

# Stateline Midwest

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## New era in corrections

In states such as Michigan, Ohio and South Dakota, recent reforms aim to cut costs, improve public safety

by Kate Tormey ([ktormey@csg.org](mailto:ktormey@csg.org))

In 1977, South Dakota's state prisons held just 550 inmates. Over the next 35 years, however, that population would multiply six times — and, in the process, drive costs through the roof.

By 2011, the state's corrections budget was more than \$100 million and had quadrupled in 20 years. And the prison population was projected to grow by another 25 percent in 10 years, with costs increasing to the tune of \$224 million.

During the 2013 legislative session, the Legislature, governor and judicial branch worked together to shape a bill to slow this skyrocketing growth in prison inmates and costs. What resulted was a landmark package of about 25 reforms that was signed into law by the governor in February 2013.

South Dakota is not alone in its effort to stem the rising cost of corrections. One in 14 state general-fund dollars is spent on corrections in the United States, with total state expenditures estimated to be \$52 billion in 2011.

"A lot of states have taken a fresh look at corrections issues because they are spending a lot, but not getting a sufficient return in terms of public safety," says Jake Horowitz, state policy director for the Pew Charitable Trust's Public Safety Performance Project.

"The keys are in their hands — the drivers of the prison population are policies, enacted by states, that determine who goes to prison and for how long. States control their destiny in this area."

### South Dakota's major reforms

South Dakota's Public Safety Improvement Act addressed one key source of the state's tremendous prison growth: decades of policies that imposed broader and tougher penalties for crimes.

"As with many states, and probably the federal government, both parties across South Dakota had a 'tough on crime' mentality," says Jim Seward, general counsel for Gov. Dennis Daugaard.

"Decisions were made on what would appear to be more emotion than evidence. We thought we had to keep increasing the penalties to bring down our crime rate."

But as South Dakota policymakers closely examined strategies across the country, they found states that were not only bringing down imprisonment rates, but cutting crime rates as well.

The 2013 legislation focuses on dedicating prison space to violent and repeat offenders.

For example, it increased penalties for the most serious drug dealers and producers but reduced them for simple possession and other low-level crimes.

The bill also strengthens offender supervision through alternative courts and sentencing, such as drug and DUI courts that handle offenders who may benefit from treatment. Parolees can earn time off the end of their sentences for complying with the conditions of their release.

"If someone is going to recidivate, experts tell us it's most likely to be in the first couple of years," Seward says.

"The goal is to shorten the parole terms for compliant people, so parole agents have fewer people to supervise and can focus on people who are at high risk of reoffending."

In the first six months, 91 percent of parolees eligible for the program were compliant; more than 1,100 years were shaved off the end of sentences.

Implementation of these reforms in South Dakota is being overseen by a

### Five-year trends in state imprisonment and crime rates, 2007-2012

State	Change in imprisonment rate	Change in crime rate
Illinois	+8%	-14%
Indiana	+3%	-9%
Iowa	-4%	-14%
Kansas	+4%	-16%
Michigan	-12%	-17%
Minnesota	+1%	-16%
Nebraska	+1%	-13%
North Dakota	-4%	+2%
Ohio	0%	-11%
South Dakota	+5%	+20%
Wisconsin	-10%	-13%

Source: The Pew Charitable Trusts, Public Safety Performance Project, "States Cut Both Crime and Imprisonment" (2013)

multi-branch oversight council, which will measure performance of the different initiatives over the next five years.

And as part of the 2013 reforms, policymakers are working on a program unique to South Dakota, home to a large Native American population.

The Tribal Parole Pilot Program was developed to address the fact that 47 percent of the state's parole violations in 2012 were committed by Native Americans. The initiative is aimed at improving these outcomes.

For example, when parolees leave the corrections system, they are often living in the state's largest city, Sioux Falls — where they have no family or connections

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States in the Midwest are adopting measures to curb spending on corrections while protecting public safety. Policy trends include sentencing reform (less time served for low-risk offenders, for example) and a greater focus on providing help and interventions for released prisoners at a high risk of reoffending and returning to prison.

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## Policies focus on preventing parole violations, recidivism in high-risk populations

to the community. They often end up returning to a reservation, violating their parole.

An agreement to have supervision handled on the reservation, with help from the state, is in the works with one tribe now. The state plans to expand the program to more communities over time.

“There is still that automatic reaction to want to increase the penalty on something to get it to stop, but this isn’t about being ‘tough’ or ‘soft’ on crime — it’s about being smart on crime,” Seward says.

### Stopping ‘revolving door’ of prisons

While most states are looking to find efficiencies in their corrections system — ranging from changes to food-service contracts, health care, staff benefits and facilities management — Horowitz points out that states can only cut so much from those areas. The most effective way to reduce costs, he says, is to prevent people from going to prison in the first place.

One trend researchers see across many states is a high percentage of people failing under parole or supervision — either committing a new crime or breaking a rule — and ending up in prison.

“There are more than 4 million people on probation and parole in this country,” Horowitz says.



“That is a lot of people subject to being returned to prison. So states are looking to find ways of stopping, or at least slowing, that revolving door.”

For example, states are focusing resources on the highest-risk offenders and targeting probationers and parolees in the first few months after their crime or release from prison — when data show they are most at risk of re-offending.

This approach is being used in Michigan, where the corrections system costs \$2 billion each year.

As chair of the corrections and judiciary appropriations subcommittees, Sen. John Proos wondered, too, if there were a better way to handle nonviolent offenders than simply sending them to prison.

“Maybe we ought to find ways to be smarter about providing an ‘off ramp’ and proper services to individuals who might otherwise find themselves committing crimes and landing in prison, at a cost of \$90 per day,” he says.

“What if we spent one-quarter of that cost at the front door instead?”

One of the answers to that question has been Michigan’s Swift and Sure Sanctions program, an initiative that provides immediate repercussions for probationers and parolees who violate the terms of their agreement with the courts.

The voluntary program gives judges the ability to set individual requirements for each offender, as well as the sanctions he or she will face for breaking the rules.

For example, Proos relays a recent example from his home county, Berrien, where a probationer arrived at a state facility for his court-mandated drug test. The test came back positive — and the parolee went directly to jail.

“This is not delayed justice. It is immediate, and there is a correlation between one’s behavior and the consequences,” Proos says.

## Prison health care spending on the rise: State options for reining in cost of care for inmates

One driver of state corrections spending is the cost of providing medical care to inmates.

In a recent study of 44 U.S. states, The Pew Charitable Trusts found that health care spending totaled \$6.5 billion in 2008 — about 18 percent of total corrections budgets. Over the seven years studied (2001 through 2008), health care spending increased in 42 of the 44 states, with an average growth of 49 percent.

Tougher sentencing laws in the past few decades have caused inmates to be in prison longer; these prisoners, in turn, require more health care as they age. In 2012, one in nine prisoners was serving a life sentence, and 122,000 prisoners were age 55 or older. A report by the Michigan Senate Fiscal Agency found that the annual cost of medical care for an inmate age 55 to 59 was \$11,000 — four times that of an offender between the ages of 20 and 24.

Many prisoners enter prison with existing chronic conditions, substance-abuse issues and mental illnesses. And delivering health care in prisons can often present logistical challenges, such as transportation to and from hospitals, which are often far away.

States have options for reining in health care costs in their prison systems, and some of these approaches were highlighted by Pew in its 2013 report “Managing Prison Health Care Spending.”

### Telehealth

States can use electronic communications to avoid the cost of transferring inmates to outside medical facilities. The use of telehealth services allows inmates to consult with outside physicians and specialists via video conferencing. And on-site equipment that monitors vital signs remotely can help physicians determine

State correctional health care expenditures, 2008			
State	Per inmate	Share of total correctional spending	Change in spending since 2001
Illinois	\$2,181	9%	-1%
Indiana	\$3,135	12%	+45%
Iowa	\$3,973	13%	+52%
Kansas	No data available*		
Michigan	\$6,242	19%	+63%
Minnesota	\$6,252	18%	+52%
Nebraska	\$6,155	30%	+63%
North Dakota	\$3,672	8%	+29%
Ohio	\$4,034	17%	+29%
South Dakota	\$4,307	15%	+93%
Wisconsin	\$4,846	14%	+68%

\*The Bureau of Justice Statistics did not report data for Kansas.

Source: The Pew Charitable Trusts’ State Health Care Spending Project

whether a trip to the hospital is necessary.

In 2010, 26 of 44 states surveyed by the American Correctional Association were using telehealth to deliver medical services to inmates. In 2012, Pew says, the state of Georgia saved a total of \$9 million, or about \$500 per “telehealth encounter.”

### Outsourcing care

Some states have partnered with state university medical centers to provide care outside of prisons when inmates need it.

Other states have hired private companies to provide correctional health care at a fixed rate — providing predictability in spending. In Kansas, for example, some inmate health care is provided by an outside contractor. The state has

quality standards and monitors care to ensure prisoners receive adequate treatment.

### Federal matching funds

Prisoners who meet certain eligibility requirements can receive health insurance through Medicaid. If inmates are enrolled in this state-federal program, states can seek federal matching funds for health services provided outside prison (such as when a prisoner is hospitalized).

In states that expand Medicaid under the Affordable Care Act, low-income childless adults will be newly eligible for the program, allowing states to receive enhanced matching funds for their outside care.

Only a handful of states have used Medicaid financing for inmate medical care. A 2013 study by The Ohio State University estimated that the state correctional system could save \$273 million between fiscal years 2014 and 2022 by adopting this strategy.

### Medical parole

Some states are adopting measures to release certain offenders who are terminally ill or severely disabled. State laws typically exempt certain kinds of offenders (such as sex offenders) and require that inmates pose little or no threat to public safety.

Geriatric parole was included in Ohio’s 2011 criminal justice reforms, which required the state Department of Corrections to review the cases of all parole-eligible inmates 65 and older; however, none of the 347 cases was recommended for an early-release hearing. Last year, the federal government announced that it will expand the use of “compassionate release” for people who committed nonviolent crimes and have served a significant portion of their sentences.

The hope is to modify negative behavior before it leads to a more serious offense — and a prison sentence.

“States don’t need severe repercussions to deter crime, but the offender has to know that all actions will be met with a swift and certain response,” Horowitz says.

Michigan’s Swift and Sure program began as a pilot initiative in 2012 and is now available to all Michigan counties that wish to participate.

Right now, 12 counties are taking part, Proos says, and six more are expected to join soon. He adds that the program is funded through savings in Michigan’s corrections budget.

In fiscal years 2012 and 2013, there were 399 participants in Swift and Sure. Among those, 95 percent were not rearrested during their time in the program. Proos says the program is a good first step in slowing the spiraling cost of corrections.

“This is a smart investment to decrease the number of people entering the front door of our prisons,” he says.

“It begins to change patterns of behavior instead of waiting to fix problems once [offenders] are in the system, costing our taxpayers far too much money.”

## Ohio offers new prison alternatives

The cost of corrections is driven not only by how many people go to prison, but also how long they stay there — and whether they return.

Some states have worked to shift decision-making to judges in an effort to ensure that offenders receive a punishment that fits the crime but also aims to get them back into society as soon as possible.

In 2011, Ohio lawmakers passed a sentencing-reform bill that provides alternatives to incarceration for nonviolent, first-time offenders; increases the amount of time inmates can reduce their sentences for participating in certain programs; and emphasizes the use of community-based facilities (such as halfway houses) instead of prisons.

Rep. Tracy Maxwell Heard was a lead sponsor of HB 86.

“This is giving discretion back to judges so they wouldn’t have their hands tied by mandatory sentencing,” she says.

“In cases where [the judge] sees there should



be treatment, or community-based facility versus prison, he has the opportunity to implement that where he feels appropriate.”

Ohio received assistance from The Council of State Governments’ Justice Center, whose Justice Reinvestment initiative helps states adopt evidence-based reforms that increase public safety and reduce corrections costs.

Heard also emphasizes the importance of making sure offenders are successful when they return to society. Ohio legislation passed in 2012 (SB 337), for example, makes it easier for certain offenders to get driver’s licenses when they leave prison. (Heard points out that a driver’s license is a key to getting and keeping a job.)

The bill also lifts other “collateral sanctions” — rules that prevent offenders from certain activities, such as receiving occupational licenses. Under the law, offenders can receive permission to work in areas unrelated to their crimes.

“If [the work] has nothing to do with the crime they have committed, why should they be excluded?” Heard says. “We need to make sure we have legitimate avenues for people to reintegrate into society.”

Heard is proud of the reforms, but she says the work isn’t done yet. Looking ahead, she’d like to take a more “holistic approach” to reducing Ohio’s prison population — in particular, getting to the root of why people turn to crime.

“People generally don’t fall into criminal activity all of a sudden,” she says. “There are circumstances that lead up to that, such as lack of employment.

“Maybe Mom and Dad aren’t working and the kids are dealing drugs trying to feed the family. Some things are circumstantial, and where we can avoid those, we should.”

She points out, for example, that the public education system is a tool for ensuring that children have the opportunity for a good job, which is a key factor in preventing them from turning to crime.

She adds that job training for adults is important, but that she’d like to see the state better match the skills of workers to the jobs available.

“As legislators, the bottom line is about our budget,” Heard says.

“Let’s look at how many low-level offenders are going to prison, and how many recidivate and how much that is costing us. Let’s look at how much more effective it is to give people treatment instead of going to prison.” ★

## Successful programs in Illinois, Ohio reflect national trend in state juvenile justice systems

One of the more dramatic trends in state criminal justice systems has been the decade-long drop in the rate of young people in juvenile confinement, due in part to policy changes made across the country.

Jake Horowitz, state policy director for the Pew Charitable Trusts’ Public Safety Performance Project, says those changes reflect concerns about both the high cost of locking up young offenders (estimated to be as much as \$100,000 per year) and the ineffectiveness of confinement.

As a 2013 Pew report notes: “Many policymakers believe that expense would be justified if it improved public safety, but research has demonstrated that residential placements generally fail to produce better outcomes than alternative sanctions, cost much more, and can actually increase reoffending for certain youth.”

Between 1997 and 2013, the study found, U.S. juvenile confinement rates fell by 48 percent.

Meanwhile, states such as Ohio and Illinois have reported success in implementing alternatives to incarceration.

RECLAIM Ohio, first launched in 1994, helps steer youth offenders to community-based alternatives to lockup by providing local governments with an incentive to supervise youth in communities.

“Usually the public safety and fiscal goals of states and counties are not particularly well aligned,” Horowitz says. “If a county does a great job [in managing a youth], they don’t get additional dollars from the state. But if they send kids to the state system, it is free to the counties.”

But with RECLAIM, the state offers Ohio counties funding for managing youth cases locally (exceptions are made for youths charged with certain serious offenses). Between 1994 and 2013, counties received more than \$500 million from the state to support community-based services.

“What this has led to is a very big reduction in the number of kids who spend time in residential facilities, and it’s saved the state a lot of money,” Horowitz says. “Juvenile crime has plummeted.”

Illinois adopted a program similar to RECLAIM Ohio in 2005. Under Redeploy Illinois, counties that agree to adhere to a 25 percent reduction in commitments to state facilities receive a financial incentive. Illinois youths who are diverted to community programs receive services such as counseling, substance-abuse and mental-health treatment, and skills training.

According to a 2010 analysis, eight Redeploy sites achieved a 53 percent diversion rate from state lockup to locally based programs, accounting for a savings of \$9 million for Illinois.

“Usually the public safety and fiscal goals of states and counties are not particularly well aligned. If a county does a great job [in managing a youth], they don’t get additional dollars from the state.”

Jake Horowitz, state policy director, Pew Public Safety Performance Project

Population, costs of inmates in state prisons (FY 2010)		
State	Average daily inmate population	Total annual taxpayer costs
Illinois	45,551	\$1.7 billion
Indiana	38,417	\$560 million
Iowa	8,384	\$276 million
Kansas	8,689	\$158 million
Michigan	45,096	\$1.3 billion
Minnesota	9,557	\$395 million
Nebraska	4,542	\$163 million
North Dakota	1,479	\$58 million
Ohio	50,960	\$1.3 billion
South Dakota	Not available	Not available
Wisconsin	23,015	\$874 million

Source: Vera Institute of Justice, “The Price of Prison: What Incarceration Costs”