

# Top Trends in State Criminal Justice Reform, 2017

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, 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 2017.

## SENTENCING REFORMS

Lawmakers in several states enacted reforms to reduce the number of persons in prison and improve fairness in the criminal justice system. Most notably, Louisiana authorized legislation, Senate Bill 139, which expanded probation eligibility to people convicted of third-time nonviolent offenses and first-time low-level violent offenses. The bill also expanded eligibility for treatment alternatives and drug courts. The state amended parole practices, including lowering time served requirements before parole consideration, and authorized parole consideration for those sentenced to life at a time when their offense-type qualified for parole. Other states – Arkansas, Hawaii, Michigan, and Montana – adopted a range of reforms, including expanding probation eligibility, reclassifying low-level felonies to misdemeanors, streamlining parole review mechanisms, and limiting prison admissions for technical violations.

## CHALLENGING RACIAL DISPARITY

New Jersey, Arkansas, and Vermont advanced measures to address racial disparities in the criminal justice system. New Jersey adopted racial impact statement legislation, similar to that of Iowa, Connecticut, and Oregon, with the passage of

Senate Bill 677. Racial impact statements are a tool for lawmakers to evaluate potential disparities of proposed sentencing legislation prior to adoption and implementation. The Arkansas Senate approved a racial impact statement bill, though the measure was not adopted by the House. Senate Bill 237 included provisions requiring the legislative sponsor to modify any bill proposal that is found to result in a racial disparity or submit a statement for the record to explain why the legislative proposal should be adopted. Vermont lawmakers authorized House Bill 492 and established a racial justice reform oversight board to monitor and implement practices to address structural racism and its contribution to disparate outcomes in the criminal justice system.

## STATES 'RAISE THE AGE' FOR YOUNG DEFENDANTS

New York and North Carolina, the country's only states that automatically prosecuted all 16- and 17-year-olds as adults, adopted reforms directing that teenage defendants should be adjudicated in the juvenile justice system. New York lawmakers adopted A-3009c/S-2009c, raising the age of juvenile accountability for all misdemeanors and most felony offenses. North Carolina officials raised the age of juvenile jurisdiction for nonviolent crimes to 18 in the state's budget measure.

## **EXPANDING PUBLIC ASSISTANCE TO PERSONS WITH FELONY DRUG CONVICTIONS**

Tens of thousands of people with felony records are impacted by federal restrictions on public assistance for food and cash assistance. To overcome the restrictions, state officials must opt out of or modify the bans. Four states – Arkansas, Louisiana, Maryland, and North Dakota - did just that in 2017. In Arkansas (House Bill 1251), Louisiana (House Bill 681), and North Dakota (House Bill 1041) lawmakers eliminated the federal lifetime ban on food stamps for those with felony drug convictions. Maryland authorized House Bill 863, a measure that eliminated testing or treatment requirements for individuals with felony drug convictions who applied for social supports. Officials had previously modified the federal ban in 2000, requiring testing and other conditions for eligibility after a waiting period. HB 863 still maintains ineligibility for those convicted of high-level drug offenses.

## **UNLOCKING THE VOTE**

Nationally, 6.1 million persons are disenfranchised from voting due to felony convictions. The laws governing whether justice-involved persons can vote vary across states. During 2017, Alabama enacted SB 237 to clarify a longstanding provision that disenfranchised persons convicted of crimes of “moral turpitude.” The bill establishes a list of 50 specific “felonies that involve moral turpitude which disqualify a person from exercising his or her right to vote,” according to the legislation. Previously, all

felonies were interpreted to be crimes of moral turpitude. The measure has now restored voting rights to thousands of Alabama residents. Nebraska legislators attempted to override the governor’s veto of Legislative Bill 75, legislation that would have repealed the two-year waiting ban following sentence completion for voter eligibility.

## **ENSURING A FAIR CHANCE**

A criminal record can impact an individual long after they complete their sentence. Several initiatives to improve reentry by affirming a fair chance at post-secondary education, employment, and housing were adopted in 2017. Louisiana lawmakers enacted House Bill 688 to prohibit public universities from asking applicants about their criminal history. Schools can ask about convictions for stalking, rape and sexual battery during the admissions process. Maryland legislators overrode the governor’s veto of Senate Bill 543 that restricts public and private colleges and universities from asking about arrests and convictions on initial application forms. Schools can inquire about this information at later stages of the admissions process and deny admission to persons they believe pose a danger. Utah passed House Bill 156 to delay questions of criminal history on initial state employment applications, and House Bill 178 which eliminates a provision that required landlords to deny rental housing, under the state funded “Good Landlords” policy to applicants with a criminal record.