction that has been judicially dismissed or ordered sealed, as provided, unless the employer is required by law to obtain that information. Permits trial courts to grant a Certificate of Relief application before the waiting period has expired if it believes the interest of justice would be served.

– 2013 –

•**SB513 added Section 851.87 to the California Penal Code** to authorize the sealing of records of arrest two years after successful completion of a prosecutor-administered profiling diversion program.

– 2012 –

• **AB2343 amended Sections 11105 and 11105.2 of the California Penal Code** to require all entities conducting a background check under the mandate of a state or local occupational or licensing law to automatically provide the subject with a copy of his or her federal criminal background information whenever the agency makes a negative determination based on the results of the check.

CALIFORNIA (CONT.)

• **AB720 added Section 4011.11 to the California Penal Code and amended Section 14011.10 of the California Welfare and Institutional Code** to authorize a designated entity to act on behalf on an inmate for the purpose of applying for, or determinations of, Medi-Cal eligibility for acute inpatient hospital services. Prohibited terminating jail inmates who are currently enrolled in Medi-Cal due to their incarceration. Permitted suspension, rather than termination, of Medi-Cal benefits for all inmates in a public institution.
• **AB2371 amended Section 1170.9 of the California Penal Code** to authorize the court to grant restorative relief to defendants who have successfully completed a veterans diversion program provided he or she does not pose a danger to the health or safety of others and has demonstrated significant benefit from court-ordered treatment. Permitted the court to order all conditions of probation, except victim restitution, satisfied and terminate probation, prior to sentence expiration, to reduce a felony to a misdemeanor, to set aside the conviction and dismiss the action, or provide other forms of relief.
• **AB2343 amended Sections 11105 and 11105.2 of the California Penal Code** to require all entities conducting a background check under the mandate of a state or local occupational or licensing law to automatically provide the subject with a copy of his or her federal criminal background information whenever the agency makes a negative determination based on the results of the check.

– 2010 –
• **SB962 amended Section 2625 and added Section 2626 to the California Penal Code** to authorize incarcerated parents to participate in child dependency proceedings via video-conference or teleconference. Stated it is the intent of the Legislature to prevent the removal of inmates from court-ordered courses as a result of their participation in child dependency proceedings. Implementation of this program is contingent upon sufficient donation of videoconferencing and teleconferencing equipment.

COLORADO

– 2017 –
• **HB1360 amended Section 24-72-708(a)(II) of the Colorado Revised Statutes** to allow for petty offenses and municipal violations may be sealed notwithstanding a single intervening misdemeanor conviction.
• **HB1266 amended Section 24-72-710 of the Colorado Revised Statutes** to require courts, upon petition, to seal the records of misdemeanor marijuana possession or use offenses that would not have been crimes if committed after December 10, 2012. Previously, eligible marijuana convictions could only be sealed under the general controlled substances sealing law after a waiting period ranging from one to five years.

– 2013 –
• **SB123 amended Sections 16-11-209, 17-2-102, 16-17-103, 24-34-202, , 24-34-104, 24-72-308, 18-1.3-107, 18-1.3-213, 18-1.3-303, and 24-72-308 and added Section 16-17-103 of the Colorado Revised Statutes** to establish a process for the court to order relief from collateral consequences when a defendant is sentenced to probation, a community corrections program, deferred prosecution, or another alternative sentence.

– 2012 –
• **HB1263 amended Section 24-5-101 of the Colorado Revised Statutes** to prohibit state and licensing agencies from performing background checks until the applicant is determined to be a finalist for the position.

– 2011 –
• **HB1167 amended Section 24-72-308 of the Colorado Revised Statutes** to create a minimum waiting period before filing a petition for sealing of

COLORADO (CONT.)

criminal conviction records for controlled substance convictions. Prohibited employers, state and local government agencies, officials, landlords and employees from requiring an applicant to disclose any information contained in a sealed record. Permitted an applicant, with sealed records, to state that s/he has not been criminally convicted and need not reference the records in answer to any question related to conviction records. Required the court to advise defendants of their right to petition for sealing upon meeting the eligibility requirements.

– 2010 –

• **SB6 amended Sections 25-2-117, 25-2-121, 42-2-306, and 13-15-101 of the Colorado Revised Statues** to exempt individuals with a referral letter from a social services department from the required fee for a birth or death certificate. Exempted people sixty years of age and older, people referred by a county department of social service, and people referred by the department of corrections, the division of youth corrections, or a county jail from the required fee for an identification card. Permitted the courts to grant a name change for persons with a previous felony conviction provided the change is required in order for a drivers license or identification card to be issued.

CONNECTICUT

– 2016 –

• **HB5237 repealed and replaced Section 31-51i of the Connecticut General Statutes** to prevent employer from inquiring about a prospective employee's prior arrests, criminal charges or convictions on an initial employment application unless required to do so by an applicable state or federal law or a security or fidelity bond or an equivalent bond is required for the position, relates to insurers and financial institutions, allows an employee or prospective employee to file a complaint with the Labor Commissioner alleging an employer's violation.

– 2014 –

• **SB153 repealed and replaced Section 54-130a of the Connecticut General Statutes** to provide that the Board of Pardons and Paroles may issue certificates of rehabilitation in order to provide eligible offenders with relief from barriers to employment and licensure, provides that such certification shall be labeled as a certificate of employability or a certificate of suitability for licensure, or both, provides the time period or frame for the issuance of such certificates.

– 2010 –

• **HB5207 repealed and replaced Section 46a-80 of the Connecticut General Statutes** to prohibit an employer of the state or any of its agencies from inquiring about a prospective employee's past convictions until the prospective employee has been deemed otherwise qualified for the position. Does not include positions which are prohibited from hiring certain individuals due to prior convictions.

DELAWARE

– 2016 –

• **Executive Order 60** created an Executive Committee to identify ways to prevent the proliferation of barriers to reentry and increase opportunities for all Delaware citizens, focused on employment after incarceration.

• **SB242 amended Sections 6102, 6103, and 6104 of the Delaware Code** to permit most individuals disenfranchised because of conviction to regain their voting rights immediately upon completion of sentence. Also eliminated the financial bar to voter registration for individuals disenfranchised because of a conviction. This legislation brings the Delaware Code into conformity with the Section 2 Article V of the Delaware Constitution.

DELAWARE (CONT.)

– 2014 –

• **HB167 amended Titles 19 and 29 of the Delaware Code** to prohibit a public employer from inquiring into or considering the criminal record, criminal history or credit history or score of an applicant before making a conditional offer to the applicant, permits inquiry and consideration of criminal and credit background after the conditional offer has been made, specifies that once a background check is conducted an employer shall only consider felonies for specified years from the completion of sentence, exempts situations of business necessity.

– 2012 –

• **HB285 amended Sections 1015, 1016, 1017, 1018, and 1020 of Title 10 of the Delaware Code** to address confusion which has arisen regarding whether a Family Court judge may order expungement of charges arising in other counties. It also addresses an accidental overlap in definitions of sex offenses. The correction eliminates the overlap between misdemeanor and felony sex offenses and clarifies that a five-year wait applies before application may be made for discretionary expungement of a felony sex offense, and it eliminates the requirement that the expungement order be sent by the Family Court to the federal Department of Justice. This communication is already handled by the State Police and the federal government will not accept the communication from the Courts.

– 2011 –

• **HB9 amended Article V of the Constitution of the State of Delaware** to eliminate the five-year waiting period for exoffenders of certain felony convictions who have fully served their sentences, before their voting rights are restored.

• **SB59 amended Title 24 of the Delaware Code** to standardize language throughout the occupations and professions code related to the conditions under which a person with a criminal conviction may obtain a waiver of disqualification for occupational licensing and be deemed of good moral character under certain qualifications.

•**SB12 amended Title 31 of the Delaware Code** to permit individuals convicted under federal or state law of felony possession, distribution or use of a controlled substance to become eligible for food stamp program benefits.

– 2010 –

• **HB169 amended Titles 10 and 11 of the Delaware Code** to eliminate the five-year waiting period for a person who has successfully completed the Probation Before Judgment ("PBJ") program, and the two-year waiting period for a person who has successfully completed the First Offenders Controlled Substances Diversion Program ("CSDP"), to obtain an expungement of the arrest and conviction records relating to that offense. This Act clarified that offenses for which records have been expunged do not have to be disclosed as arrests.

FLORIDA

– 2017 –

• **HJR565 proposes to amend Section 4 of Article VI of the Florida State Constitution** to automatically restore the voting rights of a person convicted of a felony 3 years after the person completes his/her sentence.

– 2011 –

• **SB146 added the "Jim King Keep Florida Working Act" and amended Section 112.011 of the Florida Statutes** to direct all state agencies, especially those responsible for professional and occupational regulation, to ensure appropriate restrictions protect the general public. Required agencies, by Dec. 31, 2011 and every 4 years

FLORIDA (CONT.)

thereafter, to submit a report including a list of all rules disqualifying persons with convictions for which they have completed sentencing, a determination whether the rules are readily available to prospective employees/licensees, and identification and evaluation of alternatives to disqualifying rules that would protect the public without impeding ex-offenders' opportunity for gainful employment. Added that a state agency may not deny an application for license, permit, certificate or employment based solely on the applicant's lack of civil rights, except for applications for firearm and concealed weapons licenses.

– 2010 –

• **HB7069 amended numerous sections of the Florida Statutes** to eliminate the category of employment backgroundscreening that required a name check against state and national records and makes all employment that is contingent on background screening subject to a fingerprint search against state and national records. Authorized the head of the agency to grant exemptions, taking into consideration any rehabilitation and any subsequent arrests and convictions.

GEORGIA

– 2016 –

• **SB367 amended Title 15, 20, 42, 49, Chapter 5 of Title 40, Article 2 of Chapter 7 of Title 17, and Article 2 of Chapter 3 of Title 3, Chapter 1 of Title 43, Article 1 of Chapter 4 of Title 49, Code Section 49-4A-2 of the Official Code of Georgia Annotated** to provide for comprehensive reform for offenders entering, proceeding through, and leaving the criminal justice system so as to promote an offender's successful reentry into society, benefit the public, and enact reforms recommended by the Georgia Council on Criminal Justice Reform; to repeal conflicting laws; and for other purposes.

• **HB936 amended Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated** to create a new income tax credit for employers who hire certain qualified parolees for full-time jobs. Requires the parolee have been granted parole within the preceding 12 months. Allows a credit up to $2,500 per employee for a 12-month period of employment from Jan. 1, 2017 to Jan. 1, 2020. Caps total credit at $50,000 per year and allows only one credit per individual.

– 2015 –

• **Executive Order 114** required government entities to implement a hiring policy that prohibits the use of a criminal record as an automatic bar to employment; prevented the use of an application form that inappropriately excludes and discriminates against qualified job applicants.

• **HB328 amended Sections 17-10-7, 42-9-45, and 49-4-15 of the Official Code of Georgia Annotated** to require a professional licensing board to grant a probationary license to an applicant that has completed a drug court program and otherwise meets requirements.

– 2014 –

• **SB365 amended Article 6 of Chapter 11 of Title 15, Article 3A of Chapter 5 of Title 40, Chapter 2 of Title 42, and Chapter 1 of Title 51 of the Official Code of Georgia Annotated** to create a Program and Treatment Completion Certificate that symbolizes an offender's achievements toward successful reentry into society. Required the board, when creating rules and regulations for issuing the certificate, to take into account an offender's disciplinary record. Prohibited granting certificates to offenders convicted of serious violent felonies. States that issuing a certificate or granting of a pardon creates a presumption of due care in hiring, retaining, licensing, leasing to, admitting to a school or program with the individual. Permitted the presumption to be rebutted by relevant evidence which extends beyond the scope of the certificate or pardon.

– 2012 –

• **HB1176 amended Section 35-3-37 of the Official Code of Georgia Annotated** to restrict most non-conviction records, including those from deferred adjudication cases, and most youthful misdemeanor conviction records. Restricted records are unavailable to the public or to licensing boards, but may be accessed by judicial and law enforcement officials for employment purposes.

IDAHO

– 2013 –

• **SB1151 amended Section 19-2604 of the Idaho Code** to revise provisions when relief from a felony conviction may be granted and to provide procedures. Permits the court to reduce a felony conviction to a misdemeanor upon completion of probation. Allowed the reduction if at least five years have elapsed since completion of probation for assault or battery with intent to commit a serious felony, enticing of children, first or second degree murder, voluntary manslaughter, assault with intent to commit murder, administering poison with intent to kill, first degree kidnapping, robbery, trafficking, threats against state officials, unlawful discharge of a firearm, cannibalism, or unlawful use of a destructive device. Permitted the reduction within five years for all other offenses. Authorized the court to reduce the conviction only if the offender has not been convicted of another felony, the offender is not currently charged with any crime, the reduction is compatible with public interest, and the prosecuting attorney consents.

ILLINOIS

– 2018 –

• **HB3855 amended Section 2630/5.2 and 2630/5.2(b)(1) of Illinois Compiled Statutes** to make nearly all felonies and misdemeanors eligible for sealing after a three-year waiting period. Sealing of records of arrests and charges resulting in acquittal or dismissal may be sought by petition at the dispositional hearing. Previously, non-conviction records could only be "expunged" by petition, and subject to the discretion of the court. A criminal conviction can no longer be a bar to expunging a non-conviction or deferred adjudication record, as it was under prior law.

– 2017 –

• **HJRCA0031 proposes to amend Section 2 Article 3 of the Illinois State Constitution** to allow that the General Assembly may by law provide for the right to vote of a person convicted of a felony, or otherwise under sentence in a correctional institution or jail, but in any event the right to vote shall be restored not later than upon completion of his or her sentence.

• **HB3817 amended Sections 405/1-7, 405/1-8, and 405/5-915 of Chapter 705 in in the Illinois Compiled Statutes** to limit the ability of non-governmental officials to gain access to juvenile records. All juvenile adjudications shall never be considered a conviction, and unless expressly allowed by law, a juvenile adjudication shall not operate to impose the civil disabilities ordinarily imposed by a criminal conviction.

– 2016 –

• **HB2569 amended Section 5 of Chapter 725, the Illinois Code of Criminal Procedure of 1963, of the Illinois Compiled Statutes** to provide that if the defendant pleads guilty the plea shall not be accepted until the court shall have fully explained to the defendant the following: (1) the maximum and minimum penalty provided by law for the offense; (2) any possible increased sentence; (3) any registration requirement and the restrictions associated with the registration; and (4) the consequences of the plea on a defendant's ability to: (A) retain or obtain housing; (B) acquire loans for educational or other purposes; (C) enroll in certain degree programs; (D) retain or obtain employment; (E) retain or obtain an occupational or driver's license; (F) possess a firearm; and (G) retain or obtain custody of a child.

ILLINOIS (CONT.)

• **HB5973 amended Sections 41/15-75, 335/9.1, 410/4-7, 450/20.01, 454/20-20 of Chapter 22 of the Illinois Compiled Statutes** to allow the Department of Financial and Professional Regulation to consider an applicant's prior conviction or convictions, but provides that the conviction or convictions may not be the sole basis for refusing to issue a license unless the crime substantially and directly relates to the occupation for which the license is sought. Required that if the conviction is used as a basis for rejection, the rejection must be in writing and specifically state the evidence presented and reasons for rejection. Required that the Department not consider non-conviction records, convictions that did not result in incarceration, or convictions unrelated to the capacity to serve the public.
• **SB3368 amended Sections 335/4, 335/12, 5/3-2.5-75, and 5/3-14-1 of the Illinois Compiled Statutes** to issue a standard identification card to a committed person upon release on parole, mandatory supervised release, aftercare release, final discharge, or pardon from the Department of Corrections or Department of Juvenile Justice.

– 2015 –
• **HR498** was a resolution to urge the Governor's Commission on Criminal Justice and Sentencing Reform to study issues and permit, to the extent that such a determination is appropriate, the mentioned members of the vulnerable population to have a chance to relieve themselves of the stigma of being convicted felons and to have a chance to obtain jobs by having their records sealed.
• **HB3149 amended Section 2630 of Chapter 20 of the Illinois Compiled Statutes** to allow a person who earned a high school diploma, associate's degree, career certificate, vocational technical certification, or bachelor's degree, or passed the high school level Test of General Educational Development, during the period of his or her sentence, aftercare release, or mandatory supervised release, to petition for sealing before expiration of applicable waiting periods under the sealing law. The person cannot have completed the same educational goal previously. If the person's petition for sealing is denied, then the applicable waiting period under the sealing law shall apply to any subsequent petition for sealing by the person.
• **HB3475 amended Section 5 of Chapter 730 of the Illinois Compiled Statutes** to eliminate the exclusion from "eligible offender" of a person who has been convicted of committing or attempting to commit a Class X felony or a forcible felony. Eliminated the exclusion from "eligible offender" of a person convicted of attempting to commit any of the specified offenses. Provided that if the most serious crime of which the individual was convicted is a felony (currently, a Class 1, 2, 3, or 4 felony), the minimum period of good conduct shall be 2 years.

– 2014 –
• **HB2378 amended Section 2630 of Chapter 20 and Section 105 of Chapter 30 of the Illinois Compiled Statutes** to provides that a petitioner may petition the circuit court to expunge the records of his or her arrests when he or she has been convicted of or placed on supervision for a misdemeanor that occurred more than 15 years before the filing of the petition if the person has not committed another offense within that period, other than minor traffic offenses. The circuit court clerk shall charge a $150 fee per offense plus court costs for the expungement.
• **HB3010 amended Section 5/5-6-3.4 of Chapter 730 in the Illinois Compiled Statutes** to permit persons charged with minor non-violent drug, fraud or theft felony offenses, who have not previously been convicted of a felony or of a violent offense, to be placed on probation for a period of two years. Upon successful completion of probation, charges are dismissed and are not considered to be a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime.

ILLINOIS (CONT.)

– 2013 –

• **HB1046 amended Section 5/1-8.5 of the Illinois Compiled Statutes** to permit state and local inmates who are not enrolled in medical assistance to apply at any time prior to the date of scheduled release.

• **Executive Order Number 1** to remove inquiries into applicants' criminal history on state employment applications, and directing each state agency to establish a "documented review process" to ensure that any exclusion related to a criminal record is "job-related and consistent with business necessity". Effective 2015, private employers with more than fifteen employees are prohibited from inquiring about criminal history until the first interview or, if there is no interview, after a conditional offer is made.

– 2012 –

• **HB5771 amended Section 5 of Chapter 730 of the Illinois Compiled Statutes** to provide that the certificate may be granted to an eligible offender who has demonstrated by a preponderance of the evidence that he or she has been a law-abiding citizen and is fully rehabilitated. Provided that the applicant has conducted himself or herself in a manner warranting the issuance of the certificate of good conduct for a minimum period of one year (rather than 3 years if the person was convicted of a felony and one year if the person was convicted of a misdemeanor).

• **SB3458 amended Section 2630 of Chapter 20 and Section 5 of Chapter 730 of the Illinois Compiled Statutes** to provide that the Prisoner Review Board, upon a petition by a person who has been convicted of a Class 3 or 4 felony and who meets other eligibility requirements, shall hear by a panel of at least 3 members and, with the unanimous vote of 3 members, issue a certificate of eligibility recommending that the court order the sealing of all official records of the arresting authority, the circuit court clerk, and the Department of State Police concerning the arrest and conviction of the person for the Class 3 or 4 felony. Excludes from eligibility persons convicted of violent crimes, sex offenses, or DUI.

– 2010 –

• **SB760 amended Section 20 of Chapter 305 of the Illinois Compiled Statutes** to provide that to the extent permitted by federal law and notwithstanding any other provision of the Code, the Department of Healthcare and Family Services shall not cancel a person's eligibility for medical assistance solely because that person has become an inmate of a public institution, including, but not limited to, a county jail, juvenile detention center, or State correctional facility. Provided that the person may remain enrolled for medical assistance as long as all other eligibility criteria are met. Provided that except as provided under the County Jail Act, the Department shall not be responsible to provide medical assistance for any medical care,services, or supplies provided to a person while he or she is an inmate of a public institution.

• **SB3295 amended Section 2630 of Chapter 20 of the Illinois Compiled Statutes** to permit an arrest resulting in a charge of a felony offense to be sealed if the charge is acquitted, dismissed, or the conviction is reversed or vacated and a subsequent and related charge is brought that is a misdemeanor offense, eligible to be sealed.

INDIANA

– 2017 –

• **Executive Order 17-15** requires the removal of questions about criminal history from applications for executive branch employment unless "a particular crime precludes the person from employment in the particular job to which she or he applied." The Order additionally states that criminal history background checks "typically will be conducted at a later point in the application and hiring process."

• **SB312 amended Indiana Code 22-2-17** to prevent evidence of an employee's criminal history to be introduced in a negligence claim against the employer based on the actions of the employee if it relates to information not resulting in conviction, to a pardoned, vacated, expunged or sealed conviction, or "does not bear a direct relationship to the facts underlying the civil action."

– 2015 –

• **HB1269 amended Indiana Code 11-10-3-6, 11-10-3-7, 11-12-3.8-1, 11-12-5-5.5, 12-15-1-20.4, 12-21-5-2, 16-31-2-7, 20-28-3-4, 25-23.4-3-1, 25-23.4-3-7, 25-23.4-4-3 and added Indiana Code 11-10-12-5.3, 11-10-12-5.7, 11-12-5-9, 11-12-5-10, 12-15-1.3-13.5, 12-15-4-2.5, 12-15-11-8, 12-21-5-4, 16-18-2-348.5, 16-36-1-15, 20-20-18.5, 20-34-3-21, 25-23.4-8-2, 27-8-34, 27-13-1-34, 27-13-7-22, 34-30-2-99.8, 36-2-13-19** to authorize the corrections department and sheriffs to seek Medicaid coverage for eligible inmates. Made the department or a sheriff an inmate's authorized representative for the purpose of applying for Medicaid. Required the department and the office of the secretary of family and social services to enter into an agreement in which the department pays the state share of the Medicaid costs incurred for the inmate. Required a county executive to enter into an agreement with the office of the secretary of family and social services to pay the county share of the Medicaid costs incurred for the inmates. Specified reimbursement rates for inmate services provided. Authorized Medicaid coverage to be suspended for up to one year, rather than terminated, for state and local inmates. Required the department or the sheriff to assist an inmate in applying for Medicaid and securing mental health or substance abuse treatment upon release from incarceration.

– 2012 –

• **HB1033 amended Indiana Code 35-38-8-7, 35-50-2-1, 35-50-2-7 and added Indiana Code 24-4-18, 34-28-5-15, 34-28-5-16** to makes it a class B infraction for an employer to ask if a person's criminal record has been sealed or restricted. Permits a court to convert a Class D felony to a Class A misdemeanor if the person is not a sex or violent offender, the offense was a nonviolent offense, a person has not been convicted of perjury or official misconduct, at least 3 years has passed since the person completed the sentence, the person has not been convicted of a new felony, and there are no criminal charges pending.

– 2011 –

• **HB1211 added Indiana Code 35-38-5-5.5 and 35-38-8** to limit disclosure of conviction records related to the arrest for misdemeanor or class D felony convictions not resulting in injury or an adjudicated delinquent for an offense that would be a misdemeanor or non-injurious class D felony if committed by an adult, to criminal justice organizations or individuals. Excluded sex and violent offenders, unless that status is solely due to a conviction for sexual misconduct with a minor. Required that at least 8 years have elapsed since completion of sentence and any other court-ordered obligations and that s/he has no subsequent felony conviction since completion of the sentence. Permitted a person whose petition has been granted to legally state on employment applications and other documents that s/he has not been arrested or convicted for the conviction in the restricted records.

IOWA

– 2017 –

• **HB79 amended Sections 39A.1, 43.18, 43.67, 44.3, 45.3, 48A.6, 57.1, 123.3, 161A.5, 277.4, 376.4, and 914.2 and added Section 914.8 of the Iowa Code** to restore the right to register to vote, vote, and to hold elective office for certain persons convicted of an offense.

– 2012 –

• **SB2186 amended Section 249A.38 of the Iowa Code** to allow all inmates who are Medicaid eligible to have their Medicaid suspended upon admission to a correctional facility. Previous law permitted only those inmates who were Medicaid eligible due to age or reason of disability to have their Medicaid suspended.

KENTUCKY

– 2017 –

• **SB120 amended numerous Sections Chapter 335B of the Kentucky Revised Statures** to narrow the class of offenses to which the chapter applies, to add consideration of the passage of time since the commission of the offense to the criteria considered in making licensure decisions, to delete language relating to a hiring or licensing authority's subjective view of an ex-offender's rehabilitation, and to require an open hearing prior to a license denial for an individual.

• **SB195 amended Section 610.330 of the Kentucky Revised Statutes** to allow the option of expungement after two years for all juvenile adjudications excluding sex crimes and those that would result in "violent offender" classification. A person may only expunge a single felony-level offense (or serious of offenses arising from the same incident), but there is no such limitation on misdemeanor-level offenses.

• **Executive Order 2017-064** removed questions about criminal history and convictions from state job applications. The Order prohibits agencies from inquiring into an applicant's criminal history until the applicant has been contacted to interview for a position, unless required by law to do so.

– 2016 –

• **HB40 added multiple Sections to Chapter 431 and amended Sections 431.076 and 431.078 of the Kentucky Revised Statutes** to authorize courts to vacate certain class D felony convictions and pardoned convictions, dismiss the charges, and expunge the record. A waiting period of 5 crime-free years applies, and expungement may only be sought once in a person's lifetime. Expungement restores voting rights lost due to felony conviction. Expunged records are removed from official databases and their existence may be denied. A $500 filing fee is required. Previously, expungement was only available for misdemeanors.

– 2011 –

• **SB26 amended Sections 186.531 and 186.412 of the Kentucky Revised Statutes** to require the circuit court clerk of the county in which a released felony offender resides, upon receipt of proper documentation from the department of corrections, to issue a personal ID card, or, if eligible, a driver's license, to any eligible felony offender released on home incarceration, parole, discharge of sentence, shock probation or pardon. Applied the same procedure to those felony offenders placed on probation or conditionally discharged by the court and under the supervision of the division of probation and parole.

– 2010 –

• **HB428 amended Section 186.412 of the Kentucky Revised Statutes** to permit issuing an identification card or driver's license to a felony offender released from a state correctional facility onto home incarceration, parole, completed service of sentence, shock probation, pardon, probation, or conditional discharge, provided the proper documentation is provided. Proper identification includes a birth certificate, a notice of discharge, a photograph printed on plastic card or paper, and a release letter that contains the offenders full legal name, discharge/release date, signature, social security number, date of birth, local address, and physical description. Required the offender to present the documentation to the circuit court within 30 calendar days after release.

LOUISIANA

– 2017 –

• **HB177 amended and reenacted Louisiana Revised Statutes 46:233.2** to eliminate restrictions on eligibility for benefits of the Supplemental Nutrition Assistance Program for people with prior drug convictions.

• **HB688 amended and reenacted Louisiana Revised Statutes 17:3138(A)(1)(a) and (D) and enacted 17:3152** to prohibit a public postsecondary education institutions from inquiring about a prospective student's criminal history, except for history pertaining to specified offenses, prior to acceptance for admission.

LOUISIANA (CONT.)

• **HB519 amended Chapter 1-C of Title 37 of the Louisiana Revised Statutes** to delete the term "provisional" from the entirety of the Act to modify the requirements for issuing work licenses to ex-offenders.

– 2016 –

• **HB55 enacted Louisiana Revised Statutes 13:5368** to provide for the dismissal of certain criminal charges upon completion of the Veterans Court Program, provided that the court may defer proceedings and place a defendant on probation when the court determines that it is in the best interest of justice, provided that if the defendant is accepted into the Veteran Courts Program, the defendant must waive the right to a trial.

• **HB145 enacted Louisiana Revised Statutes 23:291.1** to require courts to order temporary certificates of employability to offenders participating in a reentry court and upon successful completion to issue a permanent certificate of employability. Allowed for revocation of certificates. Specified an employer, general contractor, premises owner or other third party is not subject to a cause of action for negligent hiring or failing to adequately supervise an offender certified to be employed by a reentry court judge due to damages or injury caused by that employee solely because the employee has been previously convicted of a criminal offense.

• **HB266 enacted Chapter 29 of Title 42 of the Louisiana Revised Statutes to be comprised of Louisiana Revised Statutes 42:1701** to prohibit a state employer from inquiring about a prospective unclassified employee's criminal history until after an interview or a conditional offer of employment is made. Listed considerations that an employer can make when considering a criminal record for the final hiring decision.

• **HB1052 amended and enacted Louisiana Code of Criminal Procedure Article 893(B)(1)(b) and enacted Chapter 33-C of Title 13 of the Louisiana Revised Statutes, comprised of Louisiana Revised Statutes 13:5371 through 5373 and Code of Criminal Procedure Article 893(B)(1)(a)(iv)(dd)**, related to a probation pilot program in the 24th Judicial District Court, provided for the Swift and Certain Probation Pilot Program, provided for eligibility, provided for the suspension of sentence in certain cases, provided for the effects of completion of the program, related to funds realized from participation in the program.

• **HB7 amended Sections 978(B)(1) of the Louisiana Code of Criminal Procedure** to provide for the expungement of certain crimes of violence after a cleansing period of more than 10 years.

– 2015 –

• **HB499 enacted Louisiana Revised Statutes 32:415.3** to provide for issuance of a provisional Class E driver's license to certain persons upon their release from incarceration, provided for exceptions, provided that payment of fees, fines, and penalties be deferred upon proof of release, provided a specified time for the license holder to clear the driving record, provided for revocation of a provisional Class E driver's license for a new offense or violation of probation or parole, related to proof of insurance or proof of employment.

– 2014 –

• **HB505 enacted Louisiana Revised Statutes 23:291(E)** to prohibit a person from being disqualified for a licensed trade, occupation or profession solely because of a prior criminal record, expect in cases in which a conviction directly relates to the specific occupation, trade or profession for which license, permit or certificate is sought.

• **HB55 added Title 34 to the Louisiana Code of Criminal Procedure** to consolidate existing expungement laws and authorizing expungement of felony convictions for the first time. Expungement is mandatory if basic eligibility requirements are met, though an extensive waiting period of 10 years from completion of sentence applies. Violent offenses, sex offenses, crimes against minors, and drug trafficking offenses are ineligible.

LOUISIANA (CONT.)

• **HB1273 enacted Chapter 1-B of Title 37 of the Louisiana Revised Statutes** to permit persons convicted of certain offenses to apply for and hold provisional and regular licenses to engage in certain fields of work.

– 2012 –

• **SB403 enacted Louisiana Revised Statutes 44:9(E)(1)(c) and (d)** to allow for the expungement of certain nonviolent first offense felony convictions for distribution, dispensing, or possession with intent to produce, manufacture, distribute or dispense amphetamine, methamphetamine, cocaine, oxycodone or methadone when the amount of the drug was 28 grams or less.

• **HB295 amended and enacted Louisiana Revised Statutes 37:2950(A) and enacted Louisiana Revised Statutes 37:2950(D)(1)(a)(xv), (xvi), and (xvii)** to prohibit a person from being disqualified for a licensed trade, occupation or profession solely because of a prior criminal record, expect in cases in which a conviction directly relates to the specific occupation, trade or profession for which license, permit or certificate is sought.

– 2010 –

• **HB102 amended and enacted Louisiana Revised Statutes 44:9(K)(2) and enacted 44(K)(3)** to add to the list of persons exempted from fees for expungement of criminal records, individuals where the case was dismissed or the district attorney declined to prosecute and the individual did not participate in a pretrial diversion program.

• **HB927 enacted Louisiana Revised Statutes 44:9(A)(5)** to permit persons convicted for a violation of a municipal or parish ordinance or violation of a state misdemeanor to petition the court for expungement of the arrest record if five years or more has elapsed since successful completion of the sentence. Prohibited expungement if the misdemeanor conviction was an offense involving sexual acts or domestic violence. Provided, if expungement is granted, the prior arrest or conviction may still be considered in relation to prosecution under multiple offender provisions or to confirm qualifications of any person for any privilege or license authorized by law.

MARYLAND

– 2017 –

• **SB853 amended Section 5-601 of Article – Human Services of the Annotated Code of Maryland** for the purpose of repealing provisions of law subjecting individuals convicted of certain felonies involving a controlled dangerous substance who apply for temporary cash assistance or food stamps to certain testing and treatment requirements and sanctions; altering the criminal violations that make recipients ineligible for temporary cash assistance or food stamps for a certain period of time after a date and subject to testing and treatment requirements and sanctions; and generally relating to participation in the temporary cash assistance and food stamp programs.

• **HB1418 amended Sections 5-601(e)(1), 5-609.1, 5-612.1, 10-110(a), 10-110(b), 9-3202, 9-3203(a), 27-101(gg), and 16-303(k) of Article – Criminal Law of the Annotated Code of Maryland** to grant courts additional authority to expunge the records of over 100 enumerated misdemeanor offenses after a 10 to 15 year waiting period.

• **SB445 amended Section 10-105(a) of Article – Criminal Procedure of the Annotated Code of Maryland** to grant courts the authority to expunge the record of conviction for marijuana possession after four years.

• **SB1005 amended Section 7-104 of Article – Correctional Services of the Annotated Code of Maryland** to provide that a certificate of rehabilitation prevents licensing boards from discriminating against an applicant based on a conviction unless there is a “direct relationship” between the crime and the license at issue, or issuance would pose an “unreasonable risk” to persons or property.

LOUISIANA (CONT.)

• **HB440 proposes to amend Section 5-427 of Article – Courts and Judicial Proceedings of the Annotated Code of Maryland** to establish that employers of ex-offenders have immunity from liability for negligent hiring or inadequate supervision for a defined set of jobs.

– 2016 –

• **SB1005 added the Justice Reinvestment Act that repealed, amended, or added to Article – Correctional Services, Article– Criminal Law, Article – Criminal Procedure, Article – Health – General, Article – State Finance and Procurement, Article – State Government, and Article – Transportation of the Annotated Code of Maryland** to create a certificate of rehabilitation for people with criminal records seeking employment and permitted expungement for certain specified misdemeanors.

–2015 –

• **HB244 added Sections 10-301, 10-302, 10-303, 10-304, 10-305, 10-306, and 4-327 of Article – Criminal Procedure of the Annotated Code of Maryland** to grant courts authority to "shield" twelve specific minor misdemeanor convictions, including possession of a controlled substance, three years after completion of sentence.

MARYLAND

• **HB980 amended Sections 3-102, 3-204, 3-504, 16-202, and 6-234 of Article – Election Law and Article – Criminal Procedure of the Annotated Code of Maryland** to limit felony disenfranchisement to those serving a term in prison. Previously, those with felonies did not regain the right to vote until after completing any period of probation or parole.

• **SB582 amended Section 11-1201 of Article – Labor and Employment of the Annotated Code of Maryland** to establish a pilot program to aid ex-offenders in developing viable business plans into an actual business.

– 2013 –

• **SB4 added Section 2-203 to Article – State P ersonnel and Pensions of the Annotated Code of Maryland** to prohibit a state appointing authority from inquiring into the criminal record or criminal history of an applicant for employment until the applicant has been provided an opportunity for an interview. Excluded positions within the Department of Public Safety and Correctional Services, those with a statutory duty to conduct a criminal history records check, and positions in a sheriff's office.

– 2012 –

• **HB708 repealed and reenacted Section 4-202 and 4-202.2 and amended Section 10-106 of Article – Criminal Procedure of the Annotated Code of Maryland** to alter provisions relating to the expungement of certain criminal records by authorizing a person to file, and requiring a court to grant, a petition for expungement of a criminal charge transferred to the juvenile court under a certain provision of law; and generally relating to the expungement of certain criminal charges transferred to the juvenile court.

MASSACHUSETTS

– 2017 –

• **H3558 proposes to amend Chapter 51 Section 65 of the Massachusetts General Laws** to provide rules for notification of voting eligibility for certain persons convicted of a felony.

• **H3509 proposes to amend Chapter 111E Section 19 and Chapter 121B Section 61 of the Massachusetts General Laws** to outline a plan that includes free housing and housing vouchers for people convicted of a drug offense and released from custody and found to be alcohol/drug dependent person.

MASSACHUSETTS

– 2016 –

• **S2021 amended Chapter 90 Section 22 of the Massachusetts General Laws** to require the DMV automatically suspend an individual's driver's license upon conviction for a drug offense. Automatic suspension remains in place for a small number of drug offenses. Individuals whose licenses were suspended under the provision may have them reinstated immediately without having to pay the previous $500 reinstatement fee.

– 2010 –

• **SB2583 repealed, amended, and added to numerous chapters of the Massachusetts General Laws** to reform the administrative procedures relative to criminal offender record information. The act stipulated the entities or individuals who may access criminal record information, for what purposes and what information they may access. Prohibited a requestor from disseminating criminal offender record information except with individuals within the requesting entity that have a need to know the contents of the information. Required, a person in possession of an applicant's criminal offender record in connection with employment, volunteer opportunities, housing, or professional licensing, to provide the applicant with the criminal history information prior to questioning the applicant. Prohibited an employer from requesting criminal offender record information on its initial written application form, unless the applicant is applying for a position which federal or state law or regulation disqualifies employment due to a criminal offense or the employer is obligated by federal or state law or regulation not to hire persons with certain criminal convictions.

MICHIGAN

– 2014 –

• **HB4186 amended Sections 1 and 3 of Michigan Compiled Laws 780.621 and 780.623, Section 1 of 2014 Public Act 335, and Section 3 of 1994 Public Act 294** to expand the conditions that warrant criminal record expunction for offenders convicted of felony and misdemeanor offenses.

• **SB1011 amended Section 400.106 and added Section 400.106b of the Michigan Compiled Laws** to allow suspension of Medicaid for incarcerated individuals except as patients in a medical institution. Provided that the State shall suspend medical assistance for a person with severe mental illness in an inpatient program for treatment of serious mental illness or severe emotional disturbance or in a correctional facility.

• **HB5216 amended Sections 791.201 and 791.285 by adding Section 34d to the Michigan Compiled Laws** to provide that, upon release, the Department of Corrections shall issue a certificate of employability to prisoners who have successfully completed a career and technical education course, received no major misconducts or no more than a certain number of minor misconducts, preceding his or her release and received a certain level or better on his or her work readiness certificate.

• **HB5217 amended Sections 600.101 and 600.9947 by adding Section 2956a to the Michigan Compiled Laws** to provide that a certificate of employability may be introduced as evidence in an action based on tort or another legal theory seeking damages for personal injury, property damage or wrongful death, provides that employer may be held liable if the employer had knowledge that an individual hired with a certificate of employability was dangerous or had been convicted of a felony after being hired.

• **HB5218 amended Section 338.42 of the Michigan Compiled Laws** to provide that if a judgment of guilt in a criminal prosecution is used as evidence in the determination of an individual's good moral character in a matter concerning an occupational license, then the board or agency shall also consider his or her certificate of employability as evidence in the determination, provides that if the board has made such a determination, the applicant may rebut the evidence.

MICHIGAN

– 2012 –

• **HB4074 amended Section 791.235, 791.237, and 791.267 of the Michigan Compiled Laws** to require the Department of Corrections to provide an inmate with an identification upon release, and required the card to contain the prisoner's photograph, legal name, and date of birth, and a statement of whether the prisoner was placed on parole or discharged after completing his or her sentence. Required the Department of Corrections to assist an inmate, before being released from prison, to obtain a driver license, state identification card, a Social Security card or number verification. Required the department to provide the Secretary of State with electronic access to prisoner information, for the purpose of verifying the identity of a prisoner who applied for a driver license or State ID.

• **HB4075 amended Section 28.291 of the Michigan Compiled Laws** to require the secretary of state to accept the identification card issued by the Department of Corrections to inmates upon release from prison as one of the acceptable forms of identification to obtain an official state identification card.

– 2012 –

• **HB4077 amended section 771.14 of Chapter 11 of the Michigan Compiled Laws** to require, upon release from prison,inmates be provided with an explanation of the importance of obtaining an operator's license or state personal identification card and the list of documents necessary for obtaining an operator's license or personal identification card.

– 2010 –

• **HB5882 amended Sections 400.1 and 400.119b of the Michigan Compiled Laws** to require the department of human services to exempt an individual convicted of a felony related to possession, use or distribution of a controlled substance after August 22, 1996, from denial of title IV-A assistance and food assistance benefits, provided the individual is in compliance with his or her probation or parole.

MINNESOTA

– 2017 –

• **F1779 proposes to amend Sections 245C.22, 245C.24, and 364.07 as well as repeal numerous Sections of the Minnesota Statutes 2016 to enact the Uniform Collateral Consequences of Conviction Act.** The bill outlines notification of collateral consequences and process for application of certificates of relief.

• **HF951 amended Sections 201.014, 201.071, 204C.10, and 609.165 and added Sections 201.276 and 243.205 of the Minnesota Statutes 2016** to restore the right to vote of an individual upon release from incarceration or upon sentencing if no incarceration is imposed.

– 2014 –

• **HF25 76 amended Minnesota Statutes 2012 Sections 245C.22, 245C.23, 269B.198, 332.70, 504B.345, 609A.02, and 609A.03** and added new Chapter 609A to add three new circumstances under which criminal records may be expunged, including: the offender has successfully completed the terms of a diversion program or stay of adjudication and has not been charged with a new crime for at least two years; the offender was convicted of or received a stayed sentence for a petty misdemeanor, misdemeanor, or gross misdemeanor and has not been convicted of a new crime for at least five years; or the offender was convicted of or received a stayed sentence for an enumerated felony and has not been convicted of a new crime for at least eight years.

– 2013 –

• **SF523 amended Minnesota Statutes 2012 Sections 181.53 and 181.981** to extend to private employers, the prohibition on considering criminal history of an applicant. Clarified that if there is not a job interview, the employer cannot inquire into criminal history until a conditional offer has been

MINNESOTA (CONT.)

made. Required the commissioner of human rights to investigate violations by a private employer, and permitted the commissioner to impose fines and penalties.

• **HF729 amended Minnesota Statutes 2012 Section 462A.201** to appropriate $500,000 to the Housing Finance Agency to provide temporary rental assistance to offenders who are released from prison and homeless or at risk of becoming homeless.

MISSISSIPPI

– 2010 –

• **HB160 amended Sections 99-19-71 and 41-29-10 of the Mississippi Code of 1972** to permit a person to petition the court to expunge one felony conviction from all public records five years after successful completion of the sentence for the crimes of bad check, possession of a controlled substance, false pretense, larceny, malicious mischief or shoplifting.Required the court to determine that the applicant is rehabilitated from the offense and if the court denies the petition, the findings must be identified specifically. For expunged records, permitted the district attorney's office to retain records for law enforcement purposes only and a prospective employer may still ask a prospective employee if he or she has ever had an order of expungement. Required persons with an expunged record and has been called to jury duty to notify the attorneys in the case of the previous conviction.

MISSOURI

– 2017 –

• **SB167 amended Section 115.133 of the Revised Statutes of Missouri** to restore voting rights of post-incarcerated individuals.

– 2016 –

• **Executive Order 16-04** directed that all departments, agencies and boards and commissions in the Executive Branch subject to the authority of the Governor shall take all necessary action to amend initial employment applications by removing questions relating to an individual's criminal history unless a criminal history would render an applicant ineligible for the position.

• **SB588** repealed and replaced Sections 488.650 and 610.140 of the Revised Statutes of Missouri to allow an applicant who has been granted a criminal records expungement to answer ""no"" to an employer's inquiry into past criminalconvictions provided there is no public record after the expungement has been granted. Required disclosure after an expungement if federal or state law prohibits certain convictions for the position. Required employers to notify applicants of specific disclosure requirements.

– 2014 –

• **SB680 repealed and replaced Sections 208.024 and 208.027 and enacted Sections 208.018, 208.141, 208.238, and 208.247 of the Revised Statutes of Missouri** to permit an individual convicted of a felony involving possession or use of a controlled substance to be eligible for food stamp benefits if they meet certain criteria, including participation in and completion of a substance abuse program and complying with all obligations imposed by the court. Specified this does not apply to individuals with two subsequent felony offenses involving possession or use of a controlled substance after the date of the first controlled substance felony conviction.

MONTANA

– 2017 –

• **HB168 amended Title 46, Chapter 18 of the Montana Code Annotated 2015** to allow a person convicted of a misdemeanor offense the right to petition the court for the expungement of criminal records in certain cases.

MONTANA

– 2015 –

• **SB219 amended Title 46, Chapter 18, Section 204 of the Montana Code Annotated 2015** to require automatic dismissal of charges following completion of a deferred imposition of sentence for a felony conviction.

NEBRASKA

– 2017 –

• **LB350 proposes to amend Section 29-2264 of the Reissue Revised Statutes of Nebraska** to provide a procedure for setting aside convictions for misdemeanors and felonies.

• **LB146 proposes to amend Section 29-2264** of the Reissue Revised Statutes of Nebraska to provide set-asides of infractions while an individual is on probation.

– 2016 –

• **LB505 amended Section 29-3523 of the Nebraska Revised Statutes Supplement 2015** to allow for the immediate sealing of court records upon completion of a mandated drug court program or other problem solving court program rather than requiring a three-year waiting period.

– 2015 –

• **LB605 amended the Nebraska Revised Statutes Supplement 2014** to require suspension, rather than termination, of Medicaid upon incarceration and that benefits be reinstated upon release.

– 2014 –

• **LB907 amended Sections 7-201, 7-202, 7-203, 7-204, 7-206, 7-207, 7-208, 7-209, 83-1,104, and 83-1,119 of the Reissue Revised Statutes of Nebraska and amended Sections 29-3927, 83-1,102, and 83-1,107 of the Nebraska Revised Statutes Cumulative Supplement 2012** to prohibit public employers from asking applicants to disclose criminal record information or history until determining the individual has met minimum employment qualifications. Specified that this does not apply to certain employers, including law enforcement and school districts.

– 2018 –

•**AB384 amended Sections 284.240, 613.330, and 613.405 and Chapters 245, 269, and 284 of the Nevada Revised Statutes** to prohibit public employers from disqualifying an applicant based on conviction unless the employer considers certain enumerated factors, including the nature and age of the offense. The law also prohibits entirely consideration of nonconviction records more than six months old, expunged and sealed records, and convictions for infractions and misdemeanors where no term of imprisonment in a county jail was imposed. It additionally prohibits public employers from inquiring about criminal history until after the final interview or conditional offer of employment, whichever is earliest.

– 2017 –

• **AB327 amended Sections 176A.870, 179.241, 179.245, 179.255, 179.259, and 179.295 and Chapter 179 of the Nevada Revised Statutes** to authorize a person who was dishonorably discharged from probation to apply to a court for the sealing of records of criminal history relating to the conviction; revised various provisions relating to the filing of petitions for the sealing of records of criminal history; and required an agency of criminal justice to remove certain records from a record of criminal history before dissemination of the record in certain circumstances.

• **AB181 amended Sections 176A.850 and 213.155 of the Nevada Revised Statutes** to extend automatic civil rights restoration to individuals who were not “honorably discharged” from probation or parole, including for unexcused failure to pay restitution. Under current law, probationers and parolees are eligible for automatic restoration only if they have been “honorably discharged.”

NEVADA

– 2017 –

• **AB243 amended Sections 176.515, 179.241, 179.245, 179.275, 179.285, and 179.295 and Chapter 179 of the Nevada Revised Statutes** to authorize vacatur and sealing for human trafficking victims convicted of prostitution and related offenses. Previously, vacatur was available for such convictions, but sealing was not explicitly authorized.

– 2013 –

• **SB395 amended Section 176.0125 of the Nevada Revised Statutes** to require the Advisory Commission on the Administration of Justice to identify and study the provisions of existing law which impose or authorize a collateral sanction or disqualification due to a criminal conviction and provisions allowing relief from those collateral consequences.

• **SB423 amended Sections 208.511, 483.290, and 483.860 of the Nevada Revised Statutes** to require the director of the Department of Corrections to provide photo identification cards to inmates upon release if the inmate requests the card and is eligible to acquire the card.

• **SB519 amended Chapter 209 of the Nevada Revised Statutes** to authorize the Director of the Department of Corrections or his or her designee, after informing a prisoner, to apply for a determination of Medicaid eligibility on behalf of the prisoner.

– 2011 –

• **SB159 amended Sections 209.511, 440.175, 440.700, 483.417, and 483.825 of the Nevada Revised Statutes** to require the director of corrections, upon release from prison, to provide information regarding employment, including any bonding programs, provide information and reasonable assistance in acquiring a driver's license or ID card if the offender both requests the assistance and is eligible for such ID. Prohibits entities from charging a fee for issuance of a certified or official copy of a birth certificate or the state registrar for issuing a certified copy of a birth record to a person who submits documentation from the department of corrections verifying his/her release from prison within the immediately preceding 90 days.

NEW HAMPSHIRE

– 2014 -

• **HB1368 amended Section 332-G of the New Hampshire Revised Statutes Annotated** to provide that no board or commission shall disqualify a person from practicing or engaging in any occupation, trade, vocation or profession for which a license, permit, certificate or registration is required because of a prior conviction of a crime in and of itself, allows denial of a license or certificate or the renewal of a license or certificate after considering whether there is a substantial and direct relationship to the occupation, trade, vocation or profession for which the person has applied.

– 2013 -

• **HB450 amended Sections 651:5(XI)(c) and 651:5(XI)(d) of the Nevada Revised Statutes Annotated** to provide that annulled records are only available to the person receiving the annulment and to law enforcement.

NEW JERSEY

– 2017 –

• **S2672 proposes to amend Section 19:4-1 of the New Jersey Revised Statutes** to allow persons on parole and probation to vote, and provide registration assistance to persons on probation, parole, and persons completing their sentences.

NEW JERSEY (CONT.)

– 2016 –

• **A206 amended Sections 2C:35-14 , 2C:52-2, 2C:52-3, 2C:52-6, 2C:52-20, 2C:52-21, 2C:52-24, and 2C:52-27 of the New Jersey Revised Statutes** authorized Superior Courts to expunge most drug offenses upon successful completion of "drug court" (special probation and discharge) if the person completes a substance abuse treatment program and is not convicted of an offense during the term of special probation. Those who completed drug court prior to the new authority's enactment may petition for expungement subject to similar criteria.

– 2014 –

• **A1999 amended Title 34 of the New Jersey Revised Statutes** to require most state agencies, and most private employers with more than fifteen employees, to delay inquiry into an applicant's criminal history until after an initial interview. There are several exceptions, including jobs in law enforcement and the judiciary, jobs for which criminal checks are required by law, and jobs for which lack of prior record is required for licensing or similar purposes. The law also prohibits most employers from publishing job notices that state that applicants that have been arrested or convicted of crimes will not be considered.

– 2014 –

• **A2295 supplemented Title 26 and amended Public Law 1997, Chapter 14 of the New Jersey Revised Statutes** to require the Division of Addiction Services to grant residential treatment program licenses to programs operating in State correctional facilities and county jails which meet or substantially meet requirements for licensure, ensures that incarcerated individuals who participate in and complete drug treatment programs which meet or substantially meet requirements for licensure as residential programs are not denied eligibility for general public assistance benefits upon release from incarceration.

• **S131 amended Section 2C:52-2(a) and added a new Section to Chapter 52 of Title 2C of the New Jersey Revised Statutes** to expand expungement availability to permit a person to append to a petition for expungement of an indictable offense up to two petitions for expungement of disorderly persons/ petty disorderly persons offenses. Previously, there was no way for a person to expunge both indictable and disorderly persons offenses in their lifetime.

– 2012 –

• **S876 amended Section 33:1-26 of the New Jersey Revised Statutes** to permit liquor licensees to employ certain exoffenders in certain positions without a special permit.

NEW MEXICO

– 2010 –

• **HM32** requested the New Mexico congressional delegation to support and promote measures to eliminate barriers to public housing for convicted felons and certain misdemeanants.

• **SB254 amended Section 28-2-3 of the New Mexico Statutes Annotated** to prohibit the state or any political subdivisions from inquiring about a conviction on an initial employment application and permits the employer to take a conviction into consideration only after an applicant has been selected as a finalist for the position. Permitted the state or any political subdivision to consider a conviction for a license, permit, certificate, or other authority to engage in any regulated trade, business, or profession but prohibits the conviction to operate as an automatic bar to obtaining public employment or license. Prohibited records of arrest following an invalid conviction and misdemeanor convictions, except those involving moral turpitude, from being used, distributed, or disseminated in connection with an application for any public employment, license, or other authority.

NEW YORK

– 2017 –

• **S4911 proposes to add Article 435 to the New York Criminal Procedure Law** to make state law consistent with the Uniform Collateral Consequences of Conviction Act.

• **S02009C added Section 160.59 to the New York Criminal Procedure Law** to allow courts the opportunity to seal up to two convictions with exceptions – one being a felony for crimes not being sex offenses or class A violent crimes – after a ten year waiting period since the imposition of the sentence on the individual's latest conviction.

– 2011 –

• **S05757 amended Section 702.1 of the New York Correction Law** to require the court, upon application, to determine the fitness of an eligible offender for a certificate of relief from disabilities prior to or at the time the sentence is pronounced.

• **S02812 amended Subdivision 4 of Section 702 and Section 703 of the New York Correction Law** to authorize the Department of Corrections to grant and revoke certificates of relief from disabilities and certificates of good conduct.

– 2010 –

• **A05462 amended Sections 384-b and 409-e of the New York Social Service Law** to add a parent that is incarcerated to the list of considerations when determining guardianship and custody of a child who has been foster care for 15 of the last 22 months. Required the parent to have a meaningful role in the child's life, defines a meaningful role as expressions or acts manifesting concern for the child such as letters, telephone calls, visits, or other forms of communication. Required incarcerated parents to be notified of their legal rights and obligations and whenever possible will include information on transitional and family support services.

– 2010 –

• **A09706 amended a variety of sections of New York Law** to require that no fee will be charged for a birth certificate of an inmate if requested by the department of correctional services or a local correctional facility prior to an inmates release. Required the Department of Correctional Services to notify an inmate, whose maximum sentence has expired, of his or her right to vote and provide a voter registration form and information on voting. Required the Division of Parole to notify an offender, upon discharge from presumptive release, parole or conditional release or upon the expiration of a sentence, of his or her right to vote and provide a voter registration form and information on voting.

NORTH CAROLINA

– 2017 –

• **SB445 amended Sections 15A-145.5 and 15A-146 of the North Carolina General Statutes** to reduce the waiting period for expungement of eligible non-violent first-offender misdemeanor and felony convictions - from 15 years for both to five years for misdemeanors and ten years for felonies. The amendment also authorized partial expungement of any dismissed charges in cases where not all charges were dismissed.

• **H233 proposes to add Sections 126-000, 126-001, 126-002, 126-003, 126-004, and 126-005 of the North Carolina General Statutes** to require that public employers may not inquire into or consider the criminal history of an applicant for public employment, or include any such inquiry on any initial employment application form, until the hiring authority has made a conditional offer of employment to the applicant.

– 2013 –

• **S33 amended Chapter 93B to add Section 93B-8.1 of the North Carolina General Statutes** to prohibit a licensing board from automatically denying licensure based on the criminal history of the applicant. Permitted a licensure board to deny the license based on a criminal conviction if the board has been authorized to do so and it finds denial is warranted based on the level and seriousness of the crime, date of conviction, age at the time of the

NORTH CAROLINA (CONT.)

crime, circumstances of the crime, nexus between the criminal conduct and prospective duties of the applicant, prison, jail, probation, parole, rehabilitation and employment records since the commission of the crime, subsequent crimes, and written documents, including character references.

– 2011 –

• **H1023 amended Chapter 15A to add Section 15A-145.5 and amend Sections 15A-145.4, 15A-146, and 15A-151 of the North Carolina General Statutes** to provide for expungement of nonviolent felonies or nonviolent misdemeanors after 15 years for persons who have had no other convictions for felonies or misdemeanors other than traffic violations in any jurisdiction.

• **H641 amended Chapter 15A to add Sections 15A-173.1, 15A-173.2, 15A-173.3, 15A-173.4, 15A-173.5, and 15A-173.6 of the North Carolina General Statutes** to establish a certificate of relief that will assist individuals convicted of either Class G, H, or I felonies or misdemeanors in dealing with collateral sanctions and disqualifications that result from a criminal conviction and a procedure for issuing the certificate.

NORTH DAKOTA

– 2017 –

• **HB1041 amended Subsection 17 of Section 50-06-05.1, Subsection 1 of Section 19-03.1-22.5, and Chapter 12.1-32 of the North Dakota Century Code** to eliminate ban on receiving SNAP assistance for individuals convicted of a felony drug offense, added the option of reducing a drug possession from a felony to a misdemeanor for first time offenses, and established presumptive probation for low-level nonviolent felony offenses.

OHIO

– 2017 –

• **HB49 amended Section 2953.25 of the Ohio Revised Code** to provide that a Certificate of Qualification for Employment (CQE) creates a rebuttable presumption that a person's criminal conviction is insufficient evidence that the person is unfit for a license, employment opportunity, or certification. The amendment also eliminated the requirement that CQE applicants identify a particular collateral consequence from which relief was sought. At the same time, the amendment made individuals convicted of sex offenses ineligible for a CQE.

– 2015 –

• **HB56 amended Sections 124.11, 124.34, 329.021, 2953.36, 4121.121, 5120.38, 5120.381, 5120.382, 5123.08, and 5139.02 and enacted Sections 9.73 and 5164.44 of the Ohio Revised Code** to prohibit public employers from including on an employment application any question concerning the criminal background of the applicant. Prohibited a felony conviction from being used against an officer or employee when a public employer is undertaking certain employment practices, unless the conviction occurs while the officer or employee is employed in the civil service. Removed the bar against sealing a conviction record when the victim is 16 or 17 years old.

– 2011 –

• **SB337 added Section 2953.25(G) to the Ohio Revised Code** to provide that a certificate of qualification for employment can be used by an employer in a judicial or administrative proceeding alleging negligent hiring or other fault as evidence of due care. In any proceeding on a claim against an employer for negligent hiring, the certificate of qualification shall provide immunity for the employer.

• **HB86 amended 2961.21, 2961.22, 2961.23, and 2961.24 of the Ohio Revised Code** to establish a certificate of achievement and employability that would provide the offender relief from "civil impacts" related to a potential job. Provided employers with protection against negligent hiring claims for individuals with a certificate of achievement and employability.

OKLAHOMA

– 2016 –

• **Executive Order 2016-03** directed all state agencies to remove from job applications, questions regarding convictions and criminal history, unless a felony conviction would automatically render an applicant not qualified. Allowed employers to inquire of felony convictions during interviews, and background checks, or from excluding convicted felons when required by law or for sensitive governmental positions in which a criminal history would be an immediate disqualification.

– 2015

• **SB412 amended Title 22, Section 18 and Title 57, Section 510.9 of the Oklahoma Statutes** to add convictions that require 85 percent time served to the definition of a violent crime for purposes of expungement and added eligibility for electronic monitoring.

• **HB2168** amended numerous sections of the Oklahoma Statutes to limit when a professional license can be denied, revoked or suspended due to a felony conviction for professions, including: architects, interior designers, cosmetologists, barbers, engineers and land surveyors, athletic trainers, real estate appraisers, physical therapists, occupational therapists, psychologists, pawn brokers, language pathologists, audiologists, professional counselors, marital and family therapists, and behavioral practitioners. Required the felony be within the previous five years and be substantially related to the profession or pose a reasonable threat to public safety.

OREGON

– 2017 –

• **SB497 amended Section 137.225 of the Oregon Revised Statutes** to provide the option to set aside a criminal citation or charge in addition to a record of arrest.

– 2015 –

• **SB364 amended Section 161.705 of the Oregon Revised Statutes and Section 12, Chapter 591 of Oregon Laws 2013** to authorize a court to decrease from a class B felony to a misdemeanor for convictions of marijuana possession after successful completion of probation.

• **HB3025 added Chapter 559 of Oregon Laws 2015** to make it unlawful for an employer to exclude an applicant from an initial interview solely because of a past criminal conviction. Defined what constitutes excluding an applicant. Stated that nothing prevents an employer from considering a criminal conviction when making a hiring decision. Policy does not apply when a federal, state or local law explicitly requires consideration of criminal history; the employer is seeking a nonemployee volunteer; nor when the employer is a law enforcement agency or in the criminal justice system.

– 2011 –

• **HB3536 amended Section 411.439 of the Oregon Revised Statutes** to require the Department of Human Services or the Oregon Health Authority to suspend, rather than terminate, the medical assistance of an inmate expected to serve 12 months or less in a local correctional facility. Required the department or authority to reinstate assistance, if the person is eligible, upon notification that s/he is no longer an inmate at the local correctional facility.

• **HB3309 authorized the Department of Corrections** to establish an on-the-job training program for ex-offenders released back to the community. Allows for funding for on-the-job training for ex-offenders in the private sector. Requires the Department to provide grants to counties who will administer the training programs. Allows the Department or counties to enter into agreements with employers to provide on-the-job training. Requires the Department or county to reimburse an employer for costs of providing training and supervision related to the training.

PENNSYLVANIA

– 2017 –

• **Executive Order 2017-03** prohibits in hiring by state executive branch employers any consideration of non-conviction records, convictions that have been expunged, annulled, or pardoned, and convictions that do not relate to "suitability for Commonwealth employment." It also generally prohibits inquiries about criminal histories on applications, and requires employers to "consider the public interest of ensuring access to employment for individuals with criminal records."

• **SB842 proposes to create the Ex-Offender Increased Access to Employment Act** to provide that employers or employment agencies may not inquire about or require the disclosure of a criminal record/history in prescreening measures. The act includes penalties for violations. Also establishes the "Ex-offender Increased Access to Employment Enforcement Fund" for any penalties received and to use for enforcing the act.

• **SB855 proposes the Uniform Collateral Consequences of Conviction Act** to enable individuals with criminal convictions to apply to the sentencing court for an order of limited relief from one or more collateral sanctions related to employment, education, housing, public benefits, or occupational licensing. The court will consider the person's criminal history, public safety, any filing by a victim or prosecutor, and factors showing that the person has a substantial need for the relief in order to overcome collateral sanctions. After five years without a criminal charge, the person may apply for a more comprehensive certificate of restoration of rights, which relieves the person from all collateral consequences of conviction.

– 2016 –

• **SB166 amended Sections 9121(b)(2) and 9122.1 of the Pennsylvania Consolidated Statutes** to provide for further restrictions on dissemination of criminal history information to noncriminal justice agencies and private entities.

RHODE ISLAND

– 2016 –

• **SB2111 amended Sections 12-1.3-2 and 12-1.3-3 in Chapter 12-1.3 and Section 12-19-19 in Chapter 12-19-19 of the Rhode Island General Laws** to clarify that those who complete a deferred sentence agreement, immediately eligible for expungement of all arrest records provided that they have complied with all terms and conditions of the deferred sentence agreement and have paid all costs, fines, assessments and restitution ordered by the court. If after a hearing, the court is satisfied that the defendant has successfully complied with the deferred sentence agreement and has exhibited good moral character, the court can order the expungement of said records.

– 2013 –

• **HB5507 amended Sections 28-5-6, 28-5-7 in Chapter 28-5 of the Rhode Island General Laws** to prohibit inquiries on employment applications regarding prior criminal convictions except when federal or state law specifically disqualifies a person from employment because of a prior conviction or authorizes such inquiries. Further specified the situations when an employer may inquire about a potential employee's criminal record and the factors an employer must take into account in evaluating an applicant's criminal record.

• **SB358 amended Sections 13-8.2-1, 13-8.2-2, 13-8.2-3, 13-8.2-4, 13-8.2-5, 13-8.2-6, 13-8.2-7, 13-8.2-8 of the Rhode Island General Laws** to establish a certificate of recovery and reentry to serve as a determining factor of an ex-offender's ability to obtain employment, professional licenses, housing and other benefits and as a factor to determine whether the exoffender has been successfully rehabilitated. Permitted a person convicted of a crime, except for certain violent crimes, to petition the parole board for a certificate. Did not prevent any administrative or licensing authority from relying on the conviction as the basis, within its discretionary power, from suspending, revoking or refusing to issue any license, permit or other privilege. Stated that any individual or entity that denies employment, license, housing or other

RHODE ISLAND (CONT.)

benefits to a holder of a certificate on the basis of a criminal record is liable for civil damages or subject to any claim as a result of such denial.

– 2010 –

• **SB2646 amended Section 12-19-19 in Chapter 12-19 of the Rhode Island General Laws** to allow the district court, family court or superior court to place a person on a deferred sentence and also provided that the courts may seal any records after completion of the sentence in accordance with law.

• **HB7923 amended Sections 12-19-19 of the Rhode Island General Laws** to provide that any person arraigned before the superior court who pleads guilty or nolo contendere, and whose sentence is deferred, shall enter into a written deferral agreement with the attorney general. This act would further provide that after the completion of the deferment period, a person who has complied with all the conditions of the written deferral agreement would be exonerated of the charges and all applicable records would be sealed.

SOUTH CAROLINA

–2014 –

• **SB900 was a joint resolution of the General Assembly of the State of South Carolina** to create a study committee on expungement of criminal offenses to review the criminal laws of the state and to determine criminal offenses appropriate for expungement.

SOUTH DAKOTA

– 2010 –

• **HB1105 amended Sections 23A-3-30 and 23A-3-34 of the South Dakota Codified Laws** to permit a person to petition the court to have arrest records expunged one year from the date of arrest. Permitted the prosecuting attorney to contest the motion. Authorized the court to order expungement if it satisfies the ends of justice and the best interest of the public and the arrested person. Upon an order of expungement, records may only be used by law enforcement, prosecuting attorneys, and courts in sentencing the defendant for subsequent offenses.

TENNESSEE

–2017 –

• **HB636 amended Section 37-1-153 of the Tennessee Code Annotated** to require courts, upon application, to expunge the records in "any case in which a child's juvenile record contains convictions solely for unruly adjudications or delinquency adjudications for offenses that would be misdemeanors if committed by an adult." A one-year waiting period applies.

– 2016 –

• **SB2594 amended Title 57, Title 62, Title 63, Title 68, and Title 69 of the Tennessee Code Annotated** to allow licensing authorities for certain state regulatory agencies to consider whether a person's conviction for the commission of a felony bears directly on the person's fitness to practice competently when making determinations regarding the person's licensure status.

• **SB2440 amended Title 8, Chapter 50, Part 1 of the Tennessee Code Annotated** to prohibit a state employer from inquiring about an applicant's criminal history on an initial application form for employment under certain circumstances; excludes certain state employers from this prohibition.

• **SB1613 amended Section 39-17-1308 of the Tennessee Code Annotated** to permit the use of certain defenses to unlawful possession or carrying of a weapon by a person with a prior conviction for a felony involving the use of force, violence, deadly weapon, or drugs and whose rights of citizenship have been restored.

– 2014 –

• **SB276 amended Title 40, Chapter 29 of the Tennessee Code Annotated** to permit an ex-offender who petitions for restoration of the rights of citizenship also to petition the court for a certificate of employability. Prohibited licensing authorities from

TENNESSEE (CONT.)

adopting a rule that precludes a certificate holder from obtaining or renewing an occupational license. Required the licensing decision be made on a case-by-case basis. Provided immunity from civil liability for negligent hiring to employers who hire certificate holders except in specified circumstances.

• **SB2023 amended Title 4, Title 5, Title 6, Title 7, Title 12, Title 33, Title 38, Title 41, Title 56, and Title 71 of the Tennessee Code Annotated** to provide that an individual who is an inmate of a public institution will have eligibility for medical assistance suspended but not terminated during incarceration. An individual will be eligible for temporary reinstatement of medical assistance for care received outside of a jail or correctional facility in a hospital or other health care facility for more than 24 hours; and a public institution may make efforts to establish eligibility for or renew assistance for such individuals prior to their release from the public institution.

– 2012 –

• **HB2865 amended Title 40, Chapter 32 of the Tennessee Code Annotated** to authorize persons to petition for expungement of records of conviction for certain non-violent, non-sexual misdemeanors and Class E felonies that were committed on or after November 1, 1989.

– 2011 –

• **SB96 amended Title 71, Chapter 3, Part 1 of the Tennessee Code Annotated** to specify that an individual convicted of certain drug offenses will be exempt from prohibition against eligibility for families first program benefits for such convictions, if such person meets certain requirements; an individual convicted of second drug felony involving possession, use or distribution of a controlled substance on or after July 1, 2011, will not be eligible for families first program benefits for a period of three years from the date of conviction.

TEXAS

– 2017 –

• **HB557 amended Articles 55.01, 55.02, and 102.006 of the Texas Code of Criminal Procedure** to enable persons arrested for certain misdemeanor convictions to obtain an expungement of arrest records and to the return of certain fees to a person whose criminal record has been expunged.

• **HB3016 amended Sections 411.0731 and 411.0736 of the Texas Government Code** to authorize courts to issue an Order of Nondisclosure for certain first-offender driving while intoxicated offenses that do not result in a motor vehicle accident involving another person.

• **SB1304 amended Sections 58.251 to 58.265 of the Texas Family Code** to provide automatic sealing of juvenile nonconviction records and misdemeanor-level adjudication records at age 19. Individuals not eligible for automatic sealing may petition for discretionary sealing at age 18 or two years after discharge, subject to exceptions for more serious offenses. After sealing, adjudications are vacated and dismissed, and treated as though they never occurred. The fact of an adjudication that has been sealed may be denied for all purposes.

– 2015 –

• **SB200 amended Section 33.018, Subchapter A, Chapter 33 of the Texas Human Resources Code** to make certain drug offenders eligible for the federal Supplemental Nutrition Assistance Program.

• **HB1510 added Section 91.025 to Subchapter A, Chapter 92 of the Texas Property Code** to provide that a cause of action does not accrue against a landlord or a landlord's manager or agent solely for leasing a dwelling to a tenant convicted of, or arrested or placed on deferred adjudication for an offense. Also provided for a cause of action against a landlord or a landlord's manager or agent for negligence in certain circumstances.

• **SB1902 amended Sections 411.081(d), 411.081(e), 411.081(g-3), 411.081(i), 411.081(d)(1), 411.081(d)(2), and 411.081(g-2) of the Texas Government Code** to expand eligibility for an order of nondisclosure of an offender's criminal record

TEXAS (CONT.)

upon successful completion of community supervision by including first-time, low level offenders whose offenses are not violent, sexual nor domestic violence related. Allowed the court to issue an order of nondisclosure of criminal records for persons who receive dismissal of a misdemeanor after successfully completing deferred adjudication.

• **HB943 amended Sections 154.068 of the Texas Family Code** to add the applicability of a wage and salary presumption to an incarcerated person for purposes of determining child support obligations; provides exception to minimum income guidelines of federal minimum wage for a 40-hour week if the party is subject to an order of confinement that exceeds 90 days and is incarcerated in a local, state, or federal jail or prison at the time the court makes the determination regarding the party's income.

– 2013 –

• **HB1188 added Chapter 142 to Title 6 of the Texas Civil Practice and Remedies Code** to prohibit a lawsuit being brought against an employer solely for negligent hiring or failing to adequately supervise an employee based on evidence that the employee has been convicted of a criminal offense. Specified that this prohibition does not apply to offenders convicted of an offense committed while performing duties substantially similar to those of the employment at issue and certain serious offenses including murder, aggravated kidnapping and sexually violent offenses.

• **HB1659 amended Sections 51.356 and 53.021(d) of the Texas Occupations Code** to expand the number of offenses for which a deferred adjudication guilty plea may not be treated as a conviction for licensing purposes. Previously, deferred adjudication pleas were not treated as a conviction unless the licensing authority considered the person to be "a threat to public safety," or if "employment of the person in the licensed occupation would create a situation in which the person has an opportunity to repeat the prohibited conduct."

• **SB1289 added Chapter 109 of the Texas Business and Commerce Code** to prohibit publication of incomplete or inaccurate records and allows individuals to challenge the accuracy of their own records. It also provided civil remedies that allow individuals to directly enforce these prohibitions and requirements.

– 2011 –

• **HB200 amended Sections 493.025, 499.026(d), 499.051(a), 508.115, 508.181(g), and 493.030 and added Section 492.030 of the Texas Government Code** to require the department of corrections to notify the US Social Security Administration of an inmate's release or discharge if immediately before the inmate's confinement s/he was receiving supplemental security income or social security disability insurance, and was confined for less than 12 months prior to release or discharge. Directed the department to provide the notice immediately upon release/discharge either by mail or electronically and provide a copy of the notice to the prisoner upon his/her release or discharge.

UTAH

– 2017 –

• **SB12 amended Sections 76-3-402, 77-27-5.1, 77-40-102, 77-40-105, 77-44-106, 77-40-107, 77-40-108, 77-40-109, and 77-40-112 of the Utah Code** to specify that infractions, traffic offenses, and certain minor offenses will not count towards expungement eligibility. Allowed for an increase in the number of convictions counted as eligible for expungement. Allowed the court during sentencing in a criminal prosecution to take into account if the level of the offense has been reduced since the defendant's conviction.

• **HB156 amended Section 34-52-201 of the Utah Code** to provide the protection that public employers may not require an applicant to disclose convictions on an employment application or before an initial interview (or after a conditional offer of employment is made if no interview takes place).

UTAH

– 2012 –

•SB201 amended Sections 77-40-102, 77-40-104, a nd 77-40-105 of the Utah Code to allow most traffic offenses to be expunged without limit. Updated the conditions under which a person may qualify for a certificate of eligibility for an expungement; and provides that traffic offenses are not included in determining if a person is eligible for future certificates of eligibility and expungement.

– 2010 –

• HB21 amended Sections 53-10-202.5, 76-8-504.6, 77-40-102, 77-40-108, 77-40-109, 70-40-112, and 70-40-113, and enacted Sections 77-40-101, 77-40-103, 77-40-104, 77-40-105, 77-40-106, 77-40-107, 77-40-110, and 77-40-111 of the Utah Code to require for a petition for expungement of a conviction, a person must apply to the Bureau of Criminal Identification for a certificate of eligibility. Set fees for a certificate of eligibility for expungement. Permitted expunged records to be used by a law enforcement officer involved in the case for the officers defense of a civil action related to the case or any party to a civil action arising out of the expunged case.

VERMONT

– 2017 –

• H.171 amended Sections 8005, 8006, 7601(4), 7602, 7605, and 7606 of the Vermont Statutes Annotated to allow a notice for collateral consequences in pretrial proceedings regarding the eligibility to apply for expungement.

– 2016 –

• H.261 added Section 495j to Title 21 of the Vermont Statutes Annotated to prohibit employers from requesting criminal history record information on an initial employment application. Permitted employers to ask about a prospective employee's criminal history record during an interview or once the prospective employee is deemed otherwise qualified for a position. Created an exception that permits employers to inquire about criminal convictions on an initial application under certain circumstances. Required employers to provide a prospective employee who remains eligible for a position following a criminal history record inquiry with an opportunity to explain the information in his or her criminal history record.

– 2015 –

• **Executive Order 3-15** directed that the Department of Human Resources to create and implement a "ban the box" hiring policy that encourages job applications from all motivated, hardworking, and otherwise qualified people, regardless of a person's criminal record. The policy shall provide qualified applicants the opportunity to explain a criminal record when applying for state positions, but shall not affect positions for which a criminal conviction makes a candidate ineligible regardless of the circumstances.

– 2014 –

• H.413 added Chapter 231 to Title 13 of the Vermont Statutes Annotated to require that individuals be given notice of the various penalties and disqualifications that they face incidental to their criminal sentencing, authorized a person to petition for an order to seek partial relief from mandatory sanctions related to employment, education, housing, public benefits or occupational licensing, and provided for the restoration of rights and for victims' rights in certain proceedings.

VIRGINIA

– 2015 –

• **Executive Order 41** directed the Department of Human Resource Management to amend the state employment application to "ban the box", removing those questions relating to convictions and criminal history. Informed all hiring authorities within the executive branch that state employment decisions will not be based on the criminal history of an individual unless demonstrably job-related and consistent with business necessity, or state or

VIRGINIA (CONT.)

federal law prohibits hiring an individual with certain convictions for a particular position. Provided guidance to ensure that any criminal history background check is only conducted after a candidate has: (a) signed the appropriate waiver authorizing release, (b) been found otherwise eligible for the position, and (c) is being considered for a specific position. Identified agency positions where initial disclosure of criminal history information shall still be required.

– 2014 –

• **HB5002** directed the Department of Corrections to continue to coordinate with other state departments to enroll eligible inmates in Medicaid and to submit a report on implementation and expected cost savings. Permitted the corrections director to sign a Medicaid application for any inmate who refuses, or is unable, to sign.

WASHINGTON

– 2016 –

• **HB1553 amended Sections 10.97.030, 14.20.090, 9.96A.020, 9.96A.050, 18.11.160, 18.39.410, 18.64.165, 18.108.085, 18.130.055, 18.235.110, 18.145.120, 18.160.080, and 18.130.160; reenacted and amended Sections 18.130.050 and 9.94A.030; and added a new Chapter to Title 9 of the Revised Code of Washington** to prevent public employers from disqualifying an applicant for a license, certificate of authority, qualification to engage in the practice of a profession or business, or for admission to an examination to qualify for such a license or certificate solely on the applicant's criminal history, if the applicant has obtained a certificate of restoration of opportunity. Created a certificate of restoration of opportunity and allows a superior court to issue the certificate if certain eligibility requirements are met and a certain amount of time has passed. Provided immunity to the state and local governments from suit for damages based upon the exercise of discretion or refusal to exercise discretion related a certificate. Prohibited the introduction of evidence of a certificate for actions alleging negligence or intentionally tortious conduct of an employer by the certificate holder.

• **SB6430 amended Section 70.48.100; added new sections to Chapter 74.09; and added a new section to Chapter 71.24 of the Revised Code of Washington** to provide continuity of care for recipients of medical assistance during periods of incarceration, provided that the State Health Care Authority must suspend, rather than terminate, medical assistance benefits for persons who are incarcerated or committed to a State hospital, required the Authority to allow a person to apply for medical assistance in suspense status during incarceration, whether or not a release date of the person is known, required guidance on how to proceed for providers.

• **Executive Order 5** directed state agencies to implement hiring policies intended to encourage full workforce participation of persons with criminal histories, provided for an orientation program, reduced certain barriers, identification card assistance, an education and apprenticeship pathway, and certain Medicaid benefits.

2013

• **HB1284 amended Sections 13.34.067, 13.34.136, and 13.34.145 and reenacted and amended Section 13.34.180 of the Revised Code of Washington** to provide an exception to termination of parental rights when a parent is incarcerated or the parent's prior incarceration is a significant factor in why the child has been in foster care, and the parent maintains a meaningful role in the child's life. Required the court, prior to terminating a parent-child relationship when the parent is incarcerated to determine whether the parent maintains a meaningful relationship with the child, whether the department of social and health services has made meaningful efforts, and whether particular barriers existed. Permitted the court to consider a permanent placement that allows the parent to maintain a relationship with his

WASHINGTON

or her child if the parent is sentenced to long-term incarceration. Required a permanency plan for the placement of a child in a foster home to include how the incarcerated parent will participate while incarcerated, available treatment for the parent in the correctional facility and visitation opportunities. Permitted a parent who is incarcerated to attend a dependency case conference through teleconference or videoconference.

• **SB5105 amended Section 9.94A.729 and added Section 72.09 of the Revised Code of Washington** to provide conditions under which the Department of Corrections can provide rental vouchers to individuals convicted of sexual crimes. Institute for Advancing Justice Research and

– 2010 –

• **HB2782 amended Sections 74.04.005, 10.101.010, 26.19.071, 31.04.540, 70.123.110, 73.08.005, 74.04.0052, 74.04.120, 74.04.230, 74.04.266, 74.04.620, 74.04.770, 74.08.043, 74.08.278, 74.08.335, 74.08A.210, 74.09.010, 74.09.035, 74.09.555, and 74.50.060; reenacted and amended Section 13.34.030; added six new sections to Chapter 74.04; added a new section to Chapter 43.330; added a new section to Chapter 70.47; added a new section to Chapter 70.96A; and added a new section to Chapter 74.08A of the Revised Code of Washington** to require the Department of Social and Health Services to create a procedure to provide full reinstatement of medical assistance coverage the day of release from confinement to offenders with a mental disorder who were enrolled in medical assistance immediately prior to confinement.

WEST VIRGINIA

– 2017 –

• **SB76 added the new Sections 61-11B-1, 61-11B-2, 61-11B-3, 61-11B, and 61-11B-5 to the Code of West Virginia 1931** to allow persons convicted of certain criminal felony offenses to petition under specified circumstances for reduction of the felony to misdemeanor status.

– 2016 –

• **SB634 added the new Sections 17B-7-1, 17B-7-2, 17B-7-3, 17B-7-4, 17B-7-5, 17B-7-6, 17B-7-7, 17B-7-8, 17B-7-9 and 17B-7-10 to the Code of West Virginia 1931** to create the Second Chance Driver's License Act and Account, to allow individuals who have been unable to obtain a driver's license or to have their driver's licenses reinstated due to unpaid court costs to obtain a stay of the driver's license suspension or revocation.

– 2012 –

• **HB4521 added the new Section 48-13-703 to the Code of West Virginia 1931** to permit the restructuring of child support payments of an inmate who is released from the custody of the Division of Corrections or United States Bureau of Prisons under certain circumstances; provided that one judge within the circuit may assume jurisdiction over all child support obligations of the former inmate; and provided aminimum amount of child support which is to be paid each month in each case.

WISCONSIN

– 2016 –

• **AB373 amended Section 62.13(4)(d) and created Section 230.16(1)(ap) of the Wisconsin Statutes** to prohibit the director of the bureau from asking an applicant on an application for a civil service position, or otherwise, to supply information about the applicant's conviction unless a certain conviction record disqualifies applicants from a civil service position until after the applicant has been certified for the position. Permitted inquiring about a conviction record before certification for positions that are restricted based on certain convictions.

WYOMING

– 2017 –

• **HB231 added Sections 6-8-102 and 6-8-403(a) and amended Section 6-8-404 of the Wyoming Statutes Annotated** to allow for felons to posses antique firearms.

– 2015 –

• **HB0015 amended Sections 7-3-105, 7-13-401, 17-13-402, 22-3-102, and 25-1-104 of the Wyoming Statutes Annotated** to allow a certificate of restoration of voting rights to first-time non-violent felony offenders whose sentence was completed
after that date. The legislation also repeals the 5-year eligibility period that was previously in place, permitting all other nonviolent first offenders to petition for a certificate of restoration immediately.

DISTRICT OF COLUMBIA

– 2014 –

• **Council Resolution R619** to declare the sense of the Council that the Washington Metropolitan Area Transit Authority (WMATA) Board of Directors should adopt a revised background screening policy and take additional steps to promote the hiring of returning citizens by WMATA.

• **B642 passed the "Fair Criminal Record Screening Amendment Act of 2014"** to assist the successful reintegration of formerly incarcerated people into the community by removing barriers to gainful employment, prohibit the consideration of a job applicant's arrest record during the hiring process, restrict an employer's inquiry into a job applicant's prior convictions before a conditional offer of employment, establish fines for violations.

– 2012 –

• **B889 passed the "Re-entry Facilitation Amendment Act of 2012"** to provide limited liability for employers by prohibiting the use of employees' criminal history record information as evidence in a civil action against the employers as long as the employer can demonstrate that, during the hiring process, the criminal history was considered in conjunction with the prospective employee's ability to perform the job. Created a certificate of good standing and authorizes the mayor to issue a certificate to any person previously convicted of a crime in the District. Permitted individuals to petition the mayor for a certificate at any time after final completion of sentence. Enumerated information the certificate must contain and that the certificate should not be construed as a statement of the individual's character.

REFERENCES

1. Kaeble, D. & Glaze, L. (2016). Correctional populations in the United States, 2015. Washington, DC: Bureau of Justice Statistics.

2. Vallas, R. & Dietrich, S. (2014). One strike and you're out: How we can eliminate barriers to economic security and mobility for people with criminal records. Washington, DC: Center for American Progress.

3. Uggen, C., Manza, J., & Thompson, M. (2006). Citizenship, democracy, and the civic reintegration of criminal offenders. The ANNALS of the American Academy of Political and Social Science, 605, 281-310. https://doi.org/10.1177/0002716206286898

4. American Bar Association. (2017). Collateral consequences of conviction project. Retrieved from https://www.americanbar.org/groups/criminal_justice/niccc.html

The Economic Burden of Incarceration in the United States

JULY 2016

Michael McLaughlin, MACC, MBA | Washington University in St. Louis
Carrie Pettus-Davis, MSW, PhD | Florida State University
Derek Brown, MA, PhD | Washington University in St. Louis
Chris Veeh, MSW, PhD | The University of Iowa
Tanya Renn, MSW, MPH, PhD | Florida State University

The Economic Burden of Incarceration in the United States

ABSTRACT

This study estimates the annual economic burden of incarceration in the United States. While prior research has estimated the cost of crime, no study has calculated the cost of incarceration. The $80 billion spent annually on corrections is frequently cited as the cost of incarceration, but this figure considerably underestimates the true cost of incarceration by ignoring important social costs. These include costs to incarcerated persons, families, children, and communities. This study draws on a burgeoning area of scholarship to assign monetary values to twenty-three different costs, which yield an aggregate burden of one trillion dollars. This approaches 6% of gross domestic product and dwarfs the amount spent on corrections.

For every dollar in corrections costs, incarceration generates an additional ten dollars in social costs. More than half of the costs are borne by families, children, and community members who have committed no crime. Even if one were to exclude the cost of jail, the aggregate burden of incarceration would still exceed $500 billion annually.

BACKGROUND

The scale of incarceration over the past forty years in the United States is unprecedented. The prison population grew sevenfold as the U.S. became the world leader in incarceration *(Epperson & Pettus-Davis, 2015; Pew Center on the States, 2008)*. This phenomenon of hyperincarceration has been criticized for being unnecessary, counterproductive, and prohibitively expensive (Alexander, 2010). The 2008 financial crisis underscored these concerns by highlighting the fiscal unsustainability of hyperincarceration *(Henrichson & Delaney, 2012)*. For many state and local governments, corrections spending has become an unaffordable burden.

The $80 billion spent annually on corrections has been cited as the cost of incarceration *(DeVuono-Powell, Schweidler, Walters, & Zohrabi, 2015)*. However, a growing body of research suggests the true cost of incarceration far exceeds the amount spent on corrections *(Pager, 2007; The Pew Charitable Trusts, 2010; Wakefield & Wildeman, 2014; Western, 2006)*. This is because corrections spending ignores costs borne by incarcerated persons, families, children, and communities. Examples of these social costs are the foregone wages of incarcerated persons, increased infant mortality, and increased criminality of children with incarcerated parents. While these costs do not appear on government budgets, they reduce the aggregate welfare of society and should be considered when creating public policy.

The aims of this study are twofold. First, this study draws on prior literature to estimate the annual, aggregate burden of incarceration. This is important because it enables legislators and advocates to understand the scale of hyperincarceration's effects relative to other social problems. This is particularly relevant for incarceration because there is reason to believe the cost of incarceration has been substantially underestimated *(Clear, 2007)*.

Second, this study identifies the specific groups upon whom the costs of incarceration fall. If incarceration solely affected criminal offenders and government budgets, there would be no need for such an analysis. However, it has become clear that the costs of incarceration are also shouldered by families, children, and communities. Incarceration does not take place in a vacuum; incarcerated persons are members of families, organizations, and communities. When a person is removed from these social structures, it comes at a significant cost- not just to the person being removed but to the people and neighborhoods that are left behind. Until now these costs have

not been measured. This a tremendous injustice, for a social policy has been carried out without even identifying who bears the costs or the amount of costs to which they have been subjected. This study addresses this knowledge gap by identifying the extent to which various groups bear the cost of incarceration.

There is a substantial literature measuring the cost of crime *(Anderson, 1999; Cohen, 2005; Ludwig, 2006)*. To date, however, no study has estimated the cost of incarceration. Knowing the cost of incarceration is critical to legislators who weigh the costs and benefits of incarceration in forming criminal justice policy. The $80 billion in corrections spending is misleading because it underestimates the total cost of incarceration, which includes not just corrections spending but all costs that reduce social welfare. This study finds the aggregate burden of incarceration to be one trillion dollars, which approaches 6% of GDP and is eleven times larger than corrections spending.

Each cost estimated in this study represents either the opportunity cost of resources deployed or people's willingness-to-pay to avoid an undesirable outcome, which is consistent with the definition of social costs in the cost-benefit analysis literature *(Boardman, Greenberg, Vining, & Weimer, 2010)*. The willingness-to-pay concept acknowledges that social policies have winners and losers; the amount losers would pay to avoid an undesirable outcome is a social cost (*Stiglitz & Rosengard, 2015)*. Opportunity costs, which refers to the fact that dollars spent on incarceration cannot be spent elsewhere, represent a foregone benefit to society and are thus social costs as well.

This study relies on findings from prior research regarding the value of a person's life and time. These findings are used to calculate opportunity costs and people's willingness-to-pay to avoid incarceration-related harms. Assumptions are explicitly stated when made, and every effort has been taken to use conservative figures. In deriving the cost of incarceration this study relies on an incidence-based approach. This approach identifies the lifetime cost associated with all incidences of incarceration occurring within a single year. When these costs occur in the future (second-generation costs) they are discounted to the present value using a discount rate of 3% *(Fang, Brown, Florence, & Mercy, 2012)*. The Bureau of Labor Statistics inflation calculator was used to adjust figures to 2014 dollars. Consistent with the incidence-based approach, costs are estimated using the number of new admissions to state and federal prisons in 2014 plus the average jail population for 2014 *(Carson, 2015)*.

Estimating social costs of incarceration is problematic because it is difficult to disentangle the effects of incarceration from the effects of poverty *(Wakefield & Wildeman, 2014; Western, 2006)*. If a formerly incarcerated person earns low wages after being released from prison, this could be due to the stigma of being incarcerated, the erosion of his or her skills during the period of incarceration, or the lack of a social network after having been cut off from the outside world. Alternatively, it could be that the person earns low wages because he or she grew up poor and obtained an inferior education, which led to him or her becoming incarcerated in the first place. To the extent possible this study attempts to identify the unique effect of incarceration, but double-counting of costs is an inevitable drawback to such analyses.

PRIOR LITERATURE

A substantial literature examines the costs of crime *(Anderson, 1999; Cohen, 2005; Ludwig, 2006)*. These costs include crime-induced production, the opportunity cost of people's time, and the value of people's lives. Crime-induced production refers to activities that would not be necessary in the absence of crime *(e.g., paying a police force)*. Time costs assign a value to the minutes people spend locking and unlocking doors or engaging in other aspects of crime prevention. The value of a human life is drawn from the cost-benefit analysis literature, and the value of non-fatal injuries is estimated using jury awards *(Boardman et al., 2010; Cohen, 2005)*.

Crime is by no means the only social problem for which researchers have attempted to measure the cost. Researchers have estimated the cost of childhood poverty, child maltreatment, and disease *(Fang et al., 2012; Holzer, Schanzenbach, Duncan, & Ludwig, 2008)*. While these studies focus on different phenomena, they share a common framework. In each case, the goal is to measure the aggregate reduction in social welfare. This informs policy makers regarding the magnitude of the problem and facilitates comparisons across social issues. While it may seem callous to say that one social issue is more costly than another, governments have finite resources and must make tradeoffs based on relative importance.

Incarceration-related costs have been discussed in a number of studies, but no study has of yet quantified and aggregated the costs *(DeVuono-Powell et al., 2015; Pager, 2007; The Pew Charitable Trusts, 2010; Wakefield & Wildeman, 2014; Western, 2006)*. This study fills the knowledge gap by estimating the annual burden of incarceration to be one trillion dollars. For ease of exposition, the twenty-three costs estimated in this study are grouped into the following categories: (1) costs of corrections, (2) costs borne by incarcerated persons, and (3) costs borne by families, children, and communities.

COSTS OF CORRECTIONS

Corrections spending ($91.1 billion)

Federal and state governments spend $80 billion annually to operate prisons and jails *(DeVuono-Powell et al., 2015; U.S. Department of Justice, 2013)*. Corrections costs fund the confinement of convicted prisoners and people awaiting trial *(Kearney, Harris, Jácome, & Parker, 2014)*. The ideal way to measure the cost of corrections is to track the costs attributable to all persons incarcerated in a single year throughout their entire spell of incarceration. Unfortunately such data are not available. To approximate the lifetime cost, this study relies on the steady-state methodology used by researchers to estimate the lifetime cost of disease when longitudinal data are not available *(Barnett, Birnbaum, Cremieux, Fendrick, & Slavin, 2000; Birnbaum, Leong, & Kabra, 2003)*. The steady-state methodology allows for the cost of corrections incurred during a single year to serve as a proxy for the lifetime cost for persons who became incarcerated during that year *(Fang et al., 2012)*. An assumption of the steady-state methodology is that the cost of corrections does not fluctuate considerably from one year to the next. The size of the prison population has stabilized over the past few years, so this assumption is likely to hold *(Epperson & Pettus-Davis, 2015).* Using the cost of corrections for a single year thus yields a total corrections cost of $80 billion. However, 13.9% of corrections costs do not appear in government budgets *(Henrichson, Rinaldi, Delaney, 2015)*. These costs include certain pension obligations, health care benefits for correctional staff, and health care provided to inmates. The total cost of corrections is thus $91.1 billion.

Lost wages of incarcerated persons while incarcerated ($70.5 billion)

The wages incarcerated persons could have earned had they been working reduces GDP and constitutes lost productivity. After subtracting the value of prison production (financial savings from work performed by inmates), the average incarcerated person incurs $23,286 ($33,066 in 2014 dollars in lost productivity per year *(Anderson,1999)*. Multiplying this productivity loss by the average jail population (744,600) yields $24.6 billion in lost wages. For prisons, the number of new admissions (626,644) is multiplied by lost productivity for 2.25 years (the average time served in prison). Using the average prison term accounts for differences in the length of incarceration spells among inmates. The total cost of foregone wages produced by these calculations, discounted to the present value, is $70.5 billion.

Reduced lifetime earnings of formerly incarcerated persons *($230.0 billion)*

Incarceration reduces a person's lifetime earnings between ten and forty percent *(The Pew Charitable Trusts, 2010; Western, 2006)*. Formerly incarcerated persons earn

lower wages because they face occupational restrictions, encounter discrimination in the hiring process, and have weaker social networks and less human capital due to their incarceration. The reduced wages of formerly incarcerated persons constitutes lost productivity and is thus a social cost. Incarceration will have no effect on the earnings of the 5% of new admissions who will never be released *(Pager, 2007)*. To estimate the productivity loss for the remaining 95% of new admissions, lifetime earnings (based on full-time work from age 25 to 64) are estimated based on persons' level of education. The educational status of new admissions is as follows: 41.3% of are high school dropouts, 46.0% have a high school diploma/GED, and 12.7% have some form of postsecondary education (Harlow, 2003). The median earnings for high school dropouts, high school graduates, and individuals with an associate's degree are $973,000, $1,304,000, and $1,727,000, respectively *(Carnevale, Rose, & Cheah, 2011)*. Reducing earnings by 25%—the midpoint of the estimates—generates rounded, per-year costs of $3.3 billion, $4.9 billion, and $1.8 billion respectively ([1,302,682* 41.3%* 973,000* 25%] / 40 + [1,302,682* 46.0%* 1,304,000* 25%] / 40 + [1,302,682* 12.7%* 1,727,000* 25%] / 40). Treating each of the per-year costs as a forty-year annuity discounted at 3% produces a total cost of $230.0 billion.

TABLE 1 **- COSTS BORNE BY INCARCERATED PERSONS**

COST	$ (BILLIONS)
Reduction in lifetime earnings of incarcerated persons	230.0
Lost wages while incarcerated	70.5
Higher mortality rate of formerly incarcerated persons	62.6
Nonfatal injuries to incarcerated persons	28.0
Fatal injuries to incarcerated persons	1.7
TOTAL	**392.6**

NOTE: The sum of the individual costs does not match the total because of rounding.

Cost of nonfatal injuries sustained while incarcerated *($28.0 billion)*

The Bureau of Justice Statistics 3rd National Inmate Survey revealed that 3.2% of jail inmates and 4% of state and federal prison inmates reported being sexually abused during the year *(Kaiser & Stannow, 2013).* This implies that 86,288 rapes and/or sexual assaults occurred in 2014. The cost of a rape has been estimated to be $324,690 in 2014 dollars *(Cohen, 2005)*. Thus, the total cost using the steady-state methodology is $28.0 billion. This is an underestimate because it does not include the cost of physical assaults.

Cost of fatal injuries sustained while incarcerated *($1.7 billion)*

Five hundred and thirty-six people committed suicide in state and local jails in 2013 *(U.S. Department of Justice, 2015)*. The suicide rate for incarcerated persons is 16.5 per 100,000 people, which is 1.587

times greater than the risk for persons not incarcerated *(Cohen, 2005)*. Dividing the number of deaths by the increased risk suggests the incremental number of suicides attributable to the effects of incarceration is 198. Prior research has measured the cost of a person's life to be $8.66 million (in 2014 dollars) so the steady-state methodology generates a total cost of $1.7 billion *(Anderson, 1999*).

Higher mortality rates of formerly incarcerated persons *($62.6 billion)*

The mortality rate of formerly incarcerated persons is 3.5 times higher than that of people who have not been incarcerated *(Binswanger, Stern, Deyo, Heagerty, Cheadle, Elmore, & Koepsell, 2007)*. For every 100,000 person-years there are 777 deaths among formerly incarcerated persons compared to 222 for the rest of the population *(Binswanger et al., 2007)*. Multiplying the incremental mortality by the number of new admissions (only the 95% of whom will be released at some point) yields a figure of 7,230 premature deaths *(Binswanger et al., 2007; Kaeble, Glaze, Tsoutis, & Minton, 2015; National Resource Council, 2014).* Multiplying this by the value of a person's life produces a total cost of $62.6 billion (7,230* 8,662,000).

Visitation costs ($0.8 billion)

To visit incarcerated persons, family members must spend time traveling, incur transportation costs, and suffer emotional harm from being strip-searched *(DeVuono-Powell et al., 2015)*. There are 700,000 families with an incarcerated family member and the opportunity cost of a person's time is $18.66 in 2014 dollars *(Anderson, 1999; Clear, 2007)*. Assuming one person from each family spends five hours traveling to and from visits each month, the cost of this wasted time is $0.8 billion (700,000* 5* 12* 18.66) using the steady-state methodology.

Moving costs *($0.5 billion)*

The incarceration of a family member increases the likelihood that other family members will change their residence *(Clear 2007)*. A family might move closer to the prison or jail, or a significant other might move to begin cohabiting with a new person. The release of the incarcerated person from prison or jail could trigger yet another move. According to the American Moving & Storage Association, the average cost of an intrastate move is $1,170 and the average cost of an interstate move is $5,630 *(Williams, 2014)*. One out of nine families changed residences between 2013 and 2014 *(U.S. Census Bureau, 2015)*. If one out of nine new admissions to prison or jail have a family member who moves because of incarceration, the number of incarceration-related moves is 152,867 and the total cost (based on the weighted-average cost of a move) is $0.5 billion (152,867* (1,170+5,630) / 2).

TABLE 2 **- Costs Borne by Families, Children, and Communities**

COST	$ (BILLIONS)
Criminogenic nature of prison	285.8
Increased criminality of children of incarcerated parents	130.6
Children's education level and subsequent wages as an adult	30.0
Marginal excess burden	17.8
Divorce	17.7
Decreased property values	11.0
Adverse health effects	10.2
Reduced marriage	9.0
Child welfare	5.3
Interest on criminal justice debt	5.0
Reentry programs, nonprofits, movement to end mass incarceration	2.9
Homelessness of formerly incarcerated persons	2.2
Infant mortality	1.2
Children rendered homeless by parental incarceration	0.9
Visitation costs	0.8
Moving costs	0.5
Eviction costs	0.2
TOTAL	**531.0**

NOTE: The sum of the individual costs does not match the total because of rounding.

Eviction costs *($0.2 billion)*

Incarceration eliminates an incarcerated individual as a source of income for his or her family, thereby increasing the chance of eviction. Release from incarceration also increases the chance of eviction because people with felony convictions face barriers with private landlords and in some cases are banned from public housing *(DeVuono-Powell et al., 2015)* Ten percent of formerly incarcerated persons report family members being evicted from their home post-incarceration *(DeVuono-Powell et al., 2015)*. The average cost of an eviction is $1,635 *(TransUnion, 2014)*. Thus, the total incarceration-related cost is $0.2 billion (1,371,244* 0.10* 1,635). This underestimates the true cost because it only includes costs to landlords and ignores the emotional harm suffered by families.

Interest on criminal justice debt *($5.0 billion)*

Incarceration may cause the family of an incarcerated person to go into debt. Transportation and telephone costs alone put 34% of families in debt *(DeVuono-Powell et al., 2015)*. The total amount of criminal justice debt owed is $50 billion; at an interest rate of 10% this yields an annual cost of $5 billion based on the steady-state methodology *(DeVuono-Powell et al., 2015)*.

Adverse health effects *($10.2 billion)*

Sixty-six percent of incarcerated persons and family members report experiencing detrimental mental health effects such as depression, anxiety, and post-traumatic stress disorder *(DeVuono-Powell et al., 2015)*. The cost of PTSD, major depression, and PTSD with major depression are $5,900 to $10,300, $15,460 to $25,760, and $12,430 to $16,890, respectively *(Tanelian, Jaycox, & Invisible Wounds Study Team, 2008)*. The high estimates include the loss of life due to suicide *(Tanelian et al., 2008)*. This study uses the low estimates to avoid double-counting suicides that were accounted for by nonfatal injuries to incarcerated persons. The average of the low estimates is multiplied by the incidence rate and the number of new admissions annually yields a total cost of $10.2 billion (1,263* 0.66* 1,371,244).

Infant mortality *($1.2 billion)*

After controlling for other risk factors parental incarceration increases infant mortality by 40% *(Wakefield & Wildeman, 2014)*. The infant mortality rate in the U.S. is 5.96 deaths per 1,000 live births, so incarceration results in an additional 2.384 deaths per 1,000 live births for infants with an incarcerated parent *(Center for Disease Control and Prevention, 2015)*. The number of live births for incarcerated parents was 56,119 in 2014 ([210,567/(210,567 +1,350,958 +744,600)* 0.7% + (1,350,958 +744,600) / (210,567 +1,350,958 +744,600) * 2.4%)]* 2,500,000). This was calculated using a weighted average for federal and state prison populations, with the percentage of jail inmates with infant children assumed to be the same as that of the state *(Glaze & Maruschak, 2010)*. The incremental mortality implies an additional 134 children die (56,119* 2.384/1,000). Based on the value of a human life the total cost is $1.2 billion, using the steady-state methodology.

Children's education level and subsequent wages as an adult ($30.0 billion)

Ten percent of incarcerated persons' children are unable to finish high school or attend college because of their parents' incarceration *(DeVuono-Powell et al., 2015)*. Since half of incarcerated individuals contributed at least 50% of their families' income, their teenage children may forego education and prematurely enter the labor

force to compensate for the lost family income *(DeVuono-Powell et al., 2015)* This is a social cost because it leads to underinvestment in the human capital and productivity of young people.

Assuming that new admissions (only the 42.2% of whom have zero criminal history, to avoid double-counting) are responsible for a proportionate share of the 2.5 million children with an incarcerated parent, there were 627,313 children ((1,371,244* 0.422) / 2,306,125* 2,500,000) affected by parental incarceration for the first time in 2014 *(U.S. Sentencing Commission, 2004)*. If 10% of these children did not complete their education due to parental incarceration, then 62,731 children did not complete their educational goals. The difference in lifetime earnings for a high school dropout versus a high school graduate is $331,000 and the difference for a high school dropout versus a college graduate is $1,295,000 *(Carnevale et al., 2011*). The weighted-average of these reductions in lifetime earnings is $813,000. Multiplying the weighted-average reduction by the number of children who do not complete their education goals produces a discounted cost of $30.0 billion ((62,731*813,000) / 1.03[18]).

Increased criminality of the children of incarcerated parents *($130.6 billion)*
Children of incarcerated parents are five times more likely to go to prison *(Simmons, 2000).* If parental incarceration increases the criminality of children, then it creates second generation costs that are manifested in a higher rate of future crime *(Cohen, 2005; Glueck & Glueck, 1950; Hagan & Palloni, 1990; Murray & Farrington, 2005; Sampson & Laub, 1993; West & Farrington, 1977; Wildeman, 2009)*. Assuming that new admissions (only the 42.2% who have zero criminal history, to avoid double-counting) are responsible for a proportionate share of the 2.5 million children with an incarcerated parent, there were 627,313 children (1,371,244*0.422) / 2,306,125* 2,500,000) affected by parental incarceration for the first time in 2014. The likelihood that the average person will commit a crime is 5.1% so the incremental likelihood that children with incarcerated parents will commit a crime is 20.4% (25.5% – 5.1%). Parental incarceration thus creates 127,972 future offenders annually (627,313 * 0.204). The number of offenders created is 9.33% of new admissions (127,972 / 1,371,244). Assuming the amount of crime increases proportionate to the increase in new admissions, the 9.33% increase in crime generates discounted costs of $130.6 billion in 2014 dollars (9.33% * 2,382,120,000,000) / 1.03[18]).

Child welfare costs *($5.3 billion)*
Changes in the incarceration rate of females alone accounted for 30% of the increase in foster care caseloads between 1985 and 2000 *(Swann and Sylvester, 2006)*. The cost to the child welfare system per victim

is $7,728 *(Fang et al., 2012)*. Assuming 30% of the 2.1 million screened-in referrals (those resulting in an investigation by Child Protective Services) were related to parental incarceration, the total cost is $5.3 billion in 2014 dollars (2,100,000* 7,728* 0.30* 1.09) using the steady-state methodology *(U.S. Department of Health and Human Services, 2015)*.

Children rendered homeless by parental incarceration *($0.9 billion)*

At least 60,000 children (between 2.4% and 2.7% of the 2.5 million children with an incarcerated parent) become homeless as a result of parental incarceration *(Wakefield & Wildeman, 2014)*.

The average cost of homelessness is $14,480 per homeless person, so the total cost of child homelessness is $0.9 billion (60,000* 14,480) using the steady-state methodology *(National Alliance to End Homelessness, 2015).* This figure is an underestimate because it does not include the psychological harm becoming homeless does to children.

Homelessness of formerly incarcerated persons *($2.2 billion)*

Between 25% and 50% of the homeless population is formerly incarcerated *(Knopf-Amelung, 2013)*. The most recent estimate of the homeless population is 610,042. Using the lower of the two estimates listed above produces an estimated total of 152,511 formerly incarcerated persons among the homeless *(Henry, Cortes, & Morris, 2013)*. The average cost of homelessness to taxpayers is $14,480 annually per homeless person, so incarceration leads to $2.2 billion in homelessness costs using the steady-state methodology *(National Alliance to End Homelessness, 2015)*. This underestimates the true cost because it does not include the emotional harm to the people who are homeless.

Reentry programs *($2.9 billion)*

The 2015 Second Chance Act (SCA) and Justice and Mental Health Collaboration Program (JMHCP) conference was attended by 1,400 federally-funded reentry programs *(National Reentry Resource Center, 2015*). The average budget for a public charity is $2,093,772 so the steady-state methodology places the cost of these reentry programs at $2.9 billion *(National Center for Charitable Statistics, 2015)*. This is an underestimate because it does not account for the time spent by volunteers, academics, and government officials on the movement to end mass incarceration.

Decreased property values *($11.0 billion)*

Incarcerated persons are released into concentrated areas after completing their sentences, which could reduce property values in those neighborhoods *(Clear, 2007)*. If people prefer not to live near formerly incarcerated persons, this could increase the

number of homes for sale in a neighborhood and decrease housing prices. Incarceration might also reduce property values because it removes individuals from the community and thus makes it difficult for their families to maintain their lawn, contribute to community efforts, and avoid eviction.

Research suggests people willingly incur costs to avoid living near a formerly incarcerated person. Housing values decline between 2.3% and 4% when a sex offender moves into an area, with actual declines of $5,500 and $3,500, respectively *(Linden & Rockoff, 2008; Pope, 2008)*. While the authors of these studies argued the property value decreases were a cost of crime, this study assumes the stigma of incarceration is responsible for the property value decline. Applying the weighted average of these price declines to the 95% of new admissions who will one day be released, and assuming that the arrival of each formerly incarcerated person affects the value of two homes *(Pope, 2008 suggests homes within a 0.1-mile radius are affected)*. Thus, the discounted cost is 11.0 billion ((1,371,244* 0.95* 4,500*2) / $1.03^{2.25}$).

Criminogenic nature of prison *($285.8 billion)*

High levels of incarceration may actually increase crime by reinforcing behavior and survival strategies that are maladaptive outside the prison environment *(Aizer & Doyle, 2015; Kellogg, 2015; Hoge, Buchanan, Kovasznay, & Roskes, 2009; Reiman & Leighton, 2013)*. Removing large numbers of people from communities may also weaken the social controls that bind neighborhoods together *(Reiman & Leighton, 2013)*. Estimates of the criminogenic effect of prison range from 4% to 23% *(Aizer & Doyle, 2015; Bhati & Piquero, 2008; Smith, Goggin, & Gendreau, 2002)*. Applying the midpoint of this range (13.5%) to the annual cost of crime and adjusting for the fact that 5% of incarcerated persons will never be released generates a discounted cost of $285.8 billion ((0.95* 0.135* 2,382,100,000,000) / $1.03^{2.25}$).

Divorce *($17.7 billion)*

Incarcerated persons have triple the divorce rate of people who are convicted but not incarcerated *(DeVuono-Powell et al., 2015)*. Divorce retards economic growth by eliminating economies of scale and eroding human capital *(Potrykus & Fagan, 2012)*. The ramifications are substantial; Nobel Prize-winning economist Robert Lucas described human capital as the primary driver of economic growth *(Lucas, 1993)*. The amount of growth attributable to human capital has been variously estimated to be 61%, 49%, and 22% *(Hall & Jones, 1999; Jorgenson & Fraumeni, 1992; Mankiw, Romer, & Weil, 1992; Umut, 2015)*. Divorce reduces human capital by one-fourth *(Potrykus & Fagan, 2012)*. Because real GDP has grown 3.22% annually since 1948, divorce has reduced

economic growth by at least 0.1771% (0.22* 0.25* 0.0322). Thus, the 2014 GDP figure of $17.42 trillion would be $30,850,820,000 higher if not for divorce *(The World Bank, 2015)*. The amount attributable to incarceration can be ascertained by noting that 47% of incarcerated persons' family members obtained a divorce or separated from a partner as a result of incarceration *(DeVuono-Powell et al., 2015)*. This study assumes a separation has the same economic effect as a divorce. Multiplying this proportion by the number of new admissions generates an estimate of 644,485 incarceration-related divorces and separations. The total number of divorces in the U.S. in 2013 was 1,121,294 *(Center for Disease Control and Prevention, 2015)*. Thus, the incarceration-related component of the cost of divorce is $17.7 billion (644,485 / 1,121,294* 30,850,000).

Cost of reduced marriage *($9.0 billion)*
Incarceration also reduces the likelihood of marriage for formerly incarcerated persons *(Clear, 2007)*. Foregone marriage generates costs for the same reasons as divorce *(Potrykus & Fagan, 2012)*. The reduced likelihood of marriage is highest for black males, who are 50% less likely to become married following a period of incarceration *(Clear, 2007)*. This study conservatively assumes formerly incarcerated persons are 25% less likely to become married. Applying this percentage to new admissions who will be released at some point yields an estimate of 325,670 for the number of people who will forego a marriage opportunity. Assuming the cost of a foregone marriage is equivalent to the average cost of a divorce (30,850,820,000 / 1,121,294), the total cost of foregone marriage opportunities is $9.0 billion.

Marginal excess burden *($17.8 billion)*
Corrections costs are funded by government taxes. Taxes are distortionary (other than a head tax, which is not used to fund corrections) in that taxpayers change their behavior in response to the tax. Taxpayers may choose to work less, for example, because the price of leisure has been lowered by the presence of a tax.

The deadweight loss that occurs due to this distortionary effect on behavior is referred to as marginal excess burden *(Feldstein, 1999)*. Saez, Slemrod, and Giertz measure the marginal excess burden to be $0.195 per dollar of taxes (2012). Multiplying this amount by the cost of corrections ($91,120,000,000) generates a total excess burden of $17.8 billion.

Discussion
The aggregate burden of incarceration in the U.S. for a single year is $1.014 trillion which is nearly 6% of GDP and eleven times the size of corrections spending *(DeVuono-Powell et al., 2015; Pager, 2007; Western, 2006)*. There are $923 billion in costs that do not appear on state or federal budgets. The

failure to take these costs into consideration could cause legislators to overestimate the net benefit of incarceration when they are determining criminal justice policy. This is because social welfare is maximized when incarceration is supplied at the level where the marginal social benefit equals the marginal social cost. Underestimating the cost of incarceration by ignoring hundreds of billions of dollars in costs could cause incarceration to be oversupplied, resulting in a level of incarceration beyond that which is socially optimal.

As a sensitivity check, the cost with jails excluded is presented alongside the cost of incarceration inclusive of jails *(See Table 3).* This is done to address the potential objection that being sent to jail doesn't have the same negative effects as being sent to prison (e.g., reduced lifetime earnings). Even after excluding the costs attributable to the jail population, the aggregate burden still exceeds $500 billion, nearly half of which is borne by families, children, and communities. The costs of jail are important, however, and should not be neglected. More than eleven million people cycle in and out of jails each year, and a case could be made that conditions in jails are worse than conditions in prison *(Clear, Reisig, & Cole, 2016).* Ignoring the costs of jail would lead to the cost of incarceration being significantly underestimated.

Even if it could be argued that society is currently producing an efficient level of incarceration, there are substantial equity considerations raised by this study's findings. *Figure 1* shows that the majority of costs are borne not by government agencies or the persons being incarcerated but by families, children, and communities. These individuals and groups have committed no crime, yet they incur the majority of the costs. These are real economic costs that should be considered when weighing the costs and benefits of whether to incarcerate an individual. Yet, until now these costs have not even been measured. Legislators, advocates, and members of the criminal justice community must ask whether the current system is equitable if children, families, and neighborhoods bear most of the costs. If the goals of incarceration are deterrence and incapacitation, why do so many innocents bear the brunt of the cost? Whatever marginal benefit is obtained by incarcerating a nonviolent drug offender, it seems unlikely that this benefit would outweigh the costs generated if his or her family becomes evicted, goes into debt, and has a child drop out of high school as a result. Such tradeoffs have not been discussed because more than 90% of the costs of incarceration do not appear on government budgets and are absent from policy discussions.

Worse yet, the aggregate burden of incarceration estimated in this study may actually be an underestimate. First,

TABLE 3 **- AGGREGATE BURDEN OF INCARCERATION**

	(BILLIONS)	
COST	**$**	**EXCLUDING JAIL**
To correctional institutions	91.1	65.9
To incarcerated persons	392.6	200.4
To families, children, and communities	531.0	247.7
TOTAL	**1,014.7**	**514.0**

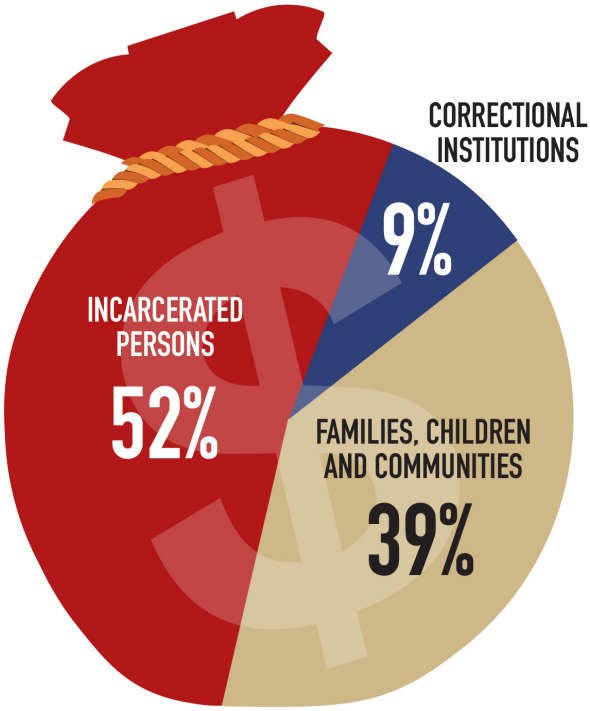
NOTE: The sum of the individual costs does not match the total because of rounding.

it does not account for the damage incarceration causes to social networks or the emotional harm inflicted on children and families *(National Resource Council, 2014)*. Second, it does not include the cost of juvenile incarceration, which may be substantial *(Aizer & Doyle, 2015)*. Third, it does not account for a number of costs that are difficult to measure, such as the psychological pain children suffer when they become homeless or the deterioration in physical health experienced by incarcerated persons and their families. Finally, it does not account for the human potential and innovation lost by incarcerating millions of people. In the long run, this could jeopardize the United States' status as the world's economic leader. Future research could estimate the cost of incarceration more accurately by incorporating these additional costs.

Another limitation is that this study does not consider the benefits of incarceration. To set the optimal rate of incarceration, a policy maker would need to know not only the costs of incarceration but also the benefits. Prisons serve a valuable purpose by providing deterrence and incapacitation effects *(Levitt, 2004; Yezer, 2014)*. Yet, there is a point where the marginal cost of incarcerating an additional individual exceeds the marginal benefit. Cost-benefit analysis is the standard framework for evaluating policy in this manner *(Boardman et al., 2010)*. The first step is understanding the cost of incarceration, which this study aims to establish. Future research could provide a richer understanding by identifying the benefits of incarceration and weighing them against the costs at the margin.

Like all studies that estimate the economic burden of a social problem, this study is grounded on the research, techniques, and estimates derived by other researchers. To the extent that previous estimates (e.g., the value of a human life) were measured with error, the costs computed in this study will be less precise. Future researchers can improve upon these methods so that more precise calculations can be made. But even having done so, there is the omnipresent danger of double-counting. Many of the costs of incarceration may actually be costs of poverty or other social problems. To the extent that double-counting occurs, the cost of incarceration will be imprecisely

FIGURE 1
INCARCERATION COST BY GROUP



estimated. Future researchers can provide a more accurate measure of the cost by identifying better counterfactuals and isolating the costs specifically traceable to the effects of incarceration.

Conclusion

Researchers have devoted considerable effort to estimating the cost of crime, but no study has yet estimated the aggregate burden of incarceration. Recent reports highlighting the costs to incarcerated persons, families, and communities have made it possible to estimate the true cost of incarceration, which is found to be one trillion dollars. This approaches 6% of GDP and is eleven times larger than corrections spending. This is important because it suggests that the true cost of incarceration has been grossly underestimated, perhaps resulting in a level of incarceration beyond that which is socially optimal.

REFERENCES

Aizer, A., & Doyle, J. (2015). Juvenile incarceration, human capital, and future crime: Evidence from randomly assigned judges. Quarterly Journal of Economics, 130(2), 759-803.

Alexander, M. (2010). The new Jim Crow: Mass incarceration in the age of colorblindness. New York, NY: The New Press.

Anderson, D. (1999). The aggregate burden of crime. Journal of Law and Economics, 42(2), 611-642.

Barnett, A., Birnbaum, H., Cremieux, P., Fendrick, A., & Slavin, M. (2000). The costs of cancer to a major employer in the United States: A case-control analysis. American Journal of Managed Care, 6(11), 1243-1251.

Bhati, A., & Piquero, A. (2008). Estimating the impact of incarceration on subsequent offending trajectories: Deterrent, criminogenic, or null effect. Journal of Criminal Law & Criminology, 98(1), 207-254.

Binswanger, I., Stern, M., Deyo, R., Heagerty, P., Cheadle, A., Elmore, J., & Koepsell, T. (2007). Release from prison—A high risk of death for former inmates. New England Journal of Medicine, 356, 157-165.

Birnbaum, H., Leong, S., & Kabra, A. (2003). Lifetime medical costs for women: Cardiovascular disease, diabetes, and stress urinary incontinence. Women's Health Issues, 13(6), 204-213.

Boardman, A., Greenberg, D., Vining, A., & Weimer, D. (2010). Cost-benefit analysis: Concepts and practice (4th ed.). Upper Saddle River, NJ: Pearson Education.

Carnevale, A., Rose, S., & Cheah, B. (2011). The college payoff: Education, occupations, lifetime earnings. Washington, DC: Georgetown University Center on Education and the Workforce.

Carson, E. (2015). Prisoners in 2014 (NCJ Publication No. 248955). Washington, DC: Bureau of Justice Statistics.

Clear, T. (2007). Imprisoning communities: How mass incarceration makes disadvantaged neighborhoods worse. New York, NY: Oxford University Press.

Clear, T., Reisig, M., & Cole, G. (2016). American corrections (11th ed.). Boston, MA: Cengage Learning.

Cohen, M. (2005). The costs of crime and justice. New York, NY: Routledge.

DeVuono-Powell, S., Schweidler, C., Walters, A., & Zohrabi, A. (2015). Who pays? The true cost of incarceration on families. Oakland, CA: Ella Baker Center.

Epperson, M., & Pettus-Davis, C. (2015). Smart decarceration: Guiding concepts for an era of criminal justice transformation (CSD Working Paper No. 15-53). Retrieved from Washington University in St. Louis Center for Social Development website: https://csd.wustl.edu/Publications/Documents/WP15-53.pdf

Fang, X., Brown, D., Florence, C., & Mercy, J. (2012). The economic burden of child maltreatment in the United States and implications for prevention. Child Abuse & Neglect, 36(2), 156-165.

Feldstein, M. (1999). Tax avoidance and the deadweight loss of the income tax. Review of Economics and Statistics, 81(4), 674-680.

Glaze, L., & Maruschak, L. (2010). Parents in prison and their minor children (NCJ Publication No 222984). Washington, DC: Bureau of Justice Statistics.

Glueck, S., & Glueck, E. (1950). Unraveling juvenile delinquency. Cambridge, MA: Harvard University Press.

Hagan, J. & Palloni, A. (1990). The social reproduction of a criminal class in working class London, circa 1950–1980. American Journal of Sociology, 96, 265–99.

Hall, R., & Jones, C. (1999). Why do some countries produce so much more output per worker than others? Quarterly Journal of Economics, 114(1), 83-116.

Harlow, C. (2003). Education and correctional populations (NCJ Publication No. 195670). Washington, DC: Bureau of Justice Statistics.

Henrichson, C., & Delaney, R. (2012). The price of prisons: What incarceration costs taxpayers. New York, NY: Vera Institute of Justice.

Henrichson, C., Rinaldi, J., & Delaney, R. (2015). The price of jails: Measuring the taxpayer cost of local incarceration. New York, NY: Vera Institute of Justice.

Henry, M., Cortes, A., & Morris, S. (2013). The 2013 annual homeless assessment report (AHAR) to Congress. Washington, DC: U.S. Department of Housing and Urban Development.

Hoge, S., Buchanan, A., Kovasznay, B., & Roskes, E. (2009). Outpatient services for the mentally ill involved in the criminal justice system: A report of the Task Force on Outpatient Forensic Services. Arlington, VA: American Psychiatric Association.

Holzer, H., Schanzenbach, D., Duncan, G., & Ludwig, J. (2008). The economic costs of childhood poverty in the United States. Journal of Children and Poverty, 14(1), 41-61.

Jorgenson, D., & Fraumeni, B. (1992). Investment in education and U.S. economic growth. Scandinavian Journal of Economics, 94, 51-70.

Kaeble, D., Glaze, L., Tsoutis, A., & Minton, T. (2015). Correctional populations in the United States, 2014 (NCJ Publication No. 249513). Washington, DC: Bureau of Justice Statistics.

Kellogg, C. (2015). There goes the neighborhood: Exposing the relationship between gentrification and incarceration. Themis: Research Journal of Justice Studies and Forensic Science, 3(1), 178-204.

Kaiser, D., & Stannow, L. (2013, October 24). The shame of our prisons: New evidence. [Review of the book Sexual victimization in prisons and jails reported by Inmates 2011-2012, by A. Beck]. Retrieved from The New York Review of Books website: http://www.nybooks.com/articles/2013/10/24/shame-our-prisons-new-evidence/

Kearney, M., Harris, B., Jácome, E., & Parker, L. (2014). Ten economic facts about crime and incarceration in the United States. Washington, DC: Brookings Institution.

Knopf-Amelung, S. (2013). Incarceration & homelessness: A revolving door of risk. In Focus, 2(2), 1-5. Nashville, TN: National Health Care for the Homeless Council.

Levitt, S. (2004.) Understanding why crime fell in the 1990s: Four factors that explain the decline and six that do not. Journal of Economic Perspectives, 18(1), 163-190.

Linden, L., & Rockoff, J. (2008). Estimates of the impact of crime risk on property values from Megan's Laws. American Economic Review, 98(3), 1103–1127.

Lucas, R. (1993). Making a miracle. Econometrica, 61(2), 251- 272.

Ludwig, J. (2006, September 19). An oral testimony of the costs of crime to the U.S. senate committee. Washington, DC.

Mankiw, N., Romer, D., & Weil, D. (1992). A contribution to the empirics of economic growth. Quarterly Journal of Economics, 107(2), 407-437.

Murray, J. & Farrington, D. (2008). The effects of parental imprisonment on children. Crime and Justice, 37, 133–206.

National Alliance to End Homelessness. (n.d.). Cost of homelessness. Retrieved from http://www.endhomelessness.org/pages/cost_of_homelessness

National Center for Charitable Statistics (2015). The Nonprofit Sector in Brief 2015: Public Charities, Giving, and Volunteering. Washington, DC: The Urban Institute.

National Reentry Resource Center. (2015). 2015 JMHCP & SCA National Conferences. Retrieved from https://csgjusticecenter.org/jc/2015-sca-jmhcp-conference/

National Resource Council. (2014). The growth of incarceration in the United States: Exploring causes and consequences. Washington, DC: The National Academies Press.

Pager, D. (2007). Marked: Race, crime, and finding work in an era of mass incarceration. Chicago, IL: The University of Chicago Press.

Pew Center on the States. (2008). One in 100: Behind bars in America, 2008. Retrieved from http://www.pewtrusts.org/~/media/legacy/uploadedfiles/wwwpewtrustsorg/reports/sentencing_and_corrections/onein100pdf.pdf

Pope, J. (2008). Fear of crime and housing prices: Household reactions to sex offender registries. Journal of Urban Economics, 64, 601–614.

Potrykus, H., & Fagan, P. (2012). The divorce revolution perpetually reduces U.S. economic growth: Divorce removes a fourth of head-of-household productivity growth. Washington, DC: Marriage and Religion Research Institute.

Reiman, J., & Leighton, P. (Eds.). (2013). The rich get richer and the poor get prison: Ideology, class, and criminal justice (10th ed.). Upper Saddle River, NJ: Pearson.

Saez, E., Slemrod, J., & Giertz, S. (2012). The elasticity of taxable income with respect to marginal tax rates: A critical review. Journal of Economic Literature, 50(1), 3-50.

Sampson, R. & Laub, J. (1993). Crime in the making: Pathways and turning points through life. Cambridge, MA: Harvard University Press.

Simmons, C. (2000). Children of incarcerated parents. Sacramento, CA: California Research Bureau.

Smith, P., Goggin, C., & Gendreau, P. (2002). The effects of prison sentences and intermediate sanctions on recidivism: General effects and individual differences. Retrieved from Public Safety Canada website: http://www.publicsafety.gc.ca/cnt/rsrcs/pblctns/ffcts-prsn-sntncs/ffcts-prsn-sntncs-eng.pdf

Stiglitz, J. & Rosengard, J. (2015). Economics of the public sector (4th ed.). New York, NY: W.W. Norton & Company.

Swann, C., & Sylvester, M. (2006). The foster care crisis: What caused caseloads to grow? Demography, 43(2), 309-335.

Tanelian, T., Jaycox, L., & Invisible Wounds Study Team. (2008). Stop loss: A nation weighs the tangible consequences of invisible combat wounds. Retrieved from Rand Corporation website: http://www.rand.org/pubs/periodicals/rand-review/issues/summer2008/wounds1.html

The Pew Charitable Trusts. (2010). Collateral costs: Incarceration's effect on economic mobility. Retrieved from: http://www.pewtrusts.org/~/media/legacy/uploadedfiles/pcs_assets/2010/collateralcosts1pdf.pdf

The World Bank. (2015). Retrieved from http://data.worldbank.org/country/united-states

TransUnion. (2016). SmartMove Evictions Report. Retrieved from http://transunioninsights.com/evictions/

Umut, G. (2015). Impact of human capital on economic growth: A panel data analysis. [Unpublished manuscript]. Retrieved from http://www.academia.edu/1142114/IMPACT_OF_HUMAN_CAPITAL_ON_ECONOMIC_GROWTH_A_PANEL_DATA_ANALYSIS

U.S. Bureau of Labor Statistics. (n.d.). CPI Inflation Calculator. Retrieved from http://www.bls.gov/data/inflation_calculator.htm

U.S. Census Bureau. (2015). U.S. mover rate remains stable at about 12 percent since 2008. Retrieved from https://www.census.gov/newsroom/press-releases/2015/cb15-47.html

U.S. Center for Disease Control and Prevention. (2015). National Vital Statistics Report. (Volume 64, Number 9). Retrieved from: http://www.cdc.gov/nchs/data/nvsr/nvsr64/nvsr64_09.pdf

U.S. Center for Disease Control and Prevention. (2015). Retrieved from http://www.cdc.gov/nchs/fastats/marriage-divorce.htm

U.S. Department of Health and Human Services, Administration for Children and Families, Administration on Children, Youth and Families, Children's Bureau. (2015). Child maltreatment 2013. Retrieved from https://www.acf.hhs.gov/sites/default/files/cb/cm2013.pdf

U.S. Department of Justice. (2015). Deaths in local jails and state prisons increased for the third consecutive year [Press release]. Retrieved from http://ojp.gov/newsroom/pressreleases/2015/ojp08042015.pdf

U.S. Department of Justice. (2013). Smart on crime: Reforming the justice system for the 21st century. Retrieved from http://www.justice.gov/sites/default/files/ag/legacy/2013/08/12/smart-on-crime.pdf

U.S. Sentencing Commission. (2004). Recidivism and the "First Offender." Retrieved from http://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-publications/2004/200405_Recidivism_First_Offender.pdf

Wakefield, S., & Wildeman, C. (2014). Children of the prison boom. New York, NY: Oxford University Press.

West, D. & Farrington, D. (1977). The delinquent way of life. London: Heinemann Educational.

Western, B. (2006). Punishment and inequality in America. New York, NY: Russell Sage Foundation.

Wildeman, C. (2009). Parental imprisonment, the prison boom, and the concentration of childhood disadvantage. Demography, 46(2), 265–280.

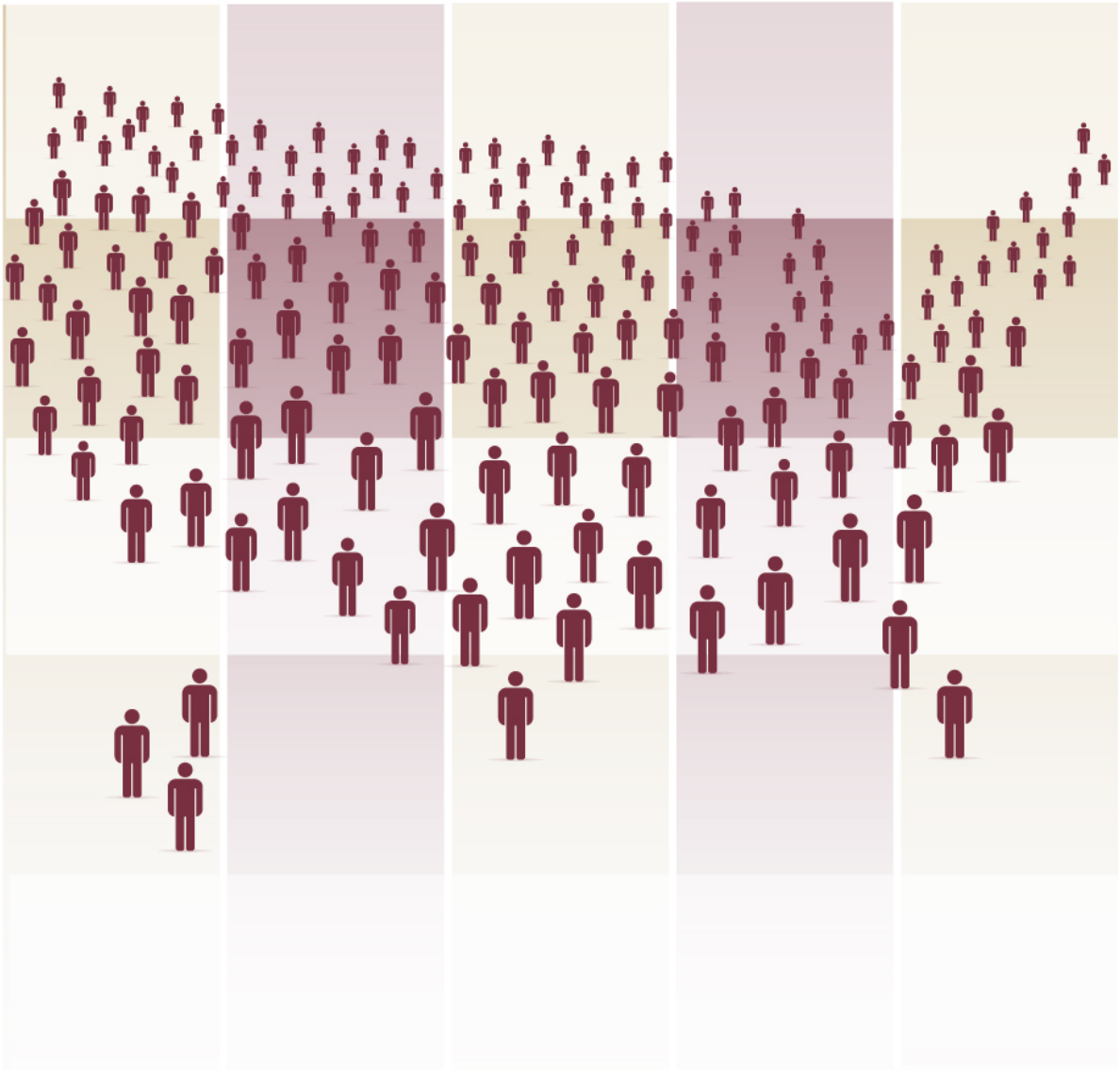
Williams, Geoff. (2014). The hidden cost of moving. Retrieved from http://money.usnews.com/money/personal-finance/articles/2014/04/30/the-hidden-costs-of-moving

Yezer, A. (2014). Economics of crime and enforcement. Armonk, NY: M.E. Sharpe.

A Point-In-Time Survey of State Department of Corrections Prison-Based Programming

Tanya Renn, MSSW, MPH | Florida State University
Carrie Pettus-Davis, PhD, MSW | Florida State University
Christopher Veeh, PhD, MSW | University of Iowa

JUNE 2020



INSTITUTE FOR JUSTICE RESEARCH AND DEVELOPMENT
FLORIDA STATE UNIVERSITY • COLLEGE OF SOCIAL WORK • IJRD.CSW.FSU.EDU

A Point-In-Time Survey of State Department of Corrections Prison-based Programming

Tanya Renn[1,2], Florida State University, Tallahassee, Florida

Carrie Pettus-Davis, Florida State University, Tallahassee, Florida

Christopher Veeh, Brown School, University of Iowa, Iowa City, Iowa

[1] Please address correspondence regarding this article to Tanya Renn, PhD, MSSW, MPH, Florida State University, 296 Champions Way, Tallahassee, FL. Email: trenn@fsu.edu

[2] The completion of the publication described was supported by Grant Number T32DA01035 (Cunningham-Williams, PI) from the National Institute on Drug Abuse.

Abstract

Research indicates that providing services to incarcerated individuals increases the chance that they will be successful upon reentry to communities. The current study assessed the provision of services (i.e. trauma and reentry) in state departments of corrections (DOCs) throughout the United States. DOCs from all fifty states and the District of Columbia were contacted to determine what services were provided to prisoners, with 44 of 51 providing responses. Results suggest that DOCs provide a range of programming, as well as assessments. Future research should explore the quality and effectiveness of programming and the capacity of existing efforts to meet the growing numbers of people releasing from prison.

Keywords: *Criminal justice; Service delivery; Prison-based Programming*

Introduction

Over 1.3 million people are housed in state prisons on any given day and each individual has a multitude of complex needs (Carson & Anderson, 2016). Prisoners have consistently reported poor physical health outcomes, higher rates of mental health complications, and histories of traumatic experiences (Wolff et al., 2015; Dumont et al., 2012). Furthermore, prison perpetuates economic, social, and racial disparities among those who are incarcerated (Western & Pettit, 2010). Annually, the United States expends $80 billion on the incarceration of individuals (Kearney, Harris, Jacome, Parker, & 2014), while not providing holistic services that address the unique needs of those incarcerated. Yet, a recent meta-analysis on the provision of reentry services (i.e., job readiness, education, life and coping skills, family support, etc.) shows they can help formerly incarcerated individuals overcome their challenges and effectively reenter into their communities upon exiting prison (Ndrecka, 2014).

With 95% of those incarcerated eventually release back to communities (Travis, 2005), the extent of the impact of providing comprehensive services to those incarcerated may be massive. Approximately 77% of those released from prison are rearrested for a new crime within five years of their release (Durose, Cooper, & Snyder, 2014). This high rate of recidivism suggests that the needs of those individuals reentering communities from prisons remain largely unmet. Thus, gleaning a better understanding of the current status of the state departments of corrections programming is critically important.

The status and unique needs of prisoners has had a detrimental impact of the overall well-being of the incarcerated and formerly incarcerated. For example, nearly 98% of all incarcerated men and women report lifetime traumatic experiences prior to or during their incarceration (Wolff, et al., 2015; McDaniels-Wilson & Belknap, 2008). Evidence indicates that trauma may

lead to increased mental health disorders (i.e. anxiety, depression, and post-traumatic stress disorder; Ghafoori, Fisher, Korosteleva, & Hong, 2016), as well as decreased functioning, antisocial behavior, drug abuse, and violent behavior (Ballard, et al., 2015; Bruce & Laporte, 2015; Levenson, 2014). Over the past two decades, state prison systems have further embraced the role of trying to address the poor well-being of the incarcerated by focusing on programming that meets the unique circumstances of their clients such as high rates of lifetime traumatic experiences. Despite there being a dearth of evidence for trauma interventions delivered during incarceration (Van Buren, Stocke, Wunderlich, & Thurston-Snoha, 2014), providing trauma services is increasingly seen by corrections professionals as a necessary tool to promote successful rehabilitation (Miller & Najavits, 2012).

Relatedly, an emerging body of research is discovering that traumatic brain injuries (TBI; generally related to a lifetime traumatic experiences) are disproportionately high among the incarcerated and contribute to more behavioral difficulties than previously known (Farrer & Hedges, 2011; Diamond et al., 2007). According to the Centers for Disease Control and Prevention, 25 to 87% of prison inmates report experiencing a TBI at some point in their life, compared to 8.5% in the general population (CDC, 2016). TBI assessment relies heavily on self-reporting. Current medical tests such as brain imaging and scans are unable to identify anything but the most severe or chronic cases of TBI (Dams-O'Connor et al., 2014). While the most common treatment practices for TBIs are focused on the individual, there is evidence that family interventions may be an important part of healing (Godwin, Lukow, & Lichiello, 2015).

Unfortunately, during incarceration, many individuals are cut off from the very support systems that could aid them in recovering post-incarceration (Datchi, Barretti, & Thompson, 2016). Growing attention is being paid to the fact that family disruption is extremely high for

those who have become incarcerated. Individuals are physically removed from their families and maintaining contact through phone, post mail, or in-person visits is financially and logistically prohibitive. Moreover, research also shows that when incarcerated individuals can maintain positive family connections, their chances of success during and after incarceration are much higher (Datchi et al., 2016; Granja, 2015; Christian, 2005). Family programming provided by prisons creates more opportunities for family members to have structured and beneficial visits. While not all incarcerated individuals will have families willing to participate in programming, for those who do, the benefits could have great potential in affecting outcomes and reducing the negative impact of incarceration (Datchi et al., 2016). In fact, family programming has been found to be beneficial in many diverse therapeutic settings (e.g. substance abuse and traumatic brain injury treatment) (Godwin, et al., 2015; Guo, Slesnick, & Feng, 2015).

In addition to these unimodal service categories that are receiving increasing attention, multimodal reentry programming continues to be highly valued in the corrections field. Prisoner reentry programming typically involves a multimodal continuum of care spanning pre-release and-post release (Seiter & Kadela, 2003). Generally, reentry programs address job readiness, life skills, coping skills, cognitive behavioral therapies, care coordination, and achieving security and stability upon release from prison. However, defining exactly a quality reentry program is difficult because of a general lack of consistency in reentry program models employed across the U.S. (Jonson & Cullen, 2015; Petersilia, 2003). Unfortunately, reentry programs have also largely been deficient in resources and inconsistent in the ability to impact recidivism outcomes (Jonson & Cullen, 2015; Ndrecka 2014). Yet, because of the promise of prisoner reentry programs, many argue that these initiatives are not prevalent enough.

Since the turn of the 21st century, ample evidence has pointed toward the needed services for those who are incarcerated in the United States (Travis, 2005; Petersilia, 2003). To date, surveys of prison programming have been conducted related to substance abuse and mental illnesses have been conducted (Epperson et al., 2014; Taxman Perdoni, & Harrison, 2007). The proposed research is in response to there being less clarity on the extent to which state department of corrections are offering programming to address the highly prevalent needs of the incarcerated that contemporary research has identified – trauma, traumatic brain injury, family, and general prisoner reentry services. Continued calls for prison to be a place of rehabilitation as a part of criminal justice reform efforts, underscores the need for a survey of existing services in the DOCs of all 50 states and the District of Columbia. Comprehensive literature reviews have helped to identify the state of knowledge about best practices for supportive services for incarcerated individuals. However, to assess whether practices that researchers are identifying as effective are actually being adopted, the research team surveyed the DOCs of all 50 states and in the District of Columbia to ask about the availability of trauma, TBI, family, and reentry programming within their prison system. The research questions for the proposed work were the following: (1) What are the services being provided by state DOCs? (2) If the services were being provided, what were the specific types of programming being delivered? (3) If relevant, what type of assessment was being used by the state DOCs to place individuals into programming?

Methods

All state DOCs were contacted to assess the availability of services. Initial contact was made by phone, followed by e-mail if needed. The research took place between October 2015 and October 2016 by graduate level research assistants at Washington University in St. Louis.

Scripts were developed to guide the conversations with DOCs. Following the question of service provision, which established if the state offered the specific service area, follow-up questions about the specific service were asked. For example, if a DOC offered trauma, family, and/or reentry services, the respondent was asked to provide details on each set of services offered, if services were delivered to men and/or women, who delivered services, and how long the applicable service category had been offered by the DOC. TBI related questions focused specifically on how assessments of TBI were conducted.

Results

Table 1 provides a summary of the service categories offered by each state DOC to incarcerated individuals. Response rates by a DOC varied by the service category. This is because services were housed under different divisions in many cases, so one division contact person might reply, whereas another division contact person may not. For trauma interventions, 44 out of 51 DOCs responded to this inquiry; 37 out of 51 responded to TBI assessment inquiries, 34 responded to the family programming survey, and 41 responded to surveys about reentry programming.

Table 2 presents data on the survey responses from the DOCs, which includes: the number who responded, the number who responded affirmatively to delivering the service, and then details on the services offered by the DOCs. In terms of the provision of trauma services, nearly 73% of state DOCs provided any kind of programming and of those states that did provide programming almost 97% provided it women and approximately 66% of the states provided it to men. A wide variety of trauma programming was delivered across the states, with Seeking Safety being used the most frequently at 59% of the time.

Table 1. *Programming Summary by State DOC*

State	Trauma	Family	Reentry	TBI assessment	TBI treatment
Alabama	*	*	Yes	*	*
Alaska	Yes	*	*	Yes	No
Arizona	No	*	*	Yes	*
Arkansas	No	*	*	*	*
California	Yes	Yes	Yes	Yes	No
Colorado	Yes		Yes	*	*
Connecticut	Yes	No	Yes	No	*
Delaware	*	*	*	Yes	Yes
District of Columbia	*	*	Yes	*	*
Florida	No	Yes	Yes	Yes	No
Georgia	Yes	Yes	Yes	Yes	No
Hawaii	No	*	*	No	*
Idaho	Yes	No	Yes	Yes	Yes
Illinois	Yes	Yes	Yes	*	*
Indiana	*	*	Yes	Yes	No
Iowa	Yes	No	Yes	Yes	No
Kansas	Yes	Yes	Yes	Yes	Yes
Kentucky	Yes	Yes	Yes	Yes	No
Louisiana	Yes	*	Yes	Yes	*
Maine	Yes	Yes	Yes	No	*
Maryland	Yes	Yes	Yes	Yes	Yes
Massachusetts	No	*	Yes	Yes	Yes
Michigan	Yes	*	*	*	*
Minnesota	No	No	Yes	Yes	Yes
Mississippi	No	No	Yes	No	*
Missouri	Yes	Yes	Yes	Yes	Yes
Montana	Yes	*	*	*	*
Nebraska	Yes	No	Yes	Yes	No
Nevada	Yes	No	Yes	No	*
New Hampshire	Yes	Yes	Yes	Yes	Yes
New Jersey	*	*	*	*	*
New Mexico	Yes	Yes	Yes	*	*
New York	*	*	*	*	*
North Carolina	No	No	Yes	*	*
North Dakota	Yes	No	Yes	Yes	Yes
Ohio	Yes	*	Yes	Yes	Yes
Oklahoma	*	No	*	Yes	No
Oregon	No	No	Yes	Yes	No
Pennsylvania	Yes	No	Yes	Yes	Yes
Rhode Island	Yes	No	Yes	No	*
South Carolina	No	Yes	Yes	Yes	No
South Dakota	Yes	No	Yes	Yes	No
Tennessee	Yes	*	Yes	*	*
Texas	No	Yes	Yes	Yes	No
Utah	Yes	Yes	Yes	*	*
Vermont	Yes	No	Yes	No	*
Virginia	No	Yes	Yes	Yes	No
Washington	Yes	No	Yes	Yes	No
West Virginia	Yes	No	Yes	*	*
Wisconsin	Yes	Yes	Yes	Yes	No
Wyoming	Yes	No	Yes	Yes	Yes

* Denotes that the information to complete this section of the interview was not able to be collected.

For a majority of the states, the delivery of trauma programming was rather new, with 69% of states having begun trauma programming within the last ten years at the time of the survey. In terms of the head injury portion of the survey, most state DOCs (75.7%) conducted some form of assessment while an individual was incarcerated. About half (46.4%) assessed for TBI at the time of intake into the prison facility, while 39.3% only assessed at the time of new injury or symptoms. There was a small percentage (14.3%) that assessed for TBI at both intake and when a new injury or symptoms occurred. Multiple different assessment tools were used across states, with self-report (28.5%) and neuropsychological testing (25%) being the most common. For those who assessed and were confirmed to have experienced a TBI, under half (42.9%) received programming in response to the head trauma. With programming related to family planning, under half (47.1%) provided any services in this area and the most common type of programming was specialized visitation (43.8%). Additionally, there were a range of other programs offered across states, such as housing for mothers and children (25%) and reunification services (18.8%). Lastly, of the states we were able to speak with about reentry services, all of them provided some level of reentry programming for individuals. There was a variety of programs that state DOCs constituted as reentry services. Some of the most frequent services in this area were mental health (68.3%), substance abuse treatment (53.7%), housing (51.2%), and community resources (41.5%). Of the programming that was offered around reentry, 46.3% was based on a theoretical model (i.e. Risk-Needs-Responsivity).

Table 2. *Programming Survey Responses of State DOCs*

Trauma services (Total DOC Responses=44)	
DOC provides service	72.7%
Intervention (not mutually exclusive)	
Seeking Safety	59.4%
Beyond Trauma	25.0%
Dialectical Behavior Therapy	25.0%
Helping Women Recover	12.5%
Cognitive Processing Therapy	12.5%
Trauma Recovery Empowerment Model	12.5%
Male-Trauma Recovery Empowerment Model	9.4%
Cognitive Behavior Therapy	9.4%
Prolonged Exposure Therapy	9.4%
Healing Trauma	9.4%
Eye Movement Desensitization and Reprocessing	6.3%
Beyond Violence	6.3%
Military Specific	6.3%
Other	34.4%
Treatment offered for men	
Yes	65.6%
Treatment offered for women	
Yes	96.9%
Length of time since program implementation	
< 5 years	31.3%
6-10 years	37.5%
>10 years	12.5%
Unknown	18.7%
Interventions delivered by	
Clinical Staff	53.1%
Non-clinical staff	15.6%
Clinical/non-clinical staff	12.5%
DOC Staff/Contractors	18.8%

Head injury assessment (Total DOC Responses=37)	
DOC conducts assessment	75.7%
Time of assessment	
Intake	46.4%
New injury/new symptoms	39.3%
Intake & new injury/ symptoms	14.3%
Assessment tools	
Self-report	28.5%
Neuropsychological testing	25.0%
Medical records	3.6%
HELPS	3.6%
Glasgow Coma Scale	3.6%
PERRLA	3.6%
Computerized tomography (CT) Scan	3.6%
Emergency Room Evaluation	3.6%
ICD-10	3.6%
Ohio State University	3.6%
Montreal Cognitive Assessment	3.6%
Multiple assessments	14.1%
Follow-up services/programs offered	
Yes	42.9%

Family programming (Total DOC Responses=34)	
DOC provides service	47.1%
Types of programming (not mutually exclusive)	
Housing for mothers & children	25.0%
Reunification/reentry	18.8%
Specialized visitation	43.8%
Father specific	18.8%
Reading	12.5%
Substance abuse	6.3%
Counseling	6.3%
Offer multiple types	
Yes	50.0%

Reentry services (Total DOC Responses=41)	
DOC provides service	100.0%
Type of services (not mutually exclusive)	
Mental health	68.3%
Government services	53.7%
Substance abuse treatment	53.7%
Employment	53.7%
Health/medical services	43.9%
Religious support	14.6%
Housing	51.2%
Community resources	41.5%
Financial education and life skills	36.6%
Family programming	36.6%
Special populations (i.e. veterans)	34.1%
Education	34.1%
Case management	26.8%
Transportation	22.0%
Supervision	9.8%
Mentoring	9.8%
Work release	9.8%
Restorative justice	7.3%
Domestic abuse services	7.3%
Other	19.5%
Programming based on model	
Yes	46.3%
Type of model	
Risk, Needs, Responsivity	21.0%
Transition prison to community	21.0%
Cognitive Community	5.3%
Texas Substance Abuse Initiative	5.3%
Level of Service/Case Management Inventory	5.3%
Intensive Aftercare Program	5.3%
Life Skills 25	5.3%
TIGER	5.3%
Hazelden Curriculum	5.3%
Cincinnati Reentry	5.3%
Thinking for Change	5.3%
Multiple models	10.3%

Discussion

This survey elucidated the current state of programming for incarcerated individuals in the areas of trauma treatment, TBI assessment and treatment, family programming, and general reentry services. These findings suggest that a two-prong approach could be used to assist departments of corrections in providing more efficacious services to prisoners and encourage lawmakers to allocate the appropriate resources to do so.

The research supports the recommendation the first approach should seek to fill gaps in critically needed service areas identified by this study. For example, these data identified a gap in trauma services provided to incarcerated men, with 11 states only delivering services to women. Study results show that while many states assessed for the experience of TBI, less than half (n=12) offered rehabilitation services for TBI. Furthermore, despite evidence supporting the need for family programming, only 16 states provide opportunities for family-specific programming.

Secondly, future research that aims to determine efficacy of current services in order to establish programming standards for each of the four service areas should be conducted. There is a well-established need for more rigorous research that would aid in establishing evidence-based assessments and interventions (Friedmann, Taxman, & Henderson, 2007; Scheyett, Vaughn, & Taylor, 2009). At this time, data on successful programming is limited to minimal research focused on overall recidivism data, which fails to capture the complexity of issues surrounding incarceration. For example, it is unclear why, even with 100% of incarcerated individuals receiving some form of pre-release reentry services, the recidivism rate remains incredibly high in the United States. Findings across the service areas suggest that consistent, evidence-based interventions are either not meeting the extent of needs of prisoners or are not being provided at all. The goal of determining best practices for services during incarceration is lofty, but given the

immediacy of the issue and the extent to which it affects our communities, it is worthy of our time and persistence.

The current research has multiple limitations that are important to note. First, the survey was not conducted with seven DOCs, which means there remains gaps in knowledge related to those states. Secondly, although the survey provides information at the state DOC-level it, the research fell short on identifying the delivery of the programming at the facility level and what percentage individuals incarcerated within the state are offered and/or receive the programming.

Conclusion

This survey improves the knowledge on programming being delivered by state prisons across the United States. While it is clear that states are providing some forms of programming, there are still gaps to be filled. Researchers and practitioners have an opportunity to band together to create efficacious interventions that could assist in responding to the critical needs of those who are incarcerated.

References

Ballard, E. D., Van Eck, K., Musci, R. J., Hart, S. R., Storr, C. L., Breslau, N., & Wilcox, H. C. (2015). Latent classes of childhood trauma exposure predict the development of behavioral health outcomes in adolescence and young adulthood. *Psychological Medicine*, 45, 3305–3316. doi:10.1017/s0033291715001300

Bruce, M., & Laporte, D. (2015). Childhood trauma, antisocial personality typologies and recent violent acts among inpatient males with severe mental illness: Exploring an explanatory pathway. *Schizophrenia Research, 162*, 285–290. doi:10.1016/j.schres.2014.12.028

Carson, E. A. & Anderson, E. (2016). *Prisoners in 2015*. Washington, DC: Bureau of Justice Statistics.

Centers for Disease Control and Prevention (CDC). (2007). *Traumatic brain injury in prisons and jails: An unrecognized problem*. Retrieved from https://www.cdc.gov/traumaticbraininjury/pdf/prisoner_tbi_prof-a.pdf

Christian, J. (2005). Riding the bus: Barriers to prison visitation and family management strategies. *Journal of Contemporary Criminal Justice, 21*, 31–48. doi:10.1177/1043986204271618

Datchi, C., Barretti, L., & Thompson, C. (2016). Family services in adult detention centers: Systemic principles for prisoner reentry. *Couple and Family Psychology, 5*, 89-104. doi:10.1037/cfp0000057

Dams-O'Connor, K., Cantor, J. B., Brown, M., Dijkers, M. P., Spielman, L. A., & Gordon, W. A. (2014). Screening for traumatic brain injury. *Journal of Head Trauma Rehabilitation, 29*, 479–489. doi:10.1097/htr.000000000000009

Diamond, P. M., Harzke, A. J., Magaletta, P. R., Cummins, A. G., & Frankowski, R. (2007). Screening for traumatic brain injury in an offender sample. *Journal of Head Trauma Rehabilitation, 22*, 330–338. doi:10.1097/01.htr.0000300228.05867.5c

Dumont, D. M., Brockmann, B., Dickman, S., Alexander, N., & Rich, J. D. (2012). Public health and the epidemic of incarceration. *Annual Review of Public Health, 33*, 325-339. doi:10.1146/annurev-publhealth-031811-124614

Durose, M. Cooper, A., & Snyder, H. (2014). *Recidivism of prisoners released in 30 states in 2005: Patterns from 2005 to 2010*. Washington, DC: Bureau of Justice Statistics.

Epperson, M. W., Wolff, N., Morgan, R. D., Fisher, W. H., Frueh, B. C., & Huening, J. (2014). Envisioning the next generation of behavioral health and criminal justice interventions. *International Journal of Law and Psychiatry, 37*, 427-438. doi:10.1016/j.ijlp.2014.02.015

Farrer, T. J., & Hedges, D. W. (2011). Prevalence of traumatic brain injury in incarcerated groups compared to the general population: A meta-analysis. *Progress in Neuro-Psychopharmacology and Biological Psychiatry*, 35, 390–394. doi:10.1016/j.pnpbp.2011.01.007

Friedmann, P. D., Taxman, F. S., & Henderson, C. E. (2007). Evidence-based treatment practices for drug-involved adults in the criminal justice system. *Journal of Substance Abuse Treatment, 32*, 267–277. doi:10.1016/j.jsat.2006.12.020

Ghafoori, B., Fisher, D., Korosteleva, O., & Hong, M. (2016). A randomized, controlled pilot study of a single-session psychoeducation treatment for urban, culturally diverse, trauma-exposed adults. *The Journal of Nervous and Mental Disea*se, *204*, 421–430. doi:10.1097/nmd.0000000000000512

Godwin, E. E., Lukow, H. R., & Lichiello, S. (2015). Promoting resilience following traumatic brain injury: Application of an interdisciplinary, evidence-based model for intervention. *Family Relations, 64*, 347–362. doi:10.1111/fare.12122

Granja, R. (2015). Beyond prison walls: The experiences of prisoners' relatives and meanings associated with imprisonment. *Probation Journal, 63*, 273-292. doi:10.1177/0264550516648394

Guo, X., Slesnick, N., & Feng, X. (2015). Changes in family relationships among substance abusing runaway adolescents: A comparison between family and individual therapies. *Journal of Marital and Family Therapy*, *42*, 299–312. doi:10.1111/jmft.12128

Jonson, C. L., & Cullen, F. T. (2015). Prisoner reentry programs. *Crime and Justice, 44*, 517-575. doi: 10.1086/681554

Kearney, M., Harris, B., Jacome, E., Parker, L. (2014). *Ten economic facts about crime and incarceration in the United States*. Retrieved from https://www.brookings.edu/wp-content/uploads/2016/06/v8_THP_10CrimeFacts.pdf

Levenson, J. (2014). Incorporating trauma-informed care into evidence-based sex offender treatment. *Journal of Sexual Aggression, 20*, 9–22. doi:10.1080/13552600.2013.861523

McDaniels-Wilson, C., & Belknap, J. (2008). The extensive sexual violation and sexual abuse histories of incarcerated women. *Violence Against Women*, *14*, 1090–1127. doi:10.1177/1077801208323160

Miller, N. A., & Najavits, L. M. (2012). Creating trauma-informed correctional care: A balance of goals and environment. *European Journal of Psychotraumatology*, *3*. doi:10.3402/ejpt.v3i0.17246

Ndrecka, M. (2014). *The impact of reentry programs on recidivism: A meta-analysis*. (Unpublished doctoral dissertation). University of Cincinnati, Cincinnati, OH.

Petersilia, J. (2003). *When prisoners come home: Parole and prisoner reentry*. New York, NY: Oxford University Press.

Scheyett, A., Vaughn, J., & Taylor, M. F. (2009). Screening and access to services for individuals with serious mental illnesses in jails. *Community Mental Health Journal, 45*, 439–446. doi:10.1007/s10597-009-9204-9

Seiter, R.P. & Kadela, K.R. (2003). Prisoner reentry: What works, what does not, and what is promising. *Crime & Delinquency, 49*, 360-388. doi:10.1177/0011128703049003002

Taxman, F. S., Perdoni, M. L., & Harrison, L. D. (2007). Drug treatment services for adult offenders: The state of the state. *Journal of Substance Abuse Treatment, 32*, 239-254. doi:10.1016/j.jsat.2006.12.019

Travis, J. (2005). *But they all come back: Facing the challenges of prisoner reentry*. Washington, DC: The Urban Institute Press.

Van Buren, T. M., Stocke, T. L., Wunderlich, T. L., & Thurston-Snoha, B. J. (2014). Incarcerated men and trauma: Treatment gap. *American Jails, 28*, 53-56.

Western, B. & Pettit, B. (2010). Incarceration and social inequality. *Daedalus, 139*, 8-19. doi:10.1162/daed_a_00019

Wolff, N., Huening, J., Shi, J., Frueh, B. C., Hoover, D. R., McHugo, G. (2015). Implementation and effectiveness of integrated trauma and addiction treatment for incarcerated men. *Journal of Anxiety Disorders, 30*, 66–80. http://doi.org/10.1016/j.janxdis.2014.10.009

IJRD @FSU

POLICY & PRACTICE 01-2017

Reverse Civic & Legal Exclusions for Persons with Criminal Charges & Convictions

Carrie Pettus-Davis, PhD, MSW | Florida State University

Matthew W. Epperson, PhD, MSW | University of Chicago

Annie Grier, MSW | Florida State University

SMART DECARCERATION INITIATIVE

Grand Challenges for Social Work

INSTITUTE FOR JUSTICE RESEARCH AND DEVELOPMENT

FLORIDA STATE UNIVERSITY • COLLEGE OF SOCIAL WORK • IJRD.CSW.FSU.EDU

Reverse Civic and Legal Exclusions for Persons with Criminal Charges and Convictions

A policy action to Promote Smart Decarceration

Issue

Civil disability policies entangle persons with criminal convictions in a web of civic and legal exclusions that revoke or restrict their rights and limit access to services needed for an individual's successful community reintegration. These policies—also known as collateral consequences—extend the reach of criminal justice punishment long after contact with the formal system has ended. There are now an estimated 40,000 civil disability policies nationwide—policies which affect the daily lives of individuals, touching every aspect from housing and family composition to education and employment opportunities. Just as racial, economic, and behavioral-health disparities exist within the formal criminal justice system, so also the disproportionately negative effects of justice-system involvement play out in the lives and communities devastated by mass incarceration. Civil disability policies exacerbate those effects. As decarceration efforts proceed, we must align civil disability policies and rehabilitative practices to ensure that people with criminal convictions have the greatest possible chance of success.

Action

Immediate remediation of civil disability policies is critical to offer persons with criminal convictions the opportunities necessary to lead socially and economically productive lives as parents, family members, and workers in their respective communities. Without revising or, in many cases, eliminating these restrictive policies, our country cannot achieve the rehabilitative goals of the justice system. While some civil disabilities play a healthy role in keeping our communities safe, many such policies serve no useful function other than to further punish defendants beyond court-imposed sentences. We call for a review of current civil disability policies and advocate for immediate policy intervention to align these policies with rehabilitative aims. We recommend the following action steps to address the negative effects of the current patchwork of civil disability policies and to promote sustainable efforts in decarcerating America:

- Adopt Orders of Limited Relief and Certificates of Rehabilitation.[1]
- Create a predetermined shelf life for civil disabilities.
- Immediately restore civic rights when convictions are overturned, pardoned, or expunged.
- Require that defendants receive pre-plea notification of civil disabilities and their potential impacts.
- Require consideration of disabilities in sentencing; include considerations in sentencing statements.
- Fund research to study impacts of civil disability on crime, public safety, and social disparities.

Evidence

Evidence overwhelmingly favors review, amendment, and reform of civil disability policies. Over two decades of research have identified certain life domains that promote rehabilitative success after criminal justice system involvement. These domains include employment, education, housing, family composition, positive social networks, and civic engagement.[2] However, civil disabilities prohibit access to those life opportunities. In a 2014 report, the Vera Institute of Justice examined shifts in state-level civil disability policies over 5 years.[3] Although 41 states had passed laws that increased relief from civil disabilities, reduced civil disabilities, provided people with more information on civil disabilities, or formed task forces to study civil disabilities, the Vera Institute found that those laws did not go far enough. Most of the reforms applied to a limited set of offenses, and the mechanisms that activated the relief were

inaccessible to most people. Additionally, these reforms gave little attention to the crime-related risks that may be inflicted by civil disability–risks driven by exclusions from civic participation.

Orders of Limited Relief provide a formal way for persons with criminal convictions to gain a reprieve from mandatory sanctions and other collateral consequences related to education, employment, housing, public benefits, and occupational licensing. Like Certificates of Rehabilitation, Orders of Limited Relief are obtained by petitioning the court.[4] Although a number of states offer Orders of Limited Relief, the implementation varies from state to state. A study of two of states that use the orders found that, among persons with a criminal conviction, having a certificate of relief is associated with a more than threefold increase in the likelihood of receiving an interview or job offer.[5] Research shows that sustained, gainful employment is a strong predictor of reduced recidivism.[6] Orders of Relief could be a valuable tool for limiting the effects of current civil disability policy and opening the door to employment—a successful rehabilitative intervention.

Automatic restoration of civic rights, such as the right to vote, imposes a shelf life on civil disabilities, allowing persons with criminal convictions to engage in their communities and productively participate in ways that benefit those around them. Research shows that voting is correlated with desistance from crime.[7] Fourteen states and the District of Columbia automatically restore voting rights upon release from a correctional institution.[8] Connecticut reinstates the right to serve on a jury 7 years after a felony conviction.[9] The state's policy provides an example of a shelf life imposed on a civil disability; it also represents an effort to further opportunities for civic participation among persons with criminal convictions.

Although civil disability policies are not a formal feature of the criminal justice system, they are only imposed as a result of criminal charge or conviction. Therefore, before defendants make plea decisions, they should be notified of civil disabilities that may accompany a conviction; they should be aware of how case decisions will affect daily life long after their contact with the justice system. In addition to weighing potential legal options, defendants deserve the right to weigh potential civil disability outcomes before entering a plea, as the outcomes may affect housing, family composition, and other critical social structures beyond the individual. For example, certain housing options are inaccessible to persons with criminal convictions. Housing stability promotes the mental, physical, and economic well-being of individuals, despite incarceration history and particularly during times of adversity.[10]

Research on the effects of civil disabilities is scarce. There is an urgent need to understand the role and impact of civil disabilities in the emerging era of decarceration. The current layers of local, state, and national civil disability policies work against the aims to lower incarceration rates, redress disparities within the system, and develop reforms that reduce recidivism while maximizing public safety. Resources are needed to fund research on civil disability policies and on revisions that align with rehabilitative practices. Without such research, we will jeopardize efforts to reform other parts of the criminal justice system.

Summary

More than 70 million adults in the United States have criminal records and are subject to civil disability policies.[11] Current civil disability policies directly undermine evidence-based corrections and the rehabilitative aims of our justice system. Furthermore, these policies disproportionately affect individuals, families, and communities that live on the margins of our society. Immediate action is needed to ameliorate unnecessarily restrictive policies and to eliminate policies that do not advance public safety. Such actions are important steps toward reversing the deleterious effects of mass incarceration and can lead the way into an era of decarceration.

Authors

Carrie Pettus-Davis, *Washington University in St. Louis* (cpettusdavis@wustl.edu)
Matthew W. Epperson, *University of Chicago* (mepperson@uchicago.edu)
Annie Grier, *Washington University in St. Louis* (agrier@wustl.edu)

End Notes

1. Uniform Law Commission (2010).
2. Andrews and Bonta (2010); Geller and Curtis (2011); Nally, Lockwood, Ho, and Knutson (2014); Visher, Bakken, and Gunter (2013).
3. Subramanian, Moreno, and Gebreselassie (2014).
4. For additional information on Orders of Limited Relief and Certificates of Rehabilitation, see Uniform Law Commission (2010).
5. Florida Parole Commission (2012); Leasure and Andersen (2016).
6. Berg and Huebner (2011); Nally et al. (2014); Visher, Debus, and Yahner (2008).
7. Uggen and Manza (2004).
8. National Conference of State Legislatures (2016).
9. Conn. Gen. Stat. § 51-217 (2015).
10. Geller and Curtis (2011).
11. Laird (2013); Vallas and Dietrich (2014).

References

Andrews, D. A., & Bonta, J. (Eds.). (2010). *The psychology of criminal conduct* (5th ed.). New Providence, NJ: Matthew Bender.

Berg, M. T., & Huebner, B. M. (2011). Reentry and the ties that bind: An examination of social ties, employment, and recidivism. *Justice Quarterly, 28*(2), 382–410. doi:10.1080/07418825.2010.498383

Florida Parole Commission. (2012). *Restoration of civil rights' recidivism report for 2010 and 2011*. Retrieved from Florida Commission on Offender Review website: https://www.fcor.state.fl.us/docs/reports/2010-2011ClemencyReport.pdf

Geller, A., & Curtis, M. A. (2011). A sort of homecoming: Incarceration and the housing security of urban men. *Social Science Research, 40*(4), 1196–1213. doi:10.1016/j.ssresearch.2011.03.008

Laird, L. (2013). Doing time extended: Ex-offenders face tens of thousands of legal restrictions, bias and limits on their rights. *ABA Journal, 99*(6), 50–55.

Leasure, P., & Andersen, T. S. (2016, November 7). The effectiveness of certificates of relief as collateral consequence relief mechanisms: An experimental study. *Yale Law and Policy Review Inter Alia*. Retrieved from http://ylpr.yale.edu/inter_alia/effectiveness-certificates-relief-collateral-consequence-relief-mechanisms-experimental

Nally, J. M., Lockwood, S., Ho, T., & Knutson, K. (2014). Post-release recidivism and employment among different types of released offenders: A 5-year follow-up study in the United States. *International Journal of Criminal Justice Sciences, 9*(1), 16–34.

National Conference of State Legislatures. (2016). Felon voting rights. Retrieved from http://www.ncsl.org/research/elections-and-campaigns/felon-voting-rights.aspx

Subramanian, R., Moreno, R., & Gebreselassie, S. (2014). *Relief in Sight? States rethink the collateral consequences of criminal conviction, 2009–2014* [Report]. Retrieved from Vera Institute of Justice website: https://www.vera.org/publications/relief-in-sight-states-rethink-the-collateral-consequences-of-criminal-conviction-2009-2014

Uggen, C., & Manza, J. (2004). Lost voices: The civic and political views of disenfranchised felons. In D. Weiman, B. Western, & M. Pattillo (Eds.), *Imprisoning America: The social effects of mass incarceration* (pp. 165–204). New York, NY: Russell Sage.

Uniform Law Commission. (2010). Uniform collateral consequences of conviction act. Retrieved from http://www.uniformlaws.org/shared/docs/collateral_consequences/uccca_final_nov09.pdf

Vallas, R., & Dietrich, S. (2014). *One strike and you're out: How we can eliminate barriers to economic security and mobility for people with criminal records* [Report]. Retrieved from Center for American Progress website: https://cdn.americanprogress.org/wp-content/uploads/2014/12/VallasCriminalRecordsReport.pdf

Visher, C. A., Bakken, N. W., & Gunter, W. D. (2013). Fatherhood, community reintegration, and successful outcomes. *Journal of Offender Rehabilitation, 52*(7), 451–469. doi:10.1080/10509674.2013.829899

Visher, C. A., Debus, S., & Yahner, J. (2008, October). *Employment after prison: A longitudinal study of releasees in three states* (Research Brief). Retrieved from Urban Institute, Justice Policy Center website: http://www.urban.org/sites/default/files/publication/32106/411778-Employment-after-Prison-A-Longitudinal-Study-of-Releasees-in-Three-States.PDF

About this policy action

This policy action statement was developed by members of the network engaged in the Grand Challenge to Promote Smart Decarceration. The Grand Challenges initiative's policy action statements present proposals emerging from Social Innovation for America's Renewal, a policy conference organized by the Center for Social Development at Washington University in collaboration with the American Academy of Social Work & Social Welfare, which is leading the Grand Challenges for Social Work initiative to champion social progress through a national agenda powered by science.