

Justice Reinvestment in North Carolina

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February 21, 2013



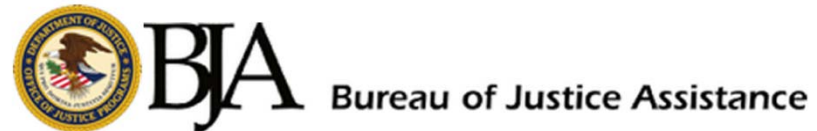
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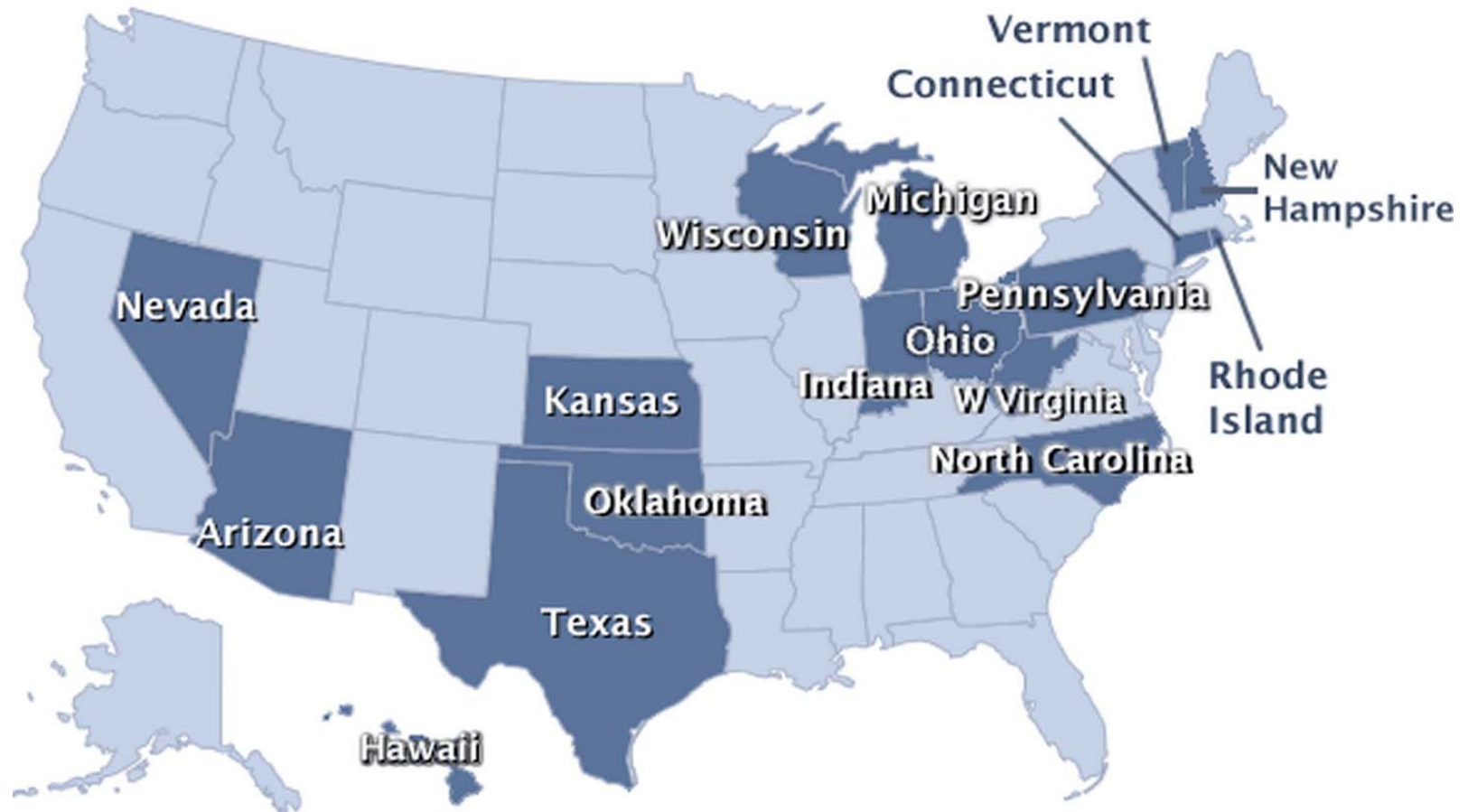
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“A data-driven justice reinvestment approach . . . to reduce spending on corrections and reinvest in strategies to increase public safety.”

– Council of State Governments





Findings

1. Over half of new prison entries are revoked probationers
2. Most inmates leave prison with no supervision in the community
3. Treatment and supervision resources not allocated in an evidence-based way
4. Unusual number of misdemeanants in prison

Legislation

- Justice Reinvestment Act (HB 642)
- Technical Corrections (HB 335)
- Amend Conditions of Probation (HB 270)
- Sex Offender Supervision (SB 684)
- 2012 Clarifications Act (HB 1021)

Justice Reinvestment Essentials (S.L. 2011-192, as amended)

Felony maximum sentences increased; all felons get post-release supervision

Offenses committed on or after December 1, 2011

- Class B1-E felonies: 12-month PRS (maximum is 120% of minimum + 12 months)
- Class F-I felonies: 9-month PRS (maximum is 120% of minimum + 9 months)
- Sex offenders: PRS supervised release period is 5 years. For Class B1-E felonies requiring registration, the maximum sentence is 120% of the minimum + 60 months. S.L. 2011-30
- Drug trafficking offenses on/after Dec. 1, 2012 receive PRS. S.L. 2012-188

New Advanced Supervised Release (ASR) program created

Persons entering a plea or found guilty on or after January 1, 2012

(Note that for Class F-I felonies, only offenses committed on or after December 1, 2011, receive post-release supervision)

If the prosecutor does not object, the sentencing judge may, when imposing an active sentence, order defendants in the following grid cells into to DAC's ASR program:

- Class D felonies, prior record levels I-III
- Class E felonies, prior record levels I-IV
- Class F felonies, prior record levels I-V
- All Class G and H felonies

Defendants who complete "risk reduction incentives" in prison (or who are unable to do so through no fault of their own) get released onto PRS on their ASR date. The ASR date is the lowest min. sentence in the mitigated range for the defendant's offense and prior record level (or 80% of the imposed minimum if a mitigated-range sentence). G.S. 15A-1340.18.

Intermediate punishment redefined

Offenses committed on or after December 1, 2011

A sentence that places a defendant on supervised probation and may include drug treatment court, special probation, or other conditions of probation, including the "community and intermediate" conditions set out below. G.S. 15A-1340.11(6).

Community punishment redefined

Offenses committed on or after December 1, 2011

A sentence to supervised or unsupervised probation or a fine that does not include an active punishment, drug treatment court, or special probation. The sentence may include any of the "community and intermediate" conditions described below. G.S. 15A-1340.11(2)

New set of "community and intermediate probation conditions"

Offenses committed on or after December 1, 2011 (unless otherwise indicated)

(does not apply to DWI)

The following conditions may be ordered in any case, community or intermediate:

- Electronic house arrest
- Community service, and pay the fee prescribed by law
- Jail confinement for 2-3 days, for no more than 6 days per month, during any 3 separate months of a probation period. If the defendant is on probation for multiple judgments, confinement periods must run concurrently and may total no more than 6 days/month
- Substance abuse assessment, monitoring, or treatment
- Abstain from alcohol and submit to continuous alcohol monitoring (CAM) if dependent or abuse identified by a substance abuse assessment (offenses on/after 12/1/12)
- Participation in an educational or vocational skills development program
- Submission to satellite-based monitoring (if a covered sex offender). G.S. 15A-1343(a1)

Intermediate punishments repealed

Offenses committed on or after December 1, 2011

- Intensive supervision
- Residential program
- Day reporting center

Delegated authority expanded

Offenses committed on or after December 1, 2011

(does not apply to DWI)

Unless the judge finds that delegation is not appropriate, a probation officer can add the following conditions in response to a probationer's failure to comply with 1 or more conditions imposed by the court or if the probationer is high risk (Supervision Level 1 or 2)

- Perform up to 20 hours of community service (50 hours in intermediate cases)
 - Perform up to 20 hours of electronically monitored curfew
 - Submit to an electronically monitored curfew
 - Submit to substance abuse assessment, monitoring, or treatment
 - CAM, if alcohol abstinence is a condition (intermediate only, offenses on/after 12/1/12)
 - Participate in an educational or vocational skills development program
 - Electronic house arrest
 - Report to the probation officer at a frequency determined by the officer
 - Submit to satellite-based monitoring (if a covered sex offender (intermediate only)
- In response to a defendant's failure to comply with one or more conditions imposed by the court (not based on risk level alone), the probation officer may, if the probationer waives the right to a hearing and a lawyer, require jail confinement for 2-3 days, for no more than 6 days per month, during any 3 separate months. G.S. 15A-1343.2.



This project was supported by Grant No. 2010-RR-BX-R071 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 SMART Office, and the Office for Victims of Crime. Points of view or opinions in this document are those of the author and not those of the Bureau of Justice Assistance.

THE NORTH CAROLINA Justice Reinvestment Act

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Finding: Over half of new prison entries are revoked probationers

Limit Judges' Authority to Revoke

Before JRA

- Judge could revoke for any single violation of probation

After JRA

- Revocation limited to:
 - New criminal offense
 - Absconding
- All other violations:
 - 90-day “Confinement in Response to Violation” (CRV)
 - After two CRV periods, court may revoke

Finding: Most inmates leave prison with no supervision in the community

Post-Release Supervision (PRS) for All Felons

Before JRA

- 9-month PRS for Class B1-E felons

After JRA

- 9-month PRS for Class F-I felons
- 12-month PRS for Class B1-E felons
- 60-month PRS for sex offenders

Finding: Treatment and supervision resources
not allocated in an evidence-based way

Blend Community/Intermediate Punishment

Before JRA

- Intermediate punishment **MUST** include one of:
 - Jail time (split sentence)
 - Intensive supervision
 - House arrest
 - Drug treatment court
 - Residential program
 - Day-reporting center

After JRA

- Intermediate punishment **MAY** include conditions in the court's discretion
- Repeal “Intensive”

Finding: Treatment and supervision resources not allocated in an evidence-based way

Expand Delegated Authority

Before JRA

- Probation officer had limited authority to impose new conditions in response to violation

After JRA

- Probation officer has expanded authority to impose more conditions in response to violations or risk level
 - Includes power to impose “quick dips” in the jail in response to violation

Finding: Unusual number of misdemeanants in prison

Change Place-of-Confinement Rules

Before JRA

- Felons: Prison, except at sheriff/board request
- Misdemeanants:
 - 1-90 days: Local jail
 - 91+ days: Jail or prison in judge's discretion

After JRA

- Felons: Prison
- Misdemeanants:
 - 1-90 days: Local jail
 - 91-180 days: Statewide Misdemeanant Confinement Program
 - 181+ days: Prison

Statewide Misdemeanant Confinement Program (SMCP)

- For misdemeanor sentences of 91-180 days, except impaired driving (DWI)
- Process
 - Judge commits defendant to SMCP
 - N.C. Sheriffs' Association identifies space in a jail that has volunteered space to the program
 - If no space, defendant goes to DAC
 - SMCP reimburses the custodian (\$40/day)

SMCP Money

- Statewide Misdemeanant Confinement Fund established in 2011
- Funded by court costs
 - \$18 district court cost
 - \$50 Improper Equipment cost
 - Generated approximately \$30 million to date
- 10% to N.C. Sheriffs' Association
- 1% to DAC

Total Counties that have Volunteered beds: 50

Volunteered beds - received inmates = 50

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	Volunteered beds - received inmates = 50
	Not volunteered beds = 50

Other Changes

- Advanced Supervised Release created
- G.S. 90-96 deferral expanded
- Habitual felon law amended
- Habitual breaking/entering created

Advanced Supervised Release (ASR)

Before JRA

- No felon released before serving minimum sentence

After JRA

- ASR gives opportunity for early release upon completion of “risk reduction incentives” in prison
 - Only certain Class D-H defendants eligible
 - Requires trial judge and prosecutor approval

G.S. 90-96 Deferral Expanded

Before JRA

- Optional deferral program for first-time drug offenders
 - Mostly misdemeanants
- If successful on G.S. 90-96 probation, conviction is dismissed

After JRA

- Mandatory deferral program for first-time drug offenders
 - Includes all felony simple possession offenses

Habitual Felon Law

Before JRA

- Fourth/subsequent felony sentenced as Class C felony, regardless of offense class
 - Class I → Class C

After JRA

- Four-class enhancement for fourth/subsequent felony, capped at Class C
 - Class I → Class E
 - Class H → Class D
 - All others → Class C

Habitual Breaking/Entering

Before JRA

- None

After JRA

- Second/subsequent felony breaking/entering offense may be sentenced as Class E felony

Questions?

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