



Getting 'smart on crime'

South Dakota justice-reform legislation aims to make public safer, hold offenders more accountable and save taxpayers money

by South Dakota Gov. Dennis Daugaard

In January of this year, South Dakota's Legislature approved sweeping criminal justice reforms to save our taxpayers millions of dollars and keep our public safe. Thanks to some thorough research, outreach and discussion, this potentially controversial issue not only received passage, but garnered broad support in the process.

South Dakota has a higher imprisonment rate than any of its six neighboring states. Per capita, we lock up 75 percent more men than North Dakota and four times as many women as Minnesota.

When I heard this data, I figured, "Well, maybe our public is safer. More bad guys locked up — less crime." Unfortunately, that isn't the case.

Over the past 10 years, 17 states have lowered their imprisonment rate while simultaneously lowering their crime rate. In fact, the crime rates in those states have fallen twice as fast as the rate in South Dakota. Our approach wasn't better, and our high rate of imprisonment came at a high cost.

Over the past 20 years, our spending on corrections had tripled. It had grown faster than every area of spending except Medicaid. Within the next 10 years, our state was projected to need a new women's prison and a new men's prison.

So we asked, is this the best way to spend the taxpayers' money? As good stewards of state government, it is always our obligation to carefully consider this question.

Following the 2012 legislative session, I directed my staff to meet with stakeholders in criminal justice. We held more than 35 meetings with more than 400 stakeholders, including law enforcement, judges, defense attorneys, American Indian tribes, treatment providers, probation officers, Supreme Court justices and prosecutors.

Maybe South Dakota was doing things the right way, but numbers so staggering warranted investigation. We came to stakeholders with no preconceived outcomes. To generate a solution, it

Highlights of South Dakota's Public Safety Improvement Act

According to an analysis by the Pew Charitable Trusts' Public Safety Performance Project, South Dakota's recent criminal justice reform legislation is structured around three primary goals: strengthening offender accountability and supervision, focusing prison space on violent and career criminals, and ensuring sustainability of the reforms.

- ✓ **Accountability:** The law makes more options available to the justice system to change offender behavior and reduce recidivism, such as establishing formal drug and DUI courts; expanding mental-health and substance-abuse treatment and intervention programs for offenders on probation or parole; and creating incentives (such as discharge from supervision) for compliance with conditions of probation or parole in order to allow the system to focus on higher-risk offenders.
- ✓ **Prison space:** The law differentiates between drug users and dealers and tailors the available penalties accordingly, and creates more-targeted punishments for property crimes, increasing or decreasing penalties depending on the seriousness of the offense. It also makes probation rather than imprisonment presumptive for certain nonviolent crimes, but increases potential prison sentences for fourth-time criminal offenders and adds potential penalties of five or 10 years' additional supervision for repeated (six or more) DUI violations.
- ✓ **Sustainability:** Among other provisions, the law mandates that reform implementation be monitored by an oversight council and that the state calculate the fiscal impact of future legislation or ballot initiatives affecting the criminal justice system.

was important that we not promote a particular solution — and quite frankly, we didn't have one.

We also kept legislative leadership and key members apprised of our activities throughout the process so they would be more comfortable with the topic.

After three months of consulting with stakeholders to hear their ideas for improvement and appetite for reform, we formed a work group that included legislators, members of my staff and representatives of a cross-section of the criminal justice field. There were 18 members in total.

The group was charged with three goals: improve public safety, hold offenders more accountable and reduce spending on criminal justice.

Nuts and bolts, not hot buttons

We were also deliberate in letting the public and the group members know what the group would *not* address, such as drug legalization, the death penalty and other hot-button topics that could bog down the process or paint the work group in a "soft on crime" light.

The work group reviewed further data and looked for evidence-based practices that would provide relief for our specific problems. The policies were truly formed in a collaborative environment with our three goals guiding the entire process.

After the group offered policy recommendations, we immediately went to work, contacting nearly every legislator to explain the problem, the process and the proposed solutions. We also contacted the stakeholder groups to secure their endorsement for the package.

After a couple of months of tweaking and a compromise with prosecutors, we had a package and a coalition.

In the end, the Public Safety Improvement Act (SB 70) was sponsored by 70 of 105 legislators. It was formally endorsed by the chief justice, the attorney general, and the police chiefs, sheriffs, county commissioners' and state's attorneys' associations, along with the State Bar, the Victims Network, the Council of Substance Abuse Directors and the Family Policy Council.

We had been in touch with these groups

since the first months of work, and kept them updated throughout the process. Because we used an inclusive, palms-up effort, stakeholders were comfortable; and because stakeholders were comfortable, legislators were supportive.

The policies included new or improved probation accountability programs — drug and alcohol courts, for example. To focus prison space on violent and career criminals, the reforms restructured our sentencing framework for nonviolent offenders. We also made the largest investment in the history of our state into behavioral health for offenders with addictions and mental health needs.

Of all things undertaken in my first three years as governor, this is one of the efforts of which I am most proud. The process demonstrated the value of collaboration and an example of how the public would like to see policy made: with the involvement of both parties, support from affected stakeholders and adherence to fiscal prudence.

This effort is not about being soft on crime. It's about being smart on crime.

The policies we passed will save our state tens of millions of dollars in the coming years. More importantly, these recommendations will hold offenders more accountable and make our state safer. What more could we want? It's a win-win-win. ★

South Dakota Gov. Dennis Daugaard, a Republican, was elected governor in 2010 after serving eight years as lieutenant governor and six years as a state senator.

Submissions welcome

This page is designed to be a forum for legislators and constitutional officers. The opinions expressed on this page do not reflect those of The Council of State Governments or the Midwestern Legislative Conference. Responses to any FirstPerson article are welcome, as are pieces written on other topics. For more information, contact Tim Anderson at 630.925.1922 or tanderson@csg.org.

Prison populations and incarceration rates in Midwest, 2012			
State	Prison population	% change from 2011	Incarceration rate ¹
Illinois ²	48,427	N/A	376
Indiana	28,831	-0.3%	440
Iowa	8,733	-4.2%	282
Kansas	9,682	+3.8%	325
Michigan	43,636	+1.6%	441
Minnesota	9,938	+1.4%	184
Nebraska	4,705	+1.9%	247
North Dakota	1,512	+6.3%	213
Ohio	50,876	-0.2%	440
South Dakota	3,650	+3.3%	434
Wisconsin	22,600	-0.3%	357
U.S. total	1,571,013	-1.7%	480

¹ Number of prisoners per 100,000 residents of all ages
² Numbers for Illinois are from 2011; 2012 statistics unavailable
 Source: U.S. Bureau of Justice Statistics