

January 23, 2020

To: The West Virginia Legislature

Subject: Support Comprehensive Criminal Justice Reform in West Virginia

On behalf of our respective organizations representing tens of thousands of West Virginians from across the political spectrum, we urge you to support a comprehensive criminal justice reform package this session.

With our state's correctional facilities at more than 25% overcapacity, West Virginia is at a critical crossroads. Without significant reform, our state will need more jails and prisons, along with their significant taxpayer burdens, which will not tackle contributing factors to our prison population's 50% increase since 2000.

We believe that West Virginia should meet its overcrowding crisis head-on with a comprehensive criminal justice package that protects due process, ensures proportionate punishment, and better supports successful reentry, to reduce the number of individuals who are unnecessarily trapped in the justice system. West Virginia should draw upon successful reforms across the breadth of its justice system, drawn from around the country. These include:

- Establish forfeiture reporting. For too long, our civil asset forfeiture laws have harmed the due process and property rights of West Virginians. Current law incentivizes authorities to seize and permanently take property without convicting anyone of a crime. Property owners have to prove their innocence to recover their possessions, flipping our justice system on its head. What's more, law enforcement gets to keep the proceeds of their forfeitures, which motivates them to continue doing this. This practice demands oversight, yet our state makes no information on civil asset forfeiture publicly available. Lawmakers must demand thorough, public reporting on every forfeiture in West Virginia.
- Allow for presumptive parole for individuals convicted of non-violent offenses once they reach their parole eligibility date.
- Compel the utilization of the underused system of graduated sanctions already in code in response to technical violations of conditions of probation instead of sending someone straight back to prison.
- Transition to a pretrial system based on a defendant's risk, not his or her financial resources. Bail fees force too many West Virginians to stay in jail ahead of trial out of economic necessity, often causing them to lose their jobs and connections to family, while plunging into deeper crisis. We should modify current practices and instead focus on an individual's threat to public safety or flight risk, rather than their ability to pay.
- End the suspension of driver's licenses for overdue fines and fees and restoring these licenses. Debt-based suspensions are counterproductive, diverting law enforcement from protecting public safety. Such suspensions compel thousands of West Virginians to either break the law to get to work or face not earning what they need to provide for their loved ones and pay off their fines.
- Raise West Virginia's felony theft threshold, joining the more than 40 states that have done so since 2000.

- Allow for individuals to petition for expungement of charges dropped as the result of a plea arrangement.
- Expand the Fresh Start Act of 2019 so that more licensed professions will no longer exclude people from licensure simply for having a criminal record—unless it relates to the occupation at hand.

By taking a bold approach to its overcrowding crisis, West Virginia can ease taxpayer burdens, protect public safety, and improve lives as a national leader on criminal justice reform. Together, we can make it happen.

Sincerely,

Jason Huffman
West Virginia State Director
Americans for Prosperity



Joseph Cohen
Executive Director
ACLU of West Virginia



Amos Irwin
Program Director
Law Enforcement Action Partnership



Lida Shepherd
American Friends Service Committee



Lonnie Simmons, Board Chair
Ronni M. Sheets, Chief Public Defender
Office of the Kanawha County Public Defender

Brian O'Donnell, S.J.
Executive Director
Catholic Conference of West Virginia

Samuel A. Hickman, MSW, LCSW, ACSW
Executive Director
National Association of Social Workers, West Virginia Chapter



National Association of Social Workers

WEST VIRGINIA CHAPTER

Ted Boettner
Executive Director
West Virginia Center on Budget and Policy



Julie Archer
West Virginia Citizen Action Group



Jennifer Wagner
Co-Director
Mountain State Justice

Garrett Ballengee
Executive Director
The Cardinal Institute for West Virginia Policy

