



# MINNESOTA CORRECTIONS ASSOCIATION LEGISLATIVE AGENDA 2020

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## MCA'S MISSION

The mission of the Minnesota Corrections Association is to promote the professional development of individuals working in all aspects of the corrections field and to promote ethical and just correctional practices.

### Overview

The Minnesota Corrections Association (MCA) was established in 1933 and today represents approximately 800 professionals working in probation, supervised release, jails, correctional facilities, residential and non-residential programs from county, state, federal and private agencies. MCA is the oldest and largest corrections association in the state of Minnesota and is an affiliate of numerous national criminal justice organizations.

Public Safety is paramount in our mission. Corrections professionals throughout Minnesota provide for the safe and secure incarceration of offenders as well as the supervision of offenders in the community as directed by the courts. The high quality of services provided by these dedicated professionals is clearly evidenced through incarceration and recidivism rates that are among the lowest in the nation. The legislature's emphasis on assuring public safety will continue to strengthen Minnesota's position as a leader in sound correctional policies and practices.

## MCA'S PHILOSOPHICAL BELIEF

It is the responsibility of the field of Corrections to provide services, which will promote the rehabilitation of offenders and provide safety for the public, keeping in mind the principles of Restorative Justice.

Thus, corrections practitioners subscribe generally to the following beliefs:

### **SOCIETY HAS THE RIGHT TO BE PROTECTED FROM PERSONS WHO CAUSE ITS MEMBERS HARM, REGARDLESS OF THE REASONS FOR SUCH HARM.**

It is the right of every citizen to be free from fear of harm to person or property. Belief in the necessity of law to an orderly society demands commitment to support it. All fields of corrections accept this responsibility and view themselves as an instrument for both control and treatment appropriate to all offenders.

### **VICTIMS OF CRIME HAVE RIGHTS DESERVING OF PROTECTION.**

Corrections recognizes that prosecution of the offender is but part of the responsibility of the criminal justice system. The victim of criminal activity may suffer from the loss of property, emotional problems, or physical disability. Corrections thus commit itself to advocacy of the needs and interests of crime victims.

### **OFFENDERS HAVE RIGHTS DESERVING OF PROTECTIONS.**

Freedom and democracy require fair, individualized, and humane due process of law in adjudicating, sentencing, supervising and treating the offender.

### **HUMAN BEINGS ARE CAPABLE OF CHANGE.**

Belief in the individual's capability for behavioral change leads corrections practitioners to a commitment to rehabilitation. This is based on the principle that each offender is responsible for his/her own behavior. Corrections practice focuses on identifying and making available those services and programs that will best

afford offenders an opportunity to become responsible, law abiding citizens.

**NOT ALL OFFENDERS HAVE THE SAME CAPACITY OR WILLINGNESS TO BENEFIT FROM MEASURES DESIGNED TO PRODUCE LAW ABIDING CITIZENS.**

The risk to the community posed by an offender should be assessed on an individual basis and rehabilitative treatment should be individualized.

**INTERVENTION IN AN OFFENDER'S LIFE SHOULD BE THE LEAST RESTRICTIVE AMOUNT NECESSARY TO PROTECT SOCIETY AND PROMOTE LAW ABIDING BEHAVIOR.**

Corrections subscribes to the principle of intervening in the offenders life only to the extent necessitated by public safety. Where intervention can best be provided by an agency outside the system, the offender should be diverted from the system to that agency.

**PUNISHMENT FOR THE SAKE OF PUNISHMENT SHOULD BE AVOIDED.**

Corrections philosophy does not accept the concept of retributive punishment as its sole goal. Even corrective punishment, however, should be used cautiously and judiciously in view of its highly unpredictable impact. It is recognized that a conditional sentence in the community is, in and of itself, a punishment. It is less harsh and drastic than a prison term, but more controlling and punitive than release without supervision.

**INCARCERATION CAN BE DESTRUCTIVE AND SHOULD BE IMPOSED ONLY WHEN NECESSARY.**

Corrections practitioners acknowledge society's right to protect itself. Incarceration can be an appropriate element of a probation/parole program to emphasize the consequences of criminal behavior and thus effect constructive behavioral change. However, institutions should be humane and required to adhere to the highest standards.

**CORRECTIONS IS COMMITTED TO ATTRACTING THE MOST CAPABLE INDIVIDUALS AVAILABLE TO CARRY OUT ITS MISSION.**

Those who carry out the mission of corrections should be committed to justice and fairness. They should be sensitive to the differences they see in others and themselves. They should be heterogeneous in their racial, cultural and ethnic backgrounds.

**WHERE PUBLIC SAFETY IS NOT COMPROMISED, SOCIETY AND MOST OFFENDERS ARE BEST SERVED THROUGH COMMUNITY BASED PROGRAMS.**

Most offenders should be provided services with the community in which they are expected to demonstrate acceptable behavior. Community based programs generally are cost effective and they allow offenders to remain with their families while paying taxes and, where applicable, restitution to victims. Examples of community-based programs include: probation, parole/supervised release, residential programs, day programs, diversion programs, and local detention facilities.

# **MENTAL HEALTH AND SUBSTANCE ABUSE TREATMENT NEEDS**

Criminalization of mentally disordered behavior is an ongoing issue not adequately addressed as noted in a 2014 joint report and state survey from the Treatment Advocacy Center and the National Sheriffs' Association. The findings and recommendations provide good directions for Minnesota to address these issues. It is not a simple fix and involves both ways to divert cases from the criminal justice system and address the real treatment and handling needs while within institutions and under the supervision of field staff. A comprehensive approach that addresses these needs is included in their recommendations. These needs include:

1. Provision of appropriate treatment while in prison or jail.
2. Implementation and promotion of diversion programs.
3. Promote the use of assisted outpatient treatment (AOT)
4. Encourage comprehensive and true cost studies.
5. Careful intake screening.
6. Mandated comprehensive mental health release planning from both prison and jail.
7. Clear delineation of the authority for medication over the objection of inmates.

While the report specifically identifies the issue of *serious mental illness*, substance abuse falls within the same and related areas of concern. Relying on corrections to deal with these issues on their own fails to realize the costs associated with diverting from key public safety duties to mental health concerns.

## **OFFENDER RE-ENTRY**

### **POLICY**

Effective offender re-entry should be one of the top priorities of this and future legislatures. Proper execution of a proven mix of services can increase public safety and economic security, lower health care costs, and enhance community well-being. Failure to address offender re-entry will effectively exacerbate problems in all of these areas exponentially. Successful re-entry requires services from disciplines that often cross the artificial boundaries of State departments and requires a commingling of resources to be effective. For most returning offenders, a chance for successful reintegration, requires access not only to accountability and monitoring functions associated with Corrections; but also to the physical and behavioral health services normally associated with the Department of Human Services; to affordable, non-discriminatory, and supportive housing normally associated with the Minnesota Housing Finance Agency; to living wage jobs, normally associated with the Department of Labor; with all of these areas addressed with an emphasis on familial and community reunification and engagement.

### **BACKGROUND**

- In the past 25 years the Minnesota prison population has grown from under 2,000 inmates to over 10,000 though currently it is below 10,000 again (July 1, 2019). We are now at a point where we release more than 7,500 people per year from state prison alone, not factoring in those who reenter from county jails
- The collateral consequences of a criminal conviction have never been more onerous. We have legislatively created barriers to housing, certain types of employment, student loans, economic assistance and adoption for those with criminal convictions. Furthermore, we as a society have advanced to where background checks are done on virtually everyone who applies for a job, an apartment or a loan, with no oversight on the companies doing the background checks.
- Local incarceration “pay to stay” policies not based on the clients’ ability to pay has an adverse impact on re-entry.
- Services most needed by returning offenders; employment advocacy, behavioral health, housing, family services; require the offender to navigate multiple systems and funding requirements, often resulting in needs not being met, or the offender merely giving up.
- Communities have enacted sweeping, geographical residency and zoning restrictions against those required to register for previous predatory offenses that restrict or eliminate access to support systems, transitional housing and rehabilitative services. The loss of these systems and services negatively affects public safety and increases the risk of re-offense by creating a situation wherein the registrant becomes isolated. Furthermore, these restrictions have not been shown to reduce recidivism or serve any related public safety purpose.
- A person who cannot get a living wage job, cannot get a decent place to live, cannot support his or her family, and who is not afraid of being incarcerated because s/he has been there, is a public safety risk.

## RECOMMENDED STRATEGY ITEMS

- Create a sustainable funding subsidy for **transitional housing** (see transitional housing)
- Expand the **rehabilitation protections** offered under Minnesota Statutes Chapter 364 to non-public entities.
- Create a “**Certificate of Rehabilitation**” and a process for obtaining it and then make those who hold it a protected class under civil rights regulations. Limit liability for those landlords who knowingly rent to ex-offenders.
- Support a **tax-break incentive** for employers and landlords who serve ex-offenders.
- Create oversight for those companies that do **criminal background checks** with remedies for those victimized by erroneous or outdated information.
- Eliminate **access to arrest data**, where the arrest does not result in conviction, for all but law enforcement and corrections.
- Examine and modify the **collateral consequences** that have been legislatively created so that they comply with the intent of Chapter 364.
- Continue support of **restoration of voting rights** for offenders no longer incarcerated in jail or prison.
- Fund enough supervising agents to bring **caseload sizes** down to manageable levels. Revised drug sentencing and mental health diversions should also lead to greater funding for reentry services, local probation and treatment programming.

- In felony cases, **probation terms** should be limited to double the presumptive grid time prescribed by the sentencing guidelines with a cap of five years. Sentencing courts may depart from this standard in cases with demonstrable public safety concerns. Current probation lengths are unreasonable and indefensible with no clear guidelines resulting in length based more on geographic location rather than standard lengths based on seriousness or need.

General and recognized needs are that supervision is only necessary for a few years at most and a maximum of five years in almost all cases. Exceptions should not drive standard sentences. Exceptions can be taken into account when deviating from presumed probation lengths capped at five years. It is also important that an unintended consequence, higher levels of incarceration, does not become an inappropriate response to probation caps.

- Consider expanding the discretionary release practices currently in place for the **Challenge Incarceration Program** and Conditional Release Program to other offenders, allowing for a limited time cut for participatory behavior while incarcerated.
- Oppose **arbitrary residency and zoning restrictions** that use unsubstantiated “public safety” boilerplate to bar most residential options for specified groups of offenders. These restrictions actually tend to decrease public safety by creating more offender instability and fewer options for appropriate housing. A statewide policy to limit or preferably preempt local restrictions should be enacted.

## **TRANSITIONAL HOUSING FOR OFFENDERS**

### **POLICY**

State funds should be allocated to help establish transitional housing or halfway houses for High Risk/High Need offenders throughout the state; which may include Intensive Supervised Release offenders, low functioning adults, the mentally ill, and other special needs offenders who lack available housing or require a structured living environment. Ideally, this type of housing would be established within regions around the state. Collaboration between public and private agencies and between state and local officials is needed to find solutions for these problems.

### **BACKGROUND**

**Lack of state housing affects community safety.**

- Probation officers are limited as to what services they can provide to high-risk offenders who may lack available housing and transitional programming.
- There is a growing population of high-risk offenders with no housing. Motel rooms, shelters, tents, and back seats of automobiles do not provide stable living environments for offenders or communities.
- Placing high-risk offenders in settings or locations with limited supervision compromises public safety. When offenders are released from jails and prisons, they need shelter and supervision.
- There are too few long-term or transitional housing programs in Minnesota to assist the mentally ill. Mentally ill offenders often fail to follow a medication regimen or participate in the required mental health programming because of the lack of stable housing.

- Recidivism could be reduced with more available structured or transitional living arrangements.
- Low functioning adults and offenders in need of mental health services who are on supervision comprise a growing segment of offenders who are frequently ineligible to receive housing assistance or special services.
- Offenders who experience multiple problems would benefit from a structured living environment that provides job training, education, counseling, fiscal management, transportation assistance, and other support services.
- The development of additional transitional housing will enhance public safety, provide better offender accountability, and facilitate the transition of the offenders to the community setting.

**Transitional housing is a key to solving this problem.**

- Jail and prison costs can be reduced through effective programming and appropriate housing
- Financial incentives should be available to communities to make halfway houses or transitional housing more fiscally attractive
- Access to emergency housing funds should be available for certain offenders who have completed their term of commitment, including some that serve their time in a local jail.

## **RESTORE THE VOTE**

**The Minnesota Corrections Association joins the *American Probation and Parole Association* and the more than 90 other organizations of the *Restore the Vote Minnesota Coalition* in support of restoring the right to vote for Minnesotans convicted of a felony and living in the community.** (Minnesota H.F. 951 – Spring 2018)

### **The Problem**

Minnesotans lose the right to vote until they have been released from supervision for any felony, including while they are living in the community, even if they never spent any time in prison or only served a short jail sentence. In 2011, of the 63,000 Minnesotans who were unable to vote due to a past criminal conviction, only about 16,000 were behind bars in prison or jail. In other words, 75% of those who have been denied the right to vote under Minnesota law are living in the community, working to earn a wage and support their families, and paying taxes. Since 1974, the percentage of voting age Minnesotans disenfranchised as a result of a criminal conviction has increased over 400%.

Felony disenfranchisement prevents Minnesotans with criminal convictions from having a stake in their communities, and a voice in decisions that affect all aspects of their lives. Although felony disenfranchisement impacts a growing number of all Minnesotans, 64% of them live outside of Hennepin and Ramsey Counties. As a result of disproportionate contact with the criminal justice

system, African Americans and American Indians are disproportionately affected. In 2011, nearly 16,000 African-Americans, or roughly eight percent of African Americans who were old enough to vote, were disenfranchised. Although African-Americans make up roughly five percent of the Minnesota population, they represent over a quarter of the total number of those disenfranchised. American Indians make up less than two percent of the population, however, in 2011 American Indians comprised more than six percent of those disenfranchised.

This has long-lasting repercussions for the community. Research has shown that children are more likely to vote as adults if they are raised by parents who engage in the voting process. By disenfranchising people who are not behind bars, we lose not only the voice of those directly impacted by disenfranchisement but also discourage participation by future generations.

### **The Solution**

Minnesota should pass legislation to allow people who have served their time and are living in their community to vote. By moving to this model, Minnesota will join thirteen states that disenfranchise only those persons who are incarcerated for a felony conviction: Hawaii, Illinois, Indiana, Massachusetts, Michigan, Montana, New Hampshire, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, and Utah. This reform will promote successful reintegration into the community, as voting can be a powerful, concrete and symbolic way to contribute to one's community and to feel invested and empowered to play a positive role. Research has shown that persons with criminal convictions in their past are less likely to be arrested again in states that restore voting rights after release from incarceration than in states where they face permanent disenfranchisement. Law enforcement and corrections professionals agree that encouraging individuals to take on this important responsibility makes sense. Additionally, a policy that permits all individuals who have served their time in jail or prison to vote reduces confusion among voters and election officials about who can vote, thereby easing election administration and reducing government costs.

## **Why not Residency Restrictions on Sex Offenders?**

**A popular move by some Minnesota city councils has been to essentially bar certain registered offenders from living in residential areas and force them into rural locations or industrial areas of cities or towns. The reasoning used is that they will be at a high risk to reoffend if allowed to live in populated areas near schools, daycares, or parks. Why doesn't this make sense?**

1. There is no demonstrated relationship between the residential location of offenders and their proximity to places where children congregate or are found in larger numbers. Those who offend against children normally develop a relationship through work, social, or family connections regardless of geographic proximity.

2. The re-offense rate for those subject to registration and especially under supervision is over-hyped. Most sexual offenses are committed by those who are not on a registration list. In the last fourteen years only seven percent of those convicted of a new criminal sexual conduct offense were previously registered offenders.
3. Risk level assignment is a tool we use to adequately monitor those under supervision. Using higher risk designations or criminal history as a way to destabilize and make it more difficult for agents and law enforcement to supervise and monitor undermines our ability to efficiently and effectively do our jobs.
4. The idea of forcing these registrants into areas where they will be *“out of sight/out of mind”* is the very definition of a false sense of security. Awareness not denial helps to keep our community safe.
5. Pushing this population into rural areas simply shifts monitoring responsibility to the sheriffs and hides information from local police who will still engage with this population. Artificial restrictions do not replace the need for the police and citizens to work together in communication.
6. Supervising those with active sentences has always been the responsibility of local or state corrections officials. Interjection by those who want to force the subjects out of their communities harms public safety. Removing many if not all options for stable residential locations and adequate access to transportation, treatment, jobs, and other resources undermines our primary goal of public safety.
7. Attempts to adopt local restrictions have been overturned by the courts throughout the country. Minnesota is the only state without controls on local residency restrictions simply because no case has yet to be fully reviewed by the courts. Minnesota stands alone with existing extreme level of residency restrictions in some communities.

## **ELIMINATE THE SENTENCE OF LIFE WITHOUT THE POSSIBILITY OF PAROLE FOR JUVENILES**

1. Minnesota laws should be amended to eliminate the sentence of life without the possibility of parole for juveniles.
2. For the crimes that currently result in a sentence of life without the possibility of parole, juveniles should instead receive a sentence of life with the possibility of parole after serving a minimum of 20 years.

3. To ensure meaningful review of a life with the possibility of parole sentence, Minnesota law should further provide that “The Commissioner of Corrections shall review the juvenile’s conduct in prison, participation in programming, the juvenile’s age at the time of the commission of the crime, the facts of the present offense, the juvenile’s prior offenses, educational and family background, the opinion of any victim(s) and any other factors relevant to rehabilitation and make the determination as to whether the juvenile should be paroled.”
4. In the interests of fundamental fairness, JJAC further recommends that these statutory changes “shall be applied retroactively to all individuals currently serving life sentences without parole for the applicable crimes committed when the individual was under the age of eighteen years.”

### **CURRENT MANDATORY LIFE-WITHOUT-THE-POSSIBILITY-OF-PAROLE SENTENCES**

Current Minnesota statutes impose life sentences without the possibility of parole for the offenses listed below. For all sentences falling under Minn. Stat. §609.106, subd. 2 (First Degree Murder – Heinous Crimes), the language of the statute requires a “conviction.” Thus, a juvenile is subject to a sentence for these offenses only if the juvenile has been certified to stand trial as an adult. For sentences falling under Minn. Stat. §609.3455 (First Degree Criminal Sexual Conduct – Dangerous Sex Offenders), the language of the statute includes both certified juveniles and juveniles designated EJJ if the EJJ offender has had the adult sentence executed.

In the companion cases of *Miller v. Alabama* and *Jackson v. Hobbs*, the United States Supreme Court held that the imposition of mandatory life without the possibility of parole sentences on juveniles violates the Eighth Amendment’s ban on cruel and unusual punishment. *Miller* and *Jackson* were the third set of Supreme Court decisions in seven years to conclude that three fundamental features of youth — lack of maturity, vulnerability to negative influences and capacity for change — make children “constitutionally different” from adults and “less deserving of the most severe punishments.” These decisions draw heavily upon recent findings in neuroscience and developmental psychology which support the conclusion that, by virtue of their diminished culpability and enhanced prospects for rehabilitation, a mandatory sentence of life in prison with no opportunity for release is cruel and unusual punishment. While the Supreme Court did not prohibit the imposition of life without the possibility of parole sentences for juveniles, it found that the mandatory imposition of such a sentence prevents judges and juries from considering the “lessened culpability” and “greater capacity for change” of juvenile offenders. The Supreme Court ruled that certain specific factors must be considered in deciding whether this harshest of punishments should be imposed upon a juvenile offender. The Court opined that, once these factors are considered in each case, the imposition of life without the-possibility of parole sentences on juveniles will become “uncommon” or “rare.”

As a result of the **Supreme Court’s June 25, 2012** decisions in *Miller* and *Jackson*, statutes in 29 states that provide for mandatory life without parole sentences for children are now unconstitutional.

Minnesota is one of these states as our current laws allow, in certain limited circumstances, for juveniles to receive a sentence of life without the possibility of parole. It is now more than seven years after the Supreme Court ruling.

## **JUVENILE PREDATORY OFFENDER REGISTRATION**

The Minnesota Corrections Association supports amending current predatory offender registration laws for juveniles in order to increase public safety while maximizing rehabilitative interventions that decrease recidivism.

### **Background / Current Situation:**

Public safety is enhanced when the system is responsive to the specific risk and needs of offenders. Immediate public safety is enhanced when high risk offenders are under supervision, when their whereabouts are known, and authorities are able to track them. Long term public safety is enhanced when offenders can be treated, rehabilitated, and effectively transitioned to productive pro-social lives. In reviewing Minnesota's current laws regarding adolescent predatory offender registration, there is need for revision and change.

Under Minnesota law, juveniles are required to register as a predatory offender if they are adjudicated delinquent of committing an offense as outlined in Minn. Stat. 243.166. This casts a wide net and does not allow for managing offenders according to risk and public safety. Currently, attorneys and judges in multiple jurisdictions are reluctant to adjudicate some juveniles as delinquent in cases that require registration and instead are offering stays of adjudication or continuances for dismissal. These strategies result in avoiding registration, create inconsistencies in prosecution, and limit the length of probation supervision and rehabilitative interventions thereby reducing public safety. Additionally, the statutes do not offer any legal criteria for the Court regarding who should be registered as a predatory offender. The lack of legal criteria results in many jurisdictions responding differently to the same public safety risk. Lastly, Minnesota does not differentiate in any way a juvenile from an adult when requiring predatory offender registration. This mandate runs contrary to the purposeful differences appropriately created between the delinquency and criminal court systems.

Currently 16 states and the District of Columbia do not require adjudicated juveniles to register as predatory offenders. Of the remaining 34 states, 22 allow courts to determine whether or not a juvenile should be required to register as a predatory offender. The State of Minnesota is one of 12 states that require juveniles to register as predatory offenders without legal criteria to guide courts. Finally, Minnesota is one of seven states that requires adjudicated juveniles to register as predatory offenders, does not provide registration criteria, and has no differences between offenses requiring registration for adults and juveniles. Based on these findings it would appear that Minnesota law regarding predatory offender registration of juveniles should be amended. The amendments proposed would increase public safety by maximizing rehabilitative interventions that decrease recidivism.

### **Recommended Strategy:**

Amend Minnesota statutes to provide legal criteria for the Court to consider in determining if a juvenile adjudicated delinquent for a predatory offense should be required to register.

The proposed amendments would provide the Court with legal criteria to require registration upon an adjudication of delinquency and a finding that the circumstances of the offense require registration. Additionally, the decision to require predatory offender registration could be made at any point post adjudication including the period of probation supervision.

Use the following statutory language to provide the Court with legal criteria to guide the decision:

- (1) the juvenile was fourteen years of age or older when the act was committed;
  - (2) the juvenile was adjudicated delinquent by a juvenile court of any of the offenses requiring registration above;
- and
- (3) the court, in its discretion and upon motion of the prosecuting attorney, find that the circumstances of the offense require predatory offender registration.
  - (4) Factors to be considered by the court to determine whether registration should be required:
    - (i) the degree to which the juvenile used force, threat, or intimidation in committing the act.;
    - (ii) the age and maturity of the complaining witness;
    - (iii) the age and maturity of the juvenile;
    - (iv) the difference in age of the complaining witness and the juvenile;
    - (v) the nature of the relationship between the complaining witness and the juvenile;
    - (vi) the juvenile's prior criminal history; or
    - (vii) any other aggravating or mitigating factor that the court determines relevant to the particular case.
  - (5) The prosecuting attorney may file a motion for registration at any time during which the juvenile is within the jurisdiction of the court for the offense that is the basis for the motion. Prior to any hearing on the motion, the court shall appoint a qualified and competent attorney to represent the juvenile unless an attorney has already been obtained or appointed and appears on behalf of the juvenile.

## **The recommendations of the 2007 Collateral Sanctions Committee should be implemented to comply with Minnesota Statutes Chapter 364**

### **Criminal Records and Employment in Minnesota**

### **Report and Recommendations of the 2007 Collateral Sanctions Committee**

Jan 15, 2008

[https://mn.gov/sentencing-guidelines/assets/Collateral%20Sanctions%202008\\_tcm30-31352.pdf](https://mn.gov/sentencing-guidelines/assets/Collateral%20Sanctions%202008_tcm30-31352.pdf)

# SUMMARY OF RECOMMENDATIONS

Full recommendations, and the rationale for each proposal, are set forth in the chapters under which they appear in this summary.

## NOTICE

### COURTS

- Provide a general notice regarding collateral sanctions to defendants (p. 19).

### HIGH SCHOOLS, VOCATIONAL SCHOOLS, COLLEGES AND UNIVERSITIES

- Give notice to those intending to embark on studies leading to employment that they should consider any records of contacts with the police or criminal courts in career-planning (p. 21).
- Educate school administrators and counselors about collateral sanctions, so that they can provide students with sound advice about vocational courses and career planning (p. 22).

### MAKING COLLATERAL SANCTIONS EASY TO IDENTIFY

- A directory of all of the professions and jobs that require licenses and clearances from state agencies must be created. The directory should state requirements for licensure/clearance, the process each agency uses to vet applicants (including how they weigh arrest or conviction records), instructions on how to apply, and an outline of the appeals process (p. 23).

### EDUCATING THE PUBLIC

- Implement a campaign to educate the public about the links between public safety and sound re-entry programs, including those that promote employment (p. 24).

## REDUCING CONVICTIONS / DIVERSION

- Re-evaluate the legal mechanisms Minnesota law provides to spare deserving individuals from having criminal convictions and refine and augment them to increase their impact and make them equally available to all qualified defendants (p. 27).
- Establish a mandatory statewide diversion program based on an appropriate actuarial risk assessment tool (p. 27).

## LICENSING AND BACKGROUND CHECKS

- Rationalize licensing agencies' use of criminal data, so that it is consistent with the policies set forth in this report (p. 32).
- Create a process by which all state agencies choosing to do background checks of criminal records can readily obtain uniform, accurate reports concerning at least Minnesota criminal history (p. 33).
- Before creating a standard format for criminal history reports, the Legislature should consider carefully exactly what data should be included and whether there should be more than one format. It might be decided that the content of background checks should depend upon the purpose for which they're used, or how much access the subject will have to vulnerable people or property (p. 33).
- Carefully restrict the number of convictions that will trigger absolute bars from particular kinds of employment, or eliminate such bars entirely (p. 33).
- Establish sensible "look-back" periods after which convictions will not be reported. It is not readily apparent why some are longer than others and how we arrived at the periods we have. These time-frames must be carefully considered, because they affect many people in a major way (p. 33).
- Weigh the advantages and disadvantages of streamlining professional licensure by reducing the number of licensing agencies (p. 33).
- Require all licensing agencies to consider specific factors every time they weigh an individual's criminal record. If they deny licensure based on criminal history, they must provide the applicant with their evaluation of the factors (p. 34).
- Review statutory bars to licensure for their adherence to sound collateral sanctions policy and amend them so that they are consonant with sound policy. In addition to considering the elimination of permanent bars and the establishment of reasonable look-back periods, determine whether there is a rational relationship between each

conviction triggering a bar and the profession the ex-offender is not allowed to pursue. If there is not, the bar should be eliminated (p. 35).

- Eliminate arrests not leading to charges from criminal history reports for use outside the criminal justice system (p. 35).
- Determine whether and/or when charges that do not result in conviction should be reported outside the criminal justice system (p. 35).
- Determine how and whether to report vacated sentences, dismissals, petty misdemeanors, and other actions that the courts employ specifically to spare people who do not pose a risk to others from having criminal convictions. Create a statute clearly setting forth how and whether such actions are reported (p. 35).
- Background reports including legal terms, such as "continuance for dismissal," "vacated," "dismissed," and "suspended" will include a standard glossary defining these terms and noting that courts count only convictions as a "criminal record" (p. 35).
- Amend Minnesota Statute §609.135. See proposed statute, pp. 36.

#### MINNESOTA STATUTE §364

- Make Minnesota Statute §364 and actual practices consistent (p. 40).

#### DATA MINERS

- Regulate data miners. See proposed statute, pp. 42-43.

#### CERTIFICATES OF RELIEF

- Create a Certificate of Good Conduct. See proposed statute, pp. 46-49.

#### WORK EXPERIENCE

- Fund county corrections agencies at a level adequate to allow them to work within their communities to provide work experience to individuals on probation, to support probationers in getting and keeping jobs, and to measure their efforts' impact on recidivism (p. 53).
- Fund DOC vocational training that is designed in collaboration with potential employers, measures impact on recidivism, and provides all inmates with experience working at jobs that are likely to be available in the community (p. 53).

probationers in getting and keeping jobs, and to measure their effects impact on recidivism (p. 53).

- Fund DOC vocational training that is designed in collaboration with potential employers, measures impact on recidivism, and provides all inmates with experience working at jobs that are likely to be available in the community (p. 53).
  - Fund state or nonprofit vocational programs for ex-offenders only if the large majority of participants gain employment, and the programs have measurable impact on recidivism (p. 53).
  - Explore the possibility of linking funding for correctional work programs to projects that would benefit the communities most impacted by crime or would build facilities needed to enhance public safety (p. 53).

## EMPLOYER INCENTIVES

### ROLE OF EMPLOYERS AND UNIONS

- Involve employers and unions in minimizing unreasonable impact of criminal records on employment (p. 55).

### EMPLOYER LIABILITY

- Eliminate employer liability for reasonable hiring of ex-offenders (p. 56).

### FINANCIAL INCENTIVES

#### A. Work Opportunity Tax Credit (WOTC)

- Evaluate the effectiveness of Work Opportunity Tax Credits in Minnesota (p. 57).
- Work with employers to maximize utilization of tax credits (p. 57).

#### B. Minnesota Federal Bonding Service

- Determine why Minnesota businesses are not utilizing the Federal Bonding Service (FBS) (p. 59).
- Increase utilization of federal bonds, or stop paying to advertise and administer the FBS (p. 59).

## DRIVING PRIVILEGES

- Give judges discretion not to report non-driving traffic violations to the Department of Public Safety (DPS) (p. 61).

order to get to work (p. 62).

- Revoke Minnesota Statute §171.175 (p. 62).
  - Revoke or amend Minnesota Statute §171.171 (p. 62).
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- Create a task force to study driver licensing in Minnesota and elsewhere, in order to determine ways in which to decrease the number of residents who are driving illegally in order to get to work (p. 62).
  - Revoke Minnesota Statute §171.175 (p. 62).
  - Revoke or amend Minnesota Statute §171.171 (p. 62).