

*The Forum for America's Ideas*

# A NATIONAL PERSPECTIVE ON STATE POLICIES AFFECTING LOCAL JAILS

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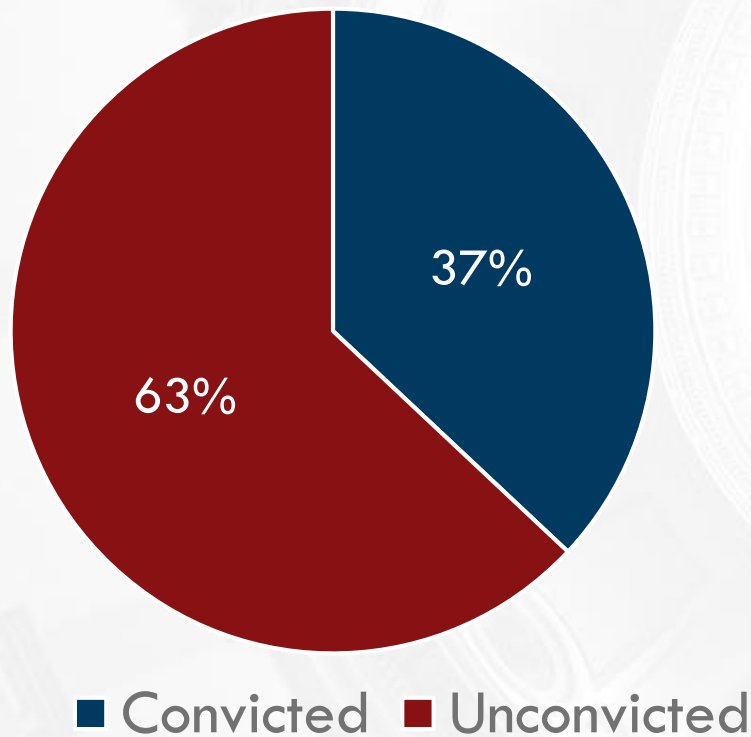
AUGUST 2017



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# WHO'S IN JAIL?

**2015 Jail Population:  
728,200 inmates**



Unconvicted Inmates  
Nearly 75 percent of people in jail are being held for nonviolent traffic, property, drug, or other public order offenses.

Sources: DOJ, BJS [Jail Inmates in 2015](#) & [Correctional Populations in the US, 2015](#); and [Vera Institute for Justice Report](#)



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# Mental Illness in Our Jails



*Serious mental illness affects men and women in jail at rates four to six times higher than in the general population.*

- It is estimated that about 2 million individuals with serious mental illness are admitted to local jails annually.

Sources: [Vera Institute for Justice](#); Steadman, H.J., Osher, F.C., Robbins, P.C., Case, B., & Samuels, S. (2009). Prevalence of serious mental illness among jail inmates. *Psychiatric Services*, 60, 761-765.



# Drug Abuse and Dependence in Our Jails

**Inmates and adult general population who met the criteria for drug dependence or abuse, 2007–2009**



Note: See Methodology for definition of dependence and abuse based on the *Diagnostic and Statistical Manual of Mental Disorders*, Fourth Edition. See appendix table 1 for standard errors.

\*Comparison group.

\*\*Difference with the comparison group is significant at the 95% confidence level.

<sup>a</sup>General population estimates have been standardized to the state prisoner population by sex, race, Hispanic origin, and age.

Source: Bureau of Justice Statistics, National Inmate Surveys, 2007 and 2008–09; and Substance Abuse and Mental Health Services Administration, National Survey on Drug Use and Health, 2007–2009.

- More than half of state prisoners meet the criteria for drug dependence or abuse.
- More than two-thirds of sentenced jail inmates meet the criteria for drug dependence or abuse.

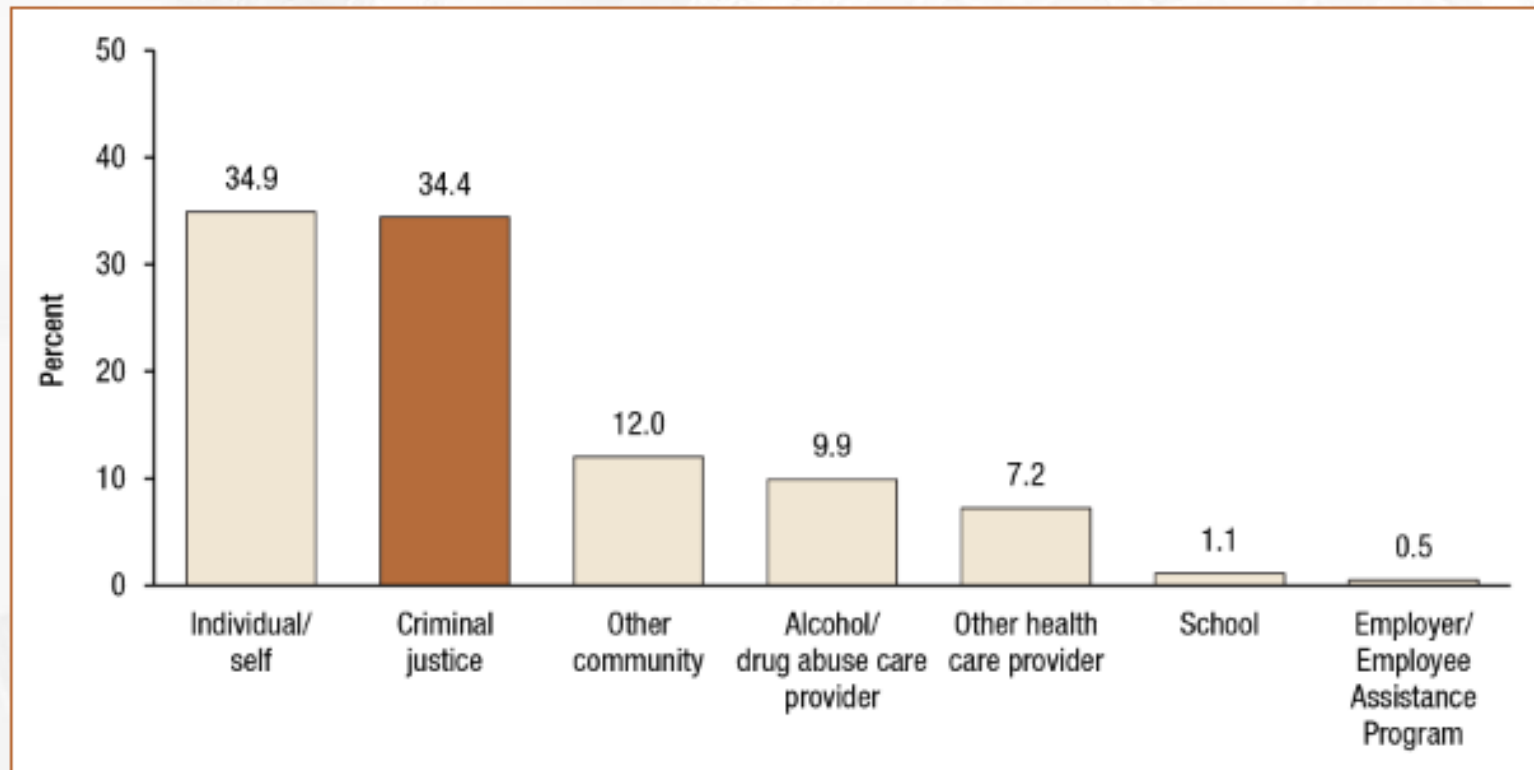
Sources: [BJS Report](#); [SAMHSA](#)



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According to Substance Abuse and Mental Health Services Administration (SAMHSA), the criminal justice system is the single largest source of referral to substance abuse treatment.



Source: SAMHSA Treatment Episode Data Set – Discharges (TEDS-D), 2011.

Sources: [SAMHSA Report](#)



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1. How do we prevent individuals who are inappropriate for jail from ending up there?
2. How do we address those who do end up in the justice system?



## Deflection

“Stopping a citizen from entering the criminal justice system who is at immediate risk of or is at likely future risk of entering the criminal justice system due to behavioral health challenges, and instead deflecting (moving) them into the community human services system.”

Sources: Jac Charlier, TASC



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# Recent Deflection Enactments:

- ❑ California SB 843 (2016)
  - ▣ LEAD pilot program and made a \$15 million appropriation.
- ❑ Kentucky SB 120 (2017)
  - ▣ Authorized Angel Initiative programs.
- ❑ New Jersey AB 3744 (2016)
  - ▣ Authorized law enforcement assisted addiction and recovery program.
- ❑ New Mexico HB 2 (2017)
  - ▣ Authorized funding for the study of LEAD in Santa Fe.



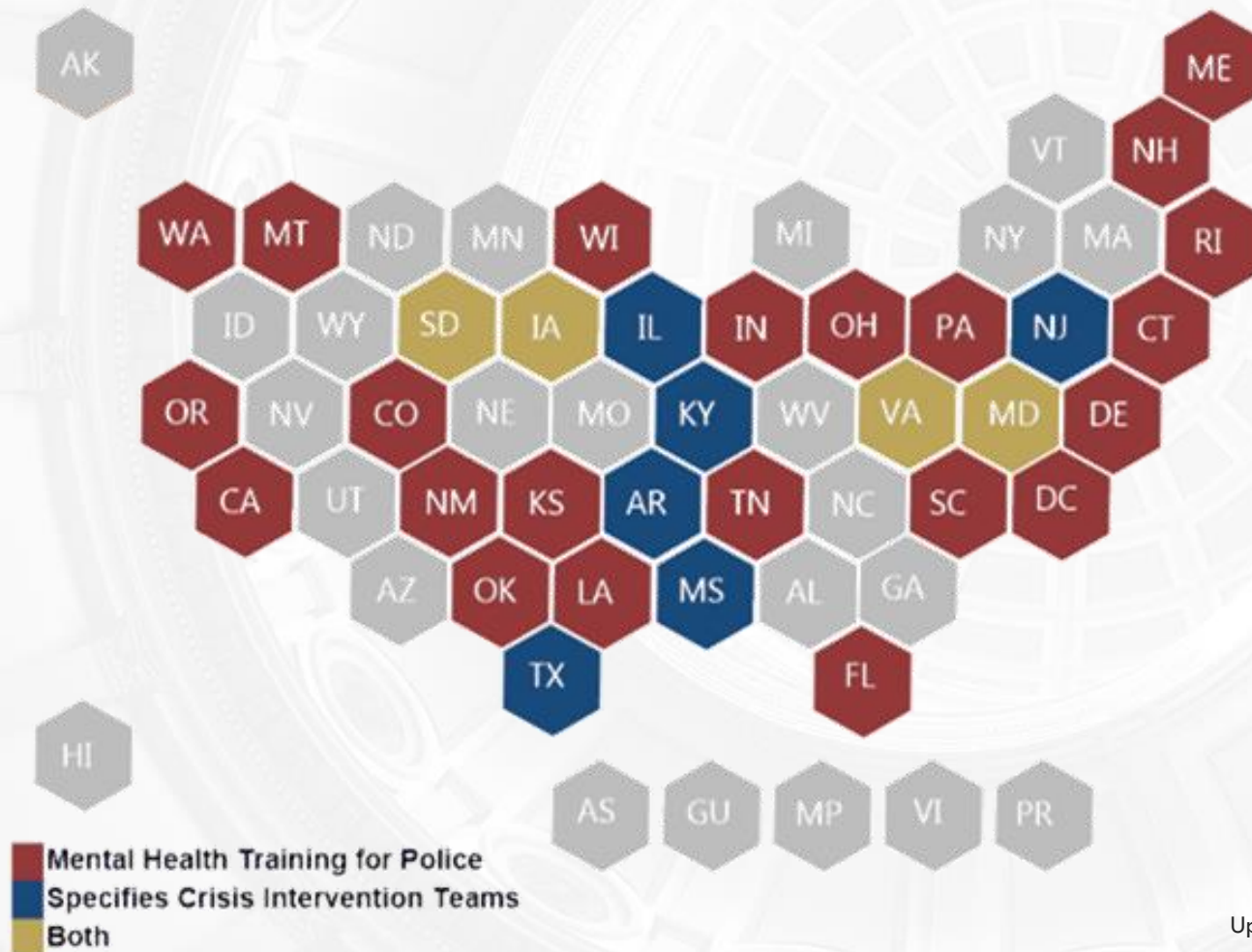


# Charleston County, South Carolina

- The Charleston County Criminal Justice Coordinating Council (CJCC) was awarded \$2.25 million from the Safety and Justice Challenge, an initiative of the John D. and Catherine T. MacArthur Foundation, to invest in a mix of strategies that will reduce the average daily jail population over the next three years. The CCJJ has:
  - Enhanced police practices;
  - Increased alternatives to jail for people dealing with mental illness, substance abuse issues, and homelessness pre- and post-booking;
  - Piloted automated court reminders;
  - Launched a risk-based pretrial management system to ensure the decision for pretrial release or detention is based on standardized assessments of risk.
  - Expedited indigence screening to improve access to counsel, and reduce time to disposition.



# Police Interactions With the Mentally Ill: State Laws

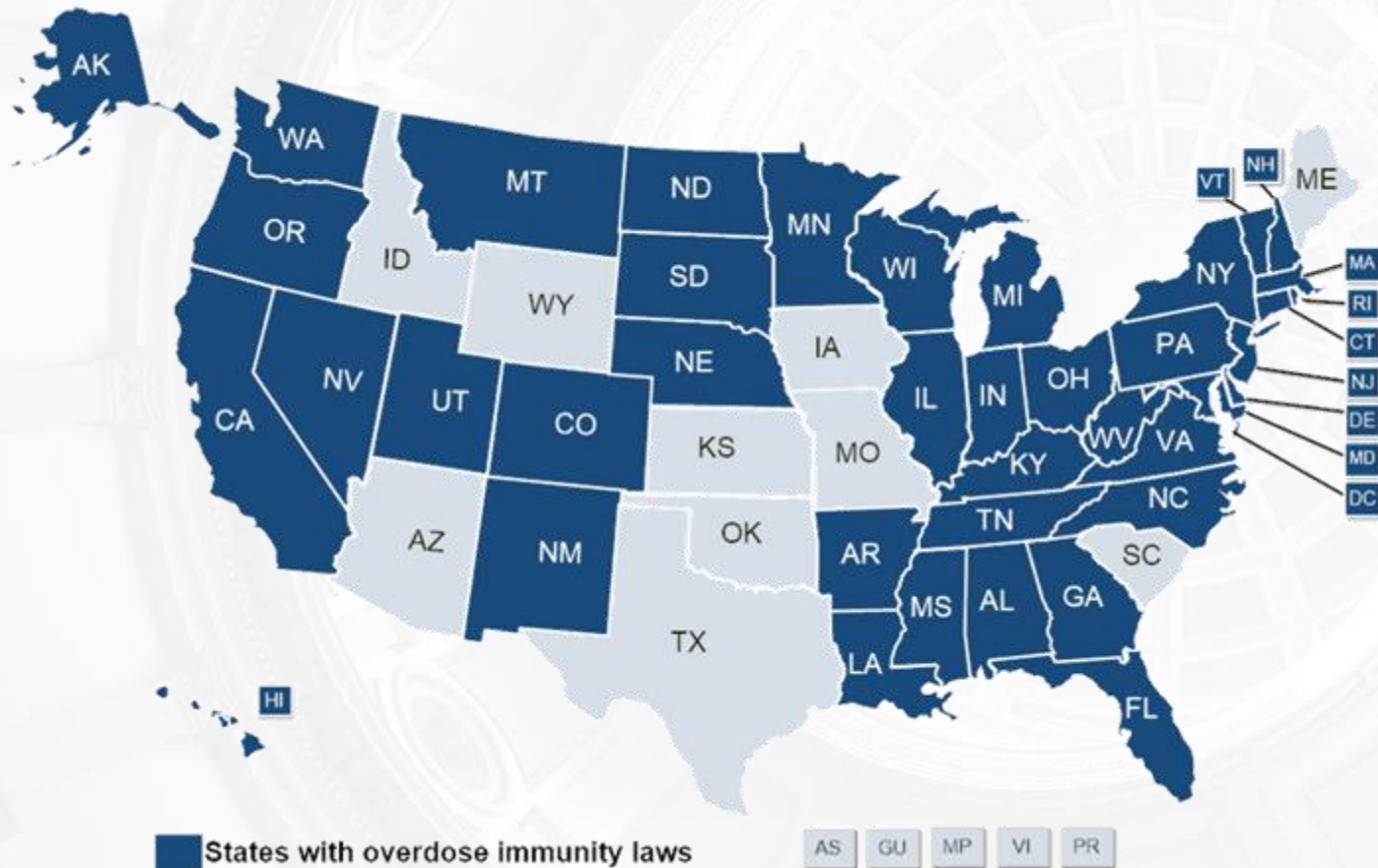


Updated December 2016



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# Good Samaritan/911 Overdose Immunity Laws



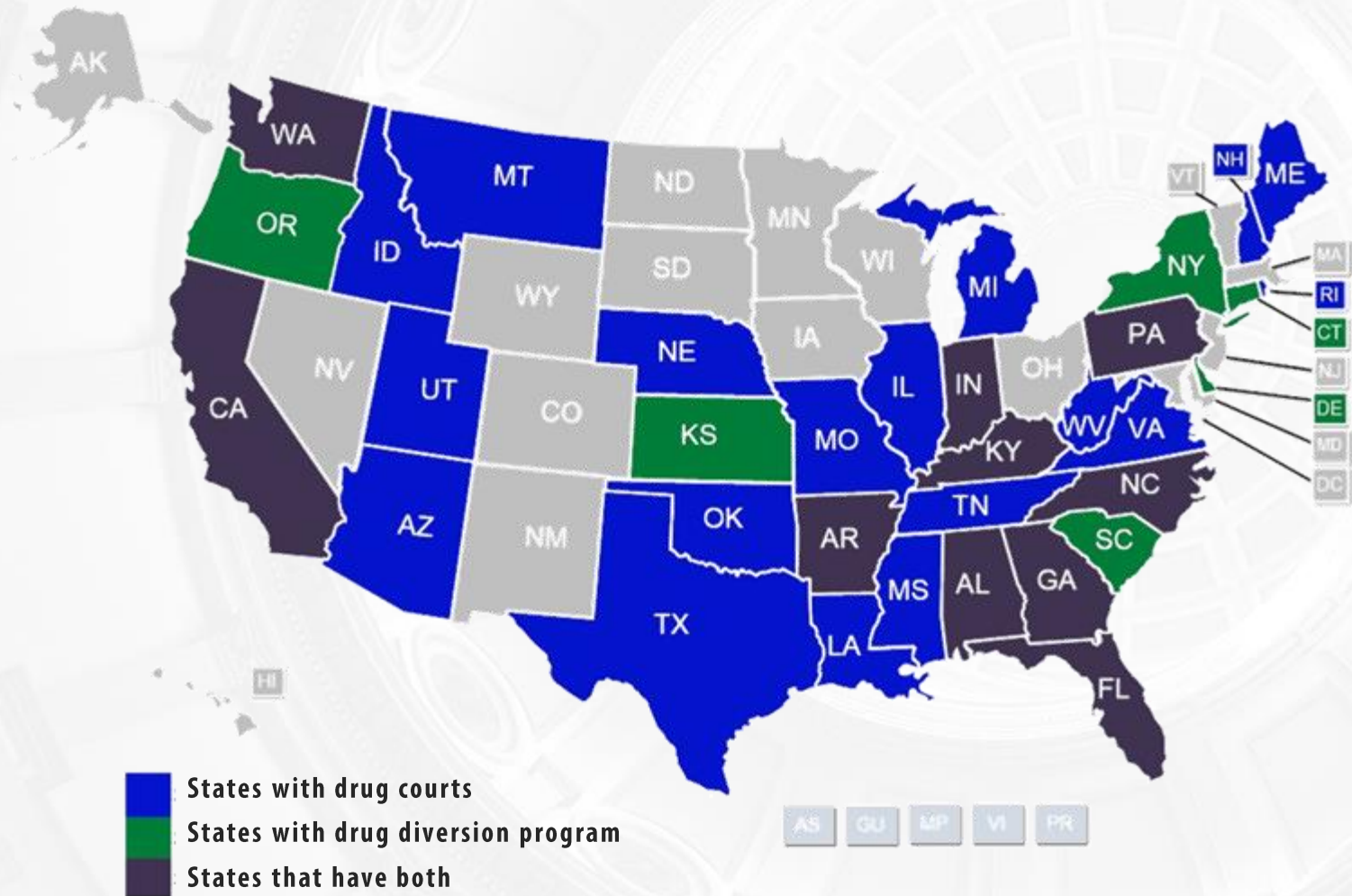
Updated June 2017



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# Pretrial Drug Courts and Diversion Programs



Updated February 2017



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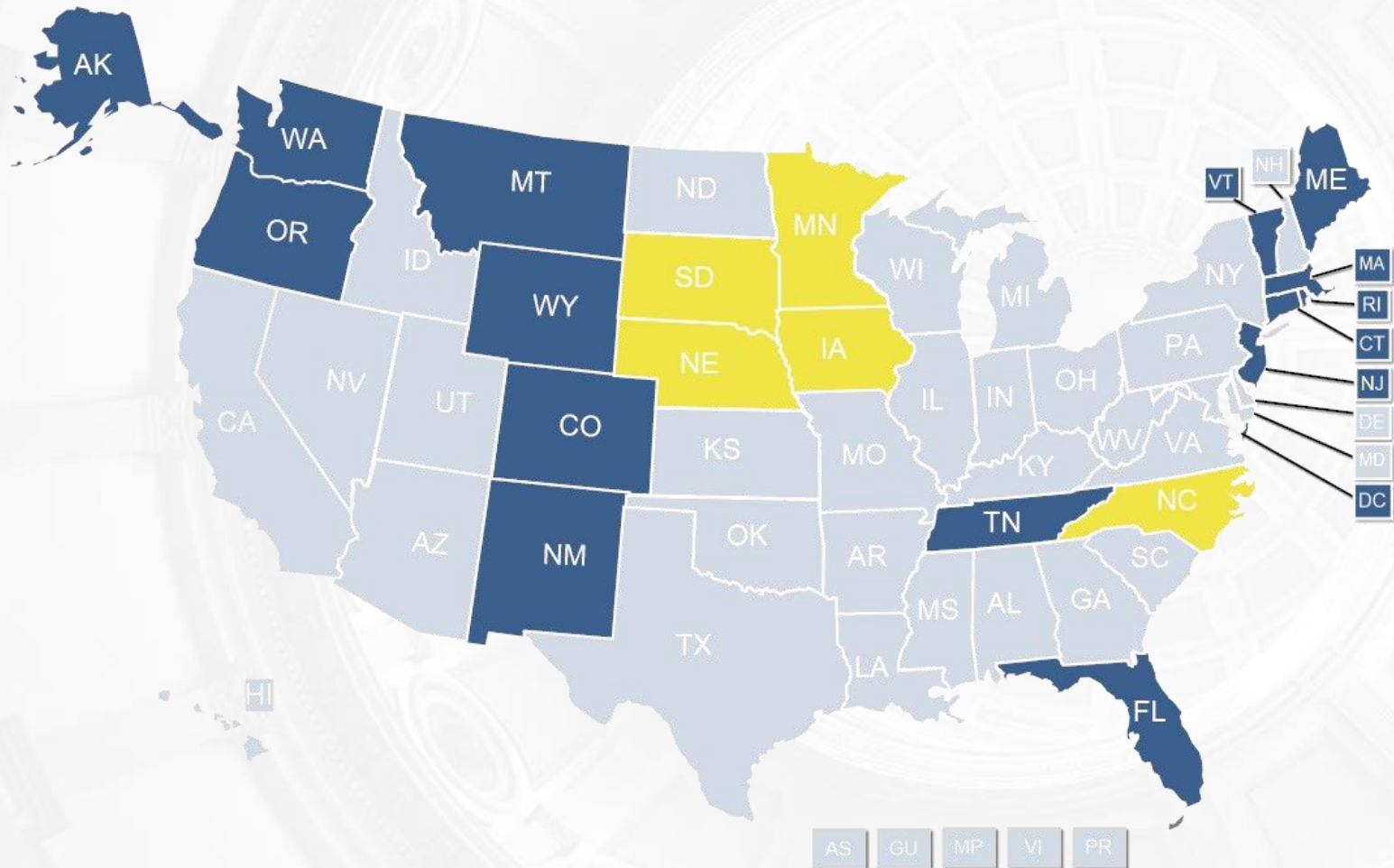
# Pretrial Release/Bail: Recent State Action

- ❑ Every state legislature has acted to change pretrial policy in some way in the last five years.
- ❑ More than 500 bills were enacted in that same timeframe.
- ❑ Legislative efforts to change pretrial policy have largely been bipartisan.





# Conditions of Pretrial Release



15 states & D.C. require the use of least restrictive conditions

5 states structure how conditions are imposed



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# Court Guidance: Release & Ability to Pay

## □ Legislation in 2017:

- Expanded the number of states with a presumption of the least restrictive conditions.
- Limited courts' ability to impose financial conditions.
- Required courts to consider a defendant's ability to pay financial conditions or pretrial supervision fees.
- Sped up review of conditions of release for those who aren't able to meet initial conditions.



# Court Guidance: Release & Ability to Pay

## ▣ Connecticut HB 7044

- Limits a court's ability to impose financial conditions.
- Shortens the period until bail review hearing and authorizes courts to remove financial conditions.

## ▣ Illinois SB 2034

- Pretrial access to counsel.
- Presumption of non-financial/least restrictive conditions.
- Court guidance on defendant's ability to pay.
- Review of conditions for defendants detained by financial conditions of release.

## ▣ Nebraska L 259

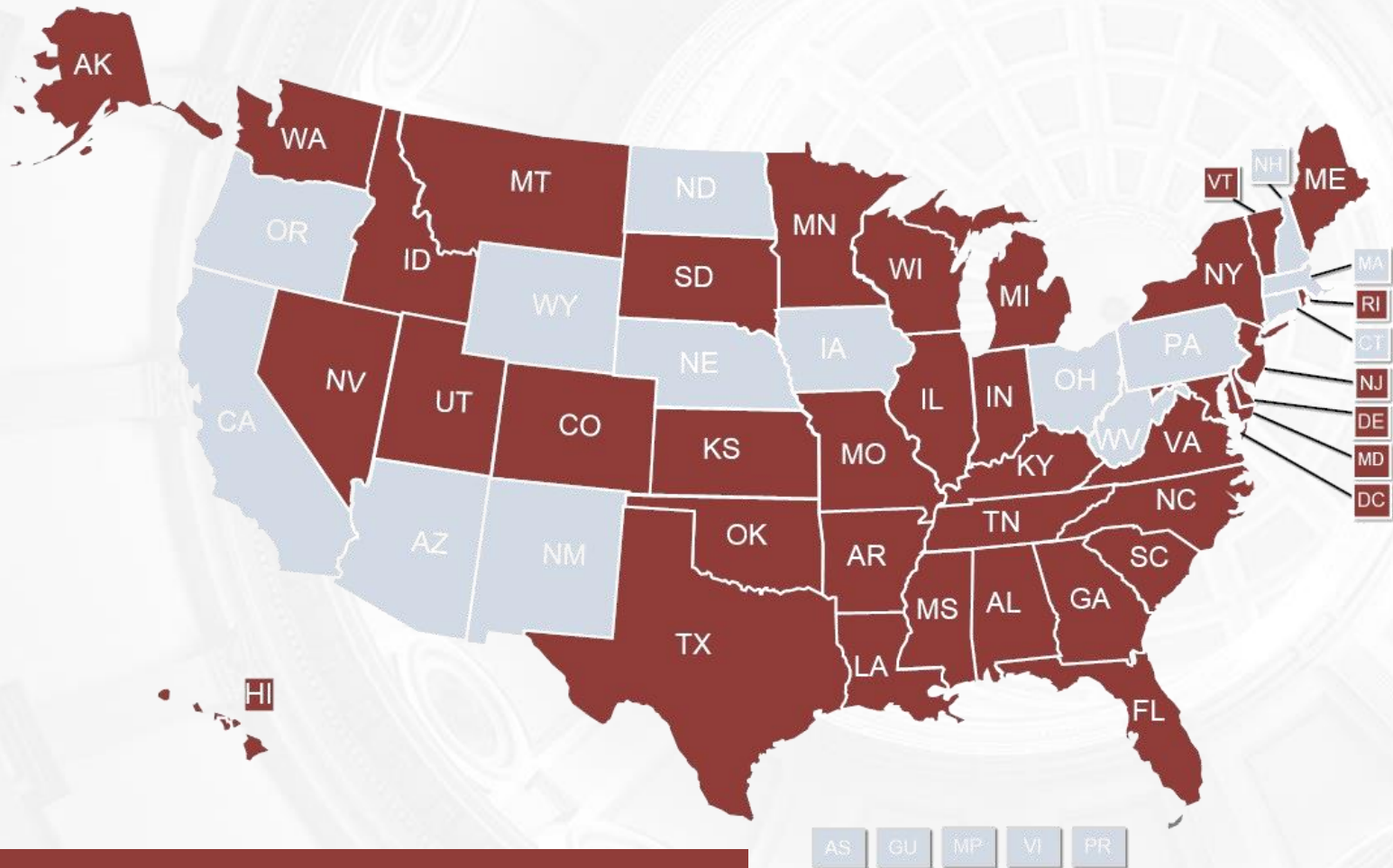
- Requires courts to consider all methods of bond and conditions to avoid incarceration.
- Requires courts to consider ability to pay if they determine that a PR bond is not appropriate.
- Requires court to impose the least onerous conditions necessary.
- Pretrial services/supervision changes.

## ▣ Texas SB 1913 (Addresses release by municipal and justice courts)

- Limits the use of warrants after FTA.
- Limits the use of bail bonds and encourages the use of PR bonds.
- Presumes inability to pay after 48 hours if the defendant does not post a bail bond and encourages use of a PR bond.



# Conditions of Pretrial Release



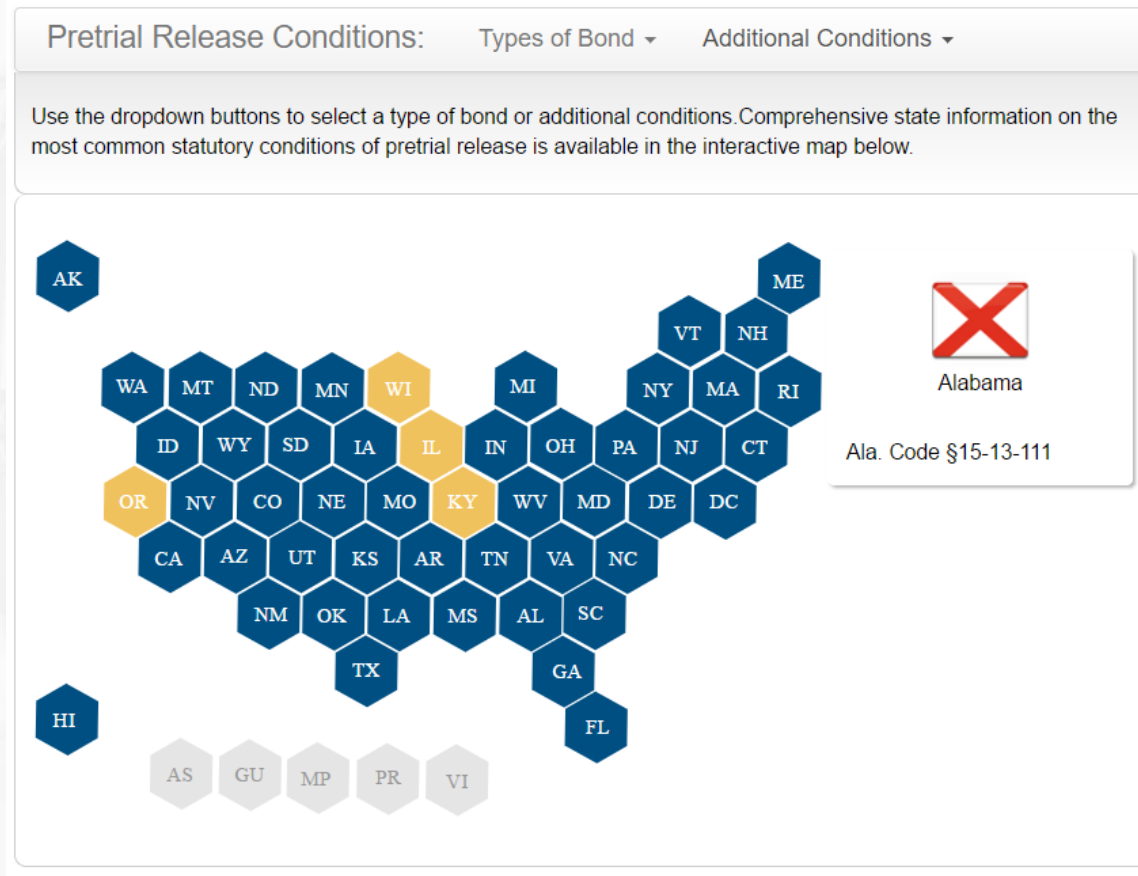
2012-2016: 36 states & D.C. enacted 101 laws



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# Conditions of Pretrial Release



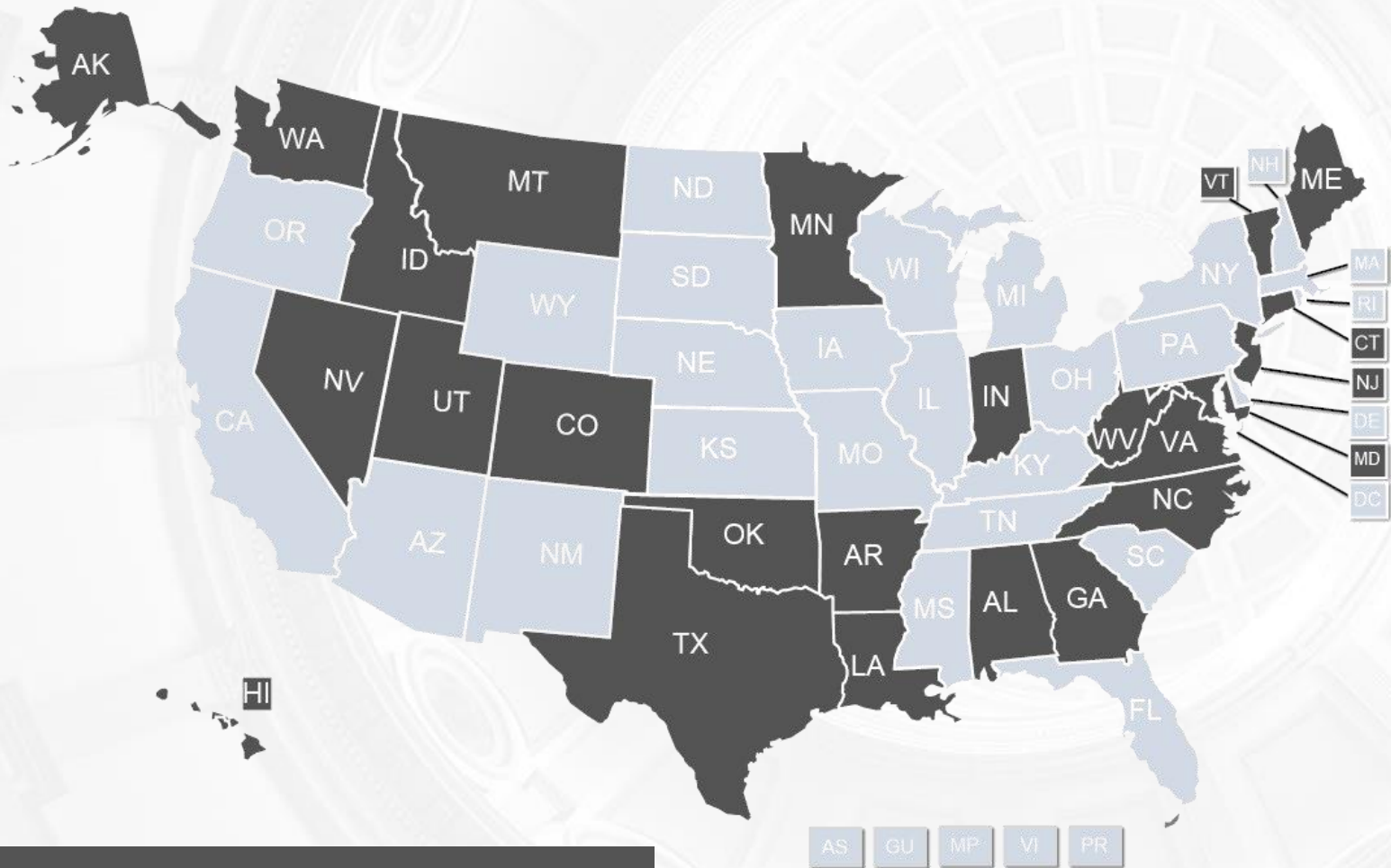
NCSL Conditions of Release Database



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# Pretrial Services

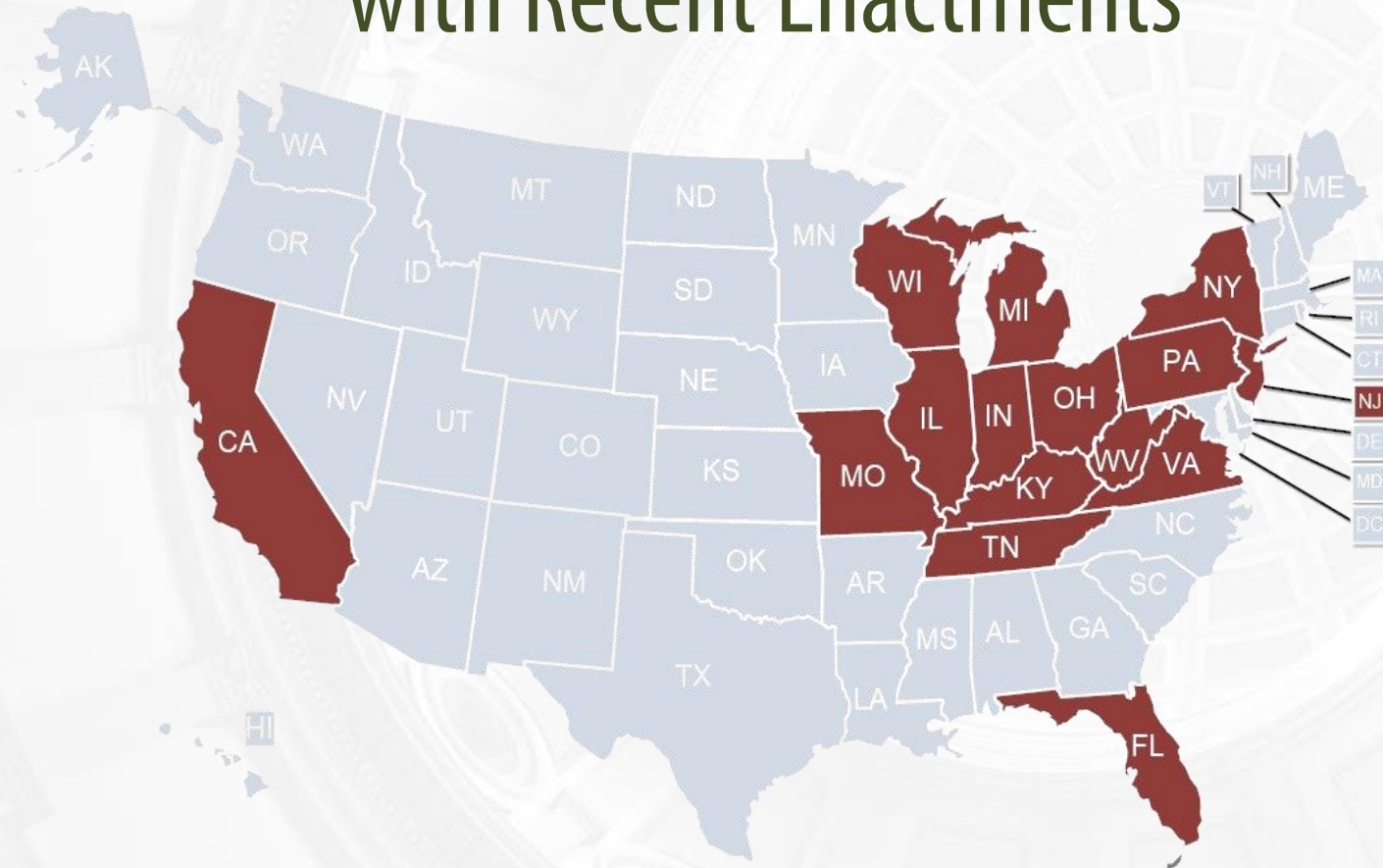


2012-2016: 24 states enacted 45 laws

## NCSL Brief on Pretrial Services

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# Medication Assisted Treatment (MAT): States with Recent Enactments



Updated August 2017



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# MAT Enactments Affecting Diversion Programs:

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In recent years, at least 12 states have enacted new laws addressing the use of medication assisted treatment in treatment courts and diversion programs.

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- Florida HB 5001 (2016)
- Illinois HB 5594 (2016)
- Indiana SB 464; HB 1304; HB 1448 (2015)
- Michigan HB 5294 (2016)
- Missouri HB 2012 (2016)
- New Jersey SB 2381 (2015)
- New York AB 6255 (2015)
- Ohio HB 59 (2013)
- Tennessee SB 2653 (2016)
- Virginia HB 30 (2016)
- Wisconsin AB 657 (2016)
- West Virginia HB 2880 (2015)



# MAT Enactments Affecting Incarcerated & Supervised Individuals:

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In recent years, at least 10 states have enacted new laws addressing the use of medication assisted treatment correctional facilities and by supervision agencies.

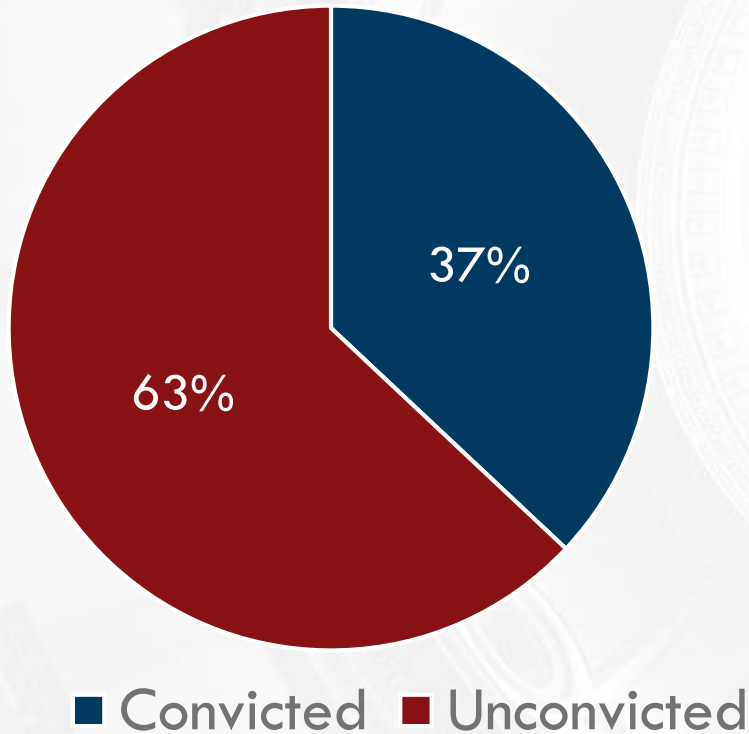
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- California SB 843 (2016)
- Florida HB 5001 (2016)
- Indiana SB 464; HB 1304; HB 1448 (2015)
- Kentucky SB 192 (2015)
- Michigan HB 5294 (2016)
- Missouri HB 10 (2015); HB 10 (2013)
- New Jersey SB 2381 (2015)
- Pennsylvania HB 1589 (2016); SB 524 (2015)
- Tennessee HB 1374 (2015)
- West Virginia HB 2880 (2015)



# WHO'S IN JAIL?

**2015 Jail Population:  
728,200 inmates**



## CONVICTED INMATES

- Serving sentence
- State DOC inmates & parolees
  - 81,200 inmates
  - 19,600 parolees
- Federal inmates / ICE
- Mentally ill – competency hearings & transfer

Sources: DOJ, BJS [Jail Inmates in 2015](#) & [Correctional Populations in the US, 2015](#); and [Vera Institute for Justice Report](#)



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# JAIL VS. PRISON

**JAIL:** infractions, misdemeanors or up to 365 days

**PRISON:** felonies or 365+ days

## CHANGE CRIMES & PENALTIES

### Theft Threshold

increase dollar amount = ↑ jail

### Drug Possession

felony to misdemeanor = ↑ jail

### Habitual DUI

misdemeanor to felony = ↓ jail

## REALIGN RESPONSIBILITY

□ North Carolina misdemeanors  
↑ jail

□ California “non-non-nons”  
↑ jail

□ Kentucky C & D felonies  
= jail



# STATE INMATES IN LOCAL JAILS, 2015

State inmates in local jails


State	Inmate Type
AK	State inmates in federal prisons
AL	State inmates in local jails
AR	State inmates in local jails
AZ	State inmates in local jails
CA	State inmates in federal prisons
CO	State inmates in local jails
CT	State inmates in federal prisons
DE	State inmates in federal prisons
FL	State inmates in local jails
GA	State inmates in local jails
HI	State inmates in federal prisons
ID	State inmates in local jails
IL	State inmates in state prisons
IN	State inmates in local jails
IA	State inmates in state prisons
KS	State inmates in local jails
KY	State inmates in local jails
LA	State inmates in local jails
MA	State inmates in local jails
MD	State inmates in local jails
ME	State inmates in local jails
MI	State inmates in local jails
MN	State inmates in local jails
MO	State inmates in state prisons
MS	State inmates in local jails
MT	State inmates in local jails
NC	State inmates in state prisons
ND	State inmates in local jails
NE	State inmates in local jails
NH	State inmates in local jails
NJ	State inmates in local jails
NM	State inmates in state prisons
NV	State inmates in local jails
NY	State inmates in state prisons
OH	State inmates in state prisons
OK	State inmates in local jails
OR	State inmates in local jails
PA	State inmates in local jails
RI	State inmates in federal prisons
SC	State inmates in local jails
SD	State inmates in state prisons
TN	State inmates in local jails
TX	State inmates in local jails
UT	State inmates in local jails
VA	State inmates in local jails
VT	State inmates in federal prisons
WA	State inmates in local jails
WI	State inmates in local jails
WV	State inmates in local jails
WY	State inmates in local jails

NCSL analysis of DOJ, BJS Prisoners in 2015



# PERFORMANCE INCENTIVE FUNDING

11 states have funding streams for counties that successfully supervise in the community rather than sending to prison

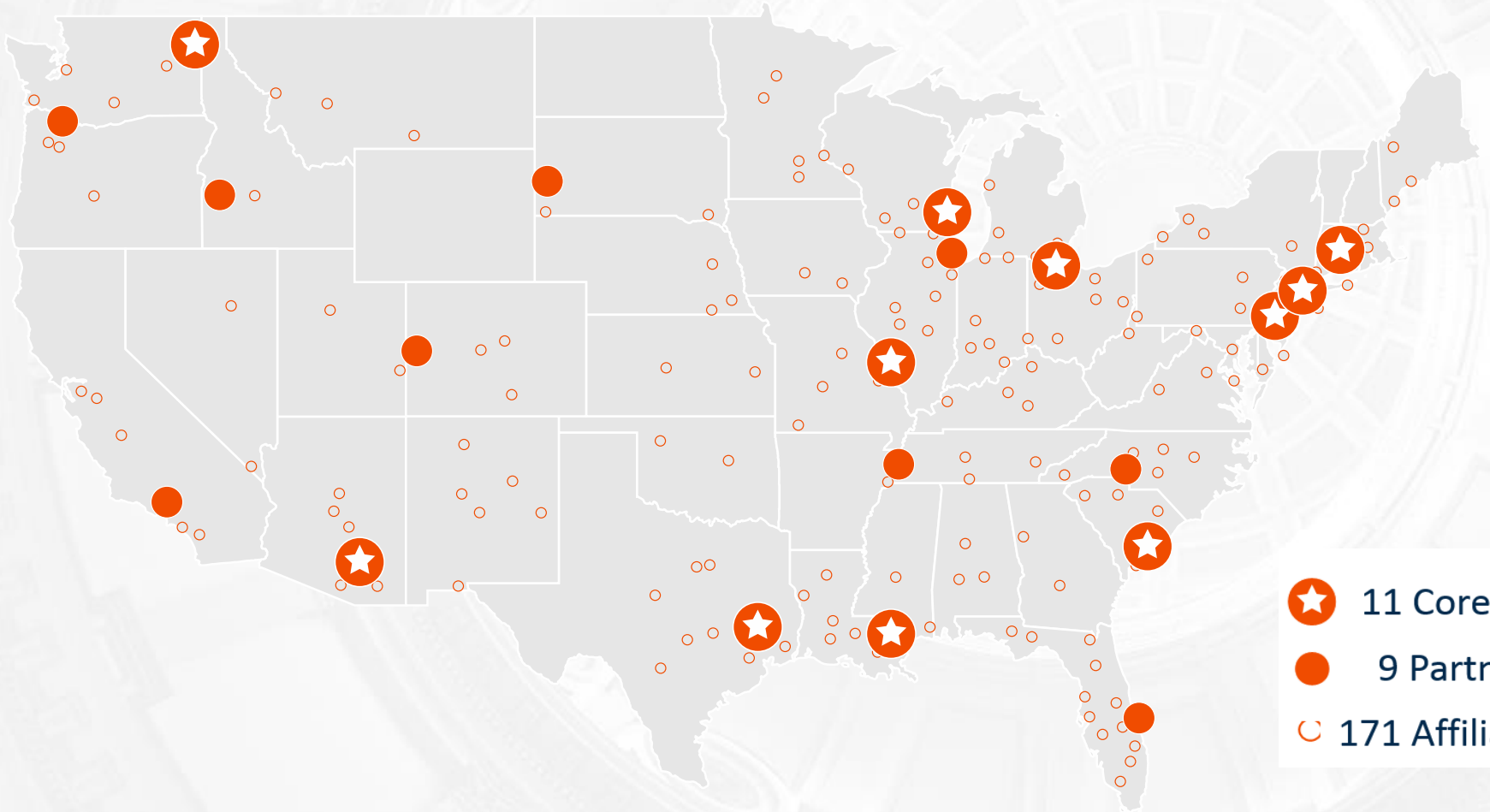
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11 states have funding streams for counties that successfully supervise in the community rather than sending to prison

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# SAFETY+JUSTICE CHALLENGE



- ★ 11 Core
- 9 Partner
- 171 Affiliate



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# Thank You!

# Questions?

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