

Precedents for S.2123, *The Sentencing Reform and Corrections Act*



A bipartisan Senate group announces the Sentencing Reform and Corrections Act, October 2015

A Report by the *Center for Prison Reform*

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Overview

In October 2015, the U.S. Senate Judiciary Committee approved, by a bipartisan vote of 15 to 5, Bill S. 2123, The Sentencing Reform and Corrections Act. Confidence is high that the bill will be effective because its major provisions have been shown to work at the state level. These precedent criminal justice reforms prove that S. 2123 will:

- Reduce prison costs,
- Increase public safety,
- Reduce recidivism, making productive citizens of ex-offenders,
- Give ex-offenders a better chance at redemption, and
- More successfully address illegal drug usage as foremost a health problem.

What follows is a study of criminal justice reforms, focused on conservative US states, which have similarity to one the bill's four major provisions:

1. **Reduces Mandatory Sentences:** S. 2123 reduces enhanced penalties and eliminates the three-strike mandatory life provision for drug offenders, but retains enhanced penalties for serious violent and felony offenders.
2. **Enhances Judge Discretion:** For a defendant lacking serious violent and drug felony offenses, it gives a court a “safety valve” to sentence below mandatory minimums based on his or her criminal history and danger of recidivism.
3. **Requires Risk Assessment Programs:** The bill requires the Department of Justice to conduct risk assessments to classify all federal inmates and to use the results to assign inmates to appropriate recidivism reduction programs, including work and education programs, drug rehabilitation, job training, and faith-based programs.
4. **Enhances Rehabilitation Programs:** Eligible prisoners who successfully complete rehabilitation programs can earn early release and may spend the final portion (up to 25 percent) of their remaining sentence in home confinement or a halfway house.

Criminal justice reform has been even more popular in conservative US states than in liberal and moderate ones¹:

¹ [Sentencing and Corrections Reforms in Justice Reinvestment States](#), Pew Center, June 2015.

We now take the major sections of S. 2123 and show which provisions have been previously implemented by states.

Sentencing and Corrections Reforms in Conservative US States

Source: Pew Center, 6/2015

		2015		2014		2013		2012			2011			2010		2007				
Policy Reform		UT	AL	NE	ID	MS	SD	KS	MO	GA	OK	AR	KY	AL	LA	NC	SC	NH	KS	TX
Sentencing/Pretrial	Reclassify/define drug offenses	✓	✓	✓		✓	✓			✓		✓	✓			✓				
	Reclassify/define property offenses		✓	✓		✓	✓			✓		✓					✓			
	Establish /expand presumptive probation for certain offenses			✓		✓	✓						✓							
	Revise sentencing enhancements	✓	✓			✓					✓		✓			✓	✓			
	Revise mandatory minimums									✓					✓		✓	✓		
	Reduce crack-powder cocaine disparity																	✓		
	Revise sentencing guidelines/establish sentencing commission	✓														✓				
	Improve pretrial release systems													✓						
	Establish presentence assessment									✓	✓			✓						
	Revise drug-free school zone	✓												✓				✓		
	Authorize risk-reduction sentencing															✓				
	Release	Revise parole hearing/decision/eligibility standards	✓	✓	✓	✓	✓		✓				✓	✓		✓		✓	✓	
Expand good/earned-time prison credits /re-entry leave		✓				✓		✓		✓					✓	✓	✓	✓		✓
Establish/expand geriatric or medical parole			✓			✓						✓			✓		✓	✓		
Community Corrections	Establish earned discharge (probation/parole)	✓			✓	✓	✓	✓	✓			✓	✓				✓	✓		
	Authorize performance incentive funding	✓	✓									✓	✓				✓	✓		✓
	Authorize administrative jail sanctions	✓	✓	✓	✓	✓		✓	✓			✓	✓		✓	✓	✓	✓		
	Authorize graduated responses for violations	✓	✓	✓	✓	✓	✓	✓		✓		✓	✓		✓	✓	✓	✓		✓
	Cap revocation time	✓	✓		✓	✓		✓	✓	✓	✓			✓		✓				
	Establish/improve electronic monitoring					✓				✓		✓	✓		✓					
	Establish mandatory reentry supervision		✓	✓				✓			✓		✓			✓	✓	✓		
	Require/improve risk-needs assessment	✓	✓	✓	✓	✓	✓			✓		✓	✓		✓	✓	✓			
	Require evidence-based practices	✓	✓	✓			✓			✓		✓	✓							
	Reform/pilot specialty courts (HOPE, drug courts, etc.)					✓	✓			✓		✓	✓	✓	✓					
Reduce probation terms		✓																		
Sustainability	Improve interventions such as sub abuse/mental health/CBT	✓	✓	✓	✓		✓	✓								✓			✓	✓
	Require fiscal impact statements					✓	✓						✓							
	Establish leadership/board qualification requirements				✓										✓		✓			
	Require data collection/performance measurement	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓		✓	✓	✓			
	Establish measures to streamline/improve efficiency of system	✓		✓	✓	✓	✓			✓		✓	✓		✓					
	Improve restitution/victim notification systems		✓	✓	✓	✓	✓											✓		
Establish oversight council	✓	✓	✓	✓	✓	✓		✓	✓								✓			

Criminal justice reforms in conservative US states include:

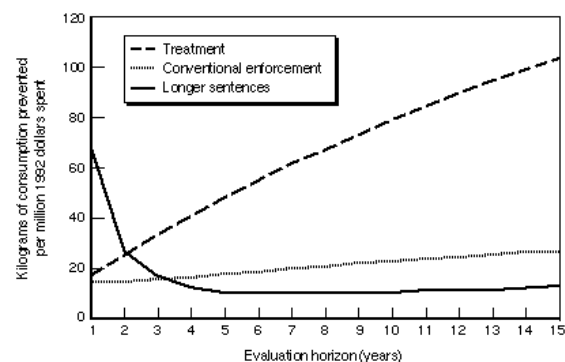
We now take the major sections of S. 2123 and show which provisions have been previously implemented by conservative states.

Unintended Consequences of Mandatory Minimum Sentences

Minimum sentencing laws set a lower limit to the penalties that courts give for specific crimes. Guiding courtrooms towards consistent sentencing is a good goal, but the idea has gone too far because district attorneys gain favor with their communities by being tough on crime.

This creates unintended consequences:

- Protecting a community by locking up its criminals must be balanced against a system that should better correct and reintegrate offenders into the community. Reformation should be the goal of criminal penalties.
- Longer sentences for nonviolent crimes needlessly destroy families and minority communities, with propagation affects as children grow up without fathers and minorities are further stereotyped by criminal misdeeds they want to put in the past but can't. A greater percentage of American black men are imprisoned than in South Africa at the height of Apartheid².
- Laws that require mandatory minimum sentences create a Soviet-style bureaucracy where power is taken away from judges to make smart decisions on a case-by-case basis. They transfer sentencing authority from trial judges to federal prosecutors, who may effectively assign punishments through creative charges that trigger minimums, a "cliff effect" that gives similar crimes very different sentences³.
- Mandatory minimum sentences are the least cost-effective way to reduce drug crime, compared to conventional police enforcement or treatment centers⁴.
- Every new politician, wishing to prove his or her value, wants to contribute to sentencing laws, leading to a ratcheting up effect as they get tougher and tougher, to absurd levels.
- There are diminishing returns to the value of sentencing a criminal to jail for longer times, for justice, for correction, and for rehabilitation. A study found that a 10%



² [Major Progress for Fixing Cruel Drug War Prison Sentences](#), Alternet, January 2014

³ [Mandatory Minimum Sentencing Provisions Under Federal Law](#), CATO Institute, May 2010

⁴ [Are Mandatory Minimum Drug Sentences Cost-Effective?](#) Rand Corporation, 1997

increase in incarceration only resulted in reduced recidivism rates of 0.1% to 4%⁵. Another study showed that reducing sentences did not lead to more crime⁶.

- The long jail times that result as a consequence of minimum sentencing can create such a powerful threat that prosecutors can use them to badger accused defendants into accepting plea bargains.
- They punish low-level offenders as much or even more than those at the top of the drug trade⁷.

As a result, some newsworthy cases of injustice have embarrassed US states and the federal government, drawing attention to less notable but similarly unfair sentencing that is ubiquitous across America.

More than half of the 219,000 federal prisoners are serving time for drug offenses⁸. Some former federal judges regret their rulings. In 2002, a man in Utah got 55 years in federal prison for three marijuana sales⁹, which the judge openly regrets. U.S. District Judge John Gleeson, who came to early success as a prosecutor, says “Mandatory minimums, to some degree, sometimes entirely, take judging out of the mix. That's a bad thing for our system.”

A woman in Iowa who was simply the girlfriend of a gun-owning drug dealer was sentenced to 15 years in federal prison, 3 years longer than the boyfriend got^{10,11}.

A pregnant woman in Alabama with no prior convictions was sent to prison for 30 years in 1990 for dealing drugs for a month as the helper to her boyfriend¹².

A college student in Alabama was sentenced to life in prison for being present at a drug transaction¹³.

Clearly judges need to be given more discretion in how sentences are given. Studies have shown that mandatory penalties have either no deterrent to crime or short-term effects only¹⁴, and do nothing to reduce drug dealing activity¹⁵. Mandatory minimums worsen disparities between white and minority offender punishments, compared to when judges

⁵ [Mandatory Minimum Sentences: Handcuffing the Prisoner or the Judge?](#) American Judges Association Annual Educational Conference, October 2014

⁶ [Fewer Prisoners, Less Crime: A Tale of Three States](#), The Sentencing Project, July 2014.

⁷ [Mandatory Sentencing Was Once America's Law-And-Order Panacea. Here's Why It's Not Working](#), Families Against Mandatory Minimums

⁸ [Major Progress for Fixing Cruel Drug War Prison Sentences](#), Alternet, January 2014

⁹ [Former Federal Judge Regrets 55-Year Marijuana Sentence](#), ABC News Nightline, February 2015

¹⁰ [Mandy Martinson](#), Families Against Mandatory Minimums (FAMM)

¹¹ [Widower's Lament: Change Sentencing Laws](#), The Des Moines Register, May 2015

¹² [The Long, Slow Push to Prison Sentencing Reform](#), MSNBC, April 2014

¹³ [Clarence Aaron](#), Families Against Mandatory Minimums

¹⁴ [The Consequences of Mandatory Minimum Prison Terms: A Summary of Recent Findings](#), Federal Judicial Center, Federal Judicial Center, 1994.

¹⁵ [Population Growth in U.S. Prisons, 1980-1996](#), Alfred Blumstein & Allen J. Beck, Crime & Just. 17, 57 (1999),

have discretion¹⁶. A report by a US Sentencing commission in 1991 indicated that all defense lawyers, and nearly half of prosecutors had objections to mandatory minimums¹⁷.

This began to be alleviated after the Supreme Court's 2005 decision in *Booker v. United States*, which permitted federal judges the freedom to set sentences regardless of mandatory minimums¹⁸. Presently 25% percent of offenders receiving sentences below the minimum, but with minorities receiving much higher sentences¹⁹. Families Against Mandatory Minimums has compiled a complete list of all federal mandatory minimum sentencing laws²⁰.

According to the Congressional Research Service, mandatory minimums have significantly contributed to overcrowding and racial disparities in the Bureau of Prisons (BOP), which operates at 36% overcapacity²¹. More than half of federal prisoners are serving time for a drug law violation²².

Then in 2014 the Senate Judiciary Committee passed the Smarter Sentencing Act, which was introduced to Congress in February 2015²³. The new law would give federal judges more discretion in ignoring mandatory minimums for non-violent drug offenders²⁴. This is needed because of current laws such as the Armed Career Criminal Act (ACCA, 18 U.S.C. § 924(e)), which assigns a 15-year mandatory minimum sentence for gun owner with three prior convictions for drug trafficking or violent felonies, even if these convictions are very old, nonviolent, minor, resulted from a drug addiction, or resulted in no prison time²⁵.

¹⁶ [Racial Disparities under the Federal Sentencing Guidelines: The Role of Judicial Discretion and Mandatory Minimums](#), Northwestern University, 2012

¹⁷ [Drug Laws and Snitching: A Primer](#), Frontline.

¹⁸ [Judges Use 'Booker' Ruling for Sentencing Flexibility](#), National Public Radio, May 2005

¹⁹ [Mandatory Minimum Penalties: Conclusions and Recommendations](#), 2011

²⁰ [Federal Mandatory Minimums](#), Families Against Mandatory Minimums, August 2013

²¹ [The Federal Prison Population Buildup: Overview, Policy Changes, Issues, and Options](#), Congressional Research Service, 2014

²² [Major Progress for Fixing Cruel Drug War Prison Sentences](#), Alternet, January 2014

²³ [U.S. House and Senate Reintroduce an *Even Smarter* Smarter Sentencing Act](#), Families Against Mandatory Minimums, February 2015.

²⁴ [Lee, Durbin Introduce Smarter Sentencing Act of 2015](#), Press Release

²⁵ [Gun Mandatory Minimum Sentences](#), Families Against Mandatory Minimums

Reduced Mandatory Sentences

In 2010, more than 25% of 73,239 federal convictions required a mandatory minimum sentence²⁶. Mandatory minimum sentencing distorts the legal system because prosecutors use unrealistically long sentences to pressure drug criminals to plead guilty²⁷.

Prison also makes offenders less able to pay debt, creating a “revolving door” of repeated jail time. The average incarcerated parent with a child support case is behind \$10,000 on payments and leaves prison behind by \$20,000²⁸.

Recently, the trend of greater punishments has gone into reverse, with 67% of Americans saying that treatment, not prosecution, should be how the United States handles illegal drug users, according to a Pew Study²⁹. The Supreme Court ruled that mandatory death penalties are unconstitutional because they fail to take into account the character of the defendant and his or her record³⁰.

After decades of tough sentencing laws in the “War on Drugs”, in 2013 Attorney General Eric Holder announced that the federal government would no longer require mandatory minimums in all cases, and would release some nonviolent elderly prisoners^{31,32}.

States have gone even further. Between 2009 and 2013, 40 states took some action to ease their drug laws³³. As a result 31 states have seen prison rates decline from 447 to 413 per 100,000 people³⁴.

Alabama

In 2006, the Alabama Sentencing Commission called for reform on mandatory minimums³⁵. Alabama’s new sentencing guidelines for non-violent offenders relax consecutive sentencing³⁶ applied under the habitual offender act³⁷.

Alabama S 67 (2015) lowers penalties for some drug offenses.

²⁶ [Cruel and Unusual: U.S. Sentencing Practices in a Global Context](#), University of San Francisco School of Law, May 2012

²⁷ [The Out Of Control War On Drugs: How Sentencing Rules Force Defendants To Plead Guilty](#), Forbes, December 2013

²⁸ [Child Support Profile: Massachusetts Incarcerated and Paroled Parents](#), Center for Policy Research, May 2002

²⁹ [Feds May Be Rethinking the Drug War. But States Have Been Leading the Way](#), Pew Center, April 2014

³⁰ [Cruel and Unusual: U.S. Sentencing Practices in a Global Context](#), University of San Francisco School of Law, May 2012

³¹ [Holder Announces Federal Drug-Sentencing Changes Already in Many States](#), The Pew Charitable Trusts, August 2013

³² [Attorney General Eric Holder Delivers Remarks at the Annual Meeting of the American Bar Association's House of Delegates](#), The United States Department of Justice, August 2013

³³ [Trends in Sentencing and Corrections: State Legislation](#), National Conference of State Legislatures, August 2013.

³⁴ [Feds May Be Rethinking the Drug War. But States Have Been Leading the Way](#), Pew Center, April 2014

³⁵ [Addressing the Crisis: Charting the Course for Reform](#), Alabama Sentencing Commission

³⁶ [New Sentencing Guidelines to Impact Non-violent Offenders](#), Dothan Eagle, September 2013

³⁷ [Alabama Code - Section 13A-5-9: HABITUAL FELONY OFFENDERS - ADDITIONAL PENALTIES](#)

Arkansas

In 2011, Arkansas SB 750 reduced mandatory minimum penalties for drug possession and drug distribution^{38,39}.

Georgia

Georgia's 2012 prison reform law, HB 1176, reduced the mandatory sentence for possession of very small amounts of drugs⁴⁰.

Indiana

Indiana HB 1892 (2001) eliminated mandatory minimums for certain nonviolent drug offenses, gave judges discretion to sentence offenders to home detention or work release, and made some offenders eligible for early release⁴¹.

Indiana SB 358 (2001) exempted drug offenders with no other types of convictions from the "three strikes" law, as long as they do not have more than one trafficking conviction.

Indiana HB 1006 (2013) reduced the size of the school zone for drug offenses that trigger mandatory minimums^{42,43} and generally lowered penalties for smaller amounts of drugs.

Iowa

In 2014, the Iowa Supreme Court struck down juvenile mandatory sentencing laws as unconstitutional⁴⁴. Those serving mandatory sentences had higher recidivism rates than offenders who were waived, according to an Iowa study⁴⁵.

Kentucky

Kentucky's 2011 law, HB 463, reduced the school zones that trigger mandatory drug sentences⁴⁶.

Kansas

Kansas is one of only three states (along with Alaska and New Mexico) that always include the chance for parole no matter a crime's severity⁴⁷.

³⁸ [Arkansas Sentencing Commission](#)

³⁹ [Sentencing Standards Grid - Offense Seriousness Rankings and Related Material](#), Arkansas Sentencing Commission, December 2011

⁴⁰ [Governor to Sign Sweeping Justice Reform Bill](#), AJC.com, May 2012

⁴¹ [State of the States: Drug Policy Reforms 1996-2002](#), Drug Policy Alliance, September 2003.

⁴² [Governor to Sign Sweeping Justice Reform Bill](#), AJC.com, May 2012

⁴³ [HB 1006 - Amends the Criminal Code - Key Vote](#), Vote Smart.

⁴⁴ [Iowa Supreme Court Strikes Down Mandatory Minimum Sentences for Children](#), Equal Justice Initiative, August 2014

⁴⁵ [Final Report: Outcomes of Mandatory Minimum Sentences for Drug Traffickers](#), Iowa Department of Human Rights and Division of Criminal and Juvenile Justice Planning, October 2011

⁴⁶ *ibid*

⁴⁷ [Isn't One Life Sentence Enough?](#) Slate, August 2005.

Louisiana

In 2001, Louisiana SB 239 / Act 403 (2001) reduced or removed mandatory minimum sentences for some nonviolent drug offenses, including removing the requirement of a life sentence for selling heroin, even as a first-time offense. It lowered mandatory sentences for repeat offenders and eliminated application of the three strikes laws to all felonies.

Louisiana HB 191 (2010) disallowed juvenile drug histories to enhance sentences for an adult felony conviction.

In 2012, Louisiana HB 1068 allowed prosecutors to waive mandatory minimum prison terms for non-violent, non-sex offenses^{48,49}.

Louisiana H 149 (2015) reduces sentences for some drug offenses.

Mississippi

Mississippi SB 5 exempted non-violent drug offenders (except sales) and other non-violent offenders from the state's requirement that inmates serve at least 85 percent of their imposed prison sentence.

Missouri

Missouri SB 628 (2012) reduced the quantity of drugs that trigger a mandatory minimum sentence⁵⁰.

Montana

Montana HB 174 eliminated mandatory minimums for first-time offenders convicted of drug possession, and Montana HB 191 eliminates provisions providing for mandatory revocation of driver's licenses for people under 21 who buy, possess, or use a legal or illegal intoxicating substance.

North Carolina

North Carolina H 368 (2014) reduced from a class 1 misdemeanor to a class 3 misdemeanor the penalty for possession of marijuana drug paraphernalia.

North Dakota

North Dakota HB 1364 (2001) repealed mandatory minimums for first-time drug offenders⁵¹, and North Dakota S 2029 (2015) removes the requirement of a minimum 18-month probation sentence for first time drug offenders.

⁴⁸ [Louisiana Legislature Takes Steps Toward Reducing Incarceration for Nonviolent Crimes](#), The Times-Picayune, June 2012

⁴⁹ [Playbook for Change? States Reconsider Mandatory Sentences](#), Vera Institute of Justice, April 2014

⁵⁰ [Recent State-Level Reforms to Mandatory Minimum Laws](#), Families Against Mandatory Minimums, June 2013

North Dakota H 1394 (2015) removed the enhanced penalty for possession of marijuana on school property if the offense involves less than one ounce.

North Dakota H 1367 (2015) capped to supervised probation an initial sentence at five years and total probation at 10 years for a felony committed while armed, and clarified that felony and misdemeanor probation sentences cannot exceed the maximum length of imprisonment authorized by law.

Oklahoma

Oklahoma's Justice Safety Valve Act in 2015 allowed judges to ignore mandatory minimum sentencing that would post an injustice to the defendant⁵².

South Carolina

S 1154, a 2010 South Carolina law removed a 10-year mandatory minimum sentence for school zone violations in drug offenses, restored the possibility of probation for drug possession convictions, and eliminated mandatory minimum sentences for first convictions of simple drug possession^{53,54}. Subsequently, the state's violent crime rate from 2009 to 2011 dropped from 68 to 60 per 10,000 residents⁵⁵.

South Dakota

South Dakota S 70 (2013) decreased penalties for drug offenses.

Utah

Utah H 348 (2015) reduced penalties for drug possession and some other drug offenses and created graduated penalties for subsequent convictions.

Wyoming

Wyoming S 38 (2015) expanded eligibility for deferred prosecution for first time drug offenders to include offenses related to use or being under the influence of a controlled substance.

⁵¹ [Playbook for Change? States Reconsider Mandatory Sentences](#), Vera Institute of Justice, April 2014

⁵² [Oklahoma Governor Signs Bill to Give Judges More Discretion in Sentencing](#), The Oklahoman, May 2015.

⁵³ [What Florida Can \(And Should!\) Learn From South Carolina](#), Families Against Mandatory Minimums, March 2015

⁵⁴ [Playbook for Change? States Reconsider Mandatory Sentences](#), Vera Institute of Justice, April 2014

⁵⁵ [Criminal Justice Law Reform in South Carolina: Front End Reforms, Substantial Savings](#), ACLU.

Enhanced Judge Discretion on Mandatory Sentences

Georgia

In 2013, Georgia law HB 349 gave judges the leeway to reduce sentences for some drug offenses, but the reasons for the departure must be stated. Judges may also waive a mandatory minimum when the prosecutor and defendant have agreed on a reduced sentence^{56,57}.

Idaho

Idaho S 1151 (2013) permits a court to reduce a felony conviction to a misdemeanor upon completion of probation under some circumstances.

Indiana

Indiana HB 1892 (2001) allowed judges to sentence to drug treatment instead of prison those who sell drugs solely to support their habit.

Iowa

Iowa SF 543 (2001) gives judges discretion when sentencing “Class D” felony offenders to a determinate sentence and Iowa H 2450 (2014) increases funding for drug courts.

Kansas

Kansas H 2154 (2015) allows a court to use military injuries as a basis to depart from sentencing guidelines.

Kentucky

Kentucky H 265 (2012) says that more than \$6.8 million were saved from previous state reforms to drug sentencing.

Louisiana

Louisiana HB 1068 (2012) which later became Act 160, allows judges to waive mandatory minimums with prosecutorial approval and a defendant guilty plea⁵⁸. In this case a judge may reduce a sentences, lower the fine, or effectively reduce a sentence by including it in

⁵⁶ [HB 349 Signed into Law in 2013](#), Black Law Offices, May 2013

⁵⁷ [Playbook for Change? States Reconsider Mandatory Sentences](#), Vera Institute of Justice, April 2014

⁵⁸ [Louisiana Legislature Takes Steps Toward Reducing Incarceration for Nonviolent Crimes](#), June 2012.

parole, probation, or a sentence suspension. Violent and sex-related offenders are ineligible.

Louisiana HB 442 (2013) adds a “safety valve” so that a court may order eligible defendants to participate in a substance abuse probation program instead of incarceration, if the offender is not deemed a threat to society.

Mississippi

Mississippi H 585 (2014) permits the court to deviate from a minimum sentence for certain drug offenses.

Montana

Montana H 33 (2015) expands mental health crisis intervention and jail diversion services, and revises the requirements of these programs.

North Carolina

North Carolina H 641 (2013) gives the court discretion on whether or not to order a conditional discharge for a first conviction of certain drug offenses.

North Dakota

North Dakota H 1030 (2015) authorizes a court to depart from mandatory minimum sentences for drug crimes for defendants not a threat to the community who were unarmed.

North Dakota S 2029 (2015) gives a judge discretion to set the sentence length for first-time drug offenders.

Oklahoma

Oklahoma H 1518 (2015) authorizes courts to depart from mandatory minimum sentences for a nonviolence offense where the defendant poses no danger to the public. Drug trafficking and firearms offenses are excluded.

Texas

Texas HB 1610 (2007) allows judges to reduce a felony to a Class A misdemeanor, or place a defendant into community supervision to ensure that the offender receives treatment.⁵⁹

⁵⁹ [Highlights of the 80th Texas Legislature](#), Senate Research Center, September 2007.

Risk Assessment Programs

Transitional job programs that begin just after prison release have been found to reduce recidivism and increase earnings for several years.⁶⁰ States can also limit disqualifications for licensed employment and offer tax incentives to employers who hire felons.⁶¹

The Risk Responsivity Need Model has been shown to reduce recidivism by 16%:

- The “risk principle” intervenes in a way relating to the offender’s risk for re-offense.
- The “need principle” targets the offender’s criminogenic needs such as antisocial attitudes or substance abuse.
- The “responsivity principle” uses cognitive behavioral therapy and social learning to redirect the offender’s abilities and motivation

Alabama

Alabama 11 (2015) formed the “Criminal Justice Oversight and Implementation Council”, which is required to develop evidence-based policies and analyze data for performance-based funding.

Alabama S 67 (2015) requires that presentence investigation reports include risk and needs assessment results. Supervision and treatment of probationers and parolees must include a risk assessment with evidence-based practices and resources focused on the highest risk offenders. The parole board must study and set risk-based standards.

Arkansas

Arkansas SB 750 (2011) requires a risk-needs assessment of all parole applicants, using evidence-based practices that target criminal risk factors. It funds evidence-based programs to create best practices, provides incentives for supervisors to implement risk reduction, and requires annual reports.

Supplemental funds were added in Arkansas HB 1156 and HB 1011 (2014) and S 1042 (2015) added annual training for parole board members in data-driven, risk assessment decision-making⁶².

Georgia

Georgia H 328 (2015) increases parole eligibility for drug offenders based on risk assessment.

⁶⁰ [Paternal Incarceration and Support for Children in Fragile Families](#), Demography 48(1), February 2011.

⁶¹ [Paternal Incarceration and Support for Children in Fragile Families](#), Demography 48(1), February 2011.

⁶² [Justice Reinvestment – Arkansas](#), 2015

Idaho

Idaho S 1357 (2014) requires presentence investigation reports, supervision, drug treatment, and parole boards to use evidence-based practices that target an offender's criminal risk and needs factors.

Idaho H 648 (2012) requires pre-sentence screening and assessment of defendants convicted of a felony to identify substance abuse or mental health treatment needs.

Kansas

Kansas H 2318 (2012) specifies that offenders will be given supervision and court services such as drug treatment based on result of a criminal risk assessment.

Kansas H 2051 (2015) makes eligibility for community corrections programs based on risk assessments, and Kansas H 2448 (2014) makes it harder to refuse early release for low risk offenders.

Kentucky

Kentucky HB463⁶³ (2011) and Kentucky H 54 (2012) require consideration of a risk and needs assessment for supervision and treatment programs.

Louisiana

Louisiana HB 239 (2001) created the Louisiana Risk Review Panel to review records of inmates convicted of nonviolent offenses in order to make recommendations to the parole and pardon boards.

Louisiana HB 543 (2012) allows nonviolent, low-risk offenders sentenced to life without parole to become eligible for parole if meeting certain risk assessment criteria⁶⁴.

Louisiana S 94 (2013) requires risk and needs assessment for arraignment, sentencing, and to determine eligibility for specialty courts.

Louisiana H 196 (2014) allows work release based on a risk assessment, and Louisiana S 252 (2014) gives a risk and needs assessment tool to be used when determining sentences, with Louisiana S 398 (2014) the same but relating to drug courts, and Louisiana H 670 (2014) the same but relating to parole.

Mississippi

Mississippi H 585 (2014) requires risk and needs assessments for parole, supervision, offender services, drug court operation, and training of community corrections employees.

⁶³ [Kentucky Legislature HB463](#), 2011.

⁶⁴ [Parole Reform in Louisiana – House Bill 543 is Now Law](#), Parole Now, June 2012.

Nebraska

Nebraska L 598 (2015), with funds appropriated in Nebraska LA 598 (2015) requires the corrections director adopt rules, consistent with professional standards, and provide staff training on inmate risk assessment and management. It also requires adoption of evidence-based criteria to identify inmates nearing release who should be evaluated for mental illness.

Nebraska L 605 (2015), with funds appropriate in Nebraska LA 605 (2015) requires community supervision and treatment be evidence-based, with resources focused on moderate- and high-risk offenders.

Oklahoma

Oklahoma HB 3052 (2012) establishes a new state-funded grant program to implement data-driven strategies to reduce violent crime and a presentence risk and needs screening process to help guide sentencing decisions related to treatment and supervision.

Oklahoma H 1109 (2013) allows a defendant to submit to a risk, mental health and substance abuse assessment after an initial appearance, rather than prior to sentencing.

Oklahoma S 1720 (2014) requires probation supervisors to conduct substance abuse and criminal risk and needs assessments in developing a treatment plan.

Oklahoma H 1518 (2015) makes sentences lower than the mandatory minimum possible based on a risk assessment.

South Dakota

South Dakota S 70 (2013) requires risk and needs assessment for parole, supervision and intervention priorities, with evidence-based training for parole board members, magistrates, judges and probation and parole officers.

Tennessee

Tennessee H 1374 (2015) requires drug for inmates based on a risk assessment.

Texas

Texas S 213 (2013) requires the corrections department to adopt a standardized risk and needs assessment instrument.

Utah

Utah H 348 (2015) requires risk and needs assessment results be included in presentence investigation reports, plans for offenders in prison or on community supervision, and in treatment priorities, including acceptance into drug court.

Enhanced Rehabilitation Programs

Alternatives to prison time include drug courts, mental health courts, probation, community corrections, halfway houses, electronic home monitoring, community services, and more, which strengthen families by enabling offenders to be present for emotional support, childcare, and to earn for child support⁶⁵.

Alabama

Alabama S 63 (2012) adds job training programs to prisons.

Alabama S 108 (2014) authorizes expungement of a felony record for successful completion of a drug court program, mental health court program, diversion program, veteran's court, or any court-approved deferred prosecution program after one year from successful completion.

Alabama S 67 (2015) adds behavioral and substance abuse treatment as authorized conditions of probation and parole supervision. It also creates a pilot program for small business development by ex-offenders.

Alaska

Alaska S 64 (2014) promotes transitional re-entry programs, including case management, sober living, substance abuse and mental health treatment, and requiring employment, educational programming, vocational training or community volunteer work.

Arkansas

Arkansas SB 750 (2011) allows offenders to earn early release and allows nonviolent parolees to complete sentences early, for complying with certain conditions.

Arkansas has WorkCourt, a work program that is offered in lieu of a conviction for nonviolent first time offenders to save a potentially devastating mark on their record. They pay restitution during this program, learn job skills and receive a "ready to work" certificate upon completion⁶⁶.

Arkansas S 200 (2015) allows inmates to be released up to 18 months early into a community corrections department for a reentry program of at least 6 months⁶⁷.

⁶⁵ [Alternatives to Incarceration in a Nutshell](#), Families Against Mandatory Minimums, August 2013.

⁶⁶ [WorkCourt](#), Tracey Risley, Deputy, Arkansas Court Services

⁶⁷ [State Sentencing and Corrections Legislation](#), National Conference of State Legislatures, November 2015.

Georgia

Georgia S 365 (2014) requires the board of corrections to develop and implement programs to assist offenders with reentry, and authorizes the programs to provide education, vocational training, social and behavioral programs, substance abuse counseling, mentoring, financial planning, physical and mental health programs, and housing and federal assistance.

Indiana

Indiana S 171 (2014) permits the commissioner of the department of correction to award additional financial aid to counties with an approved community supervision collaboration plan, and Indiana S 235 (2014) and Indiana H 1268 aim to reduce recidivism by providing mental health and forensic treatment services.

Indiana S 173 (2015) establishes a vocational program to train minimum security inmates in plumbing, air conditioning, truck driving, and more.

Indiana S 461 (2015) authorizes the health department to enter into partnerships to encourage best practices in drug treatment for inmates, and Indiana S 464 (2015) and Indiana H 1304 (2015) both allow addiction counseling, inpatient detoxification, case management, daily living skills, and long acting non-addictive medication to be required as conditions of parole, probation, community corrections, pretrial diversion, or a problem solving court.

Indiana H 1269 (2015) requires the criminal justice department to assist an inmates to find mental health or substance abuse treatment upon release from incarceration.

Iowa

Iowa H 2460 (2014) requires that offenders be given job skill training and Iowa H 2463 does the same for mental health services.

Kansas

Kansas H 2051 (2015) increases the early release credit of up to 90 days for drug offenders for program participation.

Kentucky

Kentucky HB463⁶⁸, passed in 2011, requires mandatory reentry supervision and postincarceration supervision. Kentucky H 265 (2012) creates new substance abuse treatment programs and Kentucky S 78 (2013) clarifies good time credits given for educational and drug treatment program completion.

⁶⁸ [Kentucky Legislature HB463](#), 1011

Louisiana

Louisiana H 228 (2012), Louisiana HB 59 (2013) , Louisiana HB 442 (2013) allow offenders to earn credit towards early release by voluntarily participating in a rehabilitation programs including education, job training, values and faith-based programs, therapeutic programs, and drug treatment. Each program completed reduces a sentence by 90 days to a maximum of 360 days. Violent and sex crime offenders are ineligible^{69,70}. Louisiana S 71 (2013) even allows the original charges to be dismissed upon program completion in some circumstances. Louisiana H 994 (2012) increases “good time” credits that can be earned.

Louisiana H 442 (2013) establishes a substance abuse probation program, and Louisiana H 274 (2014) allows participation in a substance abuse treatment program to be used when deciding whether an offender can take part in a work release program. Louisiana H 781 (2014) provides reentry programs to offenders housed in local jails.

Louisiana SCR 138 (2015) and Louisiana HR 203 (2015) request strategies to give incarcerated offenders better education, job skills, training, and mental health care.

Louisiana H 271 (2015) allows probation for up to eight years for offenders participating in drug diversion or sobriety court, which involve rehabilitation, and Louisiana H 381 (2015) enhances behavioral health services.

Louisiana

Missouri

Missouri H 1318 (2012) establishes a mental health program, and Missouri H 10 (2013), Missouri H 2010 (2014), and Missouri H 10 (2015) appropriate funds to the mental health department to contact with a service provider for an evidence-based program designed to reduce recidivism among offenders with serious substance abuse disorders returning to the community after prison, including medication-assisted treatment. Missouri H 9 (2013) does the same for the Department of Corrections for offender rehabilitative services.

Montana

Montana H 68 (2013) established statewide reentry programs for offenders within 12 months of release from prison who are at a high risk of recidivism.

Montana H 233 (2013) allows courts to stay the imposition of a sentence while the defendant goes through a sobriety program.

⁶⁹ [Smart on Sentencing. Smart on Crime: An Argument for Reforming Louisiana’s Determinate Sentencing Laws](#), Reason Foundation, 2013.

⁷⁰ [Louisiana Gov. Bobby Jindal Signs Law to Shift Drug Offenders from Jail to Rehab](#), The Times-Picayune, June 2013.

Nebraska

Nebraska L 504 (2015) adds a substance abuse evaluation to presentence reports, and Nebraska L 598 (2015) requires mentally ill offenders be treated with a community standard of mental health care.

Nebraska L 483 (2013) offers parent education, early literacy, relationship skills development and reentry planning to offenders.

New Hampshire

New Hampshire H 649 (2014) creates earned-time credits for inmates as one-time credit for completion of educational, vocational mental health or family connections center programs. Permits inmates to be awarded earned-time credits, in addition to other credits authorized by law, and New Hampshire H 1442 (2014) creates mental health courts.

North Carolina

North Carolina H 97 (2015) established mental health behavior treatment units at eight close custody prisons.

Oklahoma

Oklahoma HB 3052 (2012) mandates supervision for all adults released from prison⁷¹.

South Carolina

South Carolina S 426 (2015) authorizes local district attorneys to establish pre and/or post-adjudicatory mental health court programs.

Tennessee

Tennessee H 1374 (2015) requires opioid addiction treatment, including non-narcotic medication-assisted treatment for inmates.

Texas

Texas S 200 (2015) makes certain drug offenders eligible for the federal Supplemental Nutrition Assistance Program. Texas S 1070 (2015) authorizes the court to waive a requirement that probationers convicted of certain drug offenses complete a rehabilitative educational program if the offender has completed educational training in a correctional residential facility.

Texas H 2649 (2011) awards earned-time credit to inmates in state jails by completing educational, vocational, or treatment programs⁷², and Texas H 1546 (2015) streamlines the process.

⁷¹ [Oklahoma](#), Justice Center of The Council of State Governments.

Texas S 345 (2013) requires prisons to encourage faith based and volunteer organizations to provide prison programs. Texas S 1173 (2013) does the same for post-release community programs.

Texas H 1908 (2015) requires that offenders with severe mental illness be identified and made eligible for the continuity of care system, and Texas H 2189 (2015) does the same for the developmentally disabled.

As part of the Texas Fragile Families initiative, inmates in juvenile detention with children receive education about parenting.

Utah

Utah H 348 (2015) creates credits for probationers and parolees who comply with supervision rules that reduce length of supervision by 30 days per month. It requires local jails housing state inmates to meet minimum standards for treatment programs, and establishes earned time for certain inmates who complete recidivism reduction programs by four months per completion, while authorizing the parole board to grant additional earned time.

⁷² [State Jail Diligent Participation Credit](#), Texas Department of Criminal Justice.