

Diversion

Strengthens Communities and Reduces Spending on Prisons

The criminal justice system in Kansas is broken. We can fix it.

Our state's criminal justice and prison system costs too much, needlessly incarcerates too many, works against those trying to make a fresh start, and is permeated by racial disparity. The state's crime rate has fallen consistently, but the Kansas prison population has quadrupled from 2,300 in 1978 to 9,700 in 2014.

Keeping 9,700 Kansans, many of them non-violent drug offenders or individuals with mental illnesses, in prison cost taxpayers \$236 million in 2014. The total rises by millions more when local government spending on correctional facilities is included.

This broken system can be fixed. But to do that, Kansas needs smarter justice policies—ones that will strengthen communities, reduce the number of incarcerated people, and reduce costs. With smarter justice policies, taxpayer money now spent on prisons could instead be used to invest in education, healthcare, and crime prevention.

Diversion is an effective alternative to prison time for low-level offenders.

In the effort to fix our broken criminal justice system, local prosecutors already have a powerful tool in their toolbox—diversion. In a diversion, prosecutors agree not to pursue charges against an individual who would otherwise face prosecution, provided that the individual follows a prescribed program of treatment, services, restitution, or community service.

Diversion is a proven, effective tool for making communities safer and stronger. It is especially appropriate for individuals with minimal criminal records, who committed a non-violent offense and pose no risk to the community, or who need mental health or substance abuse treatment.

Locking non-violent, low-risk individuals behind bars does nothing to make communities safer, and only results in higher costs for taxpayers.

Diversion helps prevent children from suffering the long-term harms of being subjected to parental incarceration. Giving individuals the chance to remain with and provide for their families, while participating in a restitution program and being held accountable, makes communities stronger. It is less disruptive than prison and results in improved long-term outcomes for families and communities.

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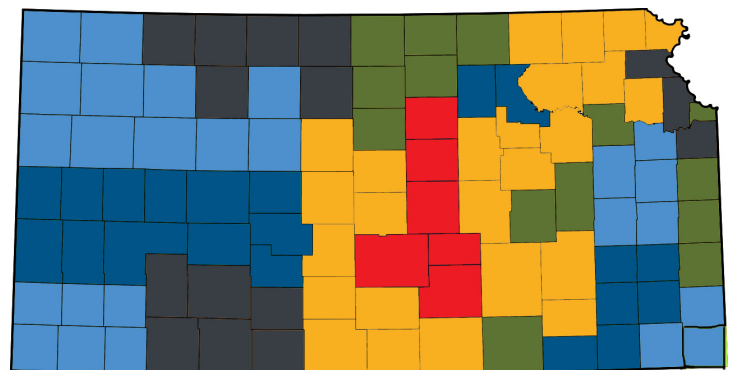
DIVERSION REFORM CAN

↓ **REDUCE**
the prison
population
by **8%**



CUT government
spending by
\$6.8
million

Use of Diversion in Kansas, 2015



- < 20% of National Average
- 21 - 39% of National Average
- 40 - 59% of National Average
- 60 - 79% of National Average
- 80 - 99% of National Average
- > 100% of National Average

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Diversion is not widely used in Kansas, making up just 5 percent of all cases in the state.

Kansas prosecutors have sole discretion over when to grant diversion. Sadly, local prosecutors rarely use diversion. Only 5 per cent of all felony cases in Kansas are handled through diversion. Data from the U.S. Department of Justice shows that, nationally, over 9 percent of all felony cases are sent to diversion. That means that Kansas prosecutors use diversion at a rate just half that of the national average.

There are enormous disparities in the use of diversion across the state. Some local prosecutors refuse to offer diversion at all. Even some of the largest jurisdictions in the state—where caseloads strain resources, jails are overcrowded, and diversion could help alleviate some of this stress—use diversion at very low rates.

These differences emerge because each prosecutor establishes an independent diversion policy. Diversion is not standardized or uniform. Each prosecutor approaches it differently; the application process, decision criteria, and even the offenses for which a diversion may be considered all vary widely by county.

Small, common-sense fixes to the current system would result in greater use of diversion.

Local prosecutors should continue to have broad discretion over diversion programs in their own counties. State law and members of the community should encourage prosecutors to use diversion more widely. Steps that would encourage increased use of diversion include:

- Require statewide use of a single, uniform diversion application form.
- Require prosecutors to make all defendants aware that they can request diversion. Currently, defendants without attorneys may not be aware that diversion is an option.
- Require prosecutors to provide a written explanation to the defendant when a diversion request is rejected.
- Collect data on diversions requested, denied, and granted. Current data on diversion is limited to the number granted. No demographic data is currently available.
- Dramatically reduce diversion fees. Participants are charged fees that vary widely by county and discourage participation.
- Support from local community members, encouraging prosecutors to treat diversion as a preferred option for non-violent, low-risk offenders. Prosecutors should be especially encouraged to use diversion when offenders are experiencing a mental illness.

A bill that included most of these, common-sense fixes to the system passed the Corrections Committee of the Kansas House of Representatives in 2016 with strong, bipartisan support.



Individuals who participate in diversion programs **are able** to

- ✓ remain with and provide for their families,
- ✓ make meaningful contributions to their communities, and
- ✓ avoid the life-time consequences of a felony conviction.

Greater use of diversion will strengthen communities and reduce costs for taxpayers.

Expanding the use of diversion will have enormous benefits for Kansas. Communities are safer and stronger when those who need services receive them, rather than being sent to prison. Individuals who participate in diversion programs are able to remain with and provide for their families, make meaningful contributions to their communities, and avoid the life-time consequences of a felony conviction.

In addition, increased use of diversion would benefit taxpayers. If Kansas used diversion at the same rate as the nation as a whole, it could result in 750 fewer people going to prison in Kansas every year—**reducing the prison population by 8%. The reduced government spending on prisons would save taxpayers over \$6.8 million annually.** ■

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