

# Vera Institute of Justice

## Criminal Justice Issues and Prisoners' Rights

<https://www.vera.org/blog/gender-and-justice-in-america/alternatives-to-incarceration-for-moms-aim-to-strengthen-families>

### Public Facing Advocacy Writing

When mothers who act as primary caregivers serve time in prison, the loss of emotional and tangible support they provide in the form of regular caretaking, income, housing, and more can have a [traumatic and disruptive](#) impact on their families and communities. In recent years, this impact has garnered the attention of policymakers locally and nationwide, who have proposed and piloted diversion programs as a necessary alternative to incarceration for convicted mothers.

These diversion efforts are critical, as the number of families impacted by an incarcerated mother has grown at a staggering rate: from 1991 to 2007 the most recently available data there was a [122 percent increase](#) in the number of incarcerated mothers, affecting an estimated 150,000 children. Many of these incarcerated mothers are forced to place their children under the care of [family members or friends](#) or the [foster care system](#). Once a child spends time in the foster care system, their incarcerated mother risks [losing contact with them](#) entirely.

Mothers who are able to retain custody rights during incarceration nonetheless may struggle to maintain [contact and care](#) for their children, given the hefty costs associated with in-person visitation and phone calls, as well as the difficulty of communicating by mail with young children. After incarceration, [returning](#) to the community can present more challenges for these mothers, whose criminal records may prevent them from securing stable housing, employment, education, public assistance benefits, healthcare, and more.

Given these collateral consequences, several community-based prison diversion programs have surfaced in the last few years with the goal of ensuring continued contact between convicted mothers and their children. In Oklahoma, [Women in Recovery](#) and [ReMerge](#), two diversion programs serving Oklahoma City and Tulsa, respectively, allow certain categories of convicted mothers to remain at home with their children while receiving counseling and treatment services. Both diversion programs were created in response to Oklahoma's status as [the national leader in female incarceration](#).

Following the success of these and other local programs, some states have enacted legislation to systematically divert primary caretakers convicted of nonviolent offenses. In 2010, the state of Washington enacted the [Family and Offender Sentencing Alternative](#) and the [Community Parenting Alternative](#), two laws that authorize judges to order community custody as an alternative, and/or supplement, to incarceration. Boasting low recidivism rates in its pilot stage, Washington's diversion initiative has [inspired](#) the state legislatures of Oregon and Massachusetts to consider similar legislation. [In Oregon](#), a bill under consideration would permit judges to replace prison sentences with probation time and community services for parents and legal guardians charged with nonviolent convictions who had physical custody of their children at the time of their offense. [A similar bill in Massachusetts](#) would also assign community-based sentencing alternatives for parents classified as nonviolent primary caretakers of dependent children. Notably, the Washington legislation and Oregon proposal supplement counseling with the use of privatized electronic monitoring services, which has raised concerns among advocates who point to the risk of [unregulated, intrusive surveillance](#), as well as the anticipated shift in [cost burden](#), onto monitored mothers.

While these initiatives are certainly steps in the right direction, many of them offer diversion for just a fraction of the number of primary caregivers facing time in prisons and jails. After all, not all convicted mothers who have meaningful, important ties to their children are [charged with nonviolent offenses](#), and not all convicted primary caregivers are [mothers or fathers](#).

Policymakers should consider expanding the categories of eligibility for diversion to include more serious offenses while simultaneously using a [broader definition of family](#) to account for convicted primary caregivers who may be immediate, extended, or chosen family members.

Moving beyond punitive responses to restorative alternatives that value and support convicted mothers is an important step in meeting the immediate and long-term needs of these women and their families, reducing recidivism, and in turn, interrupting cycles of incarceration and trauma [for the next generation](#).

Through the [Gender & Justice in America](#) blog series, Vera will explore issues facing justice-involved women and girls in the fields of adult corrections, youth justice, immigration, victimization, substance use, and mental health.

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