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To Safely Cut Incarceration, States Rethink Responses to Supervision Violations

Evidence-based policies lead to higher rates of parole and probation success

Overview

Recent research from The Pew Charitable Trusts found that about 4.5 million people in the United States are on community supervision as of 2016. Probation and parole provide a measure of accountability while allowing those who would otherwise have been incarcerated or have already served a term behind bars to meet their obligations to their families, communities, and victims.

People under supervision are expected to follow a set of rules, such as keeping appointments with probation or parole officers, maintaining employment, not using alcohol or other drugs, and paying required fees. Failure to follow the rules—referred to as technical violations—may result in revocation of the supervision and in some cases a term of incarceration. A 2019 report by the Council of State Governments showed that technical violations account for almost 1 in 4 admissions to state prison and \$2.8 billion in annual incarceration costs.¹

Such technical revocations are costly, and failure to comply with supervision conditions does not necessarily indicate that a person presents a public safety threat or will engage in new criminal activity. Further, although studies have not demonstrated that incarcerating people for breaking the rules of supervision reduces recidivism, they have found that long periods of incarceration can make re-entry more difficult, causing people to lose their jobs, homes, and even custody of their children.²

This brief examines policies that states implemented through the Justice Reinvestment Initiative (JRI) that have reduced technical revocations, highlights some of the results of those changes, and provides sample legislation for each policy. JRI is a public-private partnership among Pew, the U.S. Department of Justice's Bureau of Justice Assistance, state governments, and technical assistance providers; it seeks to improve public safety and control costs by prioritizing prison space for people sentenced for the most serious offenses and investing in evidence-based alternatives to incarceration and other programs shown to reduce recidivism. These state efforts have not been without challenges, and more can be done to improve supervision outcomes. Nevertheless, the examples provided show that states can take meaningful steps to reduce prison populations and protect public safety while strengthening systems of supervision and services in the community.

Reforms aim to improve supervision outcomes

Research and experience have revealed effective supervision strategies that protect public safety, reduce costs, and help people on parole and probation get their lives on track. Increasing the number of people who successfully complete supervision and reducing revocations became goals of many states participating in JRI. In corrections system analyses conducted during state JRI processes, many states identified supervision revocations for technical violations as a driver of prison admissions. For example:

- In Alabama, people who violated the conditions of their supervision accounted for 40 percent of prison admissions in fiscal year 2013.³
- Mississippi found that between fiscal 2002 and 2012, the number of prison admissions resulting from revocations of parole or probation climbed 84 percent. In 2012, they exceeded admissions for new sentences, and 3 in 4 were for technical violations.⁴
- In Utah, 43 percent of people admitted to prison in 2012 had no new criminal conviction, up from 38 percent in 2002. Eighty percent of people on probation and 63 percent of those on parole who were sent to prison for technical violations were originally convicted of nonviolent crimes.⁵
- Probation revocations accounted for more than half of North Carolina's new prison admissions in fiscal 2009, and more than three-quarters stemmed from technical violations.⁶

Through JRI, over 30 states passed policies to reduce the number of people in prison for technical violations while protecting public safety. However, many states still are struggling with this issue.

By improving community corrections and directing resources to those who need them, states can provide long-term reductions in recidivism. As part of their JRI reform packages, 35 states enacted policies to increase success rates among people on supervision and develop alternatives to technical revocation. (See Table 1.)

These policies fall into four categories:

- Tailoring supervision strategies toward behavioral change for those at the highest risk of reoffending.
- Providing positive incentives for people on supervision.
- Using administrative responses to violations.
- Capping or reducing jail or prison time for violations and limiting the conditions under which incarceration may be used to respond to a technical violation.

Table 1

Most Justice Reinvestment States Implemented Reforms to Improve Supervision Outcomes

Enacted policies to reduce parole and probation revocations, by state

AK	AL	AR	AZ	CT	DE	GA	HI	ID	IL	KS	KY	LA	MD	MI	MO	MS	MT	NC	ND	NE	NH	NV	OH	OK	OR	PA	RI	SC	SD	TX	UT	VT	WI	WV	
Establish/expand earned discharge from probation/parole																																			
✓		✓	✓		✓	✓		✓		✓	✓	✓	✓		✓	✓	✓				✓				✓			✓	✓		✓				
Authorize administrative jail sanctions in lieu of revocations																																			
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Authorize administrative responses to violations																																			
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Cap revocation time																																			
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Require evidence-based practices																																			
✓	✓	✓			✓	✓		✓		✓	✓	✓	✓			✓			✓		✓	✓	✓			✓	✓		✓		✓				
Require/improve risk-needs assessment																																			
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Reduce probation terms																																			
✓	✓					✓	✓					✓															✓			✓		✓			
Improve behavioral health interventions																																			
✓	✓			✓	✓	✓		✓		✓			✓				✓	✓	✓	✓		✓	✓			✓	✓		✓	✓	✓	✓	✓	✓	✓

Source: The Pew Charitable Trusts, "35 States Reform Criminal Justice Policies Through Justice Reinvestment" (2018), https://www.pewtrusts.org/-/media/assets/2018/07/pspp_reform_matrix.pdf

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Policy examples

The following sections provide descriptions of each policy area, the evidence base, and evaluated state examples that demonstrate impacts on incarceration and public safety.

Tailoring supervision strategies to focus on behavioral change for those at the highest risk of reoffending

Research has shown that when supervision agencies prioritize staff time and dollars for those who are most likely to reoffend, outcomes improve for people on probation and parole. One primary evidence-based supervision practice that, when applied correctly, can help states better target resources and lead to substantial reductions in recidivism is the risk-need-responsivity (RNR) principle.⁷ The principle is an assessment methodology that enables parole and probation officers to develop case plans that include programming and treatment tailored to individuals' needs and direct more intense supervision toward those deemed higher risk. Using the RNR principle, agencies assess individuals on the following measures:

- **Risk:** Which of the static factors known to boost the risk of reoffending, such as criminal history and age of first arrest, are present in this individual?
- **Need:** Which dynamic needs, such as substance use disorders, could be addressed to reduce the likelihood of reoffending?
- **Responsivity:** What types of treatment and programming would be most effective in helping this person be successful on supervision, given his or her learning style, experiences, etc.?

Interventions based in RNR principles that have produced the most consistently positive results provide education, treatment for substance use disorders and other health problems, and strategies to change thinking and behavior away from crime.⁸ Increasing the rates of participation in such programs has been shown to reduce recidivism, while supervision without treatment or risk-focused programming does less to improve outcomes and can increase technical violations.⁹

Additionally, most people who reoffend after leaving prison do so within a year of release.¹⁰ Directing community supervision resources and support services toward the first days, weeks, and months post-incarceration or of a sentence to probation is a cost-effective approach to improving outcomes for public safety and people on supervision.

JRI example

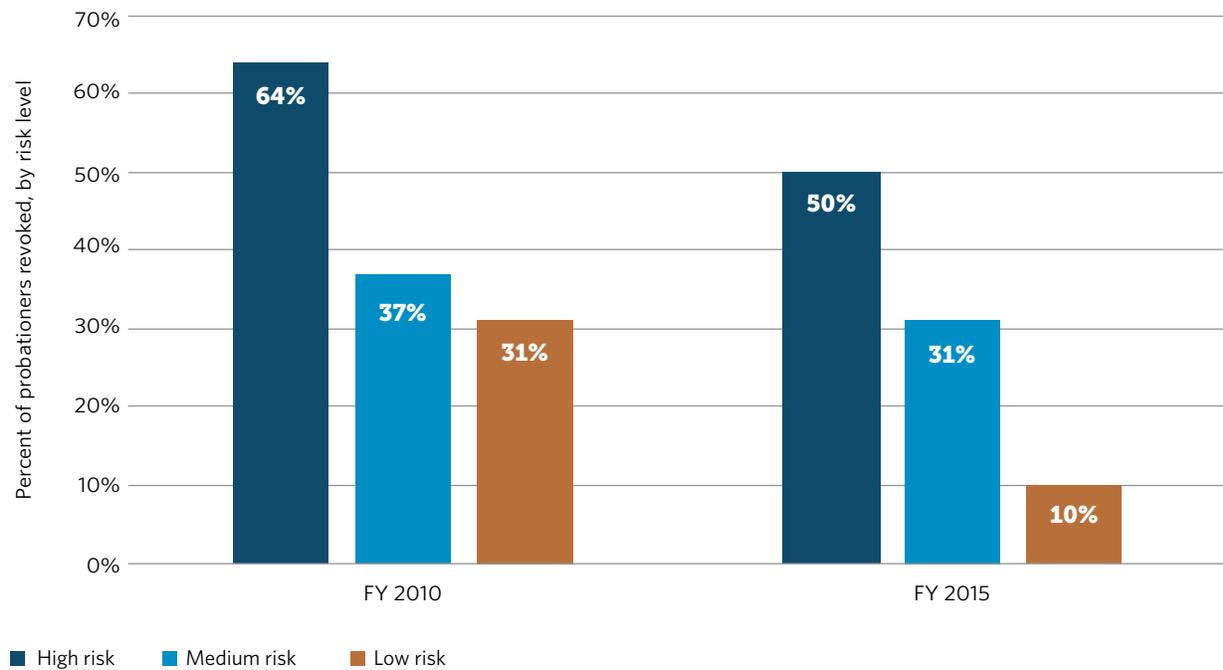
North Carolina

North Carolina's 2011 Justice Reinvestment Act requires probation officers to assess people on supervision for their risk of reoffending and to supervise them accordingly. It also sets a caseload goal of no more than 60 high- and moderate-risk individuals per probation officer. In addition, every person incarcerated for a felony conviction must receive nine to 12 months of post-release supervision. Together with other reforms, these changes contributed to a 50 percent decline in revocations and a drop in overall prison admissions of 21 percent.¹¹ (See Figure 1.) Further, the number of people entering prison from probation on new felony offenses decreased from 1,505 in 2013 to 1,370 in 2016.¹² Data further indicate that the adoption of risk-based supervision in the state has improved outcomes for individuals across risk categories.¹³

Figure 1

Fewer People Sent to Prison From Probation in North Carolina After Policy Changes

Revocation rates by risk level, fiscal 2010 and 2015



Source: North Carolina Department of Public Safety, "Justice Reinvestment Performance Measures, North Carolina Fiscal Year 2014-15" (2016), <https://files.nc.gov/ncdps/documents/files/JRPerformanceMeasures2016.pdf>

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For samples of enacted legislation for these policies, see the appendix.

Earned compliance credits and other positive reinforcements

Earned compliance credit policies enable people on supervision to earn time off their sentence for every month in which they comply with supervision conditions. States use various formulas to determine the circumstances under which individuals may earn and lose credits and how much time they will receive off their terms per credit. In addition to acting as an incentive, earned compliance credits also help agencies reduce caseloads and direct limited resources to people at the greatest risk for reoffending.

Considerable research and the opinions of those on supervision indicate that earned compliance credits and other incentives such as gift cards or other nominal rewards, verbal praise or acknowledgement, and adjustment of supervision conditions are effective. In one survey, people on parole said that early discharge was a strong incentive to participate in programming and comply with supervision conditions.¹⁴ Another study found that adding positive reinforcements increased the odds of success on intensive supervision.¹⁵ In Utah, 70 percent of people on supervision said that incentives as simple as verbal praise and recognition motivated them to improve their behavior.¹⁶ Further, a recent 14-state evaluation of people on supervision who were convicted of serious and violent offenses found that praise from a supervision officer significantly reduced rates of substance use and criminal reoffending.¹⁷ In addition, practitioners have found that involving individuals on supervision in the process of designing incentives can enhance their effectiveness.¹⁸

Research also indicates that the use of proportional and timely sanctions in conjunction with rewards is an effective strategy to promote compliance. The optimal ratio is four (or more) rewards per sanction.¹⁹

JRI example

Missouri

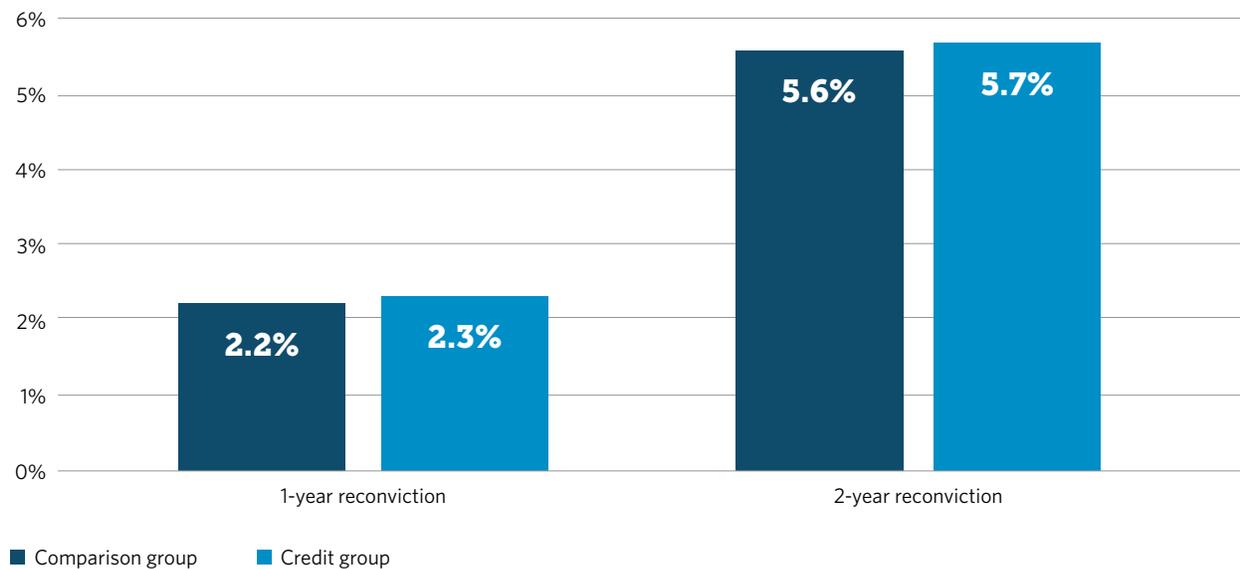
Legislation passed by the Missouri Legislature in 2012, H.B. 1525, created a policy that allows people to earn 30 days off their supervision time for every full calendar month they remain in compliance. Eligible individuals include those convicted of lower-level felonies who had been under supervision for at least two years.

In the first three years of the program, 36,000 people reduced their terms by an average of 14 months, cutting the supervised population by 18 percent and caseloads by almost 16 percent. People released through the earned compliance credit policy had no statistically significant increase in two-year reconviction rates compared with those released before the policy.²⁰ (See Figure 2.)

Figure 2

Earned Compliance Did Not Affect Recidivism in Missouri

Reoffense rates for those released from supervision, before and after implementation of credits



Source: The Pew Charitable Trusts, “Missouri Policy Shortens Probation and Parole Terms, Protects Public Safety” (2016), <https://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2016/08/missouri-policy-shortens-probation-and-parole-terms-protects-public-safety>
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For samples of enacted legislation for these policies, see the appendix.

Administrative responses to technical violations

Administrative responses to technical violations give supervision officers alternatives to revocation to prison or jail that can be implemented without a court or parole board hearing. Agencies often use a grid or matrix that weighs the seriousness of the violation and the person’s risk level to determine the appropriate sanction, such as an earlier curfew, community service, enhanced supervision, home detention, a short jail stay, or confinement in a facility designed to address underlying causes of the violation.²¹ For violations that stem from an identified need, officers can also use nonpunitive responses, such as substance use treatment in response to ongoing positive drug tests. In some states, administrative sanctions have also been authorized for low-level offenses in lieu of formal criminal charges. For best outcomes, responses should include sanctions and incentives.

Violating a condition may not mean the person on supervision has become a public safety threat or will engage in new crime.²² The use of administrative responses is grounded in evidence showing that the certainty of punishments is more important than their severity.²³ Learning theory—the idea that people will choose behaviors that result in positive outcomes over those that have negative consequences—also supports the use of administrative responses, particularly those that include incentives for compliance and meeting goals.²⁴ Further, many violations reflect long-standing and chronic behaviors, which can be most effectively addressed with a combination of accountability through fair, quickly imposed responses and incentives and programming that offers motivation to change negative behavior.²⁵ Research indicates that community-based responses are at least as effective in changing behavior and promoting supervision success as jail terms and cost less.²⁶ In fact, one study indicated that jail sanctions can increase the likelihood of future revocation, rearrest, and reconviction.²⁷

However, studies show that statutory or procedural change alone is not enough. Implementation is also important: Buy-in from community corrections staff, strong teamwork, collegiality, and communication have been shown to play critical roles in the success of administrative sanction policies.²⁸

JRI examples

South Carolina

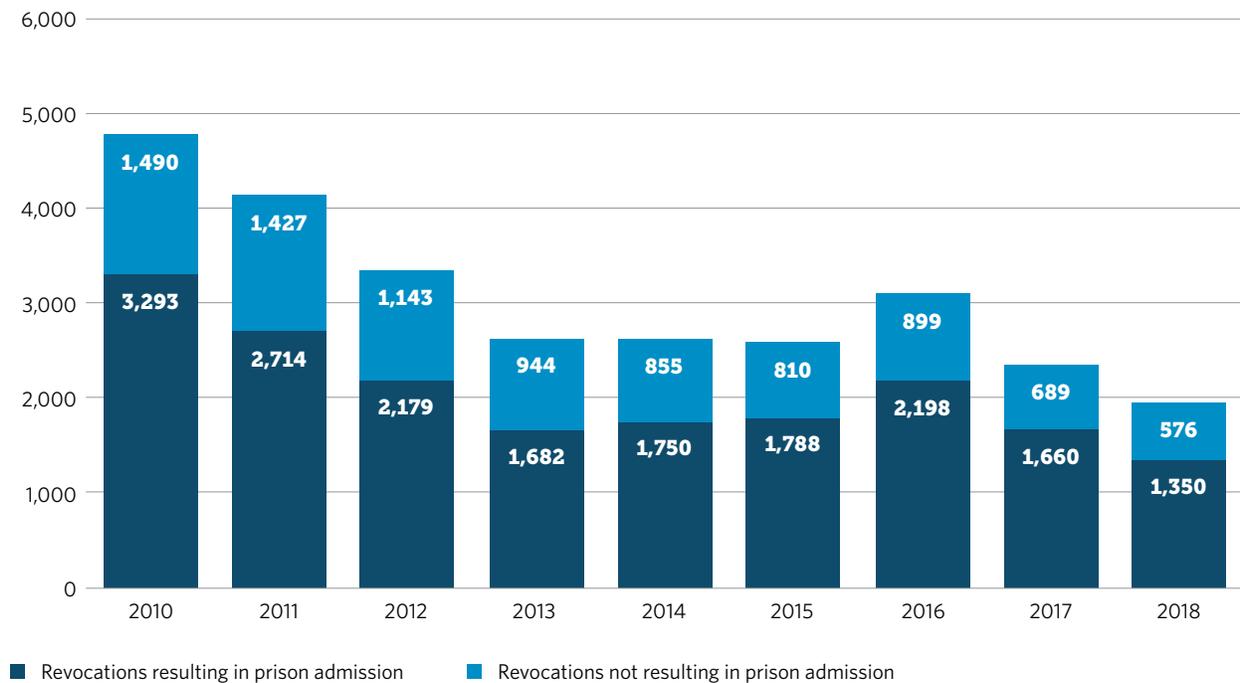
As part of its 2010 JRI reform package, S.B. 1154, South Carolina instituted policies to reduce the number of people incarcerated for supervision noncompliance. The law allows officers in the Department of Probation, Parole, and Pardon Services to use administrative responses to violations in lieu of prison. The sanctions imposed by officers may not be more restrictive than those available to the Parole Board and the courts and may not include revocation. Other provisions to address revocations include improving parole supervision and providing compliance credits. The portion of the act related to administrative sanctions went into effect in January 2011.

A 2017 Urban Institute evaluation of South Carolina's reforms concluded that between fiscal 2010 and 2015, the use of administrative responses increased 42 percent: Those who began supervision after implementation of the law were 33 percent less likely to be incarcerated or reincarcerated after one year than those who began in 2010.²⁹ And more recent state data show that this trend has continued. The number of revocations resulting in prison admissions in 2018 was less than half of the 2010 figure.³⁰ (See Figure 3.) The state estimated that during that same period it saved over \$39 million by revoking 1,633 fewer people from supervision.³¹ Further, analysis of FBI crime data shows that both the violent and property crime rates in South Carolina dropped by more than 15 percent over the same five-year span.³²

Figure 3

South Carolina Prison Admissions for Rule Violations Fell by More Than Half After Reforms

Technical revocations by sanction, 2010-18



Source: South Carolina Department of Probation, Parole, and Pardon Services, "Report to the Sentencing Reform Oversight Committee" (2018), <https://www.dppps.sc.gov/content/download/169830/3865404/file/SROC+Report+11+30+2018-+FINAL.pdf>

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Texas and Pennsylvania

Several states developed specialized centers, including day reporting centers and secure residential facilities, where people who violated conditions of their supervision could be sent in lieu of prison or jail. The availability of appropriate, quality treatment and programming is critical to the success of these centers.³³ In Texas from 2006 through 2008, individuals were sent to intermediate sanction centers for an average stay of 60 days, during which they received targeted services for needs known to be associated with higher levels of criminal behavior.³⁴ These facilities increased availability of treatment and facilitated a reduction in parole revocations of 25 percent. Similarly, a study of a western Pennsylvania program showed that those sent to a day reporting center had fewer rearrests than members of a control group who received a sanction including incarceration.³⁵

For samples of enacted legislation for these policies, see the appendix.

Capping or reducing prison or jail time for technical revocations

Sixteen states have enacted legislation capping the length of time a person could be incarcerated for a technical revocation. How and when such limits are used and the maximum period of incarceration allowed vary significantly across states. Often, the allowable time behind bars increases with the number of revocations. Some states also restrict the conditions under which a person could be incarcerated for technical violations, such as limiting it to commission of a new crime or after multiple technical violations.

In general, sentence severity has not been found to affect the level of crime in society: Longer, more costly prison stays do not reduce reoffending more than shorter, cheaper ones, while consuming resources that could be directed toward more evidence-based responses.³⁶ And incarceration is not more effective in reducing recidivism; in fact, one study found that people on probation who served a period of confinement had higher rates of recidivism than those who were sanctioned and remained in the community.³⁷

JRI example

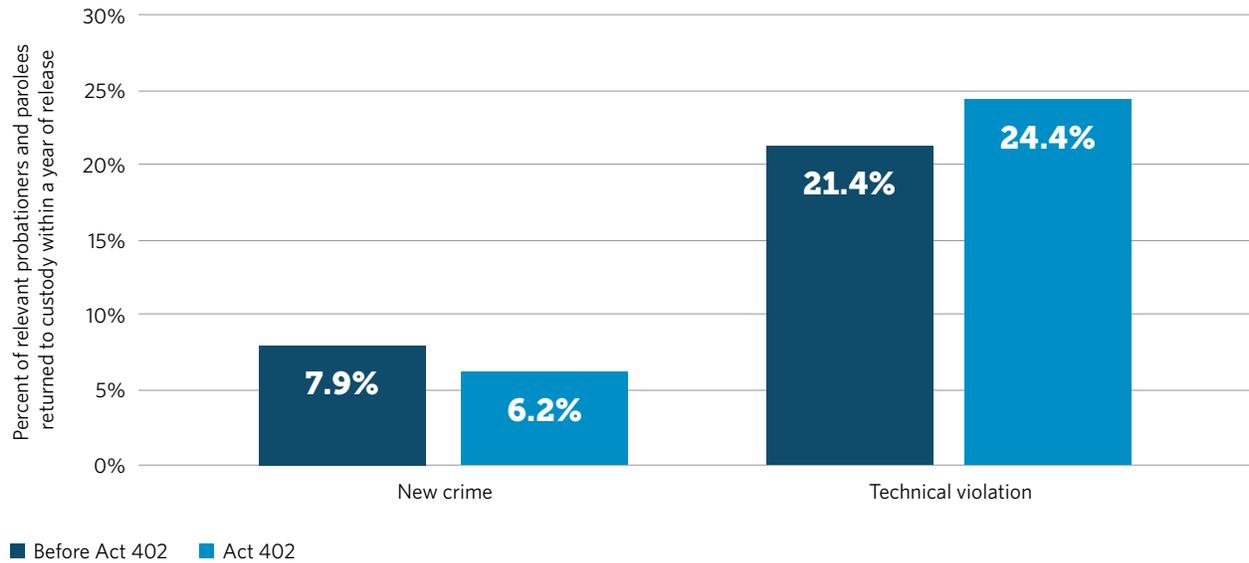
Louisiana

Louisiana's 2007 reform legislation, Act 402, set a 90-day limit on incarceration of people on probation or parole for nonviolent offenses who violate their supervision terms. A 2014 Pew-commissioned evaluation of this cap found that reducing the amount of time people spent incarcerated for a revocation did not negatively affect public safety. (See Figure 4.) Comparisons of similar populations whose supervision was revoked before implementation of Act 402 (between 2000 and 2004) and afterward (September 2007 to April 2012) show that a smaller share of the latter group than of the former (6.2 versus 7.9 percent) was incarcerated for a new offense during a one-year follow-up period. The proportion of those whose supervision was revoked and who were sent to prison for technical violations after the act went into effect was higher (21.4 versus 24.4 percent), possibly because they spent more of the follow-up period under supervision. In addition, the 90-day cap resulted in approximately 2,034 fewer nights spent in jail and prison each year and saved an average of \$17.6 million in annual corrections costs.³⁸

Figure 4

Louisiana's Cap on Supervision Revocations Maintained Public Safety

Percentage of individuals reincarcerated within a year of release from a jail or prison term for a revocation, before and after Act 402, by offense type



Note: Data reflect similar individuals whose supervision was revoked between 2000 and 2004 (before implementation of Act 402) and from September 2007 to April 2012 (after Act 402).

Source: The Pew Charitable Trusts, "Reducing Incarceration for Technical Violations in Louisiana" (2014), <https://www.pewtrusts.org/-/media/assets/2014/11/psppreducingincarcerationfortechnicalviolationsinlouisiana.pdf>

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For samples of enacted legislation for these policies, see the appendix.

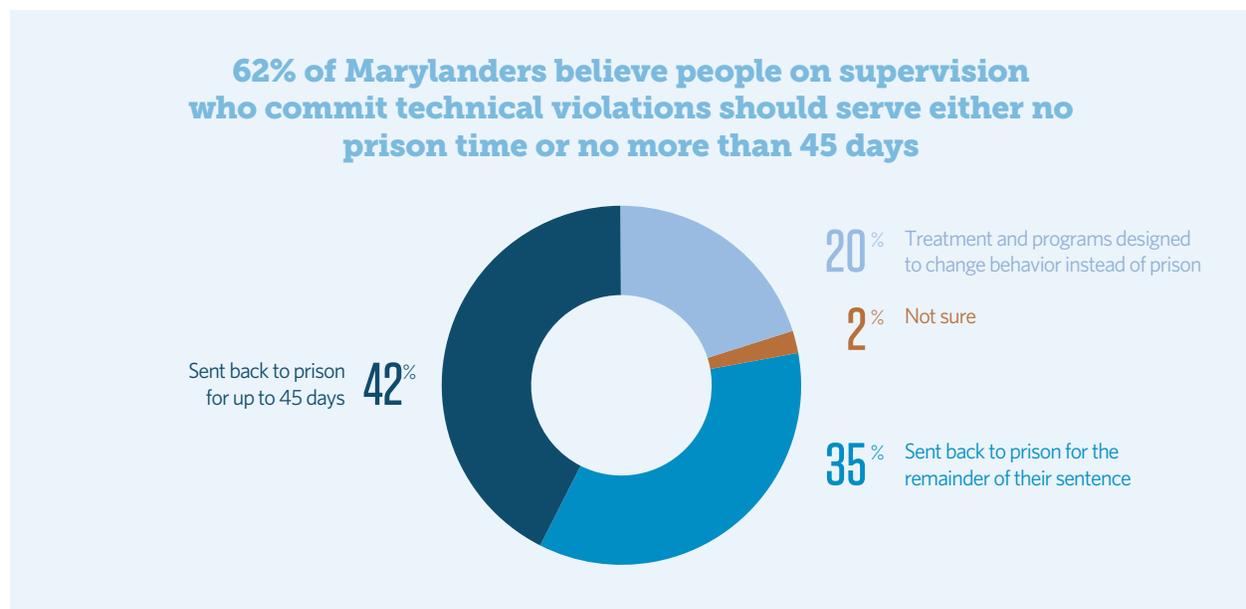
The public strongly supports reducing technical revocations

A 2016 public opinion poll in Maryland showed that across age groups and political ideologies, most voters, including a majority of crime victims, did not believe people should be sent to prison for the remainder of their sentences for technical violations.³⁹ More than 6 in 10 respondents (62 percent) said people on parole or probation who commit technical violations should serve either no prison time or no more than 45 days. (See Figure 5.)

Figure 5

Maryland Voters Back Limited Use of Prison for Technical Violations

Respondents were asked which statement comes closer to their points of view about responding to a violation of the rules of supervision, for example, failing a drug test or missing a curfew, that is not another crime



Source: The Mellman Group and Public Opinion Strategies telephone survey of 600 voters, Feb. 17-21, 2016

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States face ongoing challenges in reducing revocations

Reducing the number of supervision revocations for technical violations is a complex process involving multiple stakeholders at different levels of government. Although some states have been able to do this successfully and safely, others have faced challenges such as:

- A lack of clear direction to correctional and court personnel that slows or prevents adoption of new policy, leaving in place revocation practices that initially led to high revocation rates.
- Slow implementation of evidence-based supervision models by probation and parole agencies and accompanying culture shifts.
- Inadequate resources to address the opioid crisis, leading to unanticipated increases in violations.

Some states have addressed these challenges by:

- Reinvesting JRI savings into treatment and other evidence-based programs that have been shown to improve outcomes for people on supervision.
- Providing resources and establishing requirements for officer and manager training on evidence-based practices.
- Instituting reporting requirements that track adherence to guidelines for technical violation revocations and requiring the use of high-quality, evidence-based practices.
- Creating incentives for supervision officers for reducing returns to prison on technical violations and using evidence-based practices.
- Providing treatment and services before release from prison for those entering supervision and developing case plans with the supervision agency to assist in the transition back into the community.

Conclusion

Parole and probation provide an alternative to incarceration for people who the courts and correctional authorities determine should be supervised in the community. They also offer an opportunity to deliver services that address underlying issues such as substance use and mental health disorders. People under supervision need to be held accountable for failing to abide by the rules, but revocations to prison and jail strain correctional systems and consume scarce resources that could be spent to promote public safety. Improvements such as tailoring supervision strategies toward reducing reoffending, providing positive incentives, using administrative responses, and limiting the use of incarceration for violations are effective in reducing technical violations, helping states safely reduce prison populations, and increasing the number of people who successfully complete community supervision.

Appendix: Sample legislation

More than 30 states have enacted legislation to address technical violations of supervision. The examples below provide language from these state laws that other jurisdictions may consider when implementing policies that have the potential to reduce incarceration, costs, and recidivism, while protecting public safety and increasing supervision success rates.

Policy: Require/improve risk-needs assessment

South Carolina

Board of Probation, Parole and Pardon Services, qualifications, training, assessment tool

SECTION 46. Section 24 21 10 (F) The department must develop a plan that includes the following:

- (1) establishment of a process for adopting a validated actuarial risk and needs assessment tool consistent with evidence based practices and factors that contribute to criminal behavior, which the parole board shall use in making parole decisions, including additional objective criteria that may be used in parole decisions;
- (2) establishment of procedures for the department on the use of the validated assessment tool to guide the department, parole board, and agents of the department in determining supervision management and strategies for all offenders under the department's supervision, including offender risk classification, and case planning and treatment decisions to address criminal risk factors and reduce offender risk of recidivism; and
- (3) establishment of goals for the department, which include training requirements, mechanisms to ensure quality implementation of the validated assessment tool, and safety performance indicators.

(G) The director shall submit the plan in writing to the Sentencing Reform Oversight Committee no later than July 1, 2011. Thereafter, the department must submit an annual report to the Sentencing Reform Oversight Committee on its performance for the previous fiscal year and plans for the upcoming year.⁴⁰

Policy: Require evidence-based practices

Georgia

SECTION 2-3.

Said title is further amended by revising subsections (g) through (j) of and adding a new subsection to Code Section 42-3-2, relating to the creation of the Board of Community Supervision and its duties, to read as follows:

“(g)(1) As used in this subsection, the term:

- (A) ‘Evidence based practices’ means supervision policies, procedures, programs, and practices that scientific research demonstrates reduce recidivism among individuals who are under some form of correctional supervision.
- (B) ‘Recidivism’ means returning to prison or jail within three years of being placed on probation or being discharged or released from a department or jail facility.

(2) The board shall adopt rules and regulations governing the management and treatment of probationers and parolees to ensure that evidence based practices, including the use of a risk and needs assessment and any other method the board deems appropriate, guide decisions related to managing probationers and parolees in the community. Any risk and needs assessment instrument shall be revalidated by January 1, 2019, and every five years thereafter. The board shall require DCS to collect and analyze data and performance outcomes relevant to the level and type of treatment given to a probationer or parolee and the outcome of the treatment on his or her recidivism and prepare an annual report regarding such information which shall be submitted to the Governor, the Lieutenant Governor, the Speaker of the House of Representatives, and the chairpersons of the House Committee on State Properties Judiciary and the Senate State Institutions and Property Judiciary Committee.

(3) Using evidence based practices, the board shall evaluate the quality of the programming utilized at day reporting centers by January 1, 2019, and every five years thereafter, and shall publicly publish its report.

(h)(1) The board, acting alone or in cooperation with the State Board of the Technical College System of Georgia or other relevant educational organizations and agencies, may provide educational programs for probationers and shall exercise program approval authority. The board may enter into written agreements with other educational organizations and agencies in order to provide probationers with such education and employment skills most likely to encourage gainful employment and discourage return to criminal activity. The board may also enter into agreements with other educational organizations and agencies to attain program certification for its vocational and technical education programs."⁴¹

Policy: Establish/expand earned discharge from probation/parole

Utah

(7) (a) The department shall establish a program allowing an offender on probation under Section 77-18-1 or on parole under Subsection 76-3-202(1)(a) to earn credits for the offender's compliance with the terms of the offender's probation or parole, which shall be applied to reducing the period of probation or parole as provided in this Subsection (7).

(b) The program shall provide that an offender earns a reduction credit of 30 days from the offender's period of probation or parole for each month the offender completes without any violation of the terms of the offender's probation or parole agreement, including the case action plan.

(c) The department shall maintain a record of credits earned by an offender under this Subsection (7) and shall request from the court or the Board of Pardons and Parole the termination of probation or parole not fewer than 30 days prior to the termination date that reflects the credits earned under this Subsection (7).

(d) This Subsection (7) does not prohibit the department from requesting a termination date earlier than the termination date established by earned credits under Subsection (7)(c).⁴²

Policy: Authorize administrative responses to technical violations

Idaho

The state board of correction shall promulgate rules in consultation with the Idaho supreme court to: ... Establish a matrix of swift, certain and graduated sanctions and rewards to be imposed by the board in response to corresponding violations of or compliance with the terms or conditions imposed. Sanctions for violations shall include, but are not limited to, community service, increased reporting, curfew, submission to substance use assessment, monitoring or treatment, submission to cognitive behavioral treatment, submission to an educational or vocational skills development program, submission to a period of confinement in a local correctional facility for no more than three (3) consecutive days and house arrest. Rewards for compliance shall include, but are not limited to, decreased reporting and transfer to limited supervision.⁴³

Policy: Cap or reduce prison or jail time for technical revocations

Nebraska

(7) Whenever a probation officer has reasonable cause to believe that a probationer sentenced for a felony has committed or is about to commit a violation while on probation, the probation officer shall consider:

- (a) Whether the probation officer is required to arrest the probationer pursuant to subsection (10) of this section;
- (b) The probationer's risk level, the severity of the violation, and the probationer's response to the violation; and
- (c) Whether to impose administrative sanctions or seek custodial sanctions or revocation pursuant to subsection (8) of this section.

(8) The following sanctions may be imposed or sought by the probation officer, with approval from his or her chief probation officer or such chief's designee, for felony probationers:

- (a) One or more administrative sanctions;
- (b) A custodial sanction of up to three days in jail or up to thirty days in jail, to be imposed by the court. Custodial sanctions may be combined with one or more administrative sanctions; or
- (c) Formal revocation proceedings, however formal revocations may only be instituted against the probationer for a substance abuse or noncriminal violation if the probationer has served ninety days of cumulative custodial sanctions during the current probation term.

(9) If administrative sanctions are to be imposed by the probation officer pursuant to subsection (8) of this section, the probationer must acknowledge in writing the nature of the violation and agree upon the sanction. Prior to acknowledging the violation and agreeing upon the sanction, the probationer must be presented with a violation report and advised of the right to a hearing before the court on the alleged violation. The probationer has the right to decline to acknowledge the violation and request a court hearing. If the probationer declines to acknowledge the violation, the probation officer shall submit a written report to the sentencing court, with a copy to the county attorney of the county where probation was imposed, describing the alleged violation or violations and requesting that administrative sanctions or a custodial sanction of up to thirty days in jail be imposed.⁴⁴

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Endnotes

- 1 Council of State Governments Justice Center, “Confined and Costly: How Supervision Violations Are Filling Prisons and Burdening Budgets” (2019), <https://csgjusticecenter.org/confinedandcostly>.
- 2 Z. Hamilton et al., “Washington State Department of Corrections: Evidence-Based Practices Proviso (EBPP), Year 2—Final Report” (Washington State University, Institute for Criminal Justice, (2015); The Pew Charitable Trusts, “Probation and Parole Systems Marked by High Stakes and Missed Opportunities” (2018), https://www.pewtrusts.org/-/media/assets/2018/09/probation_and_parole_systems_marked_by_high_stakes_missed_opportunities_pew.pdf.
- 3 Council of State Governments Justice Center, “Justice Reinvestment in Alabama, Analysis and Framework” (2015), <https://csgjusticecenter.org/wp-content/uploads/2015/03/JRinAlabamaPoliciesandFramework.pdf>.
- 4 The Pew Charitable Trusts, “Mississippi’s 2014 Corrections and Criminal Justice Reform” (2014), http://www.pewtrusts.org/-/media/assets/2014/09/pspp_mississippi_2014_corrections_justice_reform.pdf.
- 5 Utah Commission on Criminal and Juvenile Justice, “Justice Reinvestment Report” (2014), https://justice.utah.gov/Documents/CCJJ/Reports/Justice_Reinvestment_Report_2014.pdf.
- 6 North Carolina Department of Public Safety, “Justice Reinvestment Performance Measures” (2016), <https://files.nc.gov/ncdps/documents/files/JRPerformanceMeasures2016.pdf>.
- 7 G. Bourgon and L. Gutierrez, “The General Responsivity Principle in Community Supervision: The Importance of Probation Officers Using Cognitive Intervention Techniques and Its Influence on Recidivism” (2012), <http://dx.doi.org/10.1080/0735648X.2012.674816>; D.A. Andrews, “Recidivism Is Predictable and Can Be Influenced: Using Risk Assessments to Reduce Recidivism” (2012); J. Bonta and D.A. Andrews, “Risk-Need-Responsivity Model for Offender Assessment and Rehabilitation,” *Rehabilitation* 6 (2007): 1-22, http://publications.gc.ca/collections/collection_2012/sp-ps/PS3-1-2007-6-eng.pdf.
- 8 P. Smith, P. Gendreau, and K. Swartz, “Validating the Principles of Effective Intervention: A Systematic Review of the Contributions of Meta-Analysis in the Field of Corrections,” *Victims & Offenders* 4, no. 2 (2009): 148-69, <http://dx.doi.org/10.1080/15564880802612581>; P.K. Lattimore et al., “Outcome Findings From the HOPE Demonstration Field Experiment: Is Swift, Certain, and Fair an Effective Supervision Strategy?” *Criminology & Public Policy* 15, no. 4 (2016): 1103-41, <http://onlinelibrary.wiley.com/doi/10.1111/1745-9133.12248/full>.
- 9 F.S. Taxman, “Justice Reinvestment: Extending the Framework to Non-Justice Efforts,” *Federal Sentencing Reporter* 29, no. 1 (2016): 52, <http://dx.doi.org/10.1525/fsr.2016.29.1.52>; Washington State Institute for Public Policy, Adult Criminal Justice, “Benefit-Cost Results,” accessed May 23, 2019, <http://www.wsipp.wa.gov/BenefitCost?topicId=2>; J.M. Hyatt and G.C. Barnes, “An Experimental Evaluation of the Impact of Intensive Supervision on the Recidivism of High-Risk Probationers,” *Crime & Delinquency* 63, no. 1 (2014): 3-38, <http://dx.doi.org/10.1177/0011128714555757>.
- 10 National Research Council, “Parole, Desistance From Crime, and Community Integration” (2007), <https://cdpsdocs.state.co.us/ccjj/Resources/Ref/NCR2007.pdf>; R. Grattet, J. Petersilia, and J. Lin, “Parole Violations and Revocations in California” (2008), <https://www.ncjrs.gov/pdffiles1/nij/grants/224521.pdf>.
- 11 Justice Center, Council of State Governments, “Justice Reinvestment in North Carolina: Three Years Later” (2014), <https://nicic.gov/justice-reinvestment-north-carolina-three-years-later>.
- 12 North Carolina Sentencing and Advisory Commission, “Justice Reinvestment Act Implementation Evaluation Report, 2018” (2018), https://www.nccourts.gov/assets/documents/publications/JRIRReports-2018_0.pdf?ELI_vwIN7PHZdkvqCDBDlaQ9I8dUtgqF.
- 13 North Carolina Department of Public Safety, “Justice Reinvestment Performance Measures” (2016), <https://files.nc.gov/ncdps/documents/files/JRPerformanceMeasures2016.pdf>.
- 14 J. Petersilia, “Employ Behavioral Contracting for ‘Earned Discharge’ Parole,” *Criminology & Public Policy* 6, no. 4 (2007): 807-14, <https://onlinelibrary.wiley.com/doi/abs/10.1111/j.1745-9133.2007.00472.x>.

- 15 E.J. Wodahl et al., "Utilizing Behavioral Interventions to Improve Supervision Outcomes in Community-Based Corrections," *Criminal Justice and Behavior* 38, no. 4 (2011): 386-405, <https://journals.sagepub.com/doi/abs/10.1177/0093854810397866>.
- 16 C.M. Sarver, J. Seawright, and R.P. Butters, "Piloting Utah's Response and Incentive Matrix: Results From Staff and Stakeholder Surveys," Utah Criminal Justice Center (2015), https://socialwork.utah.edu/_documents/RIM_Survey_Results.pdf.
- 17 T.J. Mowen et al., "The Role of Sanctions and Incentives in Promoting Successful Reentry: Evidence From the SVORI Data," *Criminal Justice and Behavior* 45, no. 8 (2018): 1288-307, <http://dx.doi.org/10.1177/0093854818770695>.
- 18 A. Solomon et al., "Putting Public Safety First," Urban Institute (2008), <https://www.urban.org/sites/default/files/publication/32156/411791-Putting-Public-Safety-First--Parole-Supervision-Strategies-to-Enhance-Reentry-Outcomes-Paper-.PDF>.
- 19 Wodahl et al., "Utilizing Behavioral Interventions."
- 20 The Pew Charitable Trusts, "Missouri Policy Shortens Probation and Parole Terms, Protects Public Safety" (2016), <https://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2016/08/missouri-policy-shortens-probation-and-parole-terms-protects-public-safety>.
- 21 National Center for State Courts, "An Evidence-Based Approach to Promoting & Enforcing Compliance With Conditions of Probation Supervision" (2017), <https://www.ncsc.org/-/media/Microsites/Files/CSI/NCSC%20CSI%20brief%203-27-17.ashx>.
- 22 E.A. Orrick and R.G. Morris, "Do Parole Technical Violators Pose a Safety Threat? An Analysis of Prison Misconduct," *Crime & Delinquency* 61, no. 8 (2012): 1027-50, <https://journals.sagepub.com/doi/abs/10.1177/001128712465585>; C.M. Campbell, "It's Not Technically a Crime: Investigating the Relationship Between Technical Violations and New Crime," *Criminal Justice Policy Review* 27, no. 7 (2014): 643-67, <https://journals.sagepub.com/doi/abs/10.1177/0887403414553098>.
- 23 D.S. Nagin, "Deterrence in the Twenty-First Century," *Crime and Justice* 42, no. 1 (2013): 199-263, <https://www.journals.uchicago.edu/doi/abs/10.1086/670398>.
- 24 Mowen et al., "The Role of Sanctions and Incentives."
- 25 B. Steiner et al., "Examining the Effects of Community-Based Sanctions on Offender Recidivism," *Justice Quarterly* 29, no. 2 (2012): 229-57, <https://doi.org/10.1080/07418825.2011.555413>.
- 26 E.J. Wodahl, J.H. Boman, and B.E. Garland, "Responding to Probation and Parole Violations: Are Jail Sanctions More Effective Than Community-Based Graduated Sanctions?" *Journal of Criminal Justice* 43, no. 3 (2015): 242-50, <https://doi.org/10.1016/j.jcrimjus.2015.04.010>.
- 27 A.F. Rengifo and C. Scott-Hayward, "Assessing the Effectiveness of Intermediate Sanctions in Multnomah County, OR" (Vera Institute of Justice, 2008), http://archive.vera.org/sites/default/files/resources/downloads/Final_Multnomah_Report.pdf.
- 28 G. Zajac et al., "All Implementation Is Local: Initial Findings From the Process Evaluation of the Honest Opportunity Probation With Enforcement (HOPE) Demonstration Field Experiment," *Federal Probation* 79, no. 1 (2015): 31-36, 49, <https://www.uscourts.gov/file/18216/download>.
- 29 E. Pelletier, B. Peterson, and R. King, "Assessing the Impact of South Carolina's Parole and Probation Reforms" (Urban Institute, 2017), https://www.urban.org/sites/default/files/publication/89871/south_carolina_jri_policy_assessment_final_1.pdf.
- 30 South Carolina Department of Probation, Parole, and Pardon Services, "2018 Report to the Sentencing Reform Oversight Committee" (2018), <https://www.dppps.sc.gov/content/download/169830/3865404/file/SROC+Report+11+30+2018-+FINAL.pdf>.
- 31 South Carolina Department of Probation, Parole, and Pardon Services, "Mission Statement," accessed July 25, 2018, <https://www.dppps.sc.gov>.
- 32 FBI, "Crime in the United States," table 4, 2009-10, <https://ucr.fbi.gov/crime-in-the-u.s/2010/crime-in-the-u.s.-2010/tables/10tbl04.xls>; FBI, "Crime in the United States," table 4, 2014-15, <https://ucr.fbi.gov/crime-in-the-u.s/2015/crime-in-the-u.s.-2015/tables/table-4>.
- 33 J.M. Hyatt and M. Ostermann, "Better to Stay Home: Evaluating the Impact of Day Reporting Centers on Offending," *Crime & Delinquency* 65, no. 1 (2017): 94-121, <https://doi.org/10.1177/001128717727739>.
- 34 Council of State Governments Justice Center, "Justice Reinvestment in Texas: Assessing the Impact of the 2007 Justice Reinvestment Initiative" (2009), https://csgjusticecenter.org/wp-content/uploads/2012/12/Texas_Bulletin.pdf.
- 35 D.R. Champion, P.J. Harvey, and Y.Y. Schanz, "Day Reporting Center and Recidivism: Comparing Offender Groups in a Western Pennsylvania County Study," *Journal of Offender Rehabilitation* 50, no. 7 (2011): 433-46, <https://doi.org/10.1080/10509674.2011.583718>.
- 36 A.N. Doob and C.M. Webster, "Sentence Severity and Crime: Accepting the Null Hypothesis," *Crime and Justice* 30 (2003): 143-95, <https://www.jstor.org/stable/1147698>.
- 37 Rengifo and Scott-Hayward, "Assessing the Effectiveness."

- 38 The Pew Charitable Trusts, "Reducing Incarceration for Technical Violations in Louisiana" (2014), <https://www.pewtrusts.org/-/media/assets/2014/11/psppreducingincarcerationfortechnicalviolationsinlouisiana.pdf>.
- 39 The Mellman Group and Public Opinion Strategies, telephone survey of 600 voters, Feb. 17-21, 2016.
- 40 Omnibus Crime Reduction and Sentencing Reform Act, Board of Probation, Parole and Pardon Services, Qualifications, Training, Assessment Tool, S. 1154, 118th South Carolina General Assembly, (2009-10), http://www.scstatehouse.gov/sess118_2009-2010/bills/1154.htm.
- 41 Georgia General Assembly, S.B. 174 (2017), <http://www.legis.ga.gov/Legislation/20172018/170762.pdf>.
- 42 Utah Legislature, Criminal Justice Programs and Amendments, H.B. 348 (2015), <http://le.utah.gov/~2015/bills/hbillamd/HB0348S01.pdf>.
- 43 Idaho Legislature, An Act Relating to the Idaho Criminal Justice System, S.B. 1357, 62nd Idaho Legislature (2014), https://legislature.idaho.gov/wp-content/uploads/sessionlaws/sessionlaws_vol1_2014.pdf.
- 44 Nebraska Legislature, A Bill for an Act Relating to Crimes and Offenses, L.B. 605, 104th Legislature (2015), <https://nebraskalegislature.gov/FloorDocs/104/PDF/Slip/LB605.pdf>.

For further information, please visit:

pewtrusts.org/publicsafety

Contact: Jessica Brady, communications manager

Email: jbrady@pewtrusts.org

Project website: pewtrusts.org/publicsafety

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