

Montana's Justice Reinvestment Approach:

Curbing State Prison Population Growth and Reinvesting in Local Public Safety Strategies



JUNE 2017

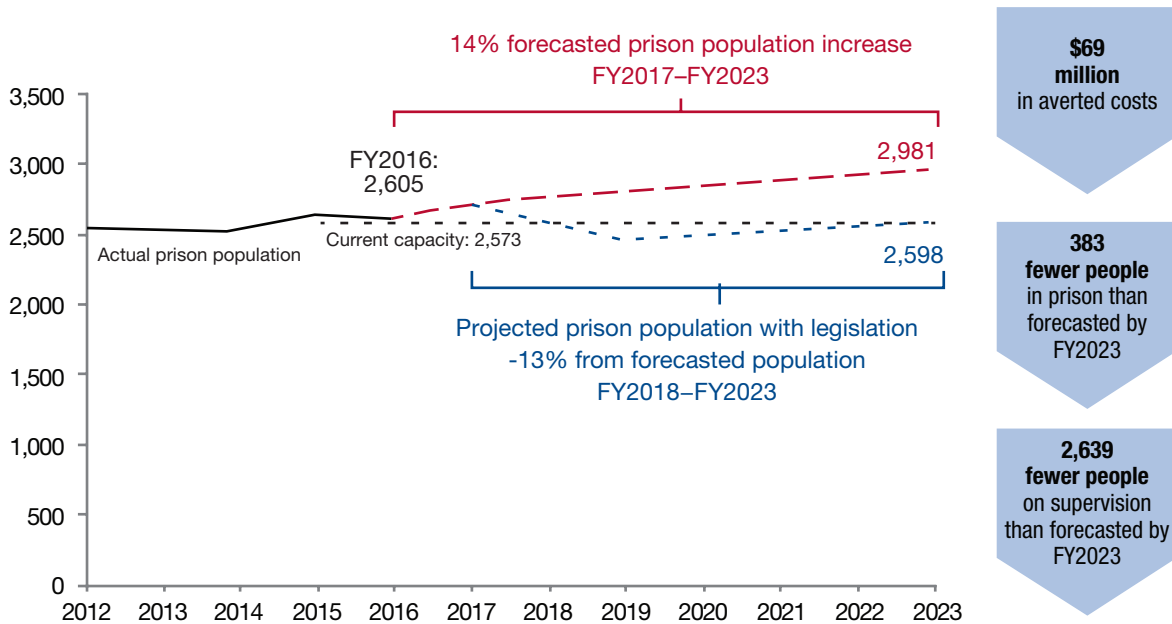
Overview

Montana's prisons are at capacity due to an 11-percent increase in the prison population between FY2008 and FY2015. Without action, the prison population was projected to continue to grow 13 percent by FY2023, requiring at least \$51 million in new spending for contract prison beds and hiring additional supervision officers.¹ Across the state, the total county jail population rose 69 percent between 2011 and 2013, and many jails are currently overcrowded.²

To address these challenges, in the spring of 2017 state policymakers enacted nine pieces of legislation that contain policies designed to limit

the period of incarceration for people sanctioned for low-level violations of the terms of their supervision, prioritize supervision resources for people who are most likely to reoffend, and help counties reduce local jail populations. By enacting all of these bills, the state expects to avert at least \$69 million in spending on contract beds and supervision staff and hundreds of millions more that would have been necessary to build new correctional facilities between FY2018 and FY2023. Montana will reinvest a portion of those savings in strategies designed to reduce recidivism and increase public safety. [See Figure 1]

FIGURE 1. PROJECTED IMPACT OF JUSTICE REINVESTMENT LEGISLATION ON PRISON POPULATION



Summary of the Justice Reinvestment Process

CHALLENGES

Montana's prisons and jails are currently full. The prison and supervision populations were projected to increase 14 and 15 percent, respectively, by FY2023, requiring at least \$51 million and up to hundreds of millions of dollars to construct and operate new prison facilities and hire new supervision officers.

FINDINGS

In June 2015, at the request of state leaders, the U.S. Department of Justice's Bureau of Justice Assistance (BJA) and The Pew Charitable Trusts asked The Council of State Governments (CSG) Justice Center to provide intensive technical assistance using a justice reinvestment approach. The state established the bipartisan, interbranch Commission on Sentencing to reduce corrections spending and reinvest savings in strategies that can reduce recidivism and improve public safety. Under the direction of the 15-member commission, staff from the CSG Justice Center extensively analyzed state data. Several key findings emerged:

- The primary driver of increases in arrests, admissions to alternative facilities, and prison admissions is the large number of people who have been revoked from supervision for technical violations of their supervision or committing new crimes. In 2015, 74 percent of people who were admitted to prison in the state were revoked from supervision for technical violations or new crimes, the majority of which were drug or property offenses.³
- Drivers of jail population growth include increases in arrests, case filings, and the amount of time for a case to reach disposition.
- Drug use presents a growing challenge for the state's criminal justice system, as evidenced by a significant increase in arrests for drug offenses, especially among people on supervision.

- The time between initial parole eligibility and parole release more than tripled between 2000 and 2013, from 8 months to 26 months.⁴

SOLUTIONS

Of 12 bills recommended by the Commission on Sentencing, Montana enacted nine pieces of legislation. Senate Bills 59, 60, 62, 63, 64, 65, 67, and Senate Resolution 3, sponsored by Senator Cynthia Wolken, and House Bill 133, sponsored by Representative Nate McConnell, codify the justice reinvestment policy framework developed by the Commission on Sentencing.⁵ These bills

- Limit the period of incarceration for people sanctioned for low-level violations of the terms of their supervision to up to nine months. For 30-day sanctions in jail and 90-day sanctions in community corrections facilities, the legislation allows the Department of Justice to impose the sanctions administratively;
- Prioritize supervision resources for people who are most likely to reoffend by requiring supervision officers to request conditional discharge for people who comply with their terms of supervision;
- Establish state-funded grant programs to help counties address local challenges, such as rising jail populations and barriers to successful reentry; and
- Professionalize the parole board and require it to adopt decision-making guidelines.

The bills received significant bipartisan support from the Montana State Legislature and were signed into law by Governor Steve Bullock in the spring of 2017. To support implementation of this legislation, the state made an upfront investment of \$3 million to hire additional probation and parole officers in FY2017 and FY2018; establish grant programs for local governments to create pretrial services programs, diversion programs, and supportive housing programs; adopt quality assurance measures; and professionalize the parole board.



“We have an obligation to Montanans to operate an effective criminal justice system that strives to rehabilitate offenders. Relying primarily on incarceration as a method for stamping out recidivism is the least effective and most expensive course of action. The justice reinvestment process in Montana resulted in bipartisan agreement on policy changes that will increase public safety while saving tens of millions of dollars.”

— GOVERNOR STEVE BULLOCK

Summary of Legislation

Improve probation and parole supervision and modernize the parole process. (SB 63, 64)

- Respond to supervision violations with sanctions that are swifter and more cost-effective than the ones that are currently in use.
- Prioritize probation resources for people who pose the highest risk of reoffending.
- Establish a professional parole board and institute structured parole guidelines.

Increase the quality of and access to community-based resources.

- Establish and enforce standards for state-funded programs for criminal justice populations to use effective practices and evidence-based curricula. (SB 59)
- Improve access to housing for people returning to their communities after incarceration by providing grant programs for local governments to increase housing opportunities and by enabling the Department of Corrections (DOC) to distribute rental vouchers. (SB 65)
- Improve the quality of and increase the capacity of batterers' intervention programs. (SB 67)
- Increase the capacity of behavioral health care providers by certifying behavioral health peer support specialists. (SB 62)



“Equipped with the data and analysis provided through the justice reinvestment process, we have been able to identify exactly why our corrections costs continue to skyrocket while outcomes remain the same.

We know if we give our probation and parole officers the tools they need to do their jobs effectively, and provide expanded access to diversion programs and reentry housing, we can prevent the types of crimes and violations that are causing so many people to return to prison and jail.”

—SENATOR CYNTHIA WOLKEN



“Continued spending on increasing prison capacity saps resources from programs that produce results and prevent further criminal activity. Given that more than 90 percent of the people currently sitting in jails and prisons will be released at some point, we owe it to the public to have a comprehensive plan in place to support their reentry into the community.”

—REPRESENTATIVE JIMMY PATELIS

Help counties to ease population pressures on jails.

- Establish state-funded grant programs for counties that seek to develop pretrial services programs and create or expand deferred prosecution programs. (SB 59)
- Expedite presentence investigations and encourage the use of evidence-based practices in sentencing. (SB 60)
- Reduce penalties for certain nonviolent drug, property, and traffic offenses while providing counties with tools to increase public safety, such as pretrial services and deferred prosecution programs. (HB 133)

LOOKING AHEAD

Senate Bill 59 provides for the creation of an oversight body to monitor and direct the implementation of justice reinvestment legislation. The 15-member body, which includes legislators, community corrections providers, and representatives from the DOC, among others, will receive data and reports from the state's correctional agencies and other affected agencies to ensure that the legislation achieves intended outcomes.

The scope of the justice reinvestment legislation is extensive and the projected impact is substantial. Implementing these bills will require continued bipartisan, interbranch support. State agencies, including the DOC, the Board of Pardons and Parole, the Board of Crime Control, and the judiciary will need to engage in administrative rulemaking to establish procedures for implementing various aspects of this legislation.

To enhance the state's ability to implement justice reinvestment legislation, CSG Justice Center staff are working closely with officials from across the state's criminal justice system to assist in developing administrative rules and implementing policy. The CSG Justice Center will continue to work with officials from across Montana's criminal justice system for a period of 12 to 24 months to assist in implementing the new policies and tracking their outcomes. The state has the opportunity to request funding from BJA to support additional capacity-building efforts, such as workforce training, enhancing data collection and performance measurement, and ensuring the proper implementation of best practices.



"Jail beds need to be reserved for those who commit serious crimes, and probation resources need to be focused on those who post the greatest risk of reoffending."

—MISSOULA COUNTY SHERIFF T. J. McDERMOTT

Endnotes

1. DOC, "Adult Population Summary Actual—FY2008 to 2014; Projected FY2015 to 2025" (Helena, MT: DOC, 2015); email communication with DOC on September 16, 2016; CSG Justice Center analysis based on projections from DOC.
2. Bureau of Justice Statistics, "Census of Jails: Populations Changes, 1999–2013" (Washington, DC: USDOJ, 2015). This BJS publication provides state jail population data for the following years: 1999, 2006, 2011, and 2013. All years in this report are calendar years unless otherwise indicated.
3. CSG Justice Center analysis of Montana Department of Corrections Admissions Data, FY2015.
4. Montana Board of Pardons and Parole, "Biennial Report January 2015."
5. Additional information is available in the CSG Justice Center's report, "Justice Reinvestment in Montana: Analysis and Policy Framework." The full report is available at csgjusticecenter.org/jr/mt/.



This project was supported by Grant No. 2013-ZB-BX-K002 awarded by the Bureau of Justice Assistance. The Bureau of Justice Assistance is a component of the Office of Justice Programs, which also includes the Bureau of Justice Statistics, the National Institute of Justice, the Office of Juvenile Justice and Delinquency Prevention, the Office for Victims of Crime, and the SMART Office. Points of view or opinions in this document are those of the author and do not necessarily represent the official position or policies of the U.S. Department of Justice. To learn more about the Bureau of Justice Assistance, please visit bja.gov.



Research and analysis described in this report has been funded in part by the The Pew Charitable Trusts public safety performance project. Launched in 2006, Pew's public safety performance project seeks to help states advance fiscally sound, data-driven policies and practices in sentencing and corrections that protect public safety, hold offenders accountable, and control corrections costs. To learn more about the project, please visit pewtrusts.org/publicsafety.



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