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To: The Honorable John Coghill, Chair, Alaska Senate Judiciary Committee;
The Honorable Wes Keller, Chair Alaska House Judiciary Committee; and
Members of the House and Senate Judiciary Committees

From: Alison Lawrence
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Date: Thursday, July 25, 2013

Subject: Senate Bill 64

Good afternoon. I'm Alison Lawrence a senior policy specialist with the National Conference of State Legislatures. I specialize in sentencing and corrections laws.

Chairman Coghill and Chairman Keller, thank you for including NCSL in your interim discussion on Senate Bill 64. You asked me to provide you with information on provisions of the bill as they relate to "justice reinvestment". My remarks will focus on the proposed Sentencing Commission and Probation and Parole Accountability with Enforcement program, both of which have been addressed by many of the states that have pursued justice reinvestment.

Justice Reinvestment

Today, states have available more and better information about what works to reduce crime and control corrections costs. Legislatures are using this data to inform the policymaking process and enact cost effective measures that reduce offender recidivism and maintain public safety.

Justice Reinvestment is a data-driven process used by a growing number of states. It involves collecting data and analyzing drivers of prison populations and costs. Policies are then developed and adopted to address these factors. This strategy is characterized by reallocating funds to support effective sentencing and corrections policies and, in some states, by reinvesting a portion of savings achieved policies and programs that reduce recidivism.

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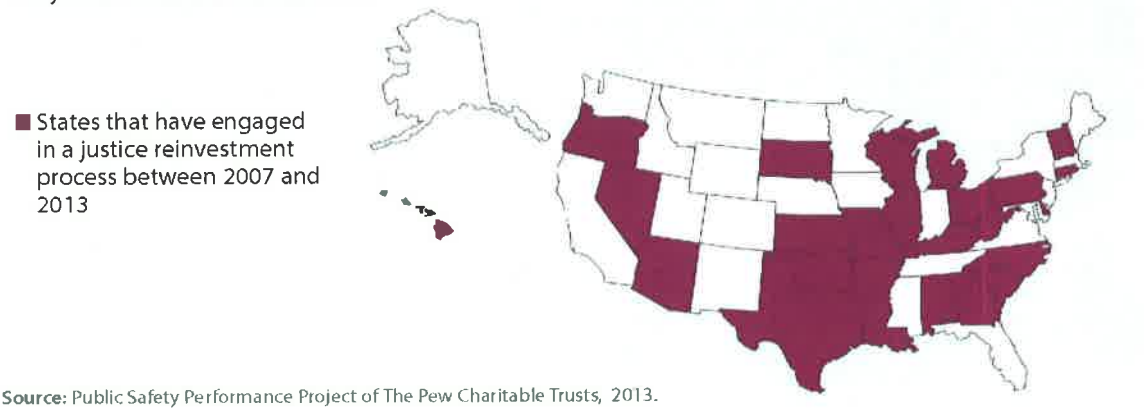
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Figure 1: The Justice Reinvestment Process

Since 2007, 27 states have amended their sentencing and corrections policies through a process known as "justice reinvestment." This process typically involves:

- Analyzing jail, prison and community corrections data to identify drivers of corrections growth and spending;
- Developing and adopting policies that effectively manage corrections resources, increase public safety and improve offender accountability; and
- Measuring the impact of policy changes on both public safety and corrections budgets to ensure that projected results and benefits are achieved.

A public-private partnership of the Bureau of Justice Assistance in the Office of Justice Programs and the Public Safety Performance Project of The Pew Charitable Trusts provides states with support and assistance with justice reinvestment initiatives.



Source: Public Safety Performance Project of The Pew Charitable Trusts, 2013.

Since 2007, at least 27 states have enacted justice reinvestment reforms. These reforms have included expanding eligibility for community-based diversion and treatment programs, employing the use of risk assessments and evidence-based practices for improved community supervision, and revising sentence lengths and eligibility for prison release. These efforts have been supported by a public-private partnership of the Bureau of Justice Assistance in the U.S. Department of Justice and The Pew Charitable Trusts.

On the last page I have included a chart that shows South Carolina's identified prison population drivers and the policy responses adopted by the General Assembly in 2010.

Sentencing Commissions and Other Oversight Bodies

SB 64 proposes establishment of a sentencing commission. A distinguishing feature of some of the most comprehensive sentencing and corrections changes in recent years has been the use of cross-governmental commissions or task forces. These have involved stakeholders from all branches and levels of government to oversee data collection and analysis, and put forth recommendations for legislative and administrative order. In some states, these commissions have been created through executive action, while others, like the proposed sentencing commission, have been codified. These

groups not only make recommendations but will continue to track and evaluate to ensure that policy choices continue to be data-driven and that desired results are achieved.

Connecticut, Illinois and Louisiana have recently created or redefined sentencing commissions to focus their work on improvement of public safety; ensuring sentencing laws and practices are fair, proportional and consist; and increasing efficiency and effectiveness of criminal penalties.

A number of state commissions have oversight responsibility for not only sentencing practices, but also for prison policies, reentry programs and community-based supervision. Some also make funding recommendations. The South Carolina Sentencing Reform Oversight Commission evaluates and tracks savings from policies adopted in their 2010 omnibus act and makes recommendations to the General Assembly on reallocating a portion of the savings.

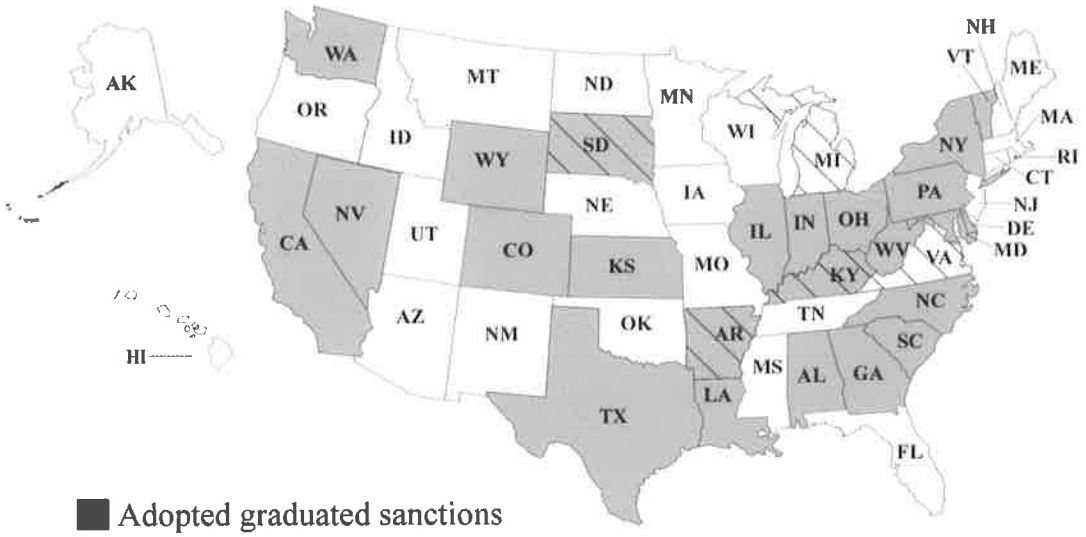
Swift and Certain Sanctions for Rule Violations

Swift and certain non-prison sanctions for probation and parole rule violations is a data-driven policy that many states have adopted in recent years. Data show that offenders who are sent to prison for technical violations contribute substantially to prison populations, and more than half of all state inmates meet the criteria for substance abuse or dependence. Swift and certain sanctions, like the proposed Probation and Parole Accountability with Enforcement program, hold these offenders accountable while allowing them to remain in the community, continue to work, pay restitution and child support, and attend treatment.

At least 17 other states currently operate programs modeled after Hawaii's HOPE. Five of these states—Arkansas, Kentucky, Michigan, South Dakota and Virginia—have passed laws; the others have been created by judicial action. The enacted laws authorize local pilot projects and some have included state general fund appropriations to cover start up costs. The laws include a list of permissible sanctions and require program evaluation and reporting. Arkansas, Kentucky and Virginia laws also require use of a validated risk assessment tool to determine which offenders are high risk.

These HOPE-type programs are similar to another policy, called graduated sanctions. Authorized by more than 20 states in recent years, graduated sanctions operate statewide and are used for most offenders, not just those designated high risk. These policies involve clearly established non-prison sanctions that are delivered quickly, and with the severity of the sanction proportionate to the violation. Sanctions include increased reporting or drug testing requirements, electronic monitoring, participation in treatment, short jail stays and specialized violator facilities. In many of the states, probation and parole officers are authorized to handle the rule violations rather than referring the offender to the court or parole board for formal proceedings. This can decrease the response time for delivering sanctions and clear up crowded dockets.

Figure 2. Laws Authorizing Swift and Certain Sanctions



Source: National Conference of State Legislatures, 2013

Maximizing Resources

Making the best use of corrections dollars is a key component of the justice reinvestment process. Effective community supervision policies like swift and certain sanctions help to maximize corrections dollars by allowing agencies to focus resources on the highest risk offenders.

The six states that adopted justice reinvestment legislation in 2012 have a collective projected corrections savings of nearly $685 million over the next five to 10 years. Savings are expected to be used for increasing availability of treatment options and supervision technology, training for corrections officers on evidence-based practices and risk assessments; and supporting law enforcement and victims services.

Thank you for including NCSL in your discussion. I am happy to provide you or your staff with any additional information as your interim work moves forward.

Figure 3. South Carolina Justice Reinvestment Data and Responses

In 2009, the South Carolina prison population was projected to grow by more than 3,200 inmates by 2014, with an estimated increase of $141 million in operating costs and an additional $317 million for construction of new prisons. The corrections population had nearly tripled, and state spending on prisons had increased by more than 500 percent during the past 25 years. A study of the causes of and how to address this unsustainable growth resulted in the General Assembly's Omnibus Crime Reduction and Sentencing Reform Act of 2010.

Drivers of Prison Growth	Policy Approaches
Forty-four percent of prison admissions in 2009 were for low-level offenses and sentences of less than 18 months.	Reserved prison space for high-risk, violent offenders, and added to list of "violent crimes." Increased the felony property theft threshold from $1,000 to $2,000, thereby reducing numbers of low-level thefts handled as felonies.
In 1980, 6 percent of the prison population was serving a sentence for a drug crime. By 2009 this had tripled to 20 percent of the prison population.	Authorized alternatives to incarceration and provided for parole, work release and sentence credits for certain drug offenders. Narrowed the application of enhanced penalties for certain habitual drug offenders.
In 2009, probation and parole violations accounted for 24 percent of prison admissions, 66 percent of which were for non-criminal, technical violations of supervision.	Required use of evidence-based practices for assessment and supervision of offenders in the community. Authorized administrative sanctions for probation and parole technical violations. Created a fee for drug convictions to fund expansion of drug court programs.
More than half of all inmates released in 2009 left prison without any kind of supervision or access to services.	Authorized work release for certain inmates during the last three years of a prison term. Required mandatory reentry supervision for nonviolent offenders during the last 180 days of their sentences.
The parole grant rate declined from a 63 percent approval rate in 1980, to 27 percent in 2000, and 10 percent in 2008.	Required the parole board to use a risk and needs assessment tool for making parole decisions and setting parole conditions. Allowed parole for terminally ill, geriatric or permanently incapacitated inmates.

Source: *Principles of Effective Sentencing and Corrections Policy*, NCSL (2011)