The Sentencing Project

Criminal Justice Issues and Prisoners' Rights

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Policy Isssue Resources

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The scale of the nations correctional population results from a mix of crime rates and legislative and administrative policies that vary by state. Today, there is general agreement that the high rate of incarceration resulted from deliberate policy choices that impose punitive sentences which have increased both the numbers of people entering the system and how long they remain under correctional control. These policies include an expansion of life without parole as a sentencing option and lengthy terms under community supervision.

Despite the nations four-decade era of mass incarceration, the Bureau of Justice Statistics reported that the prison population dropped in 2012 for the third consecutive year. About half of the 2012 decline 15,035 prisoners occurred in California, which decreased its prison population in response to a 2011 Supreme Court order to relieve prison overcrowding. But eight other states Arkansas, Colorado, Florida, Maryland, New York, North Carolina, Texas, and Virginia showed substantial decreases of more than 1,000 inmates, and more than half the states reported some drop in the number of prisoners.

Previous changes in policy and practice may have contributed to the modest decline. Lawmakers have cited the growth in state corrections spending at the expense of other priorities as a reason to change sentencing policies and practices. During 2013, legislators in at least 31 states adopted 47 criminal justice policies that may help to reduce the prison population, improve juvenile justice outcomes, and eliminate the barriers that marginalize persons with prior convictions. The policy reforms outlined in this report document changes in sentencing, probation and parole, collateral consequences and juvenile justice.

Highlights include:

State sentencing reforms in 2013 continue trends that The Sentencing Project has documented for several legislative cycles. But despite the changes, there continues to be a great need to address the nations high rate of incarceration. The challenge now is to build on these gains to downscale state prison systems. Most states continue to authorize life without parole as a sentencing option, implement a range of mandatory sentencing laws, and enact practices that extend the length of time persons spend in prison. Stakeholders interested in reducing their states reliance on incarceration must continue to push for dialogue and reforms that use balanced approaches to reduce crime and improve public safety.

Lawmakers in at least sixteen states enacted changes to sentencing policy in 2013. Since the 1980s, officials at the state level have frequently enhanced criminal penalties, contributing to the nations high rate of incarceration. Changing policy and practice to impact prison admissions and length of stay may help lawmakers and practitioners reduce state prison populations. Reform initiatives adopted in various states included abolishing the death penalty, authorizing racial impact statements, and establishing alternative sentences for certain drug offenses.

SB 250 established a separate sentencing scheme for persons convicted of certain drug offenses. The bill authorized probation and community-based sentencing alternatives for persons convicted of certain felony drug offenses and allowed the felony charge to be lowered to a misdemeanor conviction after the completion of probation. SB 250 also required the court to exhaust alternative sentencing options for certain drug defendants; the provision required defendants to have already participated in several forms of treatment and alternative sentencing prior to being sentenced to prison. The Colorado Legislative Council estimated that approximately 550 prison-bound defendants will be reclassified to a lower level felony classification and given the opportunity to successfully complete probation or a diversion community corrections program in lieu of being incarcerated in a Department of Corrections facility.

Lawmakers also established a diversion program with the passage of **HB 1156**. The measure eliminated adult deferred prosecution as a sentencing option and replaced it with the option of an adult diversion program. Under the new statute, a defendant and district attorney may enter into a diversion agreement for up to two years prior to proceeding with the criminal case against the defendant. During the two-year diversion period, defendants are subject to supervision conditions.

HB 349 authorized judges, in some circumstances, to depart from mandatory minimum sentences for certain drug offenses. Specifically, the legislation seeks to allow judges to consider the role of defendants in drug cases, for example sentencing low-level players to an appropriate sentence when warranted. The measure also codified statutory authority for the Georgia Council on Criminal Justice Reform.

Lawmakers cemented their commitment to judicial discretion for certain drug offenses with the passage of **SB 68**. The measure provides judges discretion in setting prison terms for persons convicted of certain class B and class C felony drug offenses and provides for sentences proportionate to the offense and related conduct. Prior to the change in law, a class B felony offense carried a maximum prison term of 10 years and a class C felony offense carried a maximum prison term of 5 years or a possible term of 5 years probation with up to 12 months in prison.

S 1151 expands provisions relating to relief from certain felony convictions by authorizing a court to reduce certain felony convictions to misdemeanors. The court is authorized to reduce the conviction if fewer than five years have elapsed with the approval of the prosecuting attorney. The measure lists various criminal offenses eligible for a sentence reduction, including certain assault and property offenses.

HB 1 authorized use of medical marijuana for patients living with 42 designated illnesses including cancer, AIDS, and multiple sclerosis. Under the new law, a person can be prescribed up to 2.5 ounces of marijuana over a two-week period and must have an established relationship with their doctor. Patients would have to buy marijuana from one of 60 dispensing centers throughout the state and would not be allowed to legally grow their own. New Hampshire also authorized medical marijuana in 2013, expanding the number of states that authorize possession of medical marijuana to 20.

Maryland became the 18th state to repeal the death penalty with the passage of **SB 276**. Governor Martin OMalley stated following the bills passage:

Ive felt compelled to do everything I could to change our law, repeal the death penalty, so that we could focus on doing the things that actually work to reduce violent crime.

Prior to repeal, five men had been sentenced to death in the state; their sentences were not impacted by the change in law. Since 2007, five other states New Jersey, New York, New Mexico, Illinois and Connecticut have eliminated the death penalty as a sentencing option.

Lawmakers established a Truth-in-Sentencing Task Force with the passage of **HB 1231**. The task forces statutory mission is to study and make recommendations for improving the relationship between the corrections system and other components of the criminal justice system in Mississippi. Specifically, the task force is responsible for reviewing any sentencing disparities among persons incarcerated in state prisons for the same offense and documenting the number of persons sentenced according to mandatory minimum penalties. Additionally, the task force is charged with identifying critical problems in the criminal justice system, assessing its cost-effectiveness, and publishing a report detailing findings and recommendations.

The passage of **HB 573** authorized possession of marijuana for medical purposes. The measure qualified patients with chronic or terminal diseases or debilitating medical conditions to obtain marijuana from four non-profit, state-licensed alternative treatment centers. This change in law expands the policy to all New England states, comprising six of the 20 states and the District of Columbia that have enacted such reforms.

Lawmakers increased monetary threshold amounts for certain property offenses with the enactment of **SB 2251**. The change in policy reflects that monetary triggers for specified criminal offenses have become reduced in value over time as a result of inflation. Modernizing property offense thresholds may reduce incarceration. In recent years, other states including California, Delaware, Maryland, Montana, Oregon, and Washington, have enacted similar provisions.

SB 463 requires the Oregon Criminal Justice Commission, at the written request of one legislative member from each political party, to prepare a statement on proposed legislation or a potential measures impact on persons of color impacted by proposed criminal justice policies. The measure was patterned after legislation in Iowa, which is among several states, including Connecticut and Minnesota, that have similar policies. In recent years other states, including Arkansas, Texas, and Maryland, have introduced similar measures.

Lawmakers also enacted several sentencing changes with the passage of **HB 3194**, the states Justice Reinvestment Initiative (JRI). The bill included various provisions targeted to address prison growth and incentives for local communities to change criminal justice policies and practices. Provisions included:

HB 3194 contained other provisions that established the Task Force on Public Safety that was charged with monitoring the implementation of the legislation. The measure also established the Justice Reinvestment Grant Program, to be administered by the states Criminal Justice Commission. The program will allocate grants to provide a continuum of community based programs to reduce recidivism and decrease the countys use of incarceration.

H 3193 required that time served under monitored house arrest on a pretrial basis must be included when calculating the amount of time served for purposes of sentencing.

Under **SB 70**, lawmakers reclassified certain drug offenses and property offenses as well as other provisions. The measure created a tiered controlled-substance statute to distinguish between drug users and drug dealers. Additionally, SB 70 reduced the punishment for drug possession to a Class 5 felony triggering a five-yearmaximum sentence while increasing sentences to a 15-year maximum for serious drug manufacturing and drug distribution offenses. Previously, dealers and drug users were subject to a Class 4 felony offense punishable by up to 10 years in prison. The bill included a provision creating an additional criminal offense of drug possession based on a positive drug test. Prior to SB 70, the practice of charging persons with drug possession was ruled constitutional by the South Dakota Supreme Court. However, SB 70 codified the practice into statute.

The bill also modified threshold amounts and reclassified penalties for certain property offenses. SB 70 reduced sentences for grand theft

of less than $5,000 in value and for certain low-level burglary offenses. However, the bill increased penalties for serious grand theft offenses of more than half a million dollars in value, enhancing the maximum penalty to 25 years.

SB 70 included additional provisions such as establishing a structure for specialty courts, created an oversight council to monitor implementation of the legislation, enhanced prison terms for certain persons with repeat offenses, and developed a funding structure to address anticipated demand of incarceration at the local level in county jails.

Legislators removed criminal penalties for up to one ounce of marijuana with the passage of **SB 200**. The bill imposes a $200 fine for possession for a first-time offense. Fines increase for subsequent offenses. Under the law, marijuana possession will no longer result in the creation of a criminal record.

SB 371 included several provisions with the intent of addressing prison overcrowding in the states correctional facilities. The measure authorized judges to sentence certain non-violent defendants to prison with an option of early release that requires community supervision; the provision was not retroactive. The bill also requires all counties in the state to establish drug courts and provides authority for courts to use a pretrial risk assessment instrument. Prior to the policy change, at least 30 of West Virginias 55 counties had established a specialty court.

This legislation will usher in a new era of how we handle substance abuse in our state. No longer will we simply lock people up and pretend the problem will go away. We will combine treatment with effective supervision to hold offenders accountable and break the cycle of crime and addiction, stated Jeffrey Kessler, West Virginia Senate President.

Reducing probation or parole revocations to prison is a key strategy for addressing the scale of prison admissions that lawmakers and practitioners are increasingly employing. During 2013, several states adopted changes to supervision policies to avert potential growth in the prison population or to reduce overcrowding. Diverting prison-bound defendants as in South Dakota, by expanding the range of offenses which are eligible for community supervision, may help reduce admissions to correctional facilities. Additionally, extending earned release policies for persons serving probation or parole terms can reduce the number of people under supervision and subject to revocation. At the state level, most legislatures have the authority under state statute to address length of stay and supervision practices through policy change.

HB 3014 created a second chance probation option for persons convicted of non-violent offenses. The measure allowed a conviction to be cleared from a defendants record after following successful completion of at least a two-year period of probation. This sentencing option gives prosecutors and judges more flexibility when charging and sentencing certain defendants.

Under **HB 2170**, lawmakers authorized early discharge from probation for persons meeting certain requirements, including a low risk score, payment of all restitution, and compliance with probation supervision for twelve months. Eligibility includes persons sentenced tocommunity corrections facilities and those who have a non-prison sanction including a suspended sentence. The measure authorized earned credits to be subtracted from an individuals sentence but not added to the post-release supervision term except for those sentenced for certain sex offenses. Persons convicted of certain sex offenses have their post-release supervision term extended by the amount of good time earned while incarcerated.

SB 463, the states Justice Reinvestment Initiative measure, also authorized earned time credits for persons on probation or post-prison supervision. Under the legislation, individuals who successfully complete the terms of probation or parole may have their supervision term reduced by 50 percent, but not less than six months. The legislation is anticipated to result in fewer people on supervision.

SB 70, the states Justice Reinvestment Initiative, contained several provisions relating to probation, reducing recidivism for persons on probation and parole, and earned discharge from supervision. Lawmakers authorized presumptive probation for certain non-violent felonies Class 5 and 6 offenses limiting punishment to community supervision unless a court determines aggravating circumstances pose a risk to public safety.

The measure also included a provision requiring the use of evidence-based practices that codified the practice of imposing graduated sanctions for certain probation and parole violations into statute. The intent behind theprovision is to reduce revocations to prison for certain technical supervision populations.

Lawmakers also authorized earned discharge from supervision for individuals who follow the conditions of probation and parole, providing an incentive for compliance and allowing probation and parole officers to focus on higher-risk offenders.

HB 2103 required the Parole Board to ensure that each person eligible for parole review receives a timely and thorough review of his or her suitability for release including any post-sentencing factors. If the Board denies the person parole, the Board is required to deliver a written, fact-specific, and individualized statement of the reasons for the denial.

Lawmakers made several changes to probation and parole policies under the states justice reinvestment package. **SB 371** mandated post-release supervision for one year following the completion of a prison term for persons convicted of certain offenses. The measure also requires probationers deemed moderate- to high-risk to report to day-report centers and outlines a process for services for which those persons may be eligible. SB 371 also codifies into statute jail stay lengths for first and second violations of probation conditions and requires a revocation of supervision for probationers who violate conditions for a third time.

The collateral consequences associated with a criminal conviction can exclude individuals from certain job opportunities, limit civic participation, and restrict access to certain public benefits. The policies that marginalize persons with prior convictions vary widely from state to state. During 2013, lawmakers in at least ten states enacted policies to limit employment barriers and restore civil rights.

Persons with felony convictions may find seeking employment a significant barrier to participating fully in the community. The difficulty in obtaining or maintaining employment has been identified as a major factor in recidivism. Efforts to change policies that inquire into a job applicants criminal justice involvement are known as Ban the Box and have been growing since Hawaii first took the step 15 years ago. At least ten states California, Colorado Connecticut, Hawaii, Illinois, Maryland, Massachusetts, Minnesota, New

Mexico and Rhode Island have enacted these policy reforms. During 2013, at least five states California, Illinois, Maryland, Minnesota, and Rhode Island changed or modified these policies.

A law-abiding citizens past mistakes should not serve as a lifetime barrier to employment, Governor Quinn said. Creating opportunities for ex-offenders to obtain gainful employment and reach their full potential as a member of society is one of the most effective tools for reducing recidivism. As we know, the best tool to reduce poverty, drive down crime and strengthen the economy is a job.

SB 123 contained several provisions relating to collateral consequences, including allowing for the sealing of records and specifying notification provisions for persons seeking to have their record sealed. This bill allowed an individual to petition the court to seal certain conviction records involving petty offenses or municipal violations. The petitioner is subjected to a three-year waiting period and is ineligible if he or she has been charged or convicted of a new criminal offense during that time.

The measure clarifies other provisions relating to court orders of collateral relief. Previously, courts could grant an order of collateral relief to defendants who entered into alternative sentence agreements such as probation or community corrections. An order of collateral relief ismeant to improve the defendants likelihood of success in the alternative sentencing program by addressing barriers to employment and housing, among other collateral consequences. The bill states that an order may relieve a defendant of any of the collateral consequences of a criminal conviction that the judge believes will assist the defendant in completing probation or a community corrections sentence, but it cannot apply to collateral consequences imposed by potential employment with certain state law enforcement agencies.

Lawmakers enacted the second leg of a constitutional amendment with the passage of **HB 10**. This change eliminates the five-year waiting period after an individual has completed a prison sentence and all other obligations to the state before having their voting rights restored. Prior to reform, the state disenfranchised 46,600 individuals, including over 28,000 who had completed their sentence. African Americans comprised 45% of disenfranchised voters in Delaware. Delaware was one of 12 states in which a felony conviction could result in the loss of voting rights post-sentence. House Bill 10 moved Delaware in line with a majority of states, including neighboring Pennsylvania, Maryland, and West Virginia, with less restrictive disenfranchisement policies.

Lawmakers passed **HB 3061**, a measure that expanded the list of offenses for which sealing a defendants criminal record history may be sought, including a Class 3 felony offense for possession with intent to manufacture or deliver a controlled substance, and limits the sealing of Class 2 offenses under Section 401 of the Illinois Controlled Substances Act to possession with intent to manufacture or deliver a controlled substance (excluding manufacture and delivery offenses). The bill providesfactors for the court to consider in granting or denying a petition to expunge or seal a criminal history record.

Lawmakers also streamlined the criminal record expungement and sealing process with the passage of HB 2470. The measure imposes time limits on certain expungement proceedings to ensure they are heard in a timely manner and requires that if a judge rules in the defendants favor, that ruling must be delivered promptly to the proper authorities.

HB 1482 expands the list of offenses that petitioners may request a court to seal or expunge from arrest or conviction records. The bill authorizes the sealing on non-conviction arrests after one year and expungement of misdemeanor records after five years for various offenses including Class D felonies that have been reduced to misdemeanors.

Making a mistake doesnt mean that youre necessarily a bad person, stated bill sponsor State Rep. Jud McMillin (R). Making a mistake means youre a human being.

SB 169 altered the landscape of misdemeanor sentencing by reducing the maximum possible sentence for gross misdemeanor offenses from 365 days to 364 days. This modest change alters the collateral consequence of deportation that noncitizen defendants face by ensuring that no misdemeanor conviction can any longer be classified as an aggravated felony under immigration law (a classification that results in virtual automatic deportation). Lawmakers in Washington state enacted a similar measure in 2011.

HB 33 expands Utahs expungement provisions relating to certain drug possession and paraphernalia offenses. The bill amends the process to expunge drug offenses by adding another felony and misdemeanor to the list that can be expunged. The measure requires the petitioner to be free of illegal substance abuse and to successfully manage their substance addiction.

Lawmakers continue to reform sentencing policies for juvenile defendants by prioritizing alternatives to incarceration and expanding parole review processes. The framework for addressing juvenile crime has shifted in recent years to emphasize prevention and diversion programs. During 2013, officials enacted policy changes that reduced out-of-home placement for youth, expanded sentencing options, and limited incarceration under certain circumstances. Policymakers in several states also modified life without parole policies for certain youth.

SB 260 requires the Board of Parole Hearings to conduct a parole release hearing for certain incarcerated youth convicted of specified crimes prior to being 18 years of age. The bill would make a person eligible for parole release during the 15th year of incarceration if they meet specified criteria and had received a determinate sentence, during the 20th year if the person had received a sentence that was less than 25 years to life, and during the 25th year of incarceration if the person had received a sentence of 25 years to life. The measure requires the board, in reviewing a prisoners suitability for parole, to give weight to the diminished culpability of juveniles as compared to adults. Persons sentenced pursuant to the Three Strikes law, Jessicas Law, or sentenced to life in prison without the possibility of parole are ineligible for review authorized by SB 260.

Prior to the enactment of SB 260, the board was required to meet with each incarcerated person during his or her third year of incarceration to make recommendations relevant to granting post-conviction credit. The measure delayed the boards meeting with eligible persons, including those eligible to be considered for a youth offender parole hearing, to the sixth year prior to the individuals minimum eligibleparole release date. The bill required the board to provide an inmate additional, specified information during this consultation, including individualized recommendations regarding work assignments, rehabilitative programs, and institutional behavior, and to provide those findings and recommendations, in writing, to the inmate within 30 days following the consultation.

State lawmakers enacted several measures to reduce incarceration of incarcerated youth and address collateral consequences. **SB 177** reduced the bed cap for the Division of Youth Corrections (DYC) in the Department of Human Services (DHS) from 422 to 382. The DYC oversees youths between the ages of 10 and 21 who have been detained, committed, or paroled in Colorados juvenile justice system. In recent years, the number of youth held in DYC facilities has decreased markedly. The lower incarceration population allowed the bed cap to be reduced.

HB 1082 expanded the categories of juvenile offenses that can be sealed under Colorado law. Prior to the policy change, certain juvenile offenders, including persons convicted of certain violent offenses and unlawful sexual behavior, were excluded from expungement provisions. However, HB 1082 renders youth who have failed to pay court-ordered restitution ineligible.

HB 242, a comprehensive juvenile justice reform measure, revised several provisions relating to the states juvenile justice system. The revisions contain significant juvenile justice reforms, including alternatives to incarceration for youth who have committed status offenses or who are classified as low-to-medium risk, increased emphasis on risk assessment, increased attorney presence throughout the entire sequence of juvenile proceedings, and a reclassification of designated felonies to include a separate Class A and Class B, so that less serious offenses carry shorter maximum sentences. The measures provisions are estimated to save $85 million over five years and reduce recidivism by focusing out-of-home facilities on youth convicted of serious offenses and investing in evidence-based programs.

We acted because Georgia could not afford its own numbers, stated Governor Nathan Deal.Not when we have more than half of all youth offenders ending up back in a detention center or prison within three years. Not when we have each youth in a detention center costing Georgias taxpayers $90,000 or more every year and not when 40 percent of juveniles in detention facilities are considered a low risk to reoffend. We worked hard and we found ways to keep low-risk offenders out of detention centers and save taxpayer dollars, nearly $85 million over five years, while also eliminating the need for two new facilities.We did all this while not only maintaining but improving public safety.

I am proud to sign legislation that creates a better balance of holding our most violent offenders accountable, while giving our young people the opportunity for rehabilitation and reform that they deserve, said Governor Deval Patrick. We are working hard to make the investments in education and job training to close achievement gaps and give every child the opportunity to succeed. But whether we like it or not, some children still fall through the cracks and we must not give up on them.

HB 1108 provided judges with new sentencing alternatives for youth under age 18 in Indianas criminal courts. The measure authorized more discretion for judges when sentencing juveniles convicted of certain felonies.The court can now order those defendants to be placed in a juvenile facility instead of an adult facility, where age appropriate rehabilitative services are available.The dual sentencing provision allows a judge to send a youth convicted as an adult into a juvenile facility until he or she turns 18. When the juvenile reaches the age of 18, the judge can reassess the sentence and send the youth to adult prison to serve the criminal sentence, or sentence him or her into a community-based corrections program or in-home incarceration.

Legislators enacted two measures that may reduce commitments to juvenile incarceration facilities. **SB 536** required the Department of Juvenile Services to report on its creation and implementation of graduated responses across Maryland. Graduated responses include sanctions and incentives that give youth timely consequences to their behavior, whether good or bad. The intent behind the measure is to create an array of options that do not rely on incarceration because of the lack of other sanctions.

Lawmakers also limited the juvenile offenses that can trigger out-of-home placement with the enactment of HB 916. The measure restricts out-of-home placement for several offenses including possession of marijuana, disturbing the peace, and trespassing unless certain factors arise.

HB 1043 authorized any person who was under the age of eighteen years when he or she was convicted of a felony to petition the sentencing court to expunge one conviction from all public records. Individuals are eligible to file a petition five years after successful completion of all terms and conditions of their sentence. Statutory exceptions include specified violent offenses.

SB 36 made changes in the states practices for youth subject to the dual jurisdiction of adult and juvenile courts. The measure allowed eligible youth who have been convicted or pled guilty in adult court to remain in the custody of Missouris Department of Youth Services. That means they can be housed in a youth-oriented facility and receive a range of education and counseling services unavailable to persons in adult correctional facilities.

Lawmakers passed **LB 561** with the intent of overhauling the states juvenile justice system. The measure establishes the Office of Juvenile Assistance (OJA) under the Supreme Court.

I just hope every day we can make improvement, that we can help more kids, that we can keep them out of the prison system, Governor Dave Heineman told reporters.

The OJA coordinates diversion programming, violence prevention programming, the distribution of juvenile grants and the collaboration between juvenile justice entities and the Juvenile Justice Institute, the University of Nebraska Medical Center and national experts. LB 561 shifts the supervision of youth in the system to the probation department and prioritizes the strategy of juvenile defendants to receive treatment in their homes and communities whenever possible utilizing evidence-based practices. The measure provides additional resources to the County Juvenile Services Aid program to help counties develop community-based service options.

AB 207 limits to thirty days the period that a juvenile court can sentence certain youth to county jail. Under current law, if a person who is at least 18 years of age but less than 21 years of age is under juvenile probation or parole supervision, the juvenile court may order the person to be placed in county jail for the violation of probation or parole.

HB 1524 authorizes a police officer to take a youth who has committed a non-serious misdemeanor and whom the officer believes has a mental health disorder to a location other than juvenile incarceration, such as a treatment program. The measure also increases the number of times the youth can be diverted from courtfrom two to three timesand the number of counseling hours she or he can access from 20 to 30making it more likely that the youth will receive needed services.

At least eight states enacted policy change to respond to the Supreme Courts *Miller v. Alabama* decision that determined mandatory life without parole sentences for juveniles convicted of homicide violate the Eighth Amendment. Lawmakers restructured sentencing practices in several states Arkansas, Delaware, Louisiana, Nebraska, and South Dakota that previously imposed mandatory life without parole for youth convicted of certain crimes. Three other states Texas, Wyoming, and Utah also modified their parole processes for certain youth.

During 2013, lawmakers enacted a number of legislative changes to address the high rate of incarceration at the state level. Documented changes in sentencing policy and practice over a number of years demonstrate that officials can adopt initiatives targeted to reduce state prison populations without compromising public safety. In 2012, 28 states achieved modest declines in their prison populations; some have downscaled prison capacity by closing correctional facilities. Stakeholders building momentum for policy reforms to address the scale of incarceration should consider the following options during the 2014 legislative session:

There is general agreement today that the increase in the rate of incarceration was largely the result of deliberate changes in policy and practice that imposed punitive sentences. The nations sentencing framework has increased both the numbers of people entering the system and how long they remain under correctional control. During 2013, several states adopted changes to their sentencing practices. Oregon required racial impact statements for any change to criminal laws or sentencing codes. Hawaii and Idaho authorized judicial discretion in setting prison terms for certain felony offenses. Despite these changes, mass incarceration will continue to plague the criminal justice system due to mandatory minimums and an increasing number of prisoners serving life sentences. To address the nations prison problem, policymakers must both enhance diversion options for less serious offenders and reconsider the value of excessively long sentences.

In recent years, a new approach to juvenile justice has emerged. After more than a decade of policies that relied heavily on the incarceration and imprisonment of youth, the number of youth incarcerated in state and county facilities totaled more than 100,000 juveniles in 2000. Since then, changes in approach and practice have decreased the number of youth in such facilities by nearly 40%. Policies that have been identified to reduce reliance on juvenile incarceration include the expansion of evidence-based alternatives to incarceration, intake procedures that minimize use of secure-detention, and limits on the use of incarceration for minor offenses. During 2013, Georgia and Nebraska took steps to adopt this framework. Additional state reforms hold the promise of further reductions in juvenile incarceration.

More than 19 million persons have felony convictions, most of whom have either completed their sentences or are under supervision in the community. They are often adversely affected by barriers to employment, excluded from social safety net programs, and may be barred from public or private housing. These collateral penalties impose substantial obstacles to social and economic participation and undermine fairness. In 2013, states such as Colorado and Indiana enacted policies to limit the scope of collateral consequences. State legislators should consider expanding voting rights for persons under correctional supervision and eliminating restrictions on access to welfare and food stamp benefits for persons with felony drug convictions. Lastly, lawmakers can address barriers to employment through ban the box provisions that delay inquiry into a prospective job applicants criminal history until the applicant receives an interview.

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