Council of State Governments Justice Center

National non-profit, non-partisan membership association of state government officials that engage members of all three branches of state government.

Justice Center provides practical, nonpartisan advice informed by the best available evidence.
What is Justice Reinvestment?

A data-driven approach to reduce corrections spending and reinvest savings in strategies that can decrease recidivism and increase public safety

The Justice Reinvestment Initiative is supported by funding from the U.S. Department of Justice’s Bureau of Justice Assistance (BJA) and The Pew Charitable Trusts
States using the justice reinvestment approach with CSG Justice Center

Past states

Current states (Phase I or II)

DIRECTIONS:
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In April 2015, SB 224 created the Montana Commission on Sentencing with a mandate for empirical study and evidence-based practices. Created an inter-branch commission of criminal justice system stakeholders to (among other things):

- “identify strategies to safely reduce incarceration in state prisons and to promote evidence-based diversion programs and other effective alternatives to incarceration”
- “balance sentencing practices and policies with budget constraints”
- report recommendations, including data analysis, to 65th legislature (December 2016)
The 15-member Commission on Sentencing included lawmakers, a judge, corrections officials, county and defense attorneys, and law enforcement officers.

<table>
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<tr>
<td><strong>Cynthia Wolken</strong>, State Senator, <em>Chair</em></td>
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<td><strong>Kristin Hansen</strong>, State Senator, <em>Vice Chair</em></td>
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<th><strong>Members</strong></th>
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<tr>
<td><strong>Mike Batista</strong>, Director, Department of Corrections</td>
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<tr>
<td><strong>Derek Gibbs</strong>, Licensed Addiction Counselor</td>
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<tr>
<td><strong>Ingrid Gustafson</strong>, District Court Judge</td>
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<tr>
<td><strong>Dan Guzynski</strong>, Assistant Attorney General</td>
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<tr>
<td><strong>Jennie Hansen</strong>, Eastern Bureau Chief, Probation and Parole Division, Department of Corrections</td>
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<tr>
<td><strong>Roxanne Klingensmith</strong>, Archdeacon/Deacon with Episcopal Diocese of Montana</td>
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<tr>
<td><strong>Margaret Macdonald</strong>, State Representative</td>
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<td><strong>Matthew Monforton</strong>, State Representative</td>
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<tr>
<td><strong>LeAnn Montes</strong>, Tribal Attorney for Chippewa Cree Tribe</td>
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<td><strong>Peter Ohman</strong>, Office of the State Public Defender</td>
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<tr>
<td><strong>Mary Ann Ries</strong>, Pondera County Attorney</td>
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<tr>
<td><strong>Majel Russell</strong>, Criminal Defense Attorney</td>
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<tr>
<td><strong>Donna Whitt</strong>, Toole County Sheriff</td>
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In June 2015, state leaders requested assistance to conduct a comprehensive analysis of Montana’s criminal justice system.
Montana’s Phase I Justice Reinvestment Timeline

- **Commission on Sentencing (COS) Meeting #1**
  - 2015 Sep, Oct, Nov, Dec

- **COS Meeting #2**

- **COS Meeting #3**

- **COS Meeting #4**

- **COS Meeting #5**

- **Policy Rollout and Bill Introduction**

**Timeline:**
- **Initial and Detailed Data Analysis**
- **Policy Option Development**
- **Impact Analysis**

**Stakeholder Engagement**

**Bill Drafting**

**Provide Info to Policymakers and Media and Keep Stakeholders Involved**
The Phase I team conducted an in-depth quantitative and qualitative analysis along with wide stakeholder engagement.

- **600,000** data records analyzed
- **200** in-person meetings and phone calls with stakeholders
- **5** presentations to the Commission on Sentencing
Phase I analysis found mounting pressures on Montana’s criminal justice system

Over recent years, Montana has experienced:

- Increases in total arrests, drug arrests, and arrests involving revocations, violations, and failure to appear
- Increases in district court case filings since and the time it takes for a case in district court to reach disposition
- Increases in the statewide jail population and length of stay in jail
- Increases in the number of people in alternative facilities, including prerelease centers, substance use treatment facilities, boot camps, and revocation centers
- Increases in the time between parole eligibility and parole release

In particular, Montana is experiencing growing supervision and prison populations as people are caught in the cycle of incarceration.

Montana’s supervision population is projected to grow 18 percent by FY2023. Long probation terms take officer resources away from the people who need them most – those on the first two years of supervision when recidivism is most likely.

At the same time, supervision revocations account for 74 percent of prison admissions in FY2015 and admissions to prison from alternative facilities have increased sharply in recent years.

Native Americans are disproportionately represented in Montana’s criminal justice system and also accounted for 19 percent of total arrests in FY2015. These arrests were driven by failure to appear and supervision violations.

Key challenges in Montana identified by the Commission on Sentencing

**High Rate of Recidivism**

The primary driver of costs and growth in Montana’s criminal justice system, including the growth in arrests, alternative facility admissions, and prison admissions, is people who are cycling back for technical violations or new crimes.

**Rising Cost of Prison and Jails**

Prisons and jails in Montana are at capacity. The statewide jail population has risen 67 percent between 2011 and 2013. The prison population is projected to continue to increase 17 percent by 2025, requiring millions of dollars in new spending.

**Growing Impact of Substance Use**

Between 2009 and 2015, there was a 62 percent increase in arrests for drug offenses. Stakeholders report drug use and insufficient treatment are leading causes of crime, violations, and revocations.

Based on these findings, state leaders set out goals for justice reinvestment policies in Montana

1. Increase public safety and reduce recidivism by expanding the reach and improving the efficacy of programs focused on reducing recidivism.

2. Avert growth in prison and jail populations and spending associated with this growth.

3. Provide counties with tools to reduce population pressures on jails throughout the state.
Overview

01 Key Challenges and Phase I Findings

02 Resulting Legislation

03 Phase II Implementation Overview

04 Technical Assistance Plan and Data Metrics
Montana enacted nine bills that significantly change state and local practices throughout the criminal justice system with impacts on jails, prisons, and in the community:

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<th>JAIL</th>
<th>PRISON</th>
<th>COMMUNITY</th>
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<tr>
<td>SB 59 PRETRIAL</td>
<td>SB 59 QUALITY</td>
<td>SB 62 &amp; SB 67</td>
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<td>PROSECUTOR</td>
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<td>PEER SUPPORT</td>
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<td>DIVERSIONS</td>
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<td>SPECIALISTS</td>
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<td>BATTERERS’ INTERVENTION</td>
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<td>PROGRAMS</td>
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<td>SB 63 &amp; SB 64</td>
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<td>PAROLE SUPERVISION</td>
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<td>SB 65</td>
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<td>REENTRY HOUSING</td>
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<td>SJ 3</td>
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<td>TRIBAL-STATE</td>
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<td>COLLABORATION</td>
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</table>
Montana’s package of legislation is projected to avert prison population growth by 13 percent by FY23.
Grants for Pretrial and Prosecution Diversion Programs
Effective date: July 1, 2017

1. Establishes a pretrial services grant program to incentivize counties to adopt a pretrial risk assessment tool and provide supervision for higher-risk defendants.

2. Establishes a grant program to advance the development and expansion of deferred prosecution programs.

Quality Assurance and Oversight
Effective date: May 17, 2017

3. Creates an oversight council to monitor and report on the implementation of justice reinvestment legislation.

4. Requires the Department of Corrections to adopt a program evaluation tool, conduct evaluations of state-funded programs, and enforce standards to ensure programs are using best practices for reducing recidivism.
SB 59 sets up an oversight structure that promotes effective implementation and sustainability

Statutory requirements include:

- Analyzing data collected by agencies and entities charged with implementing policies
- Assessing outcomes of criminal justice reforms
- Examining the feasibility of creating a public criminal justice data portal
- Submitting a biennial report to the governor and legislature
- Reporting to the law and justice interim committee and the legislative finance committee as requested

CJOC may also appoint a working group to track criminal justice reform legislation and request legislation to enact changes to the state's criminal justice system
SB 60 Highlights

**Expedited Presentence Investigations and Improved Reports**

*Effective date: October 1, 2017*

1. Requires presentence investigation reports to include risk assessment information.

2. Requires probation and parole officers to submit a presentence investigation report within 30 days of a guilty plea or verdict, except in cases that require a psychosexual evaluation or require more time for a victim impact statement.
Certification of Behavioral Health Peer Support Specialists
Effective date: October 1, 2017

1. Creates a certification for behavioral health peer support specialists by the Board of Behavioral Health.

2. Candidates must complete a training course in behavioral health peer support, verifying their ability to perform all essential functions, and receive supervision by a competent mental health professional.
Earlier Conditional Discharge
Effective date: May 17, 2017

1. Requires probation and parole officers to recommend conditional discharge for probationers who are compliant with supervision conditions when a low-risk person has served 9 months, a medium-risk person has served 12 months, a moderate-risk person has served 18 months, and a high-risk person has served 24 months on probation.

Shorter Probation Sanctions and Revocations
Effective date: May 17, 2017

2. Allows DOC hearings officers to impose up to 30-day sanctions, or recommend up to 90 days of electronic monitoring, day reporting, or placement in a community corrections facility for probation compliance violations without resorting to a petition to the court.

3. Limits imprisonment for probation compliance violations to nine months once the appropriate violation responses under DOC’s incentives and interventions grid have been exhausted.
Professional Parole Board
Effective date: July 1, 2017

1. Establishes a full-time, five-member parole board to increase opportunities for training and skill development that will enable the board to make more informed and efficient parole decisions.

2. Requires the board to adopt parole guidelines that include risk and needs levels, participation in risk-reducing programs and treatment, institutional behavior, and offense severity, to structure and guide parole release decisions.

Shorter Parole Sanctions and Revocations
Effective date: July 1, 2017

3. Allows DOC hearings officers to impose up to 30-day sanctions, or recommend up to 90 days of electronic monitoring, day reporting, or placement in a community corrections facility for parole compliance violations without resorting to a petition to the parole board.

4. Limits imprisonment for parole compliance violations to nine months once the appropriate violation responses under DOC’s incentives and interventions grid have been exhausted.
**Supportive Housing Grant Program**

**Effective date: October 1, 2017**

1. Establishes a supportive housing grant program to advance local efforts to remove barriers to and increase housing opportunities. Grant funds may be used to hire case workers and set up landlord risk mitigation funds.

**Housing Vouchers**

**Effective date: October 1, 2017**

2. Reduces the backlog of people in prison awaiting parole pending a housing plan by allowing the Department of Corrections to provide rental vouchers to some people.
Batterers’ Intervention Programs

Effective date: October 1, 2017

1. Requires the state to adopt statewide standards for offender intervention programs to ensure they are evidence-informed.

2. Allows the Board of Crime Control to use the money in the domestic violence intervention account to provide grants to courts to implement an intervention program that meets statewide standards.
Tribal-State Collaboration

Designates an interim committee to explore how Montana could increase access to tribal resources for tribal members who are involved in the state's criminal justice system including the following potential strategies:

1. Transferring tribal members who are subject to state supervision from state or county custody to tribal custody;
2. Allowing tribal members to fulfill conditions of state court-ordered programming by participating in programs offered by the tribes or tribal organizations; and
3. Creating a grant program to enable the Office of the State Public Defender to enlist tribal defense attorneys in place of an appointed public defender for tribal members.
HB133 Highlights

**Sentencing Changes**

*Effective date: July 1, 2017*

1. Creates a tiered sentencing structure with reduced penalties and higher thresholds for various property crimes including theft, forgery, and identity theft.

2. Reduces penalties for certain drug offenses such as criminal possession and distribution of marijuana and criminal distribution of dangerous drugs.

3. Reduces penalties for driving without a license or driving with a suspended license.
Almost $3 million was appropriated to implement justice reinvestment policies

<table>
<thead>
<tr>
<th>Bill</th>
<th>Recipient</th>
<th>Purpose</th>
<th>FY 2018</th>
<th>FY 2019</th>
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<tbody>
<tr>
<td>SB 59</td>
<td>Judiciary</td>
<td>Develop and administer a pretrial program for felony defendants</td>
<td>$780,000</td>
<td>$780,000</td>
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<tr>
<td>SB 59</td>
<td>Department of Corrections (Directors Office)</td>
<td>CJOC implementation accountability</td>
<td>$100,000</td>
<td>$100,000</td>
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<tr>
<td>SB 60</td>
<td>Department of Corrections (Probation and Parole)</td>
<td>Creation of presentence investigation unit</td>
<td>$360,000</td>
<td>$360,000</td>
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<tr>
<td>SB 64</td>
<td>Board of Pardons and Parole</td>
<td>Transition to full-time, professional Board of Pardons and Parole</td>
<td>$29,878</td>
<td>$59,755</td>
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<tr>
<td>SB 65</td>
<td>Board of Crime Control</td>
<td>Supportive housing grant program</td>
<td>$200,000</td>
<td>$200,000</td>
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**Total Funding** | **$1,469,878** | **$1,499,755**
Overview

01 Key Challenges and Phase I Findings

02 Resulting Legislation

03 Phase II Implementation Overview

04 Technical Assistance Plan and Data Metrics
Phase II implementation assistance is funded by the Department of Justice, Bureau of Justice Assistance (BJA) and includes:

1. **Technical assistance provided by the CSG Justice Center at no cost to Montana**
   Lasts approximately 12 - 24 months
   Montana must continue reporting data to CSG for two years after Phase II ends

2. **Possible one-time funding** (up to $500k) to remove barriers to implementation and improve Montana’s ability to monitor progress
CSG Justice Center provides three types of technical assistance

CSG staff:

- Deliver targeted support to specific projects informed by research and lessons learned from other states;

- Help the state establish performance measures, improve data collection, and monitor outcomes to ensure implementation is data-driven; and

- Engage stakeholders in a collaborative and consensus-based process that strengthens agency cooperation and the sustainability of JR policies.
CSG works with stakeholders in each state to identify key metrics and establish benchmarks for monitoring progress.

State monitoring is the process of collecting, monitoring, analyzing and using data about a state’s criminal justice system in order to improve outcomes and inform technical assistance.
Montana is eligible for a grant of up to $500,000 made available from BJA

Potential areas for grant support

• JR coordinator position on staff or through contract to ensure implementation runs smoothly

• Skills-based training for staff to adopt evidence-based practices

• Information technology and data system upgrades

• Developing data dashboards to monitor change

• Establishing quality assurance mechanisms

• Unique project based on the JR policies

• Program evaluation
Key deliverables for the first months of implementation

- Implementation oversight structure established
- Letter requesting Phase II assistance submitted to BJA
- JR metrics identified and plan for collection in place
- Data sharing agreements with CSG in place
- Identify priority areas for assistance and create implementation plans
  - Draft and submit BJA grant proposal
  - Once approved, hire JR Coordinator
  - Monthly data reporting initiated
Keys to successful justice reinvestment implementation

- Governor's Leadership
- Engaged Judiciary
- Supportive Legislature
- Interbranch Collaboration
- Flexibility in Implementation
- Stakeholder Communication and Engagement
- State Ownership of Data Monitoring
- Maintain Investments

Positive Outcomes
The impacts of justice reinvestment policies will take years to be fully realized.

**Implementation is an ongoing process.** It will likely take several months after policy effective dates for Montana to see impacts in data metrics and resulting reductions in system pressures.

In the meantime, state leaders can look at process metrics to evaluate how implementation is moving forward.
Montana’s Phase II Justice Reinvestment Timeline

- Bills enacted and some policies effective
- Second effective date for some policies
- First Oversight Council Meeting
- Third effective date
- New MIIG piloted
- Parole guidelines fully implemented

Timeline:
- May ‘17
- Jun
- Jul
- Aug
- Sep
- Oct
- Nov
- Dec
- Jan ‘18
- Feb
- Mar
- Apr
- May
- Jun

- MT applies and is accepted into Phase II
- Opportunity to apply for BJA subaward funds
- Create implementation strategy
- Implement policies
- Measure impact
The CSG team is providing guidance on key implementation activities

CSG facilitates a collaborative process that ensures policies are implemented effectively based on unique state needs. Current technical assistance focuses on three main areas:

- The Board of Pardons and Parole
- The Montana Incentives and Interventions Grid (MIIG)
- Presentence Investigation Reports

Once time sensitive projects are operational, the CSG team will work with key stakeholders to decide the next set of priorities for technical assistance
Modernize the parole board and parole decision-making process

Technical assistance includes:

- Helping create a plan to ensure a smooth transition from volunteer to professional board
- Training new parole board members
- Developing decision-making guidelines to standardize parole release
- Facilitating a standardized parole readiness process across DOC facilities
- Guiding how to use risk assessment and other tools prior to parole board hearings
- Looking for efficiencies to the parole and reentry process

Effective date: July 1, 2017
Revise the MIIG to ensure appropriate sanctions and incentives are used by community supervision officers

**Technical assistance includes:**

- Providing guidance on MIIG updates to align with evidence-based principles
- Sharing examples of best practices from other states
- Reviewing administrative policies around the use of the MIIG
- Guiding a supervision officer training plan
- Collaborating on stakeholder education and outreach, including judicial engagement

**Effective date:** May 19, 2017
Reduce time to complete and submit a presentence investigation report

Effective date: October 1, 2017

Technical assistance includes:

• Providing guidance on creating a presentence investigation report template that is more useful and informative for judges in their sentencing deliberations
• Working with DOC and the courts to develop and integrate presentence investigation policies
• Helping create a supervision officer training plan
• Assisting with stakeholder education and outreach
How will Montanans know justice reinvestment is working?

- Reduction in the prison population
- Reduction in length of stay in prison for technical violators
- Reduction in pretrial length of stay in jails
- Reduction in people in prison awaiting parole pending a housing plan
- Increase in consistency of parole release decision-making
Montana’s package of legislation is projected to avert prison population growth by 13 percent by FY23.
What’s next?

Keep track of implementation mileposts:

• Subaward application approved by the Bureau of Justice Assistance

• Release of new presentence investigation reports and process by Oct 1, 2017

• The new MIIG will be piloted in October 2017 and then implemented agency-wide after pilot period is complete

• Finalized parole guidelines implemented in January 2018

• Monthly metrics begin to be reported to CSG

• Initiate community engagement process
Thank You

Sara Friedman, Senior Policy Analyst
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