

# Winnable criminal justice reforms

*A Prison Policy Initiative briefing on promising state reform issues for 2015*

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## Ending prison gerrymandering

**Problem:** The Census Bureau's practice of tabulating incarcerated people at correctional facility locations, rather than at their home addresses, leads state and local governments to draw skewed electoral districts that grant undue political clout to voters who live near large prisons and dilute the votes cast everywhere else.

**Solution:** States can pass legislation to count incarcerated people at home for redistricting purposes, as California, Delaware, Maryland, and New York have done. States can also follow the lead of Massachusetts by urging the Census Bureau to implement a national solution by tabulating incarcerated people at home.

**Model bill:** <http://www.prisonersofthecensus.org/models/example.html>

**More information:** Prison Gerrymandering Project website <http://www.prisonersofthecensus.org>

## Lowering the cost of a call home from prison or jail

**Problem:** The prison and jail telephone industry gives correctional facilities hefty kickbacks in exchange for exclusive contracts, charging the families of incarcerated people up to \$17 for a single 15-minute phone call.

**Solution:** The Federal Communications Commission has begun to regulate this industry, but states such as California, Nebraska, New Mexico, New York, Michigan, Missouri, Rhode Island, and South Carolina, as well as the District of Columbia, are taking action on their own.

**Example bill:** New York Corrections Law § 623 bans commissions and requires that contracts be based on the lowest possible cost to consumers. (Note: this New York law only applies to contracts with state prisons. The ideal solution would apply to both state prison and local jail contracts.)

**More information:** "Regulating the prison phone industry" <http://www.prisonpolicy.org/phones/>

## Repealing or reforming ineffective and harmful sentencing enhancement zones

**Problem:** Most states have laws that are intended to keep children safe by creating enhanced penalties for various drug crimes committed within a certain distance of schools. These laws sound like a common sense approach, but our research has shown that these laws do not work and exacerbate harmful racial disparities in the criminal justice system.

**Solution:** The most comprehensive solution is for states to repeal the enhancement zones, and instead rely on the already-existing laws that give additional penalties for involving children in drug activity. But barring repeal, there are several ways to modify the geographic scope of the law to more closely meet the legislature's goal of protecting children by deterring drug activity away from certain places, the simplest of which is reducing the size of the zones like Massachusetts and New Jersey recently did.

**More information:** "Sentencing enhancement zones' fail to protect children and worsen racial disparity in incarceration" <http://www.prisonpolicy.org/zones.html>

## Protecting letters from home in local jails

**Problem:** Sheriffs in at least 13 states — Arizona, California, Colorado, Florida, Georgia, Kentucky, Kansas, Michigan, Missouri, Oregon, Tennessee, Utah, and Washington — have been experimenting with a harmful policy in local jails: banning letters from home.

**Solution:** States can send a clear message about the importance of protecting family communication by passing a bill or administrative rule requiring correctional facilities to allow personal letter correspondence.

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**Example rule:** “Inmates shall be permitted to send as many letters of as many pages as they desire, to whomever they desire... [and] may receive correspondence in any quantity, amount, and number of pages.” (Texas Commission on Jail Standards, Inmate Correspondence Plan (Rule §291.2))

**More information:** *Return to Sender: Postcard-only Mail Policies in Jails* <http://www.prisonpolicy.org/postcards/report.html>

## Requiring racial impact statements for criminal justice bills

**Problem:** Some criminal justice bills unnecessarily and unintentionally exacerbate racial and ethnic disparities in arrest, sentencing, and incarceration rates.

**Solution:** Connecticut, Iowa, and Oregon have passed legislation to provide for racial impact statements that prospectively evaluate whether or not proposed criminal justice legislation is likely to have a racially or ethnically disparate impact.

**Example bills:** Iowa House File 2393 (2008), Connecticut Public Act 08-143 (2008), Oregon Senate Bill 463 B (2013).

**More information:** “Oregon passes legislation to rein in racial disparities in criminal law; which state will be next?” <http://www.prisonpolicy.org/blog/2013/07/09/or-sb463/>

## Repealing “Truth in Sentencing”

**Problem:** Many states increased prison capacity in the 1990s when the federal government created a short-lived financial incentive to enact so-called “Truth in Sentencing” laws that unnecessarily increased time spent in prison. Now that the federal subsidy is over, there are many financial benefits — and no financial downsides — to repealing these changes and bringing back the full range of administrative options to manage prison populations.

**Solution:** States can choose to repeal their dramatic “Truth In Sentencing” requirements that restrict management tools such as good time credits and parole. These changes would save taxpayer resources by downsizing prison populations.

## Creating a Safety Valve for Mandatory Minimum Sentences

**Problem:** Mandatory minimum sentences have fueled the country’s skyrocketing incarceration rates, harming individuals and undermining our communities and national well-being, without significant increases to public safety.

**Solution:** The best course is to repeal mandatory minimum laws so that judges can craft sentences to fit the unique circumstances of each crime and offender, but where that option is not possible – either because of political or legislative realities – states should adopt sentencing “safety valve” laws, which give judges the ability to deviate from the mandatory minimum under specified circumstances.

**More information, model bill language, and example bills:**

Families Against Mandatory Minimums (FAMM): “Turning Off the Spigot: How Sentencing Safety Valves Can Help States Protect Public Safety and Save Money” <http://famm.org/Repository/Files/Turning%20Off%20the%20Spigot%20web%20final.pdf> American Legislative Exchange Council (ALEC): “Justice Safety Valve Act” <http://famm.org/wp-content/uploads/2013/07/ALEC-Justice-Safety-Valve-Act-8-5-13.pdf>

## Reducing pretrial detention

**Problem:** Many people who face criminal charges are unnecessarily detained before trial. This wastes taxpayer dollars, leads to overcrowding, and in many cases prevents people from attending to personal, family, and professional responsibilities.

**Solutions:** States are addressing this problem with a variety of solutions, including bail reform, pretrial services, diversion and treatment programs, and legislation expanding pretrial release.

**More information:** Pretrial Justice Institute: <http://www.pretrial.org>, Pretrial Working Group:

<http://www.pretrialworkinggroup.org>, Massachusetts Women’s Justice Network: “Pretrial Detention and Access to Bail for Women” <http://www.wcwonline.org/pdf/ekates/PretrialDetentionAccessToBailForWomen.pdf>