



West Virginia's Justice Reinvestment: Strengthening Community Supervision, Increasing Accountability, and Expanding Access to Substance Use Treatment

Seeking to control growth in West Virginia's prison population, policymakers from across the political spectrum enacted Senate Bill (SB) 371. Signed on May 2, 2013, the law implements policy changes developed through "justice reinvestment," a data-driven approach designed to improve public safety, reduce corrections spending, and reinvest savings in strategies that can decrease crime and reduce recidivism. Throughout the process, the state received intensive technical assistance from the Council of State Governments Justice Center (CSG Justice Center), in partnership with The Pew Charitable Trusts and the U.S. Department of Justice's Bureau of Justice Assistance (BJA). With continued support, West Virginia leaders are now working to implement the legislation and track the impact of the new policies.

Background

While West Virginia's resident population remained relatively flat between 2002 and 2011, the number of people in the state's prisons increased by 50 percent, more than 4 times the national average (11 percent). With the prison population expected to increase 24 percent by 2018,¹ the state projected that accommodating this growth would require at least \$200 million in construction costs and \$150 million in operating costs between 2013 and 2018. In June 2012, Governor Earl Ray Tomblin, then-Chief Justice Menis Ketchum, and legislative leaders from both parties requested technical assistance from the CSG Justice Center to pursue justice reinvestment to address this rapid growth in the state's prison population.

To guide the effort, a bipartisan, inter-branch Justice Reinvestment Working Group made up of state lawmakers, corrections and court officials, and other stakeholders in the criminal justice system was established to review analyses



Governor Earl Ray Tomblin signs West Virginia's justice reinvestment legislation.

Key Public Safety Provisions in SB 371

- Requires supervision agencies to use risk assessments to inform supervision practices and to respond to violations with swift, certain, and more cost-effective sanctions
- Mandates that people sentenced to prison for violent felony offenses receive supervision after release
- Provides community-based treatment for people on supervision with substance abuse treatment needs

that the CSG Justice Center conducted and to discuss policy options that would slow growth in the prison population and increase public safety.

In preparing its analysis, the CSG Justice Center drew on data systems maintained by many state agencies across West Virginia and the Federal Bureau of Investigation, in total analyzing more than 650,000 individual records. The CSG Justice Center also convened focus groups and meetings with numerous criminal justice system stakeholders, including 84 in-person meetings with nearly 200 individuals.

Based on these quantitative and qualitative analyses, the working group developed a policy framework designed to strengthen community-based supervision, increase accountability, and expand access to substance abuse treatment.

This report provides a summary of the policy framework and the resulting legislation.²

1. Simon C. Bauer-Leffler and Stephen M. Haas, *West Virginia Correctional Population Forecast 2012-2022: A Study of the State's Prison Population* (Charleston: Office of Research and Strategic Planning, Division of Justice and Community Services, Department of Military Affairs and Public Safety, January 2013).

2. This brief provides a summary of the CSG Justice Center's report: *Justice Reinvestment in West Virginia: Analyses & Policy Options to Reduce Spending on Corrections & Reinvest in Strategies to Increase Public Safety*. The full report is available at: csjusticecenter.org/jr/wv/.

Summary of Challenges

The biggest driver of recent growth in the state's prison population was the number of people whose community-based supervision³ was revoked, as well as the length of time they spent in prison once reincarcerated.

- West Virginia's recidivism rate—the percentage of people who are reincarcerated within 3 years after release from prison—increased 45 percent between 2001 and 2008, from 19.6 percent to 28.5 percent.⁴
- Revocations to prison from all types of community supervision increased 47 percent between 2005 and 2011. Between 2007 and 2011, these revocations to prison cost the state more than \$150 million.⁵ (See Figure 1)
- Risk-assessment tools were not used to inform most community supervision practices. As a result, supervision and programming resources were not focused on individuals who are most likely to reoffend. Compounding this problem, responses for individuals violating the terms of their supervision were inconsistent.

The number of people who completed their sentences in prison and returned to the community without any post-release supervision increased significantly.

- The number of people leaving prison without parole supervision increased 33 percent over a 5-year period, from 676 people in 2007 to 896 in 2011. More than a quarter of people leaving prison in 2011 returned to the community without supervision.⁶
- Incomplete paperwork frequently delayed parole hearings and contributed to the growing number of people completing their sentences in prison and, therefore, being released without supervision.

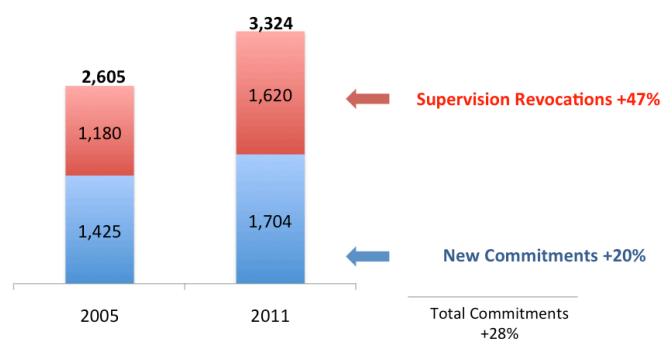
Failure to adhere to the terms of probation or parole often stemmed from an individual's substance use and addiction and contributed to the growing prison population. Few people under supervision received treatment in their communities.

- Drug and alcohol use contributed to the growing number of probation and parole revocations. Of probationers revoked to prison in 2010, 62 percent were

identified as needing treatment. Possession or use of alcohol or drugs was cited in 78 percent of technical parole revocations and 65 percent of revocations for new crimes in 2011.⁷

- Resources to treat people with substance use disorders were focused on people in prison. Research shows that pairing effective supervision and quality substance abuse treatment in the community has a significant impact on reducing recidivism, yet no dedicated funds were appropriated to provide substance abuse treatment to people on probation or parole supervision.⁸

FIGURE 1. SUPERVISION REVOCATIONS DRIVE PRISON COMMITMENTS



Source: West Virginia Division of Corrections Commitments and Releases Data

Proposed Justice Reinvestment Policy Framework

Strengthen Community Supervision

- Adopt a statewide risk/needs assessment and focus supervision resources on higher-risk individuals
- Focus use of Day Report Centers on higher-risk individuals
- Ensure implementation of evidence-based practices

Improve Accountability

- Ensure that all people released from prison are supervised
- Respond to violations of supervision with swift, certain, and cost-effective sanctions
- Streamline correctional system processes to reduce delays in parole eligibility and other inefficiencies

Reduce Substance Use

- Invest in community-based treatment for people on supervision with substance use treatment needs
- Establish partnerships and resources across systems
- Ensure effective substance abuse treatment within state prison

3. Community supervision includes probation, parole, home confinement, and Day Report Centers.

4. West Virginia Division of Corrections, "Recidivism of Inmates Released in 2008," (Charleston: West Virginia Division of Corrections, August 2012).

5. West Virginia Division of Corrections Commitments and Releases Data.

6. West Virginia Division of Corrections Releases Data.

7. West Virginia Parole Board Revocations Data.

8. Steve Aos et al., "Return on Investment: Evidence-Based Options to Improve Statewide Outcomes: Technical Appendix I Detailed Tables," (Olympia: Washington State Institute for Public Policy, July 2011), 49–51.

Developing Policy Solutions Legislation

To address these challenges, the working group approved a policy framework designed to strengthen community supervision, increase accountability, and expand access to substance abuse treatment. The resulting legislation was introduced as Senate Bill (SB) 371 and House Bill (HB) 2726 at the request of Governor Earl Ray Tomblin, and sponsored by Senate President Jeffrey Kessler (D-Marshall), Senate Minority Leader Mike Hall (R-Putnam), and House Speaker Rick Thompson (D-Wayne).

To strengthen community supervision and improve accountability, SB 371 called for probation and parole resources to be focused on individuals most likely to reoffend, and it required swift, certain, and cost-effective sanctions in response to violations. The legislation also modified the use of Day Report Centers to focus on individuals most likely to reoffend.

In response to the fact that an increasing number of people were completing their full sentences in prison and subsequently being released from prison without supervision, SB 371 required that people convicted of violent offenses receive one year of supervision upon release from prison. Although the policy recommendation was to require that people convicted of nonviolent offenses serve the final 180 days of their sentences under supervision in the community, as enacted, SB 371 allowed for this option but did not make it a requirement. As a result, the enacted legislation is estimated to reduce the prison population by 525 fewer people than projected under the working group's proposal.

To expand access to substance abuse treatment, SB 371 created a new "treatment supervision" sentencing option and expanded the use of drug courts across the state by 2016. The legislature reinvested \$3.5 million of the projected FY2014 savings and an additional \$3.2 million of the projected FY2015 savings into substance abuse treatment for people under supervision and training for criminal justice professionals. The recommended level of reinvestment for future years is set at \$5.5 million annually through FY2018.

SB 371 passed with significant bipartisan support, including votes of 33-0 in the Senate and 81-17 in the House. Joined by Chief Justice Brent Benjamin, working group members, and various criminal justice stakeholders, Governor Tomblin signed the bill into law on May 2, 2013.

Projected Impact

The West Virginia Office of Research and Strategic Planning forecasted that without changes to existing policies and practices, the prison population would have increased from 7,146 people in 2012 to a projected 8,893 people in 2018. The prison population is now projected to grow to 7,943 by 2018, and the state is projected to avert \$287 million in prison construction and operating costs. (See Figure 2)

"Last spring, we began to improve public safety and reduce prison overcrowding by passing the Justice Reinvestment Act with bipartisan support," said Governor Tomblin in January 2014. "Since that time, my administration has rolled up its sleeves to begin implementing these reforms to build a foundation that will—over time—transform the landscape of our criminal justice system for the better. I am proud to tell you that within the first 6 months of implementing SB 371, we have reduced overcrowding in our regional jails by more than 600 individuals. We have also reduced the overall number of corrections inmates—for the first time in 16 years—by almost 300 individuals." (See Figure 3 for a summary of projected impact, savings, and reinvestment)

Looking Ahead

State officials in West Virginia are now working to translate the legislation into practice, thereby ensuring that SB 371 achieves projected outcomes. State agencies will need to adopt administrative policies and train the correctional workforce on effective practices. The CSG Justice Center is working with West Virginia to enhance the state's ability to implement the legislation. The state has the opportunity to request funding from BJA to support capacity-building efforts, such as skill-building training for the corrections workforce and technology enhancements to streamline agency processes.

During the legislative process, some policymakers sought to include policies advocated by the working group that would bring about a more significant reduction of the prison population, while others opposed those policies. SB 371, as enacted, reflects a compromise that will limit growth in the prison population while maintaining public safety, but the prison population is still projected to increase by 800 people higher than it was in 2012 by 2018. To achieve further reductions in the prison population, West Virginia policymakers may need to adopt additional measures in future legislative sessions.

FIGURE 2. ACTUAL AND ESTIMATED IMPACT OF THE JUSTICE REINVESTMENT POLICIES ON THE PRISON POPULATION

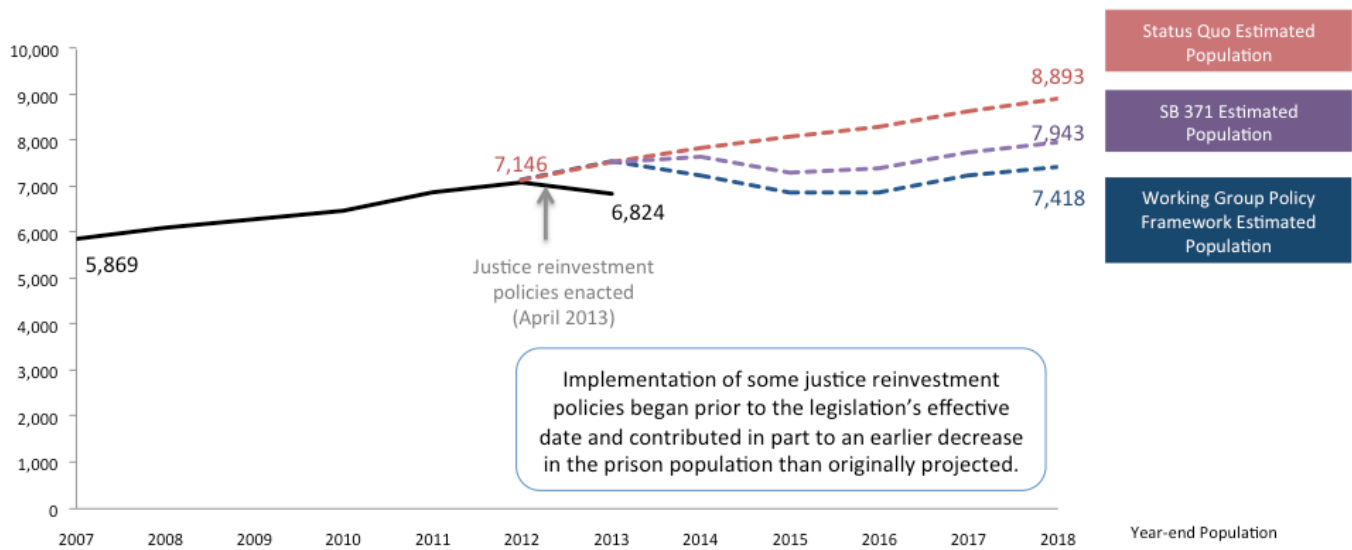


FIGURE 3. SUMMARY OF IMPACT, SAVINGS, AND REINVESTMENT

	2014	2015	2016	2017	2018	Total
Estimated Impact on Prison Population Projection						
• Working Group Policy Framework	-577	-1,190	-1,365	-1,383	-1,475	-1,475
• SB 371	-184	-758	-888	-892	-950	-950
SB 371 Cost Impact	-\$4.4M	-\$17.9M	-\$21.0M	-\$21.1M	-\$22.5M	-\$86.9M
Total Recommended Reinvestment	\$3.5M	\$5.5M	\$5.5M	\$5.5M	\$5.5M	\$25.5M
Total Impact on Operating Costs	-\$0.9M	-\$12.4M	-\$15.5M	-\$15.6M	-\$17.0M	-\$61.4M
Total Impact on Construction Costs*	➔				-\$200.0M	-\$200.0M
SB 371 Net Cost Impact, Including Construction and Operating Costs	-\$0.9M	-\$12.4M	-\$15.5M	-\$15.6M	-\$217.0M	-\$261.4M

* Estimated construction costs would span over five years.



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The Council of State Governments Justice Center (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 provides practical, nonpartisan advice and evidence-based, consensus-driven strategies to increase public safety and strengthen communities.

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. These efforts have provided data-driven analyses and policy options to policymakers in 18 states. For additional information about Justice Reinvestment in West Virginia, please visit csgjusticecenter.org/jr.