



# Washington State Criminal Sentencing Task Force

December 2020 Report

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Prepared for:

The Washington State Governor and the Washington State Legislature

# THE WILLIAM D. RUCKELSHAUS CENTER

UNIVERSITY OF WASHINGTON

The William D. Ruckelshaus Center is a neutral resource for collaborative problem solving in the State of Washington and the Pacific Northwest, dedicated to assisting public, private, tribal, non-profit, and other community leaders in their efforts to build consensus and resolve conflicts around difficult public policy issues. It is a joint effort of Washington State University, hosted and administered by WSU Extension, and the University of Washington, hosted by the Daniel J. Evans School of Public Policy and Governance.

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## DISCLAIMER

The following report was prepared by the William D. Ruckelshaus Center (Center) on behalf of the Washington State Criminal Sentencing Task Force. The Center's mission is to help parties involved in complex public policy challenges in the State of Washington and Pacific Northwest tap university expertise to develop collaborative, durable, and effective solutions.

University leadership and the Center's Advisory Board support the preparation of this and other reports produced under the Center's auspices. However, the information and policy recommendations contained in this report are intended to reflect the statements, opinions, and decisions of the Task Force. This information and policy recommendations do not represent the views of the universities, Advisory Board members, or the Center's staff and faculty.

# THE WILLIAM D. RUCKELSHAUS CENTER

UNIVERSITY OF WASHINGTON

## Washington State Criminal Sentencing Task Force

### December 2020 Report

In 2019, The Legislature established the Washington State Criminal Sentencing Task Force and directed the William D. Ruckelshaus Center (Center) to facilitate its work to review state sentencing laws and provide recommendations for the purpose of:

- (a) Reducing sentencing implementation complexities and errors;
- (b) Improving the effectiveness of the sentencing system; and
- (c) Promoting and improving public safety.

The proviso requested the Task Force submit an initial report to the Governor and the appropriate committees of the Legislature by December 31, 2019 and a final report by December 31, 2020. The center's Facilitation Team provided both collaborative process design and meeting facilitation, guiding the Task Force in its work to develop the shared understanding necessary to build trust to reach consensus.

In 2019, the Task Force met monthly from September – December for full-day facilitated meetings and reached consensus on two policy recommendations, described in the 2019 Initial Report.

In 2020, the Task Force met monthly from January – August (except for March) and bi-monthly from September-December, and created working groups that met at least twice a month. From mid-October through early December the Task Force deliberated on potential recommendations, reaching consensus on 47 recommendations to improve the effectiveness of the criminal sentencing system, reduce complexities and errors, and promote and improve public safety. These recommendations described in this report represent a mix of agency policy and legislative statutory changes to address the three policy goals stated above.

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## Co-Chair Letter of Transmittal

December 21, 2020

Governor Jay Inslee

Lt. Governor Cyrus Habib  
President of the Senate

Representative Laurie Jinkins  
Speaker of the House

Senator Christine Rolfes  
Chair, Ways and Means

Senator Jamie Pedersen  
Chair, Law and Justice

Senator Jeannie Darneille  
Chair, Human Services, Reentry, Rehabilitation

Representative Timm Ormsby  
Chair, Appropriations Committee

Representative Christine Kilduff  
Chair, Civil Rights and Judiciary

Dear Governor Inslee, Senators, and Representatives,

We are pleased to submit this Report and Recommendations of the Washington State Criminal Sentencing Task Force. It has been our honor and privilege to serve as Task Force Co-Chairs since 2019, working alongside a highly dedicated and diverse group of people who have devoted countless hours of time and talent to improving Washington's sentencing system.

The following report contains 47 consensus recommendations to improve the effectiveness of the criminal sentencing system, to reduce complexities and errors, and to promote and improve public safety. These recommendations represent a mix of agency policy and legislative statutory changes to address these three policy goals. The Report also documents potential recommendations considered by the Task Force on which the group did not reach consensus. It includes a summary of the differing perspectives of Task Force members to provide information that might help in addressing these issues going forward.

In 2019, the Task Force reached consensus on two major policy recommendations, drafted into law and passed by the Legislature in 2020. These and the dozens of recommendations provided here will move the needle further toward ensuring that our sentencing system is evidence-based, aligned with current best practices, and advances public safety by both holding individuals accountable and providing them with the support and services needed for successful reentry.

While these recommendations will improve our sentencing system, much work remains to simplify the system and reduce disparities in adult felony sentencing. The Task Force established a workgroup of members possessing deep familiarity with the sentencing grid to conduct a "top to bottom" review of the grid with the depth of discussion and technical analysis needed to work through its myriad complexities.

The Task Force has agreed that proper consideration of changes to the sentencing grid requires a thorough and thoughtful assessment of the possible impacts of those changes. This will take more time than initially

# The Washington State Criminal Sentencing Task Force

allotted to the Task Force. Therefore, we request to extend the Task Force timeline through June 30, 2022. This will allow the Task Force, which has focused most of its dialogue on topics related to but separate from the grid, to build the level of understanding needed to make informed decisions on whether and, if so, how best to structure a new sentencing grid. It will also enable the Task Force to provide guidance to the Legislature in its 2022 session, when budget and analysis will prospectively enable large-scale improvements to the system.

On behalf of the Task Force, we also must convey the urgent need for investments into the sentencing system, even at this challenging budget time. As with the changes in 2020 to supervision compliance credit and from consecutive to concurrent supervision, many up-front expenditures on recommendations in this Report promise significant future savings.

We strongly urge the policy and law makers of Washington to make the investments required for the recommendations in this Report to get enacted.

Sincerely,

Co-Chair, Representative Roger Goodman  
Washington State House of Representatives  
Chair, House Public Safety Committee



Co-Chair, Lydia Flora Barlow  
Statewide Reentry Council Representative

Co-Chair, Jon Tunheim  
Washington Association of Prosecuting Attorneys



# Executive Summary

In 2019, the Legislature established the Washington State Criminal Sentencing Task Force (Task Force) to review state sentencing laws, including a consideration of the Sentencing Guidelines Commission's (SGC) 2019 report and develop recommendations for the purpose of:

- a) **Reducing sentencing implementation complexities and errors;**
- b) **Improving the effectiveness of the sentencing system; and**
- c) **Promoting and improving public safety.**

The proviso (Appendix A) requested the Task Force submit an initial report to the Governor and the appropriate committees of the Legislature by December 31, 2019 (Appendix B) and a final report by December 31, 2020. The William D. Ruckelshaus Center (Center) served as a third-party facilitator of the Task Force. The Center's Facilitation Team designed the process and facilitated meetings, guiding the Task Force in its work to develop the shared understanding necessary to build trust to reach consensus.

In 2019, the Task Force met monthly from September – December 2019 for full-day facilitated meetings and reached consensus on two policy recommendations, described in the 2019 Initial Report (Appendix B).

In 2020, the Task Force met monthly from January – August (except in March 2020) and bi-monthly from September-December. The Task Force created two working groups, one focusing on Sentencing Effectiveness and the other on Reentry and Reducing Recidivism and one subgroup, focusing on the State's Sentencing Grid. These working groups enabled members to work together between monthly meetings to identify, research, and analyze potential recommendations for the full Task Force to consider during 2020. Working Groups met at least twice a month and the Sentencing Grid Subgroup met weekly.

At each Task Force meeting from May through October, one of the working groups presented potential recommendations and the Task Force provided input to help the working group refine them and if needed, bring them back to the Task Force as a "second offer" at a subsequent meeting. These groups combined generated more than fifty potential recommendations, presenting each in draft form to the Task Force prior to consensus deliberations.

From mid-October through early December the Task Force deliberated on potential recommendations, reaching consensus on 47 recommendations to improve the effectiveness of the criminal sentencing system, reduce complexities and errors, and promote and improve public safety. These recommendations, described in this report, represent a mix of agency policy and legislative statutory changes to address these three policy goals. The Report also documents potential recommendations considered by the Task Force on which the group did not reach consensus, explaining differing perspectives and, where appropriate, potential constructive steps to address the underlying issue(s).

While these recommendations will improve Washington's adult felony sentencing system, the Task Force agrees that work remains to simplify the system and reduce racial, ethnic, socioeconomic, and geographic disparities in adult felony sentencing. As reflected in Recommendation #1, the Task Force recognizes that proper consideration of changes to the sentencing grid requires a thorough assessment of the possible impacts of those changes. This will take more time than initially allotted to the Task Force. Therefore, the Task Force has agreed to continue meeting and working together in 2021.

Provided here in the Executive Summary is a list of the Task Force's 2020 recommendations. ***It is important to note that while recommendations are numbered, this numbering does not represent an ordering by priority.*** The body of the report contains additional detail of how each recommendation meets one or more of the policy goals, including links to meeting summaries.

## Task Force Members and Alternates

### Current Members

**Lydia Flora Barlow, Task Force Co-Chair** – Statewide Reentry Council

**Representative Roger Goodman, Task Force Co-Chair** – Washington State House of Representatives

**Jon Tunheim, Task Force Co-Chair** – Washington Association of Prosecuting Attorneys

**Senator Manka Dhingra** – Washington State Senate

**Senator Mike Padden** – Washington State Senate

**Representative Brad Klippert** – Washington State House of Representatives

**Sonja Hallum** – Washington State Office of The Governor

**Secretary Stephen Sinclair** – Washington State Department of Corrections

**Judge Stanley Rumbaugh**, Washington State Sentencing Guidelines Commission

**Suzanne Cook** – Statewide Family Council

**Gregory Link** – Washington Association of Criminal Defense Attorneys and The Washington Defender Association

**Chief Gregory Cobb** – Washington Association of Sheriffs and Police Chiefs

**Councilmember Derek Young** – Washington State Association of Counties

**Judge Veronica Alicea-Galvan** – Washington State Minority and Justice Commission

**Chief James Schrimpsheer** – Washington State Fraternal Order of Police

**Tarra Simmons** – Representing the Interests of Incarcerated Persons

**Nick Allen** – Representing the Interests of Incarcerated Persons

**Martina Kartman** – Representing the Interests of Crime Victims

**Lew Cox** – Representing the Interests of Crime Victims

**Judge Josephine Wiggs-Martin** – Superior Court Judges' Association

**Clela Steelhammer** – Washington State Caseload Forecast Council

### Alternates

**Keri-Anne Jetzer**, Washington State Sentencing Guidelines Commission

**Mac Pevey** – Washington State Department of Corrections

**Christopher Poulos** – Statewide Reentry Council

**DeVitta Briscoe** – Representing the Interests of Crime Victims

**Russ Brown** – Washington Association of Prosecuting Attorneys

**Sarai Cook** – Representing the Interests of Incarcerated Persons

**Nick Straley** – Representing the Interests of Incarcerated Persons

**Melody Simle** – Statewide Family Council

**Kim Gordon** – Washington Association of Criminal Defense Attorneys and The Washington Defender Association

### Former Members

**Russ Hauge** – Washington State Sentencing Guidelines Commission

**Judge Roger Rogoff** – Superior Court Judges' Association

**Chief Rafael Padilla** – Washington Association of Sheriffs and Police Chiefs

## 2020 CONSENSUS RECOMMENDATIONS

### Sentencing Grid Research for Data Driven Decision Making in 2021

#### RECOMMENDATION 1

The Washington State Institute for Public Policy (WSIPP) and the Washington State Caseload Forecast Council (CFC) will gather detailed information on Washington's current sentencing grid using historical data and then assessing the possible impacts of changing components of the grid using the same set of historical data. Comparisons will be made between the current grid and two potential grid options put forth by the Task Force. The information on the current grid and hypothetical scenarios can help identify which options best meet the desired outcomes and may also help identify where additional changes are necessary to meet desired outcomes.

### Diversion and Alternatives to Incarceration

#### RECOMMENDATION 2

Provide incentives for counties to increase the use of alternatives to incarceration (potentially by establishing a statewide Justice Reinvestment Account via Treasury, for which funds saved can be allocated to counties for proven approaches), modelling such programs on proven offerings ([WSIPP Inventory of Evidence-Based, Research-Based, and Promising Programs for Adult Corrections](#)) and considering "upstream" (pre-court) options such as education/assistance initiatives, probation, and other community-based responses.

#### RECOMMENDATION 3

Assess and consider removing Sentencing Reform Act (SRA) barriers to alternatives to incarceration, such as barriers to therapeutic courts—recognizing the need for accountability for severe harm. See [RCW 2.30.030](#) for current eligibility requirements.

#### RECOMMENDATION 4

Require an equity analysis of the impacts of proposed changes to the criminal justice system to assess the potential to exacerbate racial, socio-economic, or geographic disparities before such changes are adopted.

#### RECOMMENDATION 5

Adopt treatment-oriented public health options to address problematic drug use, including expansion of therapeutic interventions to respond to offenses associated with drug use—recognizing the need for accountability for severe harm.

#### RECOMMENDATION 6

Identify and implement public health options for addressing conduct that endangers public safety to which mental health or cognitive conditions or brain injuries are a factor. An important step toward realizing this goal would be to establish a mental health sentencing alternative.

### RECOMMENDATION 7

Create meaningful opportunities for pre- and post-arrest diversion, resentencing, and record sealing for individuals who committed crimes due to coercion by an abuser, and against or at the behest of an abuser.

- Allow prosecuting attorneys and judges to reduce prison sentences and redirect sentencing from incarceration to community-based programs, which has proven far more effective in rehabilitating survivors;
- Permit currently incarcerated survivors to apply for resentencing and earlier release due to their prior victimization; and
- Create process for record sealing.

## Review and Consolidation of Statutes and Systems

### RECOMMENDATION 8 (Partial Consensus)

Request the Sentencing Guidelines Commission (SGC) to develop a proposal to move all statutes associated with felony criminal penalties from [Chapter 69.50 RCW](#) to [Chapter 9.94A RCW](#). At a minimum, this proposal should also include:

- A review of drug sentences and recommendations to reduce reliance on punitive sanctions and restructure outcomes to prioritize a therapeutic model for associated drug offenses.

### RECOMMENDATION 9

Request the SGC to develop a proposal to consolidate all statutes associated with felony criminal penalties into [Chapter 9.94A RCW](#).

### RECOMMENDATION 10

Encourage court systems that coordinate or are compatible to adopt a unified filing system.

## Pre-Sentence Investigations

### RECOMMENDATION 11

Pre-Sentence Investigations:

- Modify statute to increase the occasions when a Pre-Sentence Investigation (PSI) can be requested by Superior Court judges.
- More information earlier in the process allows for better tracking and would help judges sentence appropriately.
- Relocate the duty to complete PSIs from DOC to a state-funded unit within the Superior Court. The Courts should work with all PSI stakeholders to reduce differences among forms and make the form inclusive to the needs of all stakeholders.
- Increase cultural competency of persons conducting PSIs to reduce disproportionality, reduce subjective language, and collect as much relevant information as possible from persons of different cultures.
- Remove the sentencing recommendation portion from the PSI form.
- Review approaches and tools in PSI risk assessment and recommend ways to make risk assessment information uniform, accurate, and consistent, and address potential bias and/or disparities and predictability.

## Enhancements and Sentence Reforms

### RECOMMENDATION 12

Eliminate the protected zone enhancement ([RCW 9.94A.533\(6\)](#) and [RCW 69.50.435](#)).

### RECOMMENDATION 13

Firearm and Deadly Weapon Enhancements:

- Eliminate mandatory stacking of firearm and deadly weapon enhancements going forward (prospective only). Specifically, provide that multiple firearm or deadly weapon enhancements imposed for offenses (occurring after the effective date of the act) are to be served concurrently, unless the court orders the enhancements to be served consecutively, using judicial discretion.
- Eliminate the requirement for firearm and deadly weapon enhancements to be served in total confinement (prospective and retroactive), thereby subjecting that portion of a sentence to the general restrictions and requirements on confinement options.
- Eliminate the restriction on the application of earned early release time for firearm and deadly weapon enhancements (prospective and retroactive). This will allow the Department of Corrections to implement the retroactive application of these changes for those currently incarcerated over a six-month period.
- Allow incarcerated individuals and prosecutors to petition for “de-stacking” where inordinately long sentences were given, requiring Legislative funding for the involved parties to deal with resentencing.

### RECOMMENDATION 14

Eliminate the street gang enhancement ([RCW 9.94A.533\(10\)\(a\)](#)).

### RECOMMENDATION 15

Move subsequent crime of “failure to register as a sex offender” to a non-sex offense.

## Earned Release Time

### RECOMMENDATION 16

Make all enhancements eligible for earned release time and partial confinement.

### RECOMMENDATION 17

The Legislature should review earned early release time and consider increasing the percentage for certain crimes and doing so in a way that provides greater simplicity and consistency in earned early release calculations.

## Community Supervision

### RECOMMENDATION 18

Develop and implement a formal motivational and coaching focused supervision model, which includes trauma informed care and core correctional practices and allows for a more responsive and individualized case management approach to facilitate successful transitions and reentry to the community. This supervision model should consider staffing needs, caseload, and program/service delivery, including how community corrections officers dress during routine home and work checks. Because addressing liability concerns will be an important element of any new supervision model, parties directly affected should address this issue and keep the Task Force updated on their work.

### RECOMMENDATION 19

Conduct routine home and work visits in a manner conducive to successful reentry.

### RECOMMENDATION 20

Provide early access to reentry services for all individuals prior to being released from confinement associated with felony convictions.

### RECOMMENDATION 21

Supervision (including eligibility, duration, and sequencing and intensity of requirements/programs) should be based on an individual's Risk Needs Responsivity (RNR) and research and evidence-based practices and not solely on their conviction(s).

### RECOMMENDATION 22

Simplify tolling of supervision terms to provide clarity and transparency regarding end dates for supervision and access to reentry services. Terms of supervision shall be tolled for:

- Any period of time when an individual has absented themselves from supervision without the prior approval of the entity in whose custody the individual has been placed and during any period for which a Bench Warrant has been issued as specified by the court or a Secretary's Warrant has been issued;
- While an individual is serving confinement time as part of the original sentence; and
- Any period of time in confinement for a subsequent felony conviction (including pre-sentence confinement as confirmed by the detaining facility).

## Roles for Victims and Survivors in Release and Reentry

### RECOMMENDATION 23

Create new, or enhance existing, notification processes to ensure timely, accessible, clear, transparent, and meaningful notifications for all named victims when someone is released to the community or transferred to work release, either via local authorities or Department of Corrections.

### RECOMMENDATION 24

Expand opportunities and accessibility to culturally relevant, community-based supports outside of Crime Victims' Compensation (CVC) program for victims and their families. Programs and resources could include therapy, case management, moving costs if needed, flexible financial assistance, assistance with creating safety plans, emotional support maps, and wellness resources.

### RECOMMENDATION 25

Expand the opportunity for victims to be informed at the time of sentencing about the existence of the Facilitated Dialogue process and their right to request such a meeting if that would aid in their healing. Allow community-based organizations to facilitate dialogue processes when a person is incarcerated in a local jail, on work release, on community supervision or living in the community. Expansion of dialogues would require that:

1. The court of conviction is encouraged to modify no contact orders to allow for a one-time facilitated meeting and/or the delivery of a letter which, if the person is under DOC supervision or total confinement, has been processed through the DOC Accountability Letter Bank and notifies DOC automatically to temporarily lift prohibited contact order for the discrete purpose of restorative justice dialogue at a survivor's request; The name and credentials of the individual(s) facilitating the dialogue will be specified in the motion.
2. A request to modify a no contact order or condition on a Judgment and Sentence should only be made by a victim or a victim advocate after consultation with a victim. A victim should never be approached on behalf of the person who offended against them. All Victim/Offender Dialogue processes should only be initiated at the request of the victim.
3. Provide resources and facilitation training/capacity building for community-based organizations to facilitate these processes through coordination with the Department of Corrections or local jurisdictions. Develop a system of oversight to assure that facilitators are adequately trained in domestic violence and familial sexual assault dynamics, victim sensitivity and specific Victim/Offender Dialogue Facilitation.

### RECOMMENDATION 26

Increase clarity and purpose for victim testimony during sentencing and release decisions: Communicate clear expectations for victim testimony and impact statements and how that information will be considered. This means:

- For notification in the case of release or potential release, named victims should be notified of opportunities to communicate their needs related to reentry conditions and receive clear information on how their testimony will be used.

### RECOMMENDATION 27

Create pathway for domestic violence survivors who do not have an attorney to apply for a domestic violence protection order (DVPO) while in confinement in preparation for their release.

## Rehabilitative Services and Programs

### RECOMMENDATION 28

Support DOC programs and policy changes that increase opportunities and accessibility for family engagement, when appropriate, during reentry planning.

### RECOMMENDATION 29

Amend [RCW 72.09.270\(8\)\(a\)](#) related to County of Origin (defined in RCW 72.09.270(8)(c): the individual's county of origin means the county of the person's first felony conviction in Washington) to allow: In circumstances where there will not be adverse impacts to victims or survivors, increase DOC's ability to consider factors that will increase opportunities for successful reentry and long-term support (e.g., proximity to programs, resources, family and pro-social relationships, housing, employment, etc.) when determining release locations. It will be important to ensure no county gets disproportionately impacted.

### RECOMMENDATION 30

Support policy changes and establishment of criteria that allow individuals to maintain engagement with faith leaders, mentors, and/or volunteers following release.

### RECOMMENDATION 31

Continue to provide resources for the Statewide Reentry Council and the Departments of Commerce and Corrections to partner with community organizations that provide reentry services, mentorship, and credible messaging to individuals prior to, during, and following release. Prioritize support to organizations that employ people with lived experience and approaches shown to produce good outcomes.

### RECOMMENDATION 32

Increase the delivery of and access to (both while individuals are incarcerated and on supervision) vocational/educational programming that has been proven effective at promoting successful reentry and connecting individuals with employment opportunities upon release. Specifically:

- Support the development of a program delivery action plan among Department of Corrections, Reentry Council, Department of Commerce, and other entities delivering vocational/ educational programming such as the Washington Student Achievement Council (WSAC) and Statewide Board of Community and Technical Colleges (SBCTC) providing education for current and formerly incarcerated persons.
- Increase funding to support the capacity and infrastructure needed to increase accessibility for vocational training and education within DOC facilities and jails.
- Provide the necessary funding to increase the delivery and access to advanced trade/job skills training programs such as the Trades-Related Apprenticeship Coaching (TRAC) and higher education.
- Support connections to employment opportunities.

### RECOMMENDATION 33

Support current and ongoing efforts to develop incentives for businesses and organizations that hire formerly incarcerated individuals, including but not limited to those who complete vocational/ educational programming while incarcerated.

### RECOMMENDATION 34

Provide resources in an equitable manner to DOC and community-based organizations to continue and expand comprehensive and individualized reentry planning. This includes:

- Planning for incarceration period and reentry;
- Treatment for substance addictions and/or mental health services, if applicable;
- Appropriate sequencing of programs and training;
- Funding to support the ability of community organizations to help facilitate successful reentry programs. For example, the Depts. of Corrections and Commerce and the Reentry Council are currently administering grants to community organizations such as DADS, Tacoma Urban League, House of Mercy, Freedom Project, and Revive Reentry. These grants provide for the basic needs of people exiting, or who have recently exited correctional facilities, including but not limited to: housing, transportation, cell phone, groceries; and
- Opportunities for engagement with family and community-based organizations (if appropriate).

### RECOMMENDATION 35

Support efforts to address housing concerns for individuals impacted by the criminal justice system. This includes:

- Legislative efforts to address landlord practices that exclude individuals with any arrest record or conviction record from rental housing.
- Current and ongoing efforts (among DOC, Reentry Council, Dept. of Commerce) to increase access to safe, affordable, and quality housing options for individuals upon reentry.
- Developing incentives for reentry housing providers and landlords.
- Providing housing assistance and continuing support of DOC's temporary housing program.
- Increasing opportunities for vacant buildings, units, or public land to be developed into reentry housing.
- Establishing performance-based criteria for contracts with reentry housing providers.

### RECOMMENDATION 36

DOC should reevaluate policy through a process that accords equal weight and measurement to rehabilitation goals as it does to security goals.

### RECOMMENDATION 37

Require DOC to establish (or revise existing) clear and enforceable code of conduct for officer behavior that emphasizes respectful, equitable, and fair treatment of all individuals under DOC jurisdiction.

### RECOMMENDATION 38

Support DOC efforts to develop and implement formal processes to prioritize rehabilitation, including:

- Staff training that prioritizes supporting successful rehabilitation and reentry.
- Each facility working with relevant organizations to provide input in decision-making around incarcerated students' learning and/or access to programming.
- A formal review process to review requests and decisions that impact incarcerated students and/or the organizations that support programming.

### RECOMMENDATION 39

Support DOC efforts to provide sufficient preparation and incentive for custody staff to support and prepare individuals for release and greater eligibility requirements for DOC Correctional Officers (COs), Sergeants, Lieutenants etc., seeking to become Counselors and/or Correctional Program Managers.

## Legal Financial Obligations Relief

### RECOMMENDATION 40

Address interest on restitution:

- Change current law to give judges the discretion to waive or suspend interest on restitution, rather than it being mandatory, based on a finding of current or likely future ability to pay.
- Where imposed, allow accrual of interest to begin following release from the term of total confinement.
- Lower the current 12% interest rate.

### RECOMMENDATION 41

Automatically waive existing non-restitution interest.

### RECOMMENDATION 42

Authorize courts to relieve, either in part or full, restitution payments owed to entities by individuals who a court determines lack the means to make payments now or in the realistic future.

### RECOMMENDATION 43

Expand eligibility of individuals able to seek relief from LFOs to include persons who are incarcerated. Incarcerated individuals requesting relief would still be subject to the same criteria as those in the community (i.e., the court has discretion to determine whether individuals or family members are experiencing hardship). Additionally, the court could consider pausing the accumulation of interest during period of incarceration.

### RECOMMENDATION 44

Create statutory authority for courts to review and adjust or waive fines.

### RECOMMENDATION 45

Consider developing and implementing guidance for local jurisdictions to follow governing the transfer of LFOs to collection agencies.

### RECOMMENDATION 46 (Partial Consensus)

Victim Penalty Assessment:

- Upon motion by the defendant, the court be given the discretion to reduce or waive the VPA upon a finding by the court that the defendant lacks the present and future ability to pay.
- The court be given the discretion to eliminate stacking of multiple VPAs (*multiple VPAs imposed at same time*) based on a finding that the defendant lacks the present and future ability to pay.

DNA Collection Fee and Criminal Filing Fee:

- Upon motion by the defendant, the court should be given the discretion to waive all but one previously imposed DNA collection fee.
- Upon motion by the defendant, the court should be given the discretion to waive any criminal filing fee(s) imposed at sentencing upon a finding by the court that the defendant is indigent and lacks the ability to pay.

### RECOMMENDATION 47

Address the courts statute of limitations to enforce collection of LFOs.

- Reduce available time for which the court has jurisdiction to collect LFOs.
- Jurisdiction will be retained where restitution is owed and there is a willful failure to pay.