

# West Virginia

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West Virginia's prison population growth rate—5.7 percent a year between 2000 and 2009—was the highest in the nation. After previous efforts to reduce the prison population proved unsuccessful, state leaders sought technical assistance (TA) through the Justice Reinvestment Initiative (JRI) to conduct a comprehensive analysis of the state's corrections system. JRI legislation, drawn from the working group's recommendations, bases supervision intensity and treatment on risk and needs assessment results; mandates reporting on program quality and evidence-based practices; establishes mandatory supervision for all felons; develops intermediate sanctions, reduces parole delays; improves substance abuse treatment programs; and requires all judicial districts to establish drug courts. These reforms are projected to save West Virginia \$200 million in averted construction costs and \$86.9 million over five years by slowing prison growth from 18 percent to 5 percent. The governor's FY 2014 budget invests \$3 million in substance abuse treatment for high-risk probationers and parolees and \$500,000 for training related to justice reinvestment goals.

## Impetus for Justice Reinvestment

From 2000 to 2009, West Virginia's prison population ballooned at a rate of 5.7 percent per year, giving the state the highest percentage growth rate in the nation over this period.<sup>1</sup> From 1990 to 2009, the inmate population more than tripled, growing from 1,575 to 6,250 prisoners.<sup>2</sup> The state, unable to house the growing number of prisoners, employed regional jails to handle the overflow. In 2011, regional jails held 25 percent of the inmates sentenced to the West Virginia Division of Corrections.<sup>3</sup> In tandem with the prison population boom, state corrections spending increased by more than 69 percent from 2000 to 2011.<sup>4</sup>

Although numerous studies examined West Virginia's prison overcrowding, efforts to reduce the prison population were unsuccessful, including recommendations from the Governor's Commission on Overcrowding in 2009. A new prison, estimated to cost \$200 million, appeared to be necessary if prison growth could not be contained. Faced with prison overcrowding and increased corrections spending, the governor, legislative leaders, the chief justice, and state policymakers submitted a request for justice reinvestment TA in May 2011.<sup>5</sup>

### HIGHLIGHTS

- West Virginia's prison population increased 5.7 percent a year between 2000 and 2009, the highest percentage growth rate in the nation.
- West Virginia's JRI legislation bases supervision intensity and treatment on assessment results, mandates reporting on program quality and evidence-based practices, establishes mandatory supervision for all felons, develops intermediate sanctions, reduces parole delays, improves substance abuse treatment programs, and requires all judicial districts to establish drug courts.
- JRI reforms are projected to save West Virginia \$200 million in averted construction costs and \$86.9 million over five years by slowing prison growth from 18 percent to 5 percent.
- The governor's FY 2014 budget invests \$3 million in substance abuse treatment and \$500,000 for training related to justice reinvestment goals.

## Establish Interbranch Bipartisan Working Group

West Virginia's TA provider, the Council of State Governments Center (CSG Justice Center) Justice, held the justice reinvestment kick-off meeting in June 2012 with the JRI working group. The group had 22 members, including leaders from the governor's office, both branches of the legislature, corrections, the parole board, the prosecutors' association, public defender's office, county associations, the Supreme Court of Appeals, and other stakeholder groups and government agencies, including the Bureau for Behavioral Health and Health Facilities. The governor's chief of staff was appointed to chair the group, reinforcing the state's commitment to JRI. The group met five times between June 2012 and January 2013, with the goal of devising a set of policy options by February 2013, the start of the West Virginia legislative session.<sup>6</sup>

## Engage Stakeholders

Lack of buy-in across the criminal justice system had stymied previous reform efforts, therefore the CSG Justice Center sought to engage with a cross-section of stakeholders, often through connections from working group members. The CSG Justice Center reached out beyond state and local government to conduct focus groups and meetings with prosecutors, defense attorneys, community leaders, victims and victim advocates, judges, probation and parole officers, parole board members, law enforcement executives, and others. Working group meetings were open to the public, which enabled stakeholders to stay informed and provide input to the JRI process.<sup>7</sup>

## Analyze Data and Identify Drivers

Three of the working group meetings, held between September and December 2012, concerned data analysis to identify prison population drivers and focus the working group discussions. Data analysis identified three key challenges to West Virginia's criminal justice system. The first challenge was substance abuse, which contributed to prison population growth in both new offenses and community supervision revocations. The second was supervision revocations, which had grown by 47 percent between 2005 and 2011 and were a significant driver of prison popula-

tion growth. The third challenge was that the number of offenders released from prison into the community without supervision had increased 33 percent from 2007 to 2011.<sup>8</sup>

## Develop Policy Options

Through data analysis and stakeholder feedback, a framework of policy options was developed to address prison population drivers. In January 2013, these strategies were presented to the working group at its final meeting. The policy framework offered a series of specific proposals to strengthen community supervision, improve accountability, and reduce substance use. These proposals included basing supervision intensity and treatment on risk and needs assessment results, mandating reporting on program quality and evidence-based practices, establishing mandatory supervision for all felons, developing intermediate sanctions, reducing parole delays, and improving and expanding substance abuse treatment programs in the community and in prison.<sup>9</sup> The working group unanimously approved this policy framework.

## Codify and Document Changes

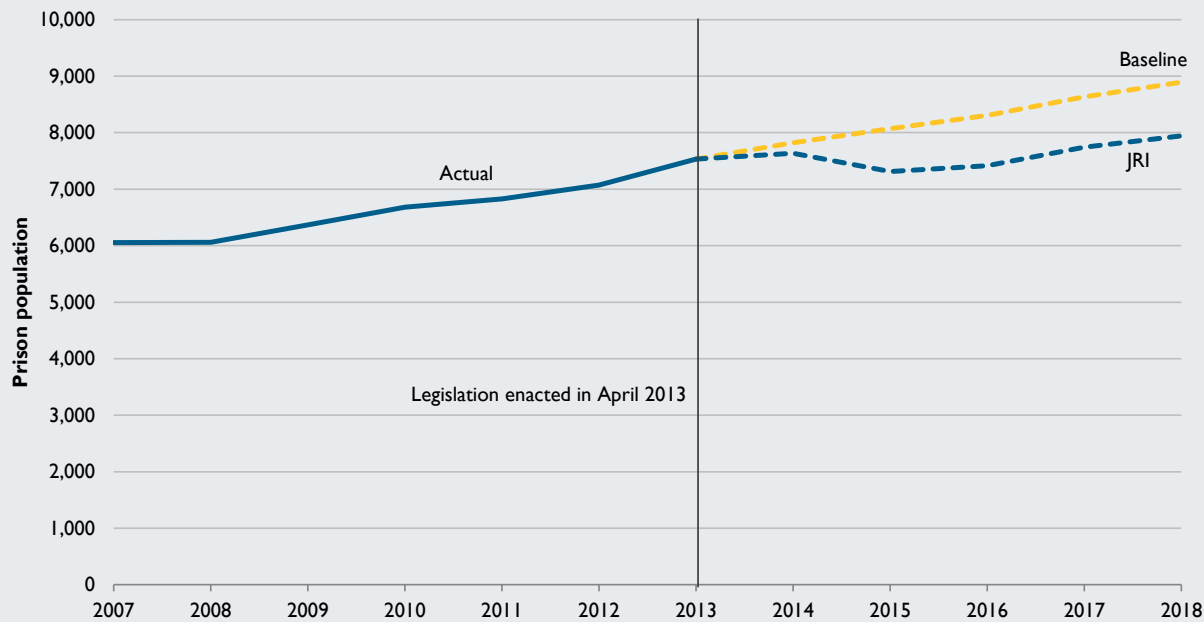
Senate Bill (SB) 371, passed by the West Virginia legislature in April 2013 and signed into law by Governor Tomblin in May 2013, codified the policy options recommended by the working group. SB 371 largely maintained the strategies outlined in the working group's policy framework, with the addition of requiring all judicial circuits to establish drug courts. Other policy changes supported by the justice reinvestment process had been put in place even before the passage of legislation. These included the parole board's ability to grant conditional parole upon completion of a home plan and required presentence risk and needs assessments for convicted felons.<sup>10</sup> SB 371 is projected to save West Virginia \$86.9 million between 2014 and 2018 by slowing prison growth from 18 percent to 5 percent (figure 1).<sup>11</sup> It is also projected to save \$200 million in averted construction costs.<sup>12</sup>

## Implement Policy Changes

Soon after the passage of SB 371, leaders from the executive, judicial, and legislative branches requested continued TA for implementation from the Bureau of Justice Assistance (BJA). The CSG Justice Center will continue working

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**FIGURE I**  
West Virginia Prison Population



Sources: JRI and baseline population projection are data from Council of State Governments Justice Center, email message, July 12, 2013. Actual population data are from Bureau of Justice Statistics' *Prisoner Series*.  
Note: Dotted lines represent projections.

with West Virginia to implement the provisions of SB 371, the bulk of which became effective on July 12, 2013.

In the initial months of implementation, TA has been focused on helping state officials create a foundation for effective implementation. Officials from the executive and judicial branches have been working with the CSG Justice Center to develop an interbranch implementation oversight structure to track the progress of SB 371 implementation. At the request of state officials, the CSG Justice Center has been providing learning opportunities to critical implementation groups (e.g., corrections staff, behavioral health providers, and the judiciary) on SB 371 and the fundamentals of evidenced-based practice. Finally, the CSG Justice Center has been working with state officials to develop priorities for seed funding, made available by BJA, to support one-time costs associated with the implementation of SB 371.<sup>13</sup>

## Reinvest Savings

Although SB 371 does not outline formal reinvestment plans, the JRI process highlighted the need for funding to address substance abuse treatment, which is outlined in the

policy framework. The governor's FY 2014 budget supports \$3 million in substance abuse treatment for high-risk probationers and parolees and \$500,000 for training related to justice reinvestment goals.<sup>14</sup>

## Measure Outcomes

West Virginia is poised to roll out a new database management system through the Department of Corrections that will enhance the state's capability to track and measure progress. The state will work with the CSG Justice Center to develop a set of metrics to measure outcomes of justice reinvestment.<sup>15</sup>

## Notes

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4. O'Leary, Sean, and Ted Boettner. 2012. *The Governor's FY 2013 Budget: Difficult Decisions Ahead*. Charleston: West Virginia Center on Budget & Policy.
5. Tomblin, Earl Ray. "Phase I Letter of Interest." May 9, 2012.
6. Grasso, Megan, Carl Reynolds, Ed Weckerly, and Jason Karpman. 2012. "Justice Reinvestment in West Virginia: Initial Working Group Meeting." Presentation to the West Virginia Working Group, Council of State Governments Justice Center, Charleston, West Virginia, June 19.
7. Ibid.
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9. Ibid.
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12. Council of State Governments Justice Center. 2013. *Justice Reinvestment in West Virginia: Analyses and Policy Options to Reduce Spending on Correction and Reinvest in Strategies to Increase Public Safety*. New York: Council of State Governments Justice Center.
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This project was supported by Grant No. 2010-RR-BX-K072, awarded by the Bureau of Justice Assistance (BJA). The BJA is a component of the Office of Justice Programs, which also includes the Bureau of Justice Statistics, the National Institute of Justice, the Office of Juvenile Justice and Delinquency Prevention, and the Office for Victims of Crime. The views expressed are those of the authors and do not necessarily represent the official position or policies of the US Department of Justice or the Urban Institute, its trustees, or its funders.