

The background of the slide is a faded, light blue-tinted image of the Massachusetts State House. The central feature is the large, ornate golden dome, which is topped with a weather vane. Below the dome is a portico with several columns. The building is made of red brick with white window frames and arched windows on the lower level. The overall scene is set against a clear sky.

Justice Reinvestment in Massachusetts: Reducing Recidivism and Strengthening Public Safety

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Overview

While Massachusetts has achieved one of the lowest incarceration rates in the nation in recent years, state leaders continue to seek ways to address recidivism.

People with prior convictions were responsible for three-quarters of new sentences in 2013.¹

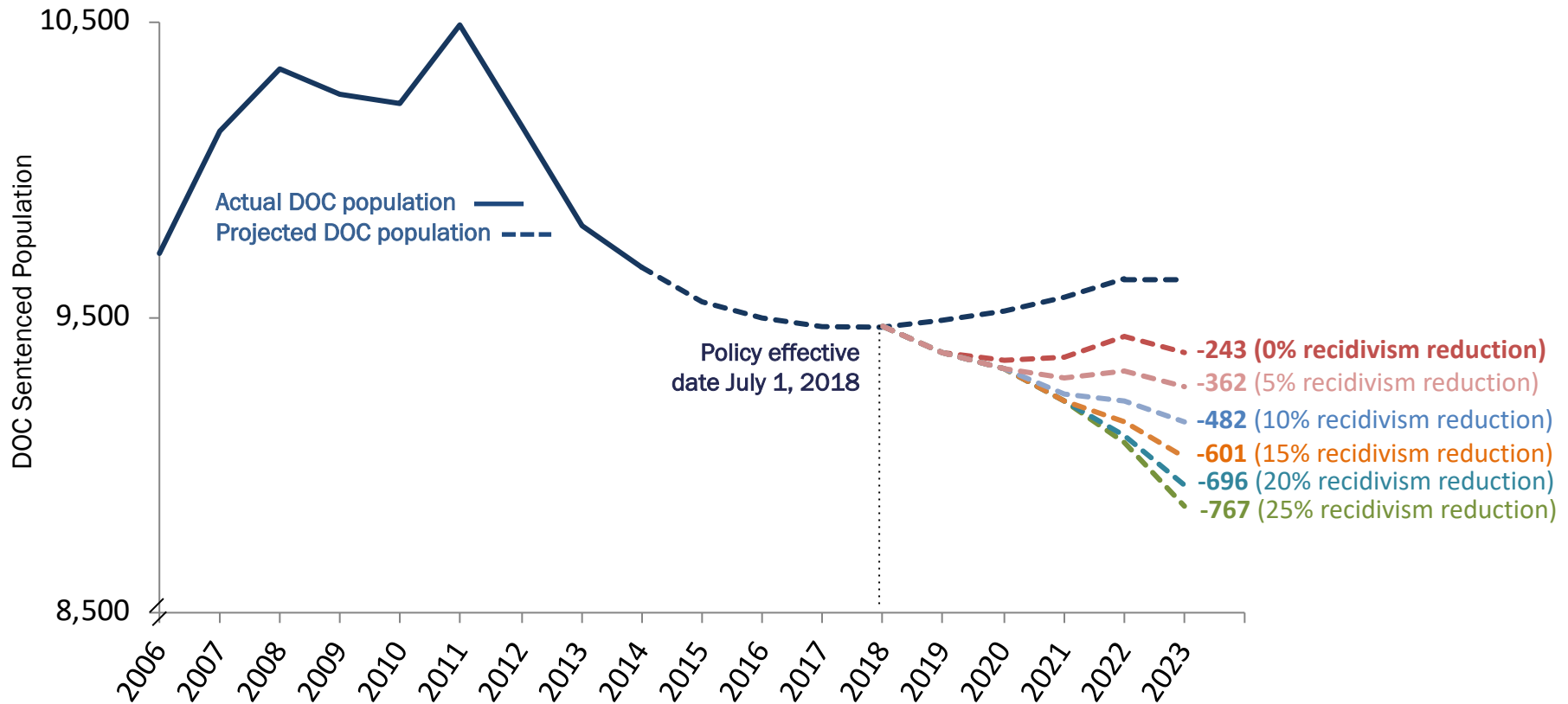
Two-thirds of people leaving Houses of Correction (HOCs) and more than half of those leaving Department of Corrections (DOC) facilities in 2011 were rearraigned within three years of their release.²

To break this cycle of recidivism, in January 2016, the state embarked on a data-driven Justice Reinvestment approach to reduce reoffending, contain corrections spending, and invest in strategies to increase public safety.

During the summer of 2015, Massachusetts leaders requested and received support from the U.S. Department of Justice's Bureau of Justice Assistance and The Pew Charitable Trusts to employ a Justice Reinvestment approach to study the state's criminal justice system with intensive technical assistance from The Council of State Governments (CSG) Justice Center. A bipartisan, interbranch steering committee and working group partnered with the CSG Justice Center to develop a set of proposed policies.

Many of these policies were reflected in two major pieces of criminal justice legislation—HB 4012 and SB 2371—that were signed into law in April 2018. By incentivizing good behavior, diverting people from incarceration to treatment and programming, and strengthening community supervision overall, state leaders expect to reduce recidivism and avert nearly \$10 million in corrections costs by 2023. (See Figure 1.)

FIGURE 1. Projected Impact of Justice Reinvestment Legislation on Massachusetts's DOC-Sentenced Population with Additional Recidivism-Reduction Scenarios*



*Impact at the time of proposed legislation as of February 21, 2017

Justice Reinvestment Findings

Under the direction of the steering committee and working group, CSG Justice Center staff conducted a comprehensive analysis of data collected from various state agencies. Five key findings emerged:

1

Insufficient program access during incarceration. In 2015, less than half of people released from DOC facilities had completed the programming that was recommended for them while they were incarcerated. Many people in DOC facilities were unable to participate in recidivism-reduction programming, in part due to lengthy wait lists for these programs or lack of program availability in the facilities in which they are housed.³

2

Delays in parole readiness. People in DOC facilities remained incarcerated for an average of approximately 200 days after they had been approved for parole. There were several factors contributing to the delays, including the development of separate case plans by the DOC and the parole board for parole-eligible people, which include conditions such as completing certain programs or serving a specified period of time in a minimum-security or prerelease facility prior to release. It can take weeks for a person to begin the required program due to wait lists or the need to be transferred to a DOC facility that provides the required program. This lack of coordination on reentry planning between DOC and the parole board contributed to release delays. Of people released from DOC facilities in 2015, nearly 20 percent of people who had been approved for parole remained incarcerated until the end of their sentences and therefore did not receive parole supervision upon release.⁴

3

Large number of HOC and DOC admissions driven by people on community supervision. People on probation, parole, or both represent a significant proportion of admissions to HOCs and DOC facilities. In 2015, nearly half of people admitted to HOCs and more than a quarter of people admitted to DOC facilities were on community supervision at the time of their admission.⁵

4

Lack of behavioral health treatment standards and rate structures. In 2015, more than half of people on probation and two-thirds of people on parole in Massachusetts had substance addictions or mental illness treatment needs.⁶ There were no statewide treatment standards specific to criminal justice populations, nor rate structures that incentivize behavioral health care providers to deliver the tailored, comprehensive interventions that are most effective for people in the criminal justice system.

5

Insufficient data collection. Information about key criminal justice system trends and outcomes is limited due to lack of standardization in existing criminal justice agency data systems and minimal quality assurance measures or requirements. Aggregate statewide data was largely incomplete for most key probation measures, including average time on probation, the number of people who start a probation sentence, and the number of people revoked from probation.⁷

Summary of Legislation and Investments

In April 2018, Governor Charlie Baker signed HB 4012 and SB 2371. The Justice Reinvestment process led directly to HB 4012 and helped inform the development of SB 2371. The bills included the following changes:

Expand earned-time credits for people who complete recidivism-reduction programming and treatment. (HB 4012)

- Total earned-time credits accrued through monthly program participation and completion credits may not exceed 35 percent of a person's original sentence.
- People who participate in recidivism-reduction programs while in prison can earn up to 15 days of sentence-reduction credit (earned-time credit) per month.
- Upon completion of select programs that are both proven to reduce recidivism and approved by the DOC, people with prison sentences are also eligible to receive up to 90 days of additional earned time as a completion bonus.
- People with certain mandatory minimum sentences can accrue earned time toward supervised release prior to their minimum sentence date.

Increase pretrial alternatives to incarceration. (HB 4012, SB 2371)

- Judges will be able to require participation in a pretrial service program within the office of community corrections as an alternative to incarceration in jail prior to trial.

Divert people who have behavioral health needs from jail. (SB 2371)

- District attorneys are required to develop diversion programs for veterans and people with mental illnesses or substance addictions. The legislation preserves district attorneys' power to use their discretion when diverting cases and managing their diversion programs.

Eliminate mandatory minimums for some drug crimes and impose them for others (SB 2371).

- People convicted of trafficking synthetic opioids will be subject to a mandatory minimum sentence of three-and-a-half years.
- Mandatory minimum sentences will be eliminated for certain drug offenses, including a first offense for cocaine possession.

Improve data collection and transparency (SB 2371).

- All law enforcement agencies will be required to report crime and arrest data on a quarterly basis consistent with the National Incident-Based Reporting System, including the race, gender, and age of anyone who is arrested.

Before the legislation was passed, state leaders invested \$3 million in various initiatives related to Justice Reinvestment. (See Figure 2.)

More than \$1 million of these dollars were invested in a public-private pilot program to provide specialized treatment services to people in the criminal justice system who have serious mental illnesses and/or substance addictions and are at a high risk of reoffending.

Figure 2. FY2018 Pre-Legislation Investments in Justice Reinvestment Policies

Increase capacity of DOC recidivism-reduction programming	\$637,500
Invest in HOC program expansion grants	\$345,000
Parole workload study + follow-up investments	\$130,000
Probation workload study + follow-up investments	\$130,000
Transitional Youth intervention strategies	\$637,500
Behavioral health strategy	\$1,075,000
Improving probation case management and data tracking capacity	\$45,000
Total Investment	\$3,000,000

Looking Ahead

Implementing HB 4012 will require continued bipartisan, interbranch support and strong collaboration between agencies.

CSG Justice Center staff worked closely with officials in Massachusetts to plan for the implementation of the policies laid out in the Justice Reinvestment legislation, and the state has made significant progress. With the support of BJA, Massachusetts will receive additional technical assistance from CSG Justice Center staff to implement effective approaches to strengthen probation supervision.

Endnotes

1. 2013 was the most recent year of data available at the time of analysis. CSG Justice Center analysis of FY2013 Court Activity Record Information (CARI) sentencing data.
2. HOCs are operated by independently elected county sheriffs. These facilities house people convicted of a misdemeanor or felony who have been sentenced to a period of confinement for no more than 30 months. DOC facilities are operated by the state and primarily house people who have been convicted of a felony and sentenced to a period of confinement at the DOC for at least one year. CSG Justice Center analysis of FY2011–2014 Parole Board’s State Parole Integrated Records and Information Tracking System (SPIRIT) HOC data, as well as DOC and Department of Criminal Justice Information Services (CORI) data.
3. Program data from the last three months of calendar year 2016 indicates that program completion rates for the Correctional Recovery Academy (substance abuse) program has increased slightly. Ibid.
4. The 20-percent figure does not include parole decisions that were later rescinded prior to release. CSG Justice Center analysis of FY2015 parole hearings and DOC data.
5. CSG Justice Center analysis of FY2015 MassCourts probation data, Parole Board SPIRIT HOC data, and DOC data.
6. CSG Justice Center assessment based on conversations and visits with behavioral health and corrections agency representatives and review of available reports, January 2016–October 2016. This assessment included a daylong Justice Reinvestment behavioral health workshop held October 7th, 2016. Participating organizations included: Ashland Police, Advocates, Bureau of Substance Addiction and Services, Cape and Islands District Attorney’s Office, Committee for Public Counsel Services, DOC, Department of Mental Health, Department of Public Health, Executive Office of Health and Human Services, Executive Office of Public Safety and Security, Governor’s Legal Office, National Alliance on Mental Illness, MassHealth, Middlesex County Sheriff’s Office, Office of Community Corrections, Office of the Commissioner of Probation, Parole Board, Stanley Street Treatment and Resources, State Legislature’s Joint Committee on Mental Health and Substance Abuse, State Legislature’s Joint Committee on Judiciary, and the Trial Courts.
7. CSG Justice Center assessment based on data analyses and conversations with staff from the Office of Commissioner of Probation, Trial Courts, the Parole Board, DOC, and county sheriff offices, March 2015–October 2016.

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Justice Center
THE COUNCIL OF STATE GOVERNMENTS

The Council of State Governments (CSG) Justice Center is a national nonprofit organization that serves policymakers at the local, state, and federal levels from all branches of government. The CSG Justice Center's work in Justice Reinvestment is done in partnership with The Pew Charitable Trusts and the U.S. Department of Justice's Bureau of Justice Assistance. The views expressed herein are those of the author(s) and do not necessarily reflect the views of The Pew Charitable Trusts. For additional information about Justice Reinvestment, please visit csgjusticecenter.org/jr/.



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Project Contact: Cassondra Warney, Senior Policy Analyst, cwarney@csg.org