



Top Trends in State Criminal Justice Reform, 2018



Photos top left to right: Abolish Slavery Colorado, Florida Rights Restoration Coalition. Bottom left to right: Felony Murder Elimination Project, California Coalition for Women Prisoners.

The United States is a world leader in incarceration rates and keeps nearly 7 million persons under criminal justice supervision. More than 2.2 million are in prison or jail, while 4.6 million are monitored in the community on probation or parole. Changes in sentencing law and policy, not changes in crime rates, have produced the nation’s high rate of incarceration. Scaling back incarceration will require changing policy and practice to reduce prison populations, intentionally address racial disparity, and eliminate barriers to reentry. In recent years a number of states have enacted reforms designed to reduce the scale of incarceration and impact of the collateral consequences of a felony conviction. This briefing paper describes key reforms undertaken in 2018.

SENTENCING REFORM

State policymakers enacted several reforms to reduce the number of people in state prison during 2018. California lawmakers approved Senate Bill 1437, legislation that eliminates life without parole for persons convicted of felony murder or homicide offenses in which they were not the actual killer. SB 1437 allows individuals previously sentenced for felony murder to petition for resentencing if they meet certain qualifications.

In Florida, voters approved Amendment 11 with 62% support, a measure that allows sentencing reforms to be retroactive. The amendment repeals language from the state’s ‘Savings Clause’ in the constitution that blocks the legislature from retroactively applying reductions

in criminal penalties to those previously sentenced. Statutory law changes are not automatically retroactive; the legislature still has to authorize retroactivity for a particular sentencing reform measure. Other states – Michigan, Mississippi, and Oklahoma – adopted a range of reforms, including improving parole reviews, limiting incarceration for parole violations, and establishing a presumptive parole standard for certain offenses.

EXPANDING THE VOTE

In 2016, more than 6 million citizens were ineligible to vote because of a felony conviction although many residents with felony convictions had regained their voting rights since 1997 due to policy reforms. In Florida, voters expanded voting rights to as many

as 1.4 million Floridians with a felony conviction by approving Amendment 4 with 64% support; above the 60% threshold required to approve the ballot measure. Justice-involved residents now automatically have the right to vote once they complete their prison, probation or parole sentence; persons convicted of homicide and sex offenses are excluded from the measure. The state's lifetime felony voting ban was among the most restrictive in the country, along with Iowa, Kentucky and Virginia, which maintain lifetime voting bans for all felonies unless the governor takes action.

During 2018, officials in Colorado, Illinois, Louisiana, New York and Washington D.C. approved various efforts to expand voting rights for persons with felony convictions. In New York, Gov. Andrew M. Cuomo signed an executive order to restore voting rights to roughly 35,000 individuals on parole.

Legislative reforms included Colorado authorizing persons on parole to pre-register to vote prior to completing their sentence, Illinois allowing jails to serve as a polling location, Louisiana expanding voting rights to persons on felony probation and parole, and Washington D.C. requiring notification of voting rights to justice-involved persons.

ADDRESSING RACIAL DISPARITY

Racial and ethnic disparities in the criminal justice system have been extensively documented. Florida lawmakers enacted Senate Bill 1392, a measure requiring criminal justice data with a goal of addressing racial disparities through the criminal justice system. The measure creates a uniform databank containing information on arrest, bail proceedings, and sentencing, and will be searchable by the public through the Florida Department of Law Enforcement website. During 2018, Connecticut lawmakers expanded the state's racial impact statement law by passing Senate Bill 256. The measure authorizes any lawmaker to request a racial impact statement, as is the case for

fiscal and environmental statements. Previously, a racial impact statement was only developed if a majority of committee members requested it. Making progress towards challenging disparities requires reliable and consistent data about the racial and ethnic characteristics of a state's criminal justice population. This information is needed to identify the factors contributing to disparities in order to develop and monitor policy solutions.

'RAISE THE AGE' FOR YOUNG DEFENDANTS

Missouri lawmakers authorized Senate Bill 793, a bill that increased the age for automatically trying youth as adults from 17 to 18. Prior to the law reform, Missouri youth were automatically charged, jailed, and imprisoned as adults the day they turned 17, even for most minor offenses.

ABOLISHING INVOLUNTARY SLAVERY AND SERVITUDE

Coloradans approved Amendment A with 65% support; the measure removes language from the state Constitution that allows slavery and involuntary servitude to be used as punishment for the conviction of a crime.

ADDRESSING COLLATERAL CONSEQUENCES

A criminal record can impact an individual long after they complete their sentence. Several reforms to address the long-term effects of justice involvement were adopted in 2018. Pennsylvania lawmakers enacted House Bill 1469 to allow criminal record sealing for certain offenses 10 years after conviction and House Bill 163 which eliminates drivers' license suspensions as a collateral consequence if the conviction was not driving related. In Delaware, policymakers passed House Bill 97, which removes licensing barriers for certain criminal convictions.

