

Inmate work and restitution

- Here is a resource from Prison Policy Initiative on [state and federal prison wage policies](#).
- A number of state use approaches similar to the law in Idaho requiring that a certain percentage of earnings or money in an inmate's account go toward paying restitution. Examples include [Colorado](#) (20%), [Maine](#) (25%) and [Montana](#) (15%).

Reentry

- The Council of State Government's [Reentry Resource Center](#) has a webpage with information on a number of reentry programs, including evaluations of the effectiveness of many of those programs.
- Two attached documents include recent legislation addressing reentry job training and reentry plans for inmates.
- National Reentry Resource Center report – "[Critical Connections: Getting People Leaving Prison and Jail the Mental Health Care and Substance Use Treatment They Need](#)." [Executive Summary](#).
- [Recidivism and Reentry research](#) compiled by the Prison Policy Initiative.

Sentencing Trends – Controlled Substances

Generally speaking states have been very active in modifying drug sentencing policies in the past couple of years. NCSL's [Trends](#) report (2013) summarizes the big picture on page 4, "States have lowered penalties for possession of small amounts of drugs while maintaining or increasing penalties for larger quantities and drug trafficking offenses." States have also recently made changes to mandatory sentencing provisions for trafficking offenses. Our more recent [Sentencing](#) report (2015) also discusses these continued trends. More than a third of states have amended their drug penalty thresholds and levels in the past five years. Additional resources are linked below and I will copy in some examples of recent legislation.

- Evaluation from Urban Institute "[Assessing the Impact of Georgia's Sentencing Reforms](#)" which included reducing minimum and maximum sentence length for all drug weights.
- [Making Sense of Sentencing: State Systems and Policies](#) newer report that discusses state sentencing systems, including recent drug sentencing changes.
- [Managing Corrections Costs Report](#) see page 5-6 for summary of savings from Colorado and New York legislation reducing penalties for drug crimes
- [Trends in Sentencing and Corrections: State Legislation](#) pg. 4-5 discuss changes made to drug sentencing and there is a graphic on p. 6.
- Justice Reinvestment [State Resources map](#) legislation and related resources for some of the states that have enacted major reforms since 2007
- [State Sentencing and Corrections Legislation](#) summaries of significant legislation from 2010 to 2016
- "Drug Threshold Enactments 2009-2015" [Attached] – Summarizes recent enactments changing threshold amounts of controlled substances provisions.
- Drug Crime Sentencing and Penalties 2009-2015" [Attached] – Summarizes recent enactments changing sentencing provisions for drug offenses.
- Pew Charitable Trusts has a new report indicating that more imprisonment does not reduce drug use/crime. The report can be [downloaded here](#).

In many states, new offenses have also been created for possession and trafficking in fentanyl and other synthetic opioids. That information can be found on [NCSL's Emerging Drug Threats webpage](#).

Recent Enactments Modifying Mandatory Penalties for Drug Related Offenses

- **Delaware** [SB 163 \(2016\)](#) Distinguishes between violent felonies and nonviolent felonies for the purpose of defining a habitual criminal. Eliminates a mandatory minimum sentence of life imprisonment for habitual violent criminals. Decreases the mandatory minimum sentence for habitual criminals depending on the number of prior convictions that are violent or nonviolent. Provides a mechanism for those who were previously convicted as a habitual criminal to petition the court for a sentence modification once any applicable mandatory minimum sentence has been served.
- **Georgia** [HB 349 \(2013\)](#) Permits the court to depart from the mandatory minimum sentence for certain drug trafficking offenses if the judge concludes that the defendant was not a leader of criminal conduct, did not possess or use a weapon and has no prior felony convictions, the offense did not result in death or serious injury, and the interests of justice will not be served by imposition of the mandatory minimum sentence. Sets departure ranges. Sets a maximum prison sentence for any violation of trafficking in cocaine, illegal drugs, marijuana, or methamphetamine, and prohibits the sentence to be reduced through good time or any other sentence reducing measure, except that during the final year of incarceration the inmate can be eligible for a transitional center or work release. Authorizes the court to depart from a mandatory minimum sentence for certain serious violent felonies or repeat serious violent felonies provided the prosecuting attorney has agreed to the departure sentence. Prohibits the sentence to be reduced through good time or any other sentence reducing measure, except that during the final year of incarceration the inmate can be eligible for a transitional center or work release. Authorizes the court to depart from the mandatory minimum sentence for a sex offense when the prosecuting attorney has agreed to the departure sentence.
- **Hawaii** [HB 2561 \(2016\)](#) Enacts recommendations of the Penal Code Review Committee. Removes the mandatory minimum prison term for repeat offenders convicted of possession for small amounts of drugs. Removes the mandatory minimum prison term for possession or distribution of small amounts of methamphetamine. Permits these offenses to be charged and prosecuted as promotion of dangerous drugs and therefore permits the sentencing court to order probation, if appropriate.
- **Hawaii** [SB 68 \(2013\)](#) Eases mandatory sentences for certain class B and C felony drug offenses by creating penalty ranges of five to 10 years for class B felonies and one to five years for class C felonies. Prior law required 10 years' incarceration for class B felony drug offenses and five years' incarceration for class C felony drug offenses. Excludes class B and C felony offenses related to repeat offenders, meth trafficking, promotion of dangerous or harmful drugs and commercial promotion of marijuana, involved use of a firearm, or were committed in the presence of a child or in a restricted zone.
- **Iowa** [HB 2064 \(2016\)](#) Allows nonviolent drug offenders to be considered for parole after serving 50 percent of the mandatory minimum term. Requires the court to determine if the offender is eligible for earlier consideration based on criminal record, a validated risk assessment and

negative impact of the offense on victims or the community. Makes the reduced time served for nonviolent drug offenders retroactive.

- **Maryland** [HB 121 \(2015\)](#) Authorizes courts to depart from specified mandatory minimum sentences for repeat offenders of crimes generally involving the manufacture, sale, and distribution of controlled substances. Requires the court to find that the mandatory minimum would result in substantial injustice to the defendant and that the sentence is not necessary for the protection of the public. Clarifies that an inmate convicted of any of the covered offenses is not prohibited from participation in a drug treatment program because of the length of sentence. Requires that savings realized as a result of this law (2015 HB 121) be used to fund drug treatment programs. States that authority to depart is prospective and cannot be applied retroactively.
- **Maryland** [SB 1005 \(2016\)](#) Enacts the Justice Reinvestment Act. Reduces penalties for low-level drug possession; including making a first offense punishable only up to one year. Creates a presumption of community-based treatment for certain drug offenders assessed as in need of treatment. Repeals some mandatory minimum sentences for sale or distribution of drugs and allows the safety valve mechanism to be applied retroactively.
- **Massachusetts** HB 3818 (2012) Reduces the mandatory minimum sentences for a second or subsequent conviction for manufacturing, distributing, or possessing with intent class A, class B or class C controlled substances. Reduces the mandatory minimum sentences for trafficking in marijuana crimes. Reduces the mandatory minimum sentences and adjusts some weight thresholds for trafficking in a class B controlled substance and trafficking in heroin, morphine or opium. Authorizes participation in a work release program for certain drug offenders serving mandatory minimum sentences. Requires the sentencing court to order a mandatory minimum term between 15 years and 25 years for all life sentences except for first degree murder and a second or subsequent conviction for a life sentence. Creates a new classification of habitual offenders who have been convicted of one of the enumerated crimes and twice previously been convicted of one of the enumerated crimes punishable by a mandatory maximum prison term. Prohibits those offenders from being eligible for parole, work release or furlough or to receive any deduction for good conduct. Stipulates that inmates serving a life sentence will be parole eligible after serving the minimum term set by the court, previous law provided they were eligible after 15 years. Adds that inmates serving multiple life sentences arising out of separate incidences are not parole eligible. Requires a two-thirds vote by the parole board, rather than a majority vote, to grant parole to an inmate serving a life sentence. It increases the amount of time from one-half to two-thirds of a prison term that a habitual offender must serve before being considered by the board. This does not apply to inmates serving time under the new classification of habitual offenders created by this act. Requires the parole board, when determining release on parole, to consider the results of a risk and needs assessment, any work, education, or treatment programs the inmate has participated in, and if any risk reduction programming would minimize risk of reoffending. Requires the board to document the decision. Increases the amount of earned good conduct credit an inmate can earn per month and creates a one-time credit for successful program completion.

- Minnesota** [SB 3481\(2016\)](#) Increases the weight threshold for most methamphetamine or cocaine possession or sales offenses. Decreases the weight threshold for most marijuana sales or possession offenses. Does not change the weight threshold if the offender possesses a firearm or if aggravating factors are present. Prohibits waiving a mandatory minimum for possession of a firearm during a 1st and 2nd degree drug crime. Defines aggravating factors applicable to sentencing of drug crimes. Sets mandatory minimum prison terms when aggravating factors are present but allows the mandatory term to be waived for first time drug offenders if the court finds substantial and compelling reasons for the waiver. Creates the new crime of possession of 100 or more marijuana plants. Creates the new crime of aggravated first degree drug crime or "drug kingpin" for possession of large amounts of drugs when in possession of a firearm or multiple aggravating factors are present, sets a mandatory minimum prison term. Limits which prior convictions count as a subsequent controlled substance conviction. Removes the mandatory minimum prison term for lower-level drug offenses committed by repeat offenders. Lowers from a felony to a gross misdemeanor the penalty for a first conviction of possession of trace amounts of drugs. Increases the penalty from a petty misdemeanor to a misdemeanor for third or subsequent paraphernalia conviction. Expands eligibility for deferred prosecution of first time drug offenders. Mandates deferred prosecution for first time fifth degree drug offenses under certain circumstances. Makes offenders convicted low level drug possession eligible for the conditional release program. Decreases the required amount of time served inmates convicted of low-level drug possession or sales must serve before being conditionally released. Repeals the policy allowing additional prison time for inmates who are unsuccessful in the conditional release program. Creates the community justice reinvestment account to fund chemical dependency and mental health treatment, programs that improve supervision and those designed to reduce recidivism of drug offenders and local drug courts. Allocates \$488,000 to the account for FY2017 and \$461,000 in each FY2018 and FY2019. Requires the sentencing commission to study the impact of the changes made by this law, SF 3481 (2016). States the intent that state savings realized from this law be allocated to the fund. Makes appropriations to the public safety department, corrections department and sentencing guidelines commission to implement this law. Rejects certain recommendations proposed by the sentencing guidelines commission.
- North Dakota** [HB 1030 \(2015\)](#) - Authorizes a court to depart from mandatory minimum sentences for drug crimes if the mandatory minimum would result in "manifest injustice" to the defendant, is not necessary for the protection of the public and the court has considered the nature of the crime, history and character of the defendant, and the defendant's chances of successful rehabilitation. Excludes drug crimes where the offender was armed. Requires departures to be reported to the state court administrator for annual publication.
- Oklahoma** [HB 1518 \(2015\)](#) Authorizes courts to depart from certain mandatory minimum sentences when the minimum is not necessary for the protection of the public and imposition would result in substantial injustice to the defendant; or when the minimum is not necessary for the protection of the public and the defendant is eligible for an alternative sentence program based on a risk and needs assessment. Applies to nonviolent offenses and prohibits crimes that

require registration as a sex offender; involve a firearm, drug trafficking, criminal enterprise or terrorism; or require 85 percent of the sentence be served in prison before parole eligibility. Requires a report on the number of departures to be made annually.

- **Oklahoma** [HB 1574 \(2015\)](#) Requires a mandatory minimum of 20 years imprisonment for a drug trafficking offense when the offender has two prior drug felonies and requires a minimum of life without parole if the offender's prior two convictions were also for drug trafficking.
- **Ohio** [HB 86 \(2011\)](#) Removes the mandatory minimum prison term and adds a presumption of prison for certain first-time third degree felony drug offenders. Removes the presumption of prison for fourth degree felony drug offenses.
- **South Carolina** [SB 1154 \(2010\)](#) Deletes the requirement that sentencing under two and three strikes provisions are mandatory.

Reduction of Possession Penalties (from felony to misdemeanor, for marijuana-specific changes see [NCSL's marijuana webpage](#))

[Note: I didn't have time to add the 2016 legislation, but legislation from that year can be found in [NCSL's Sentencing and Corrections Database](#)]

- **California** Prop 47 (2014) reduced drug possession from felony to misdemeanor. The measure was citizen initiated.
- **Delaware** [HB 19 \(2011\)](#) Repeals and combines the crimes of possession of a narcotic controlled substance or counterfeit substance which was a class A misdemeanor and possession of a non-narcotic controlled substance or counterfeit substance which was a class B misdemeanor; and creates the crime of possession of a controlled substance or counterfeit substance. Makes it a class B misdemeanor to possess, use or consume a controlled substance or counterfeit, except marijuana; except it will be a class A misdemeanor if there is an aggravating factor.
- **Indiana** [HB 1006 \(2013\)](#) Creates degrees of penalties for drug possession, dealing and manufacturing based on weight of the drug. Generally lowers penalties for smaller amounts of drugs while maintaining penalties for higher amounts of drugs. Decreases, from a felony to a misdemeanor, possession of a schedule I, II, III, or IV controlled substance, possession of more than 30 grams of marijuana, and drug dealing and manufacturing of less than three grams of a schedule V controlled substance.
 - See [fiscal note](#) for more detail.
- **Louisiana** [HB 149 \(2015\)](#) Reduces the penalty from a maximum of 6 months jail to a maximum of 15 days jail for a first offense of possession of less than 14 grams of marijuana. Reduces the penalty for a second conviction of marijuana possession from a felony with a maximum of 5 years imprisonment to a misdemeanor with a maximum six months imprisonment. Reduces the penalty for a third conviction of marijuana possession from a maximum 20 years to a maximum two years. Reduces the penalty for a fourth or subsequent offense from a maximum of 20 years to a maximum of eight years. Limits to two years the use of a first marijuana possession conviction for the purpose of enhancing subsequent offenses. Creates a new offense of knowingly or intentionally possessing two and one half pounds but less than 60 pounds of marijuana.

- **Mississippi** [HB 585 \(2014\)](#) Makes simple possession of a schedule I or II controlled substance punishable only as a misdemeanor and lowers the penalties for possession of larger quantities.
- **Oregon** SB 364 (2015) Requires court to use the current classification of marijuana offenses when determining if a person is eligible for an order setting aside the conviction. Authorizes a court to decrease from a class B felony to a misdemeanor convictions for marijuana possession after successful completion of probation.
- **South Dakota** [SB 34 \(2011\)](#) Makes it a class 1 misdemeanor to commit the offense of possession, possession with intent to distribute, sale, or distribution of a substance, other than alcohol, knowing it is for purposes of intoxication. (this created the crime of simple possession as a class 1 misdemeanor, other possession offenses are felonies)
- **Utah** [HB 348 \(2015\)](#) Reduces penalties for first and second convictions of possession of a controlled substance from 3rd degree felony to class A misdemeanor. Reduces penalties for 1st or 2nd conviction of possession of less than 100 pounds of marijuana from either a third degree felony or class A misdemeanor to a class B misdemeanor; makes the 3rd conviction (rather than the 2nd conviction) a class A misdemeanor and a 4th conviction (rather than 3rd conviction) a third degree felony. Reduces other controlled substances offenses and creates gradually increasing penalties for subsequent offenses.

Other Enactments and NCSL Resources

- California
 - Legislative Analyst Office report [California: Substance Abuse Treatment Programs in the Criminal Justice System](#)
 - UCLA tracking and reports on the status of CA proposition 36 “The Substance Abuse and Crime Prevention Act” can be found on their [Prop 36 website](#).
- Colorado [HB 1352 \(2010\)](#) and [HB250 \(2013\)](#). The state completely revamped their drug sentencing laws, including creating a special drug sentencing grid.
 - Savings from the 2010 act are being used to fund drug diversion programs. The [Savings Analysis Report: First Two Years of Implementation](#) maps out the funding. The law doesn’t mandate community-based treatment, however, penalties for drug offenses were lowered with the intent that offenders be diverted into community-based treatment. The intent and funding mechanism were both codified. See also [Analysis of Senate Bill 13-250](#) analyzing the outcomes of drug cases in the three years before and after the enactment of SB 13-250.
 - See also [Corrections and Sentencing Reform for Drug Offenders](#) (2009, Colorado Criminal and Juvenile Justice Commission). Starting on 47 is a pretty nice summary of some drug diversion laws
- Kansas [SB 123 \(2003\)](#), codified as [§21-6824](#)
 - KS sentencing commission’s [SB 123 update](#) (starting on page 22) gives outcome information.
 - The [corrections department](#) and [sentencing commission](#) both maintain information on the law.

- Maryland Treatment Instead of Incarceration law [HB295 / SB194 \(2004\)](#), codified as [Criminal Procedure §6-229](#). The [fiscal note](#) for the 2004 legislation provides a good summary.
- New York – see attached summary of 2004, 2005 and 2009 legislation.
 - The New York Division of Criminal Justice Services maintains a [drug changes webpage](#) with information and updates on 2009 AB 156 reform of their drug sentencing laws.
- Washington Drug Offender Sentencing Alternative Act [§9.94A.660](#).
 - Information related to the implementation of the act includes an [evaluation report](#) by the Washington State Institute of Public Policy (a legislative entity).

Treatment for Justice Involved Individuals

- National Association of Counties: [County Roles and Opportunities in Opioid Treatment for Justice Involved Individuals](#).
- Utah has two new MAT pilot programs. Relatively detailed information can be found here: [Issue Brief - 2017 Interim - Budget Deep-Dive into Opioid Outreach Efforts](#)
- Illinois Criminal Justice Information Authority just released: [An Overview of Medication Assisted Treatment for Opioid Use Disorders for Criminal Justice Involved Individuals](#).
- “MAT-Reentry-Programming-Policy---Prison and Jail Program” [Attached PowerPoint] – These are slides from a presentation I heard from Andrew Klein the Director of Residential Substance Abuse Treatment (RSAT)-Training and Technical Assistance (TTA) at Advocates for Human Potential, Inc. The full webinar can be [found here](#), it was originally aired March 18, 2015. (You can still download a recording of the webinar and there are also other webinars that cover medication assisted treatment).
- “MAT Justice Involved Programs” – [attached word document] provides an overview of prison based MAT programs.
- “Medication_Assisted_Treatment_Enact” [attached PDF] – is an NCSL resource summarizing recent enactments that authorized and/or funded medication assisted treatment for folks involved in the justice system.

Diversion and Deflection

NCSL also has a lot of information on diversion programs, including drug courts and the more recent deflection programs (pre-arrest programs that reroute an individual to treatment and avoid justice system contact altogether – you may have heard of LEAD or Law Enforcement Assisted Diversion). If you would like any information on either of these sentencing/prosecution alternatives just let me know and I can follow up.

Other Resources

- Bureau of Justice Assistance has a [number of publications](#) evaluating and assessing programs related to corrections and drug policy, along with a number of other criminal justice-related topics.
- [CrimeSolutions.gov](#) is a project of the federal Bureau of Justice Assistance, it provides information on programs and practices that are “[scientifically effective](#)” and allows you to search by [topic area](#), including one on [drug treatment](#).
- The [Results First Project](#) from Pew also has a database of best practices.

Health Program Information

My colleague Margaret works in our health program and provided me with the following resources on best practices for addiction treatment:

- [Treatment Resources](#) this webpage from the American Society of Addiction Treatment (ASAM) provides links to several different reports that lay out best practices for a variety of Substance Use Disorders (SUD).
- [The National Practice Guideline for the use of Medication in the Treatment of Addiction Involving Opioid Use](#) this report by the American Society of Addiction Medicine (ASAM) provides guidelines for best practices related to medication assisted therapies (MAT) for Opioid Use Disorders (OUD).
- [Evidence Based Practices](#) this guide from the Substance Abuse and Mental Health Services Administration (SAMSHA) provides information on webpages that catalog best practices for substance use disorder (SUD) treatment.
- [Finding Evidence Based Programs](#) this resource from the Substance Abuse and Mental Health Services Administration (SAMSHA) provides information on webpages that catalog best practices for all behavioral health issues, including substance misuse.
- [Evidence Based Approaches to Drug Addiction Treatment](#) in this resource from the National Institutes Health (NIH) provides information on best practices for both pharmacological and behavioral therapies for SUD.

Children and Families Information

You also mentioned that you might like some information related to intervening with families in order to avoid criminal justice consequences. My colleague Meghan McCann who works in our Children and Families Program provided me with the following overview/information.

The general progression is:

1. Parental mental illness and substance abuse is considered an [Adverse Childhood Experience](#) (ACE)
2. The Centers for Disease Control and Prevention identified family economic stability as a strategy to combat ACEs in their [Essentials for Childhood Framework](#)
3. NCSL has a new project, [A Whole Family Approach to Jobs](#), which looks at multi-generational strategies to support families, including workforce and economic development, work supports (e.g., child care), and other strategies to support a whole family approach to economic success.

Other Resources:

- Attached:
 - 2017 Legislation on opioids and human services
 - State Programs: this includes information, though not comprehensive, on various state programs addressing child welfare and opioids, or human services and opioids.
- The [Assistance Secretary for Planning and Evaluation](#) (ASPE) study connecting drug sales, hospitalizations and deaths with increasing foster care caseloads.