

2015 HOUSE JUDICIARY

HB 1165

2015 HOUSE STANDING COMMITTEE MINUTES

House Judiciary Committee
Prairie Room, State Capitol

HB 1165
1/20/2015
22217

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

An Act to require the Legislative Management, in conjunction with other stakeholders, to participate in a justice reinvestment study and initiative.

Minutes:

Handout #1

Chairman K.Koppelman: Opened the hearing on HB 1165 with testimony in support.

Rep. L. Klemin: (See handout #1) HB 1165 provides for a legislative management study during the next interim on what we would refer to as a Justice Reinvestment Study. The objective of this is to have the legislature and the executive and judiciary branches and any other stakeholders participate in a study to look for cost effective and evidence based strategies to enhance public safety and management corrections and supervision populations. We would ask that this be done in cooperation with the US Bureau of Justice assistance and a few charitable trusts to conduct the reform initiative. I handed out a report prepared by the Urban Institute and Bureau of Justice Assistance who is mentioned in this bill. What I handed out is an outline and cover page to a 200 page report; which I would be happy to email to anyone on this committee if you want the whole thing. I have attached the executive summary which explains what the process is. It is not automatic if this bill passes that North Dakota would be doing this during the next interim. It has to be accepted by the Bureau of Justice Assistance. We are looking at ways to stop building more prison space and instead taking the savings from not having to do that and investing that money into community based programs that improve public safety without necessarily sending everyone to prison all the time. There have been 17 states that have gone through this process now. One of the most recent was the state of SD. I have a report from SD. They just completed theirs in 2013. It was a five month process where they gathered all the stakeholders together and held meetings all over the state and along with the consultants that were hired and paid for by the Bureau of Justice Assistance and the few charitable trust came up with strategies that were needed to be implemented through subsequent legislation to develop means to accomplish this objective to redefine their criminal justice system and how it works. The goal of this is to save money. South Dakota was very enthusiastic about the program that was done there and they were optimistic that it was going to save money for SD too. Some of the things mentioned was that approximately 4% of the US has been or is currently in prison. That is a tremendous number of people that

have been sent to prison or in prison now and we just can't keep on this path without trying to do something to change the direction we are going. A lot of them come from nonviolent first time offenders. Going to prison helps you become a better criminal so there are a lot of things that can be done with this. This bill doesn't lay out what we are supposed to do. It is merely to study to see if ND can join these 17 other states to pursue this.

Rep. Lois Delmore: At one of the meetings I sent to they were also discussing this. There would be no cost to the state of ND? You were using shall if the study doesn't come forward if we are not chosen do we need to change that?

Rep. L. Klemin: I cannot say there wouldn't be any cost to the state; there probably would be some. As far as the shall study I think it goes on to state that we have to do this in cooperation with the technical assistance of the US Bureau of Justice Assistance and a few charitable trusts so if we are not accepted on that this is not to say we can't do our own study. We have been skirting around this issue in the Commission on Alternatives to Incarceration and we have encouraged the Governor in a letter the commission sent to do this but the Governor has a lot on his plate. I would rather this same from a legislative initiative rather than depend on the executive to go forward with it. I did have shall study because I would like this to go through. We have a \$60 Million addition to our prison out there which I am told is already full and so what are we going to do next.

Rep. K. Wallman: I just want to share my gratitude to you for bring this piece of legislation forward trying to improve government.

Chairman K.Koppelman: If it passes we would study this and seek technical assistance which implies that if it doesn't come through we would still be studying this in some other fashion. Is that your intent?

Rep. L. Klemin: Yes that is my intent. If we did not go through BJA then we wouldn't have the paid consultants and that sort of thing so it would be much more limited. Hopefully we can get in on this with the 17 states.

Chairman K.Koppelman: Has the commission looked at other options either to enhance these entities and their efforts or in lieu of if they should not be able to accommodate this kind of request. I am thinking of the Justice Center which is part of the Council of State Governments and they have done some of these things.

Rep. L. Klemin: I don't think we have talked about that particular one.

Opposition: None

Neutral: None

Hearing closed.

Do Pass Motion Made by Rep. Maragos; Seconded by Rep. K. Hawken:

Roll Call Vote: 13 Yes 0 No 0 Absent Carrier: Rep. Mary Johnson:

**2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL NO. HB 1165**

House JUDICIARY Committee

☐ Subcommittee ☐ Conference Committee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Rep. Maragos Seconded By Rep. K. Hawken

Representative	Yes	No	Representative	Yes	No
Chairman K. Koppelman	X		Rep. Pamela Anderson	X	
Vice Chairman Karls	X		Rep. Delmore	X	
Rep. Brabandt	X		Rep. K. Wallman	X	
Rep. Hawken	X				
Rep. Mary Johnson	X				
Rep. Klemin	X				
Rep. Kretschmar	X				
Rep. D. Larson	X				
Rep. Maragos	X				
Rep. Paur	X				

Total (Yes) 13 No 0

Absent 0

Floor Assignment: Rep. Mary Johnson:

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1165: Judiciary Committee (Rep. K. Koppelman, Chairman) recommends **DO PASS**
(13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1165 was placed on the
Eleventh order on the calendar.

2015 SENATE JUDICIARY

HB 1165

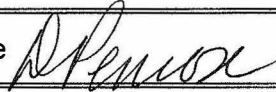
2015 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Fort Lincoln Room, State Capitol

HB 1165
3/16/2015
24897 & 24918

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Minutes:

1,2,3,4

Begin 24897.

Ch. Hogue: We will open the hearing on HB 1165.

Sally Holewa, State Court Administrator: Supports this bill. Court is familiar with studies done in other states, excited at the possibility of ND following suit. Should this legislation pass the Chief has indicated he is ready, willing and able to sign part of the agreement to cooperate with this.

Sen. Grabinger: This came from the alternatives to incarceration committee.

Sally Holewa: Yes.

Sen. Grabinger: Through the alternatives to incarceration, we went over the study that PEW did for SD and their correctional system and the changes they made to their system and the effects that had; we were hoping that we could probably gain some of that same knowledge. We have to go through a process to ask to be included in the PEW study.

Rep. Larry Klemin: Sponsor, support (see attached #1,2,3,4).

Ch. Hogue: I see that the language says "shall" study. That means Leg. Mgmt. wouldn't have discretion "not to study". Is that your understanding?

Rep. Klemin: Yes.

Sen. Nelson: On the Koppelman proposed amendment, it deletes the original two. It looks like some of these are "free". Would we be better off instead of saying "replace" to add the other parties.

Rep. Klemin: I don't have a problem with Rep. Koppelman's amendment, but I would say that the only presentations I've heard have come from the PEW charitable trust. I don't care who we get the technical systems from, maybe we don't need to say anybody in this bill. Maybe we should say everybody. However we say it, we need some technical assistance.

Sen. Grabinger: My understanding was that we needed the PEW charitable trust for this; we need to ask PEW charitable trust for this if that is the way we go. I would think that if we wanted to include, as Sen. Nelson was suggesting that the Council of States Government, Justice Center in that, I could understand that, but I can't understand eliminating those other two, because that is where the information came from the SD law.

Rep. Klemin: I think all groups are involved but however we do it, they are probably all going to be involved.

Ch. Hogue: Thank you. Further testimony in support. Testimony in opposition. Neutral testimony. We will close the hearing.

End of #24897

Beginning of #24918

Ch. Hogue: Let's take a look at HB 1165. What are the committee's wishes

Sen. Grabinger: Explained amendment. It puts all three entities involved here on as appropriate so they can be utilized.

Sen. Armstrong: I move the Sen. Grabinger Amendment as further amended.

Sen. Nelson: Second the motion.

Ch. Hogue: Voice vote. Motion carried. The amendment is on the bill. We are going to wait on final action on this bill.

End of #24918

2015 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Fort Lincoln Room, State Capitol

HB 1165
3/25/2015
25400

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature

Penrose

Minutes:

Ch. Hogue: Let's take a look at HB 1165. We amended this bill earlier.

Sen. Grabinger: I move a Do Pass as Amended.

Sen. Casper: Second the motion.

Ch. Hogue: We will take a roll call vote.

6 YES 0 NO 0 ABSENT

DO PASS AS AMENDED

CARRIER: Sen. Grabinger

March 25, 2015

TV

3/25/15

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1165

Page 1, line 13, after the first "assistance" insert "as appropriate"

Page 1, line 13, after the second "assistance" insert a comma

Page 1, line 13, remove "and"

Page 1, line 13, after "trusts" insert ", and the council of state governments' justice center"

Renumber accordingly

Date: 3/16/15
Voice Vote # 1

2015 SENATE STANDING COMMITTEE
VOICE VOTE
BILL/RESOLUTION NO. 1165

Senate Judiciary Committee

☐ Subcommittee

Amendment LC# or Description: Grabinger Amendment (4B1)

Recommendation: ☒ Adopt Amendment

☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation

☐ As Amended ☐ Rerefer to Appropriations

☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Seconded By

Motion Made By Sen Armstrong Sen Nelson

Senators	Yes	No	Senators	Yes	No
Ch. Hogue			Sen. Grabinger		
Sen. Armstrong			Sen. C. Nelson		
Sen. Casper					
Sen. Luick					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Voice vote: motion Carried

Date: 3/25/15
Roll Call Vote #: #J

2015 SENATE STANDING COMMITTEE
ROLL CALL VOTE

BILL/RESOLUTION NO. 1165

Senate JUDICIARY Committee

☐ Subcommittee

Amendment LC# or Description: 15.0436.01002 02000

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☒ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Sen. Grabinger Seconded By Sen. Casper

Senators	Yes	No	Senators	Yes	No
Chairman Hogue	✓		Sen. Grabinger	✓	
Sen. Armstrong	✓		Sen. C. Nelson	✓	
Sen. Casper	✓				
Sen. Luick	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Sen. Grabinger

REPORT OF STANDING COMMITTEE

HB 1165: Judiciary Committee (Sen. Hogue, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1165 was placed on the Sixth order on the calendar.

Page 1, line 13, after the first "assistance" insert "as appropriate"

Page 1, line 13, after the second "assistance" insert a comma

Page 1, line 13, remove "and"

Page 1, line 13, after "trusts" insert ", and the council of state governments' justice center"

Renumber accordingly

2015 TESTIMONY

HB 1165

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pg 1

Justice Reinvestment Initiative State Assessment Report

*Nancy LaVigne (principal investigator),
Samuel Bieler, Lindsey Cramer,
Helen Ho, Cybele Kotonias,
Deborah Mayer, David McClure,
Laura Pacifici, Erika Parks,
Bryce Peterson, and Julie Samuels*



BJA

Bureau of Justice Assistance
U.S. Department of Justice

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Executive Summary

States across the country are increasingly seeking cost-effective and evidence-based strategies to enhance public safety and manage their corrections and supervision populations. One such effort emerged in the mid-2000s, when several states experimented with a criminal justice reform effort built on a foundation of bipartisan collaboration and data-driven policy development. This model—justice reinvestment—yielded promising results, supporting cost-effective, evidence-based policies projected to generate meaningful savings for states while maintaining a focus on public safety. In response to these early successes, Congress appropriated funds to the Bureau of Justice Assistance (BJA) to launch the Justice Reinvestment Initiative (JRI) in 2010 in partnership with the Pew Charitable Trusts (Pew). The initiative formalized the process and provided both financial support and in-kind technical assistance for states to engage in this work. This report describes the JRI model and the experiences and interim outcomes in 17 participating JRI states: Arkansas, Delaware, Georgia, Hawaii, Kansas, Kentucky, Louisiana, Missouri, New Hampshire, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, and West Virginia.

The JRI Model

States participating in JRI first secure support for the initiative from key policymakers in all branches of government and request technical assistance through a formal request to BJA. Once a state is selected to receive assistance, it establishes a bipartisan, interbranch working group of elected and appointed state and local officials to work with criminal justice analysts and policy experts.

States develop data-informed policy solutions that target justice system population and cost drivers identified through compre-

hensive data analysis. Through legislative changes and other policy modifications, these solutions are incorporated into the state's criminal justice operations, both to protect public safety and to contain corrections costs. States also engage a wide array of stakeholders such as judges, prosecutors, defense attorneys, victims' advocates, corrections staff, law enforcement agencies, and service providers to build support for and consensus on JRI policy solutions.

Following the passage of JRI legislation, states may allocate upfront investment to support implementation of evidence-based

efforts or reinvest a portion of the resulting savings after reforms are enacted. Training and technical assistance are provided to help states implement JRI policy solutions and develop methods to track the impact of these strategies.

Population and Cost Drivers

Each state's criminal justice system is unique, requiring the justice reinvestment process to identify the specific factors behind prison growth and corrections spending in the state. However, the following common drivers have been found across a number of JRI states.

Parole and probation revocations. Probationers and parolees were returning to jail and prison for failing to comply with the terms of community supervision, either by committing new crimes or by violating the terms of their release. Justice system analysis in 17 JRI states found that the revocation of supervision was a key population and cost driver. In some JRI states, a substantial portion of revocations—sometimes more than half—was for technical violations rather than new crimes.

Sentencing policies and practices. Analyses of sentencing types, sentence lengths, and offender characteristics revealed that sentencing policies and practices played a significant role in prison growth in 14 JRI states. Many states had high or increasing incarceration rates in lieu of probation and state-specific diversion programs. Increased lengths of stay—a function of longer sentences and a greater percentage of sentences being served in confinement—also contributed to prison population growth over time.

Insufficient and inefficient community supervision and support. Eleven JRI states found that they had insufficient community supervision and services for released offenders. Some states also lacked assessment tools to target supervision and reentry support to those who need it most.

Parole system processing delays and denials. In eight JRI states, the operation of the parole and probation system was found to be a significant cost and population driver. Parole boards in some states had reduced their discretionary parole grant rates over time. Some states identified long delays in the release of inmates after their parole eligibility dates owing to release procedures. System-wide inefficiencies slowed parole processing and delayed the transfer of eligible candidates to less costly parole supervision.

Policy Responses

JRI states used various strategies to address their cost and population drivers; many of the strategies exemplified the themes of evidence-based practices (EBPs) and data-driven decisionmaking. The following are some of the most common JRI legislative provisions and policy reforms.

Risk and needs assessments, implemented in 16 JRI states, help predict a person's risk to reoffend through the identification of criminal risk factors. These assessments inform decisions about detention, incarceration, and release conditions as well as the allocation of supervision and treatment resources.

Accountability measures, such as mandatory reporting and certification, were adopted by 15 JRI states. These include ensuring the use of EBPs, requiring that departures from sentencing guidelines be justified, and developing new data reporting requirements to facilitate the evaluation of justice system operations.

Earned credits include both good time and earned time credits. These credits provide sentence reductions for inmates who maintain good behavior or participate in prison programs. Earned credits were adopted by 15 JRI states.

Intermediate and graduated sanctions establish swift and certain responses, such as short jail stays, for parole and probation technical violators. These sanctions are alternatives to reincarceration. The HOPE (Hawaii Opportunity Probation with Enforcement) model for probationers, which couples swift and certain punishment with drug testing, is being piloted in three JRI states. Some states have developed response matrices that include both punitive and incentive-based responses designed to promote offender accountability and positive behavior change. Fifteen JRI states adopted intermediate and graduated sanctions.

Community-based treatment programs were developed or expanded in 11 JRI states. States expanded the availability of programming and services by increasing funding for key services such as substance abuse treatment, and many encourage the use of these programs by requiring that reentry plans be developed for exiting prisoners.

Sentencing changes and departure mechanisms reorient and reclassify/redefine offenses, revise mandatory minimums, provide safety valves and departure mechanisms, and expand nonincarceration options. A variety of these changes were adopted among the 11 states that made sentencing changes.

Mandatory supervision requirements ensure that certain exiting prisoners receive post-release supervision. States may use risk assessments to target serious offenders or those at high risk of reoffending for supervision. This type of policy change was adopted by seven states.

Problem-solving courts use an evidence-based approach to provide treatment for offenders with specific needs. To better address the needs of these populations, states either expanded existing problem-solving courts or created new ones. Often, problem-solving courts in JRI states focus on those with substance abuse and mental health disorders. Six JRI states created or expanded problem-solving courts.

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Streamlined parole processes and expanded parole eligibility facilitate the release of eligible offenders to parole supervision, shortening lengths of stay while ensuring that appropriate supervision conditions are met to protect public safety. Six states streamlined the parole processes, and five expanded eligibility for parole.

Projected and Preliminary Outcomes

JRI states expect that the policies and practices they implement will have positive effects on their justice system populations, costs, and cultures. Policies enacted by JRI states are predicted to either reduce the overall prison population or slow its growth. States projecting a reduction in total incarcerated population expect the decrease to range from 0.6 to 19 percent. States that do not project a decrease in population expect to slow incarcerated population growth by 5 to 21 percentage points.

In 8 of the 17 JRI states, JRI policies have been in effect for at least one year, allowing for a preliminary examination of impacts. Since enacting JRI, all eight states—Arkansas, Hawaii, Louisiana, Kentucky, New Hampshire, North Carolina, Ohio, and South Carolina—have experienced reductions in their prison populations since the start of JRI.

Projected savings vary across states and time periods, ranging from \$7.7 million (over 5 years) to \$875 million (over 11 years). Total projected savings amount to as much as \$4.6 billion. These savings take two forms: averted operating costs as a result of incarcerating a smaller population and averted construction costs as a result of not having to build new facilities to incarcerate larger justice system populations.

In addition to providing states with population and cost reductions, JRI supports the integration of EBPs into state justice system operations, which is a key component of BJA's 2013–16 strategic plan. The EBPs include risk and needs assessments; problem-solving courts; immediate, swift, and certain responses for community supervision violations; and the monitoring of justice system operations for effectiveness through oversight councils, mandated use of EBPs, and performance measurement.

JRI also promotes enhanced accountability, systemwide collaboration, and an increased interest in justice system reform. The creation or expansion of data collection and reporting requirements, with oversight committees to monitor this information and make decisions based on it, will enhance justice system accountability. Frequently engaging stakeholders during the JRI process encourages cross-system collaboration and supports the development of new agency relationships. These relationships generate interest in learning about and supporting new and expanded criminal justice reforms.

Reinvestment

The JRI process has enabled states to identify and realize savings through reduced corrections and justice system spending. These savings result from a number of reforms, including reducing prison operating costs, averting spending on new prison construction, and streamlining justice system operations. JRI states reinvest some portion of savings into evidence-based and high-performing criminal justice programs; states have planned to reinvest more than \$398 million in public safety initiatives. To date, reinvestment has taken two forms: reinvestment of tangible savings and upfront investment.

Reinvestment of tangible savings occurs when states track avoided justice spending and reinvest those savings. The reinvestment of actual savings requires a waiting period for savings to be realized before investment in other programs can occur.

Upfront investment in public safety occurs when states fund programs on the basis of projected future savings. This strategy addresses the time lag between policy enactment and realization of savings. Some states, after recognizing the need to construct a new prison without any change in policies, decided to invest in alternatives to incarceration instead, eliminating the need to construct a facility and saving money that can be allocated toward more evidence-based public safety measures.

Thus far, a total of \$165.8 million has been reinvested: \$142.1 million in upfront investment and \$23.7 million in reinvestment of tangible savings. JRI is still in the early stages; states anticipate greater reinvestment once reforms have had time to accrue savings.

Challenges and Strategies

Although JRI states have enjoyed both measurable successes and positive cultural and organizational changes as a result of their reform efforts, they have also encountered a number of challenges in the process. Developing and sustaining consensus on JRI reforms was complicated in the face of policymaker turnover, high-profile incidents, and lack of public education.

Creating justice system reform and supporting cultural change in organizations takes time and energy, as well as constant efforts to educate and engage stakeholders. This process can be further challenged by funding constraints or a lack of immediate results.

Conclusion

The Justice Reinvestment Initiative has successfully promoted interest in justice system reform and the use of

JRI State Assessment Report

EBPs across the 17 JRI states. These preliminary results indicate that enacted reforms have the potential to reduce or limit the growth of justice system populations and, thus, produce savings. If all the savings and reinvestments projected for JRI states materialize, they will represent a massive return on the federal and private resources invested in the initiative, which total more than \$17 million to date. However, further assessment will be necessary to determine the full extent of JRI's impact on state justice systems, as well as how well the impact aligns with projected population reductions and cost savings.

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NORTH DAKOTA HOUSE OF REPRESENTATIVES

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COMMITTEES:

Judiciary
Political Subdivisions, Chairman

TESTIMONY OF REP. LAWRENCE R. KLEMIN

SENATE JUDICIARY COMMITTEE

HOUSE BILL 1165

MARCH 16, 2015

Mr. Chairman and members of the Senate Judiciary Committee, I am Lawrence R. Klemin, Representative from District 47 in Bismarck. I am here to testify in support of HB1165.

HB1165 provides for a "justice reinvestment" study during the next interim to seek cost-effective and evidence-based strategies to enhance public safety and manage corrections and supervision populations. The bill provides that the study would be done in conjunction with the executive and judicial branches, with technical assistance from the U.S. Bureau of Justice Assistance and the Pew Charitable Trust.

Attached is the Executive Summary from a recent report on the Justice Reinvestment Initiative prepared by the Urban Institute, which explains the JRI model that has been successfully used in 17 states thus far. I can provide the committee with the complete 145 page report on request.

In order to conduct a study using the JRI model, a state must make a formal request to the USBJA. A state selected to receive assistance from the USBJA and the Pew Charitable Trust establishes an interbranch working group of elected and appointed state and local officials to work with criminal justice analysts and policy experts. A complete analysis of the state's criminal justice system is undertaken and the recommendations of the working group are then implemented through appropriate legislation.

The JRI process has enabled states to identify and "reinvest" cost savings from reduced corrections spending into community based programs for supervision and treatment in order to reduce recidivism. The JRI report concludes that the JRI has successfully promoted justice system reform in the 17 JRI states. The preliminary results indicate

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that the enacted reforms have the potential to reduce or limit the growth of prison populations and therefore produce savings. According to the report, if all of the savings and reinvestments projected for JRI states materialize, they will represent a massive return on the resources invested in the initiative.

I am also attaching an amendment to HB1165 to add the Council of State Government's Justice Center to the bill. The amendment was prepared by Rep. Koppelman and proposes substituting CSG for the USBJA and the Pew Charitable Trust in the bill, but you may consider whether all three entitles should be listed in the bill since they are all involved in the studies that have been done previously in the 17 states.

I urge your support of HB1165 and will try to answer any questions that you may have.

Justice Reinvestment Initiative State Assessment Report

*Nancy LaVigne (principal investigator),
Samuel Bieler, Lindsey Cramer,
Helen Ho, Cybele Kotonias,
Deborah Mayer, David McClure,
Laura Pacifici, Erika Parks,
Bryce Peterson, and Julie Samuels*



BJA

Bureau of Justice Assistance
U.S. Department of Justice

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Executive Summary

States across the country are increasingly seeking cost-effective and evidence-based strategies to enhance public safety and manage their corrections and supervision populations. One such effort emerged in the mid-2000s, when several states experimented with a criminal justice reform effort built on a foundation of bipartisan collaboration and data-driven policy development. This model—justice reinvestment—yielded promising results, supporting cost-effective, evidence-based policies projected to generate meaningful savings for states while maintaining a focus on public safety. In response to these early successes, Congress appropriated funds to the Bureau of Justice Assistance (BJA) to launch the Justice Reinvestment Initiative (JRI) in 2010 in partnership with the Pew Charitable Trusts (Pew). The initiative formalized the process and provided both financial support and in-kind technical assistance for states to engage in this work. This report describes the JRI model and the experiences and interim outcomes in 17 participating JRI states: Arkansas, Delaware, Georgia, Hawaii, Kansas, Kentucky, Louisiana, Missouri, New Hampshire, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, and West Virginia.

The JRI Model

States participating in JRI first secure support for the initiative from key policymakers in all branches of government and request technical assistance through a formal request to BJA. Once a state is selected to receive assistance, it establishes a bipartisan, interbranch working group of elected and appointed state and local officials to work with criminal justice analysts and policy experts.

States develop data-informed policy solutions that target justice system population and cost drivers identified through compre-

hensive data analysis. Through legislative changes and other policy modifications, these solutions are incorporated into the state's criminal justice operations, both to protect public safety and to contain corrections costs. States also engage a wide array of stakeholders such as judges, prosecutors, defense attorneys, victims' advocates, corrections staff, law enforcement agencies, and service providers to build support for and consensus on JRI policy solutions.

Following the passage of JRI legislation, states may allocate upfront investment to support implementation of evidence-based

Efforts or reinvest a portion of the resulting savings after reforms are enacted. Training and technical assistance are provided to help states implement JRI policy solutions and develop methods to track the impact of these strategies.

Population and Cost Drivers

Each state's criminal justice system is unique, requiring the justice reinvestment process to identify the specific factors behind prison growth and corrections spending in the state. However, the following common drivers have been found across a number of JRI states.

Parole and probation revocations. Probationers and parolees were returning to jail and prison for failing to comply with the terms of community supervision, either by committing new crimes or by violating the terms of their release. Justice system analysis in 17 JRI states found that the revocation of supervision was a key population and cost driver. In some JRI states, a substantial portion of revocations—sometimes more than half—was for technical violations rather than new crimes.

Sentencing policies and practices. Analyses of sentencing types, sentence lengths, and offender characteristics revealed that sentencing policies and practices played a significant role in prison growth in 14 JRI states. Many states had high or increasing incarceration rates in lieu of probation and state-specific diversion programs. Increased lengths of stay—a function of longer sentences and a greater percentage of sentences being served in confinement—also contributed to prison population growth over time.

Insufficient and inefficient community supervision and support. Eleven JRI states found that they had insufficient community supervision and services for released offenders. Some states also lacked assessment tools to target supervision and reentry support to those who need it most.

Parole system processing delays and denials.

In eight JRI states, the operation of the parole and probation system was found to be a significant cost and population driver. Parole boards in some states had reduced their discretionary parole grant rates over time. Some states identified long delays in the release of inmates after their parole eligibility dates owing to release procedures. System-wide inefficiencies slowed parole processing and delayed the transfer of eligible candidates to less costly parole supervision.

Policy Responses

JRI states used various strategies to address their cost and population drivers; many of the strategies exemplified the themes of evidence-based practices (EBPs) and data-driven decisionmaking. The following are some of the most common JRI legislative provisions and policy reforms.

Risk and needs assessments, implemented in 16 JRI states, help predict a person's risk to reoffend through the identification of criminal risk factors. These assessments inform decisions about detention, incarceration, and release conditions as well as the allocation of supervision and treatment resources.

Accountability measures, such as mandatory reporting and certification, were adopted by 15 JRI states. These include ensuring the use of EBPs, requiring that departures from sentencing guidelines be justified, and developing new data reporting requirements to facilitate the evaluation of justice system operations.

Earned credits include both good time and earned time credits. These credits provide sentence reductions for inmates who maintain good behavior or participate in prison programs. Earned credits were adopted by 15 JRI states.

Intermediate and graduated sanctions establish swift and certain responses, such as short jail stays, for parole and probation technical violators. These sanctions are alternatives to reincarceration. The HOPE (Hawaii Opportunity Probation with Enforcement) model for probationers, which couples swift and certain punishment with drug testing, is being piloted in three JRI states. Some states have developed response matrices that include both punitive and incentive-based responses designed to promote offender accountability and positive behavior change. Fifteen JRI states adopted intermediate and graduated sanctions.

Community-based treatment programs were developed or expanded in 11 JRI states. States expanded the availability of programming and services by increasing funding for key services such as substance abuse treatment, and many encourage the use of these programs by requiring that reentry plans be developed for exiting prisoners.

Sentencing changes and departure mechanisms reorient and reclassify/redefine offenses, revise mandatory minimums, provide safety valves and departure mechanisms, and expand nonincarceration options. A variety of these changes were adopted among the 11 states that made sentencing changes.

Mandatory supervision requirements ensure that certain exiting prisoners receive post-release supervision. States may use risk assessments to target serious offenders or those at high risk of reoffending for supervision. This type of policy change was adopted by seven states.

Problem-solving courts use an evidence-based approach to provide treatment for offenders with specific needs. To better address the needs of these populations, states either expanded existing problem-solving courts or created new ones. Often, problem-solving courts in JRI states focus on those with substance abuse and mental health disorders. Six JRI states created or expanded problem-solving courts.

streamlined parole processes and expanded parole eligibility facilitate the release of eligible offenders to parole supervision, shortening lengths of stay while ensuring that appropriate supervision conditions are met to protect public safety. Six states streamlined the parole processes, and five expanded eligibility for parole.

Projected and Preliminary Outcomes

JRI states expect that the policies and practices they implement will have positive effects on their justice system populations, costs, and cultures. Policies enacted by JRI states are predicted to either reduce the overall prison population or slow its growth. States projecting a reduction in total incarcerated population expect the decrease to range from 0.6 to 19 percent. States that do not project a decrease in population expect to slow incarcerated population growth by 5 to 21 percentage points.

In 8 of the 17 JRI states, JRI policies have been in effect for at least one year, allowing for a preliminary examination of impacts. Since enacting JRI, all eight states—Arkansas, Hawaii, Louisiana, Kentucky, New Hampshire, North Carolina, Ohio, and South Carolina—have experienced reductions in their prison populations since the start of JRI.

Projected savings vary across states and time periods, ranging from \$7.7 million (over 5 years) to \$875 million (over 11 years). Total projected savings amount to as much as \$4.6 billion. These savings take two forms: averted operating costs as a result of incarcerating a smaller population and averted construction costs as a result of not having to build new facilities to incarcerate larger justice system populations.

In addition to providing states with population and cost reductions, JRI supports the integration of EBPs into state justice system operations, which is a key component of BJA's 2013–16 strategic plan. The EBPs include risk and needs assessments; problem-solving courts; immediate, swift, and certain responses for community supervision violations; and the monitoring of justice system operations for effectiveness through oversight councils, mandated use of EBPs, and performance measurement.

JRI also promotes enhanced accountability, systemwide collaboration, and an increased interest in justice system reform. The creation or expansion of data collection and reporting requirements, with oversight committees to monitor this information and make decisions based on it, will enhance justice system accountability. Frequently engaging stakeholders during the JRI process encourages cross-system collaboration and supports the development of new agency relationships. These relationships generate interest in learning about and supporting new and expanded criminal justice reforms.

Reinvestment

The JRI process has enabled states to identify and realize savings through reduced corrections and justice system spending. These savings result from a number of reforms, including reducing prison operating costs, averting spending on new prison construction, and streamlining justice system operations. JRI states reinvest some portion of savings into evidence-based and high-performing criminal justice programs; states have planned to reinvest more than \$398 million in public safety initiatives. To date, reinvestment has taken two forms: reinvestment of tangible savings and upfront investment.

Reinvestment of tangible savings occurs when states track avoided justice spending and reinvest those savings. The reinvestment of actual savings requires a waiting period for savings to be realized before investment in other programs can occur.

Upfront investment in public safety occurs when states fund programs on the basis of projected future savings. This strategy addresses the time lag between policy enactment and realization of savings. Some states, after recognizing the need to construct a new prison without any change in policies, decided to invest in alternatives to incarceration instead, eliminating the need to construct a facility and saving money that can be allocated toward more evidence-based public safety measures.

Thus far, a total of \$165.8 million has been reinvested: \$142.1 million in upfront investment and \$23.7 million in reinvestment of tangible savings. JRI is still in the early stages; states anticipate greater reinvestment once reforms have had time to accrue savings.

Challenges and Strategies

Although JRI states have enjoyed both measurable successes and positive cultural and organizational changes as a result of their reform efforts, they have also encountered a number of challenges in the process. Developing and sustaining consensus on JRI reforms was complicated in the face of policymaker turnover, high-profile incidents, and lack of public education.

Creating justice system reform and supporting cultural change in organizations takes time and energy, as well as constant efforts to educate and engage stakeholders. This process can be further challenged by funding constraints or a lack of immediate results.

Conclusion

The Justice Reinvestment Initiative has successfully promoted interest in justice system reform and the use of

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EBPs across the 17 JRI states. These preliminary results indicate that enacted reforms have the potential to reduce or limit the growth of justice system populations and, thus, produce savings. If all the savings and reinvestments projected for JRI states materialize, they will represent a massive return on the federal and private resources invested in the initiative, which total more than \$17 million to date. However, further assessment will be necessary to determine the full extent of JRI's impact on state justice systems, as well as how well the impact aligns with projected population reductions and cost savings.

JRI Report

Acknowledgments

The authors thank Director Denise O'Donnell, Ruby Qazilbash, Gary Dennis, and Thurston Bryant at the Bureau of Justice Assistance for their continued guidance and leadership of the Justice Reinvestment Initiative (JRI). We are also grateful for the collaboration of the state technical assistance providers—the Pew Charitable Trusts, Council of State Governments Justice Center, and Vera Institute of Justice—who provided a wealth of information about states' JRI experiences. We appreciate the work of the JRI Steering Committee who reviewed and commented on this publication. We also thank the numerous state JRI stakeholders and champions who shared with us their insights about implementing justice reinvestment.

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Prepared by the Legislative Council staff for
Representative K. Koppelman
March 4, 2015

4-A-1

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1165

Page 1, line 13, replace "United States bureau of justice assistance and the PEW charitable trusts" with "council of state governments' justice center"

Renumber accordingly

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4-B-1

PROPOSED AMENDMENTS TO HB 1165

(Sen. Grabinger)

1 A BILL for an Act to require the Legislative Management, in conjunction with other
2 stakeholders, to participate in a justice reinvestment study and initiative.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. LEGISLATIVE MANAGEMENT STUDY - JUSTICE**

5 **REINVESTMENT INITIATIVE.** During the 2015-16 interim, the legislative management
6 shall study, in conjunction with representatives of the executive and judicial branches
7 and other stakeholders, justice reinvestment reforms. The legislative management shall
8 participate with representatives of the executive and judicial branches and other
9 stakeholders such as judges, prosecutors, defense attorneys, victims' advocates,
10 corrections staff, law enforcement agencies, and service providers to seek cost-effective
11 and evidence-based strategies to enhance public safety and properly manage
12 corrections and supervision populations. The legislative management shall cooperate
13 with representatives of the executive and judicial branches to seek technical assistance
14 as appropriate from the United States bureau of justice assistance, ~~and~~ the PEW
15 charitable trusts, and council of state governments' justice center to conduct the reform
16 initiative. The legislative management shall report its findings and recommendations,
17 together with any legislation required to implement the recommendations, to the sixty-
18 fifth legislative assembly.

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