

Criminal Justice Oversight Council

September 6, 2017

Sara Friedman, Senior Policy Analyst, State Initiatives
Council of State Governments Justice Center

Council of State Governments Justice Center

Corrections



Justice Reinvestment



Mental Health



Reentry



Substance Abuse



Youth



Courts



Law Enforcement



National non-profit, non-partisan membership association of state government officials that engage members of **all three branches** of state government.

JUSTICE ★ **CENTER**
THE COUNCIL OF STATE GOVERNMENTS

Justice Center provides **practical, nonpartisan advice** informed by the best available evidence.

What is Justice Reinvestment?



JUSTICE REINVESTMENT

A data-driven approach to reduce corrections spending and reinvest savings in strategies that can decrease recidivism and increase public safety

The Justice Reinvestment Initiative is supported by funding from the U.S. Department of Justice's **Bureau of Justice Assistance (BJA)** and **The Pew Charitable Trusts**

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Key Challenges and
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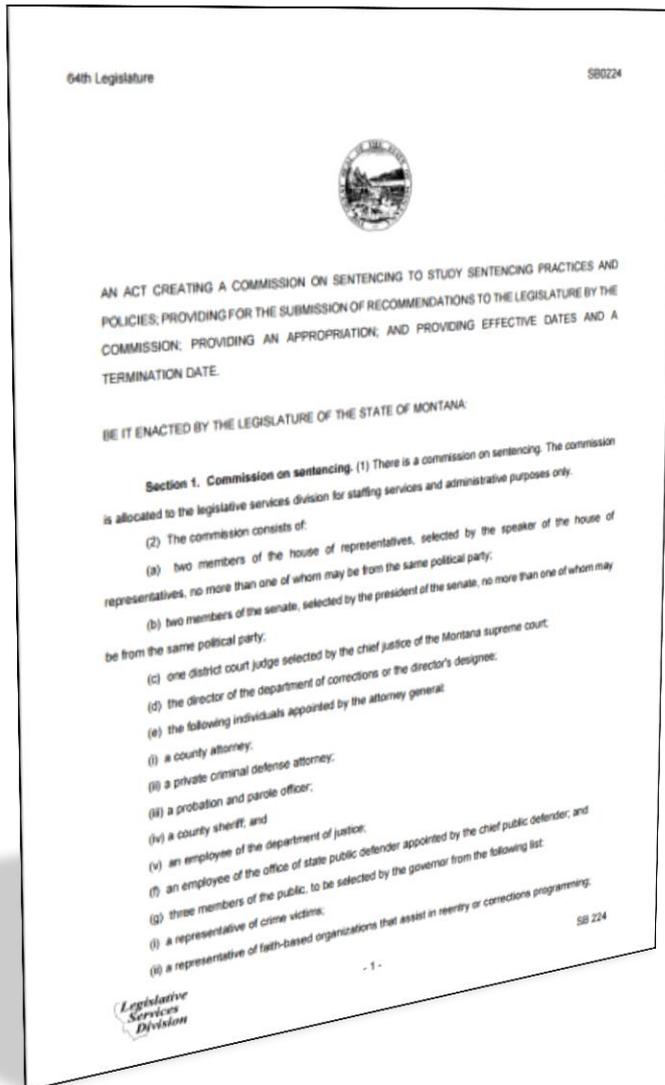
Phase II Implementation
Overview

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Technical Assistance Plan
and Data Metrics



In April 2015, SB 224 created the Montana Commission on Sentencing with a mandate for empirical study and evidence-based practices.



Created an inter-branch commission of criminal justice system stakeholders to (among other things):

- “identify strategies to **safely reduce incarceration** in state prisons and to promote **evidence-based diversion** programs and other effective alternatives to incarceration”
- “**balance sentencing practices and policies with budget constraints**”
- report recommendations, including data analysis, to 65th legislature (December 2016)

The 15-member Commission on Sentencing included lawmakers, a judge, corrections officials, county and defense attorneys, and law enforcement

Cynthia Wolken, State Senator, *Chair*

Kristin Hansen, State Senator, *Vice Chair*

Members

Mike Batista, Director, Department of Corrections

Derek Gibbs, Licensed Addiction Counselor

Ingrid Gustafson, District Court Judge

Dan Guzynski, Assistant Attorney General

Jennie Hansen, Eastern Bureau Chief, Probation and Parole Division, Department of Corrections

Roxanne Klingensmith, Archdeacon/Deacon with Episcopal Diocese of Montana

Margaret Macdonald, State Representative

Matthew Monforton, State Representative

LeAnn Montes, Tribal Attorney for Chippewa Cree Tribe

Peter Ohman, Office of the State Public Defender

Mary Ann Ries, Pondera County Attorney

Majel Russell, Criminal Defense Attorney

Donna Whitt, Toole County Sheriff

In June 2015, state leaders requested assistance to conduct a comprehensive analysis of Montana's criminal justice system



Legislative Council

64th Montana Legislature

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EDWARD BUTTREY
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TODD EVERTS, Legal Division Director
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June 30, 2015

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Bureau of Justice Assistance
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Washington, DC 20531

Adam Gelb
Project Director
Pew Center on the States
901 E Street NW, 10th Floor
Washington, DC 20004-1409

Dear Ms. James and Mr. Gelb:

Montana political leaders and criminal justice system stakeholders explore the system's performance and to suggest changes to operate efficiently, fairly, and with public safety as a primary area demonstrates Montana's ongoing commitment to underpinning the criminal justice system and to using evidence-based, data-driven solutions to fit Montana.

For example, the Governor and the Department of Corrections and the National Governors Association Center for Best Practices (NGA) are generating and reviewing data related to the state's increasing prison population. Also, a dedicated task force works with the Department of Corrections and safe, effective ways to ease offenders' transitions from prison to the community. In 2013-2014, a legislative committee studied the structure, operations, and costs of the corrections system and suggested reforms to the 2015 Legislature. The Montana Department of Justice is a leader in best practices and training for investigating and prosecuting the criminal justice realm of reducing trafficking of persons in Montana. For its

Montana Justice Reinvestment Request Letter
June 30, 2015

Sincerely,

Governor Steve Bullock

Attorney General Tim Fox

Speaker of the House Austin Knudsen

House Minority Leader and
Legislative Council President Chuck Hunter

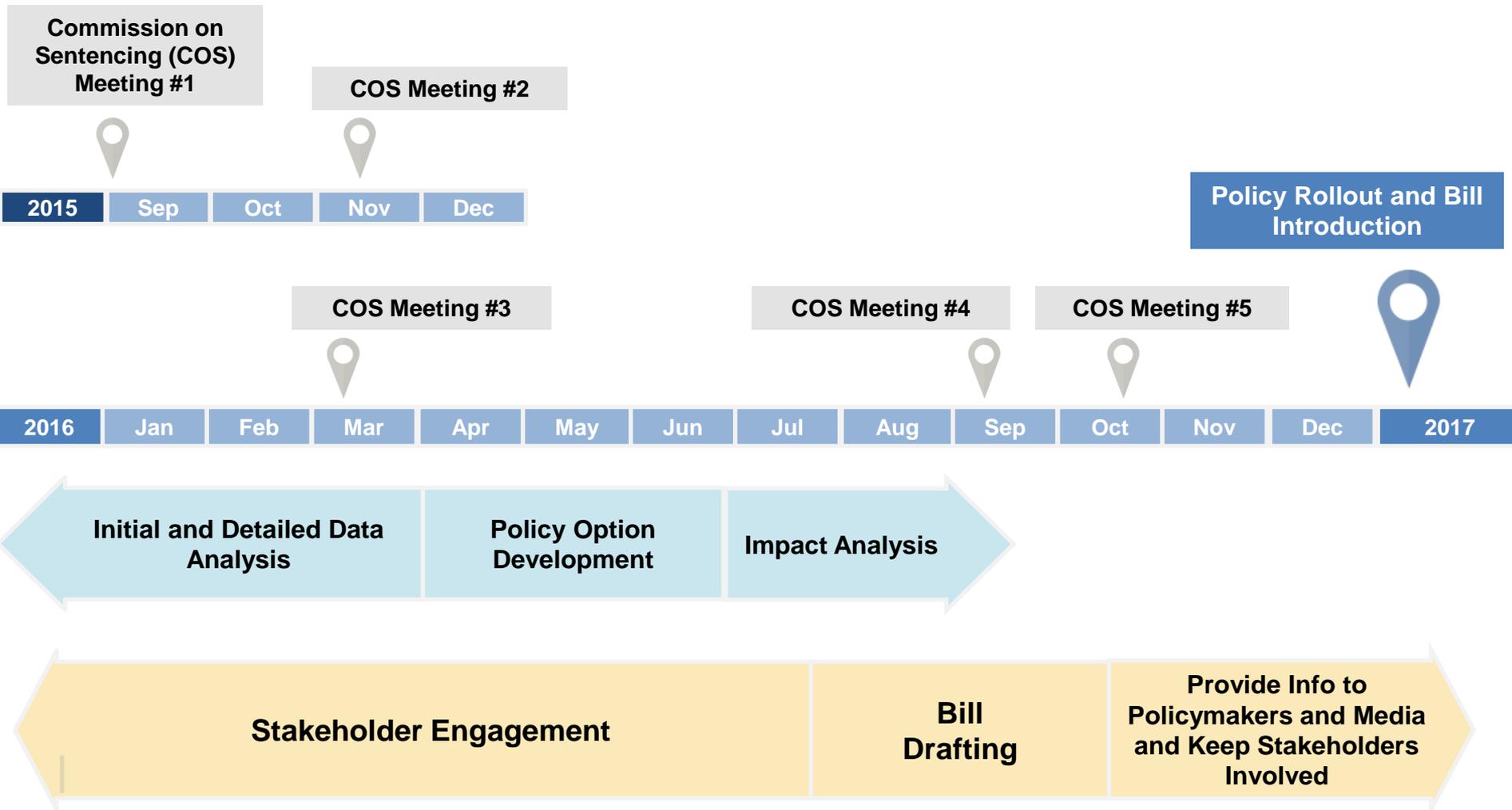
Chief Justice Mike McGrath

Senate President Debby Barrett

Senate Minority Leader Jon Sesso

Mike Batista, Director, Department of
Corrections

Montana's Phase I Justice Reinvestment Timeline



The Phase I team conducted an in-depth quantitative and qualitative analysis along with wide stakeholder engagement



600,000 data records analyzed



200 in-person meetings and phone calls with stakeholders



5 presentations to the Commission on Sentencing

Phase I analysis found mounting pressures on Montana's criminal justice system

Over recent years, Montana has experienced:



Increases in **total arrests**, drug arrests, and arrests involving revocations, violations, and failure to appear



Increases in **district court case filings** since and the time it takes for a case in district court to reach disposition



Increases in the **statewide jail population** and length of stay in jail



Increases in the **number of people in alternative facilities**, including prerelease centers, substance use treatment facilities, boot camps, and revocation centers



Increases in the **time between** parole eligibility and parole release

In particular, Montana is experiencing growing supervision and prison populations as people are caught in the cycle of incarceration



Montana's supervision population is projected to **grow 18 percent** by FY2023. Long probation terms take officer resources away from the people who need them most – those on the first two years of supervision when recidivism is most likely.



At the same time, supervision revocations account for **74 percent of prison admissions** in FY2015 and admissions to prison from alternative facilities have increased sharply in recent years.



Native Americans are **disproportionately represented** in Montana's criminal justice system and also accounted for 19 percent of total arrests in FY2015. These arrests were driven by failure to appear and supervision violations.

Key challenges in Montana identified by the Commission on Sentencing



High Rate of Recidivism

The primary driver of costs and growth in Montana's criminal justice system, including the growth in arrests, alternative facility admissions, and prison admissions, is people who are cycling back for technical violations or new crimes.



Rising Cost of Prison and Jails

Prisons and jails in Montana are at capacity. The statewide jail population has risen 67 percent between 2011 and 2013. The prison population is projected to continue to increase 17 percent by 2025, requiring millions of dollars in new spending.



Growing Impact of Substance Use

Between 2009 and 2015, there was a 62 percent increase in arrests for drug offenses. Stakeholders report drug use and insufficient treatment are leading causes of crime, violations, and revocations.

Based on these findings, state leaders set out goals for justice reinvestment policies in Montana

1. Increase public safety and reduce recidivism by expanding the reach and improving the efficacy of programs focused on reducing recidivism.
2. Avert growth in prison and jail populations and spending associated with this growth.
3. Provide counties with tools to reduce population pressures on jails throughout the state.

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Montana enacted nine bills that significantly change state and local practices throughout the criminal justice system with impacts on jails, prisons, and in the community



**SB 59
PRETRIAL**

**PROSECUTOR
DIVERSIONS**

**SB 60
PRESENTENCE INVESTIGATIONS**

**HB 133
SENTENCING**



**SB 59
QUALITY
ASSURANCE**

**SB 64
PAROLE GUIDELINES**

PROFESSIONAL PAROLE BOARD



**SB 62 & SB 67
PEER SUPPORT
SPECIALISTS**

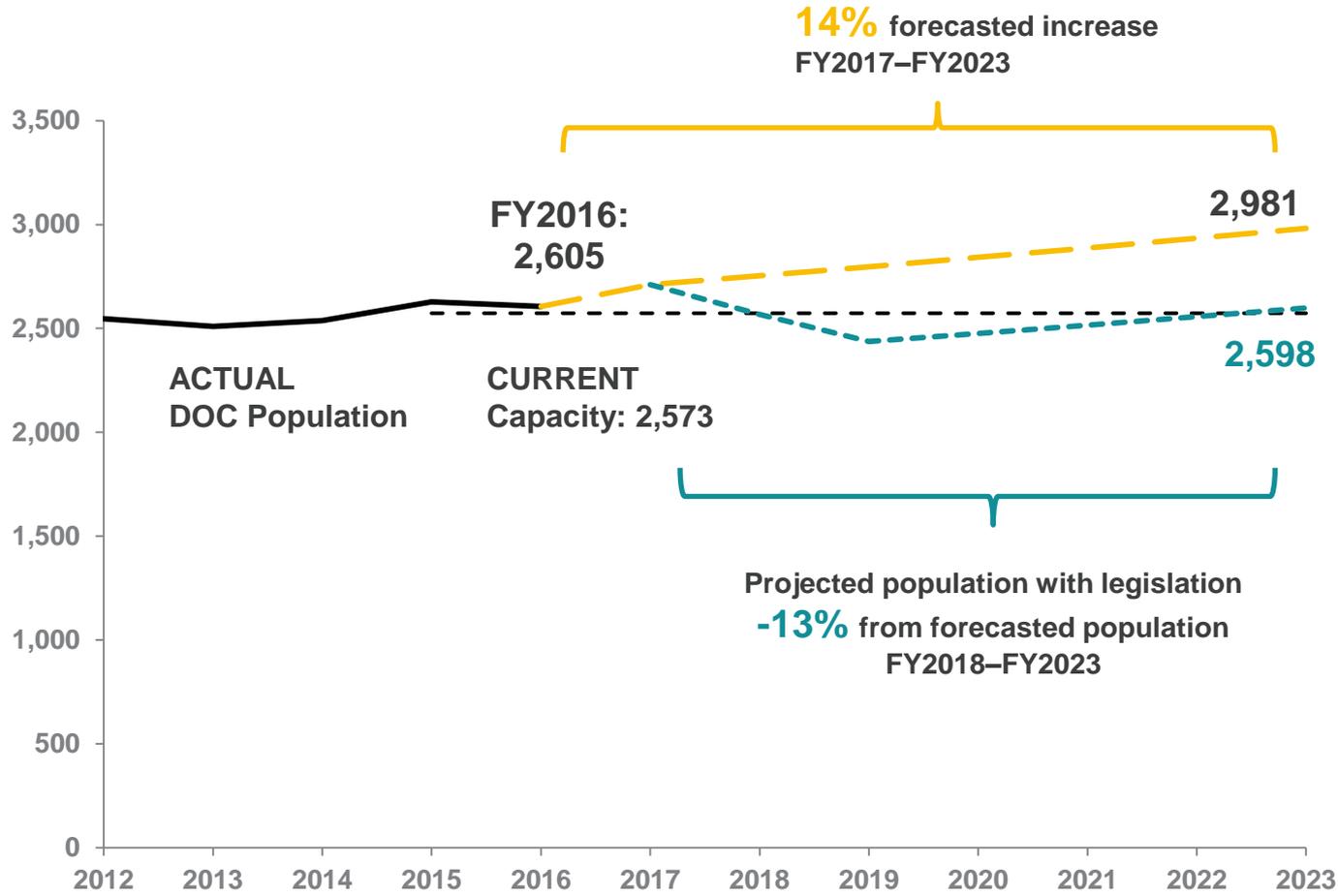
**BATTERERS'
INTERVENTION
PROGRAMS**

**SB 63 & SB 64
PROBATION &
PAROLE SUPERVISION**

**SB 65
REENTRY
HOUSING**

**SJ 3
TRIBAL-STATE
COLLABORATION**

Montana's package of legislation is projected to avert prison population growth by 13 percent by FY23



\$69 million

in averted costs

383 fewer people

in prison than forecasted FY2023 population

2,639 fewer people

on supervision than forecasted FY2023 population

SB 59 Highlights

Grants for Pretrial and Prosecution Diversion Programs

Effective date: July 1, 2017

1. Establishes a pretrial services grant program to incentivize counties to adopt a pretrial risk assessment tool and provide supervision for higher-risk defendants.
2. Establishes a grant program to advance the development and expansion of deferred prosecution programs.

Quality Assurance and Oversight

Effective date: May 17, 2017

3. Creates an oversight council to monitor and report on the implementation of justice reinvestment legislation.
4. Requires the Department of Corrections to adopt a program evaluation tool, conduct evaluations of state-funded programs, and enforce standards to ensure programs are using best practices for reducing recidivism.

SB 59 sets up an oversight structure that promotes effective implementation and sustainability

Statutory requirements include:

- Analyzing data collected by agencies and entities charged with implementing policies
- Assessing outcomes of criminal justice reforms
- Examining the feasibility of creating a public criminal justice data portal
- Submitting a biennial report to the governor and legislature
- Reporting to the law and justice interim committee and the legislative finance committee as requested

CJOC may also appoint a working group to track criminal justice reform legislation and request legislation to enact changes to the state's criminal justice system

Expedited Presentence Investigations and Improved Reports

Effective date: October 1, 2017

1. Requires presentence investigation reports to include risk assessment information.
2. Requires probation and parole officers to submit a presentence investigation report within 30 days of a guilty plea or verdict, except in cases that require a psychosexual evaluation or require more time for a victim impact statement.

Certification of Behavioral Health Peer Support Specialists

Effective date: October 1, 2017

1. Creates a certification for behavioral health peer support specialists by the Board of Behavioral Health.
2. Candidates must complete a training course in behavioral health peer support, verifying their ability to perform all essential functions, and receive supervision by a competent mental health professional.

SB 63 Highlights

Earlier Conditional Discharge

Effective date: May 17, 2017

1. Requires probation and parole officers to recommend conditional discharge for probationers who are compliant with supervision conditions when a low-risk person has served 9 months, a medium-risk person has served 12 months, a moderate-risk person has served 18 months, and a high-risk person has served 24 months on probation.

Shorter Probation Sanctions and Revocations

Effective date: May 17, 2017

2. Allows DOC hearings officers to impose up to 30-day sanctions, or recommend up to 90 days of electronic monitoring, day reporting, or placement in a community corrections facility for probation compliance violations without resorting to a petition to the court.
3. Limits imprisonment for probation compliance violations to nine months once the appropriate violation responses under DOC's incentives and interventions grid have been exhausted.

SB 64 Highlights

Professional Parole Board

Effective date: July 1, 2017

1. Establishes a full-time, five-member parole board to increase opportunities for training and skill development that will enable the board to make more informed and efficient parole decisions.
2. Requires the board to adopt parole guidelines that include risk and needs levels, participation in risk-reducing programs and treatment, institutional behavior, and offense severity, to structure and guide parole release decisions.

Shorter Parole Sanctions and Revocations

Effective date: July 1, 2017

3. Allows DOC hearings officers to impose up to 30-day sanctions, or recommend up to 90 days of electronic monitoring, day reporting, or placement in a community corrections facility for parole compliance violations without resorting to a petition to the parole board.
4. Limits imprisonment for parole compliance violations to nine months once the appropriate violation responses under DOC's incentives and interventions grid have been exhausted.

Supportive Housing Grant Program

Effective date: October 1, 2017

1. Establishes a supportive housing grant program to advance local efforts to remove barriers to and increase housing opportunities. Grant funds may be used to hire case workers and set up landlord risk mitigation funds.

Housing Vouchers

Effective date: October 1, 2017

2. Reduces the backlog of people in prison awaiting parole pending a housing plan by allowing the Department of Corrections to provide rental vouchers to some people.

Batterers' Intervention Programs

Effective date: October 1, 2017

1. Requires the state to adopt statewide standards for offender intervention programs to ensure they are evidence-informed.
2. Allows the Board of Crime Control to use the money in the domestic violence intervention account to provide grants to courts to implement an intervention program that meets statewide standards.

Tribal-State Collaboration

Designates an interim committee to explore how Montana could increase access to tribal resources for tribal members who are involved in the state's criminal justice system including the following potential strategies:

1. Transferring tribal members who are subject to state supervision from state or county custody to tribal custody;
2. Allowing tribal members to fulfill conditions of state court-ordered programming by participating in programs offered by the tribes or tribal organizations; and
3. Creating a grant program to enable the Office of the State Public Defender to enlist tribal defense attorneys in place of an appointed public defender for tribal members.

Sentencing Changes

Effective date: July 1, 2017

1. Creates a tiered sentencing structure with reduced penalties and higher thresholds for various property crimes including theft, forgery, and identity theft.
2. Reduces penalties for certain drug offenses such as criminal possession and distribution of marijuana and criminal distribution of dangerous drugs.
3. Reduces penalties for driving without a license or driving with a suspended license.

Almost \$3 million was appropriated to implement justice reinvestment policies

Bill	Recipient	Purpose	FY 2018	FY 2019
SB 59	Judiciary	Develop and administer a pretrial program for felony defendants	\$780,000	\$780,000
SB 59	Department of Corrections (Directors Office)	CJOC implementation accountability	\$100,000	\$100,000
SB 60	Department of Corrections (Probation and Parole)	Creation of presentence investigation unit	\$360,000	\$360,000
SB 64	Board of Pardons and Parole	Transition to full-time, professional Board of Pardons and Parole	\$29,878	\$59,755
SB 65	Board of Crime Control	Supportive housing grant program	\$200,000	\$200,000
Total Funding			\$1,469,878	\$1,499,755

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Phase II implementation assistance is funded by the Department of Justice, Bureau of Justice Assistance (BJA) and includes:

1. Technical assistance provided by the CSG Justice Center at no cost to Montana

Lasts approximately 12 - 24 months

Montana must continue reporting data to CSG for two years after Phase II ends

2. Possible one-time funding (up to \$500k) to remove barriers to implementation and improve Montana's ability to monitor progress

CSG Justice Center provides three types of technical assistance

CSG staff:



Deliver targeted support to specific projects informed by research and lessons learned from other states;



Help the state establish performance measures, improve data collection, and monitor outcomes to ensure implementation is data-driven; and



Engage stakeholders in a collaborative and consensus-based process that strengthens agency cooperation and the sustainability of JR policies.

CSG works with stakeholders in each state to identify key metrics and establish benchmarks for monitoring progress



State monitoring is the process of collecting, monitoring, analyzing and using data about a state's criminal justice system in order to improve outcomes and inform technical assistance.

Montana is eligible for a grant of up to \$500,000 made available from BJA

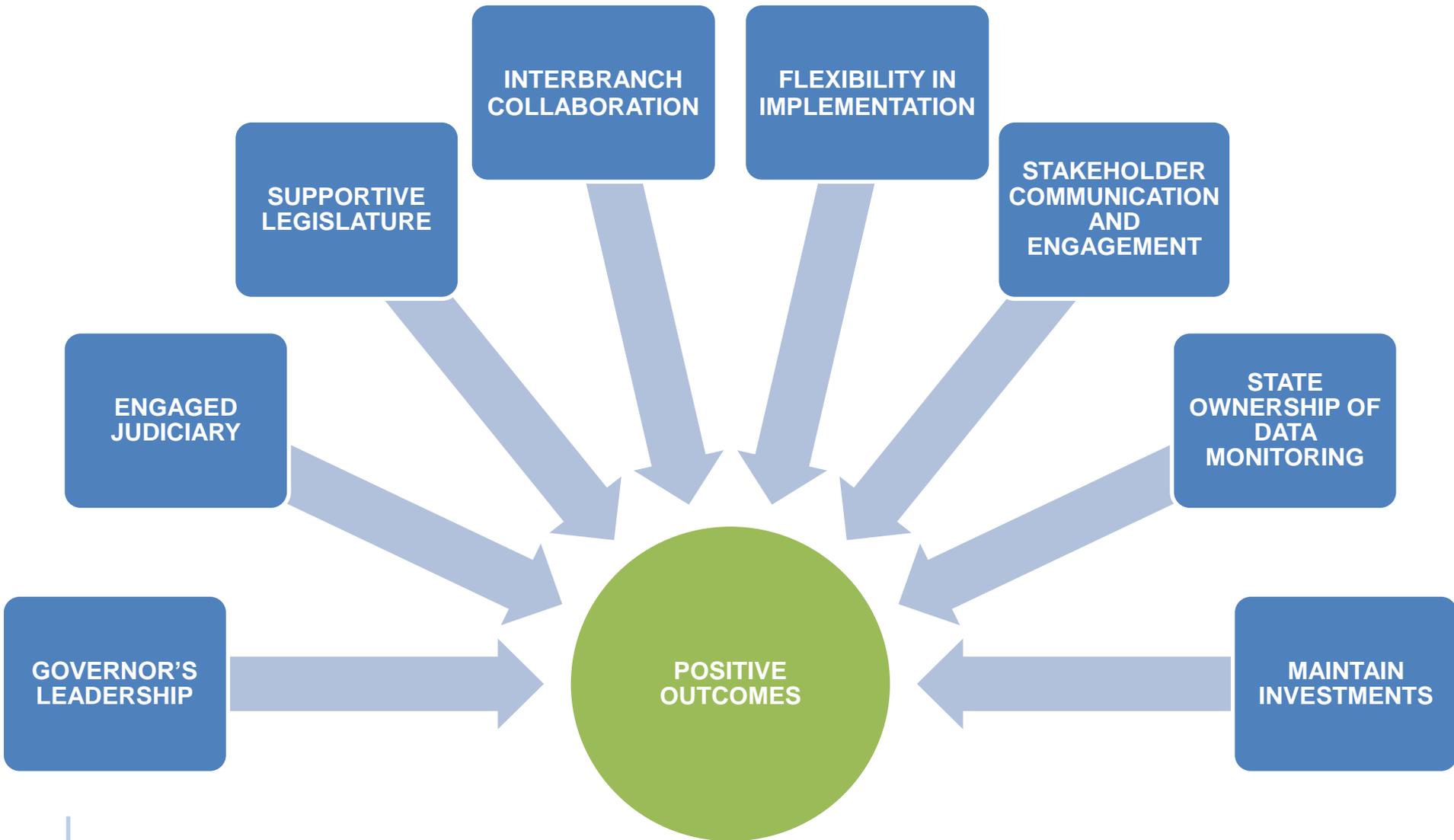
Potential areas for grant support

- JR coordinator position on staff or through contract to ensure implementation runs smoothly
- Skills-based training for staff to adopt evidence-based practices
- Information technology and data system upgrades
- Developing data dashboards to monitor change
- Establishing quality assurance mechanisms
- Unique project based on the JR policies
- Program evaluation

Key deliverables for the first months of implementation

- ✓ Implementation oversight structure established
- ✓ Letter requesting Phase II assistance submitted to BJA
- ✓ JR metrics identified and plan for collection in place
- ✓ Data sharing agreements with CSG in place
- ✓ Identify priority areas for assistance and create implementation plans
- Draft and submit BJA grant proposal
- Once approved, hire JR Coordinator
- Monthly data reporting initiated

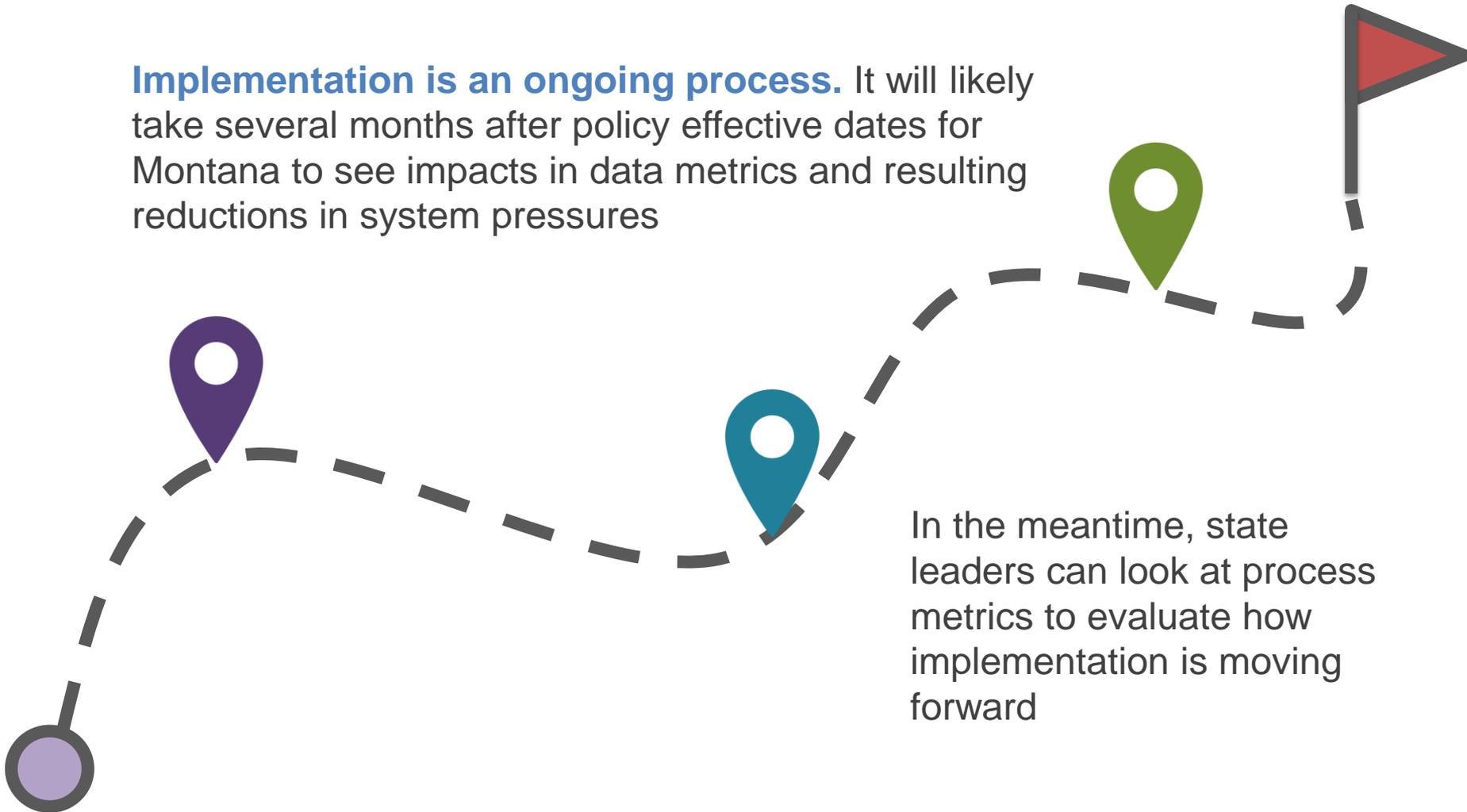
Keys to successful justice reinvestment implementation



The impacts of justice reinvestment policies will take years to be fully realized

Implementation is an ongoing process. It will likely take several months after policy effective dates for Montana to see impacts in data metrics and resulting reductions in system pressures

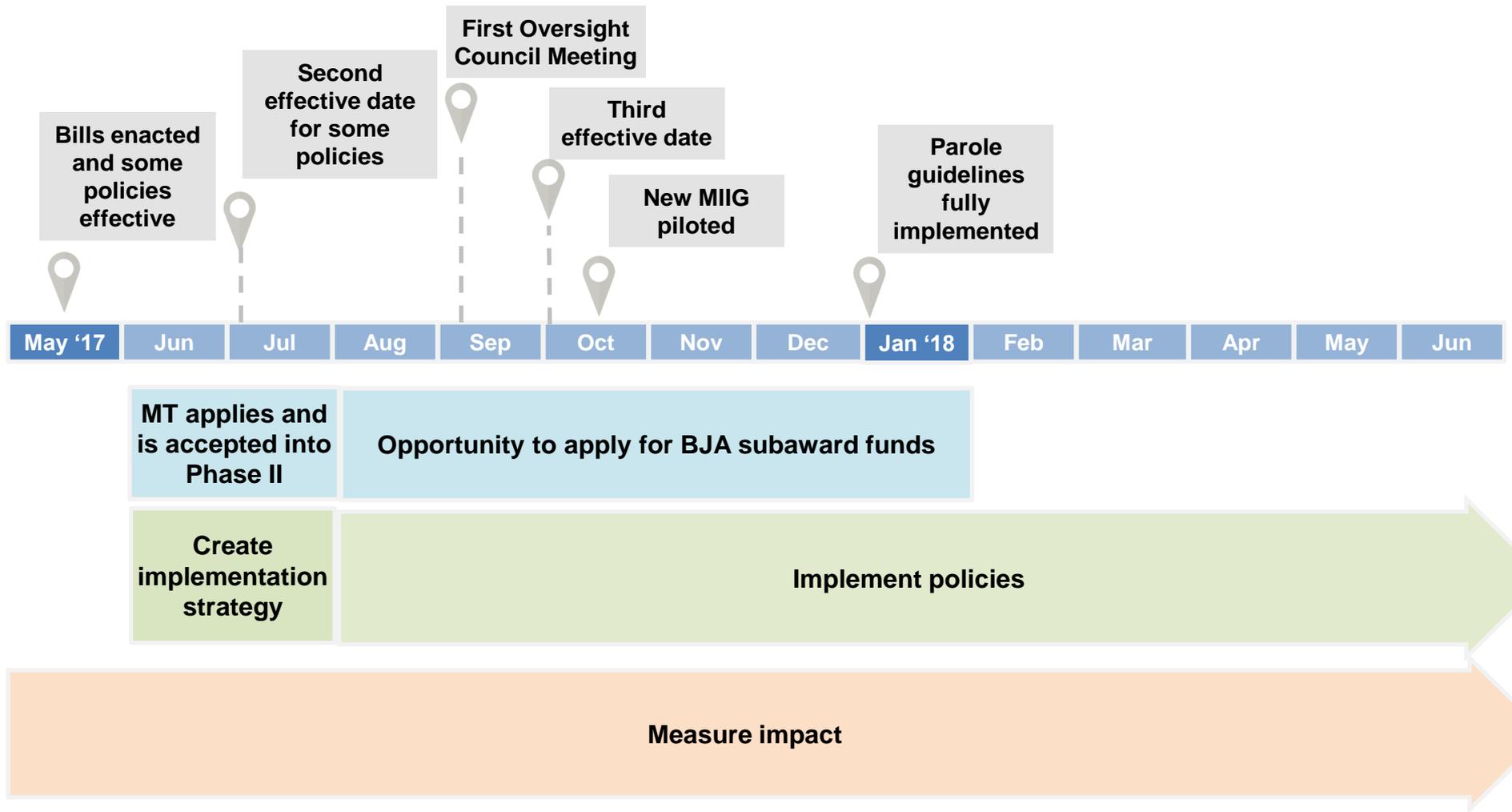
In the meantime, state leaders can look at process metrics to evaluate how implementation is moving forward



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Montana's Phase II Justice Reinvestment Timeline



The CSG team is providing guidance on key implementation activities

CSG facilitates a collaborative process that ensures policies are implemented effectively based on unique state needs. Current technical assistance focuses on three main areas:



The Board of Pardons and Parole



The Montana Incentives and Interventions Grid (MIIG)



Presentence Investigation Reports

Once time sensitive projects are operational, the CSG team will work with key stakeholders to decide the next set of priorities for technical assistance

Modernize the parole board and parole decision-making process



Effective date: July 1, 2017

Technical assistance includes:

- Helping create a plan to ensure a smooth transition from volunteer to professional board
- Training new parole board members
- Developing decision-making guidelines to standardize parole release
- Facilitating a standardized parole readiness process across DOC facilities
- Guiding how to use risk assessment and other tools prior to parole board hearings
- Looking for efficiencies to the parole and reentry process

Revise the MIIG to ensure appropriate sanctions and incentives are used by community supervision officers



Effective date: May 19, 2017

Technical assistance includes:

- Providing guidance on MIIG updates to align with evidence-based principles
- Sharing examples of best practices from other states
- Reviewing administrative policies around the use of the MIIG
- Guiding a supervision officer training plan
- Collaborating on stakeholder education and outreach, including judicial engagement

Reduce time to complete and submit a presentence investigation report



Technical assistance includes:

- Providing guidance on creating a presentence investigation report template that is more useful and informative for judges in their sentencing deliberations
- Working with DOC and the courts to develop and integrate presentence investigation policies
- Helping create a supervision officer training plan
- Assisting with stakeholder education and outreach

Effective date: October 1, 2017

How will Montanans know justice reinvestment is working?



Reduction in the prison population



Reduction in length of stay in prison for technical violators



Reduction in pretrial length of stay in jails

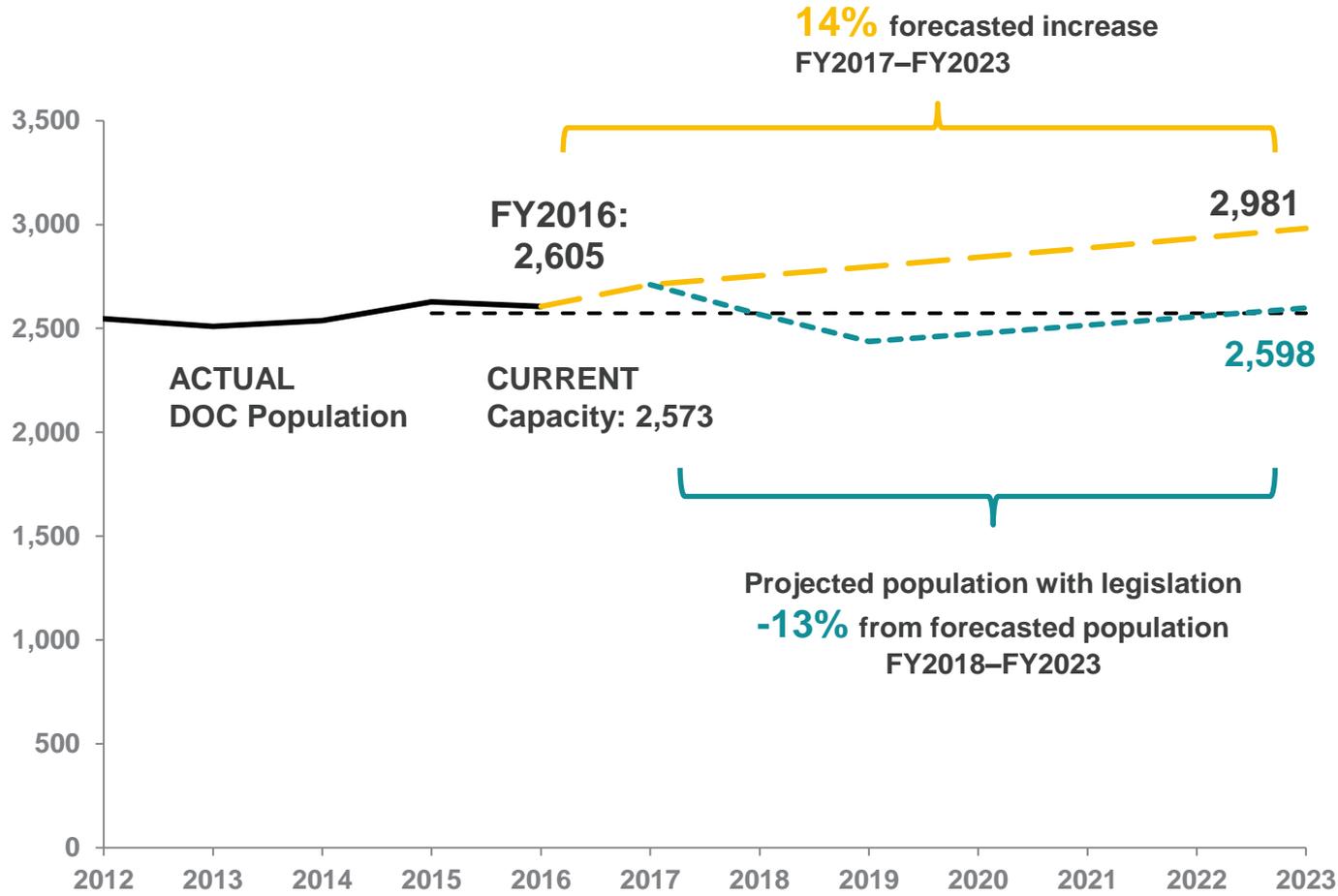


Reduction in people in prison awaiting parole pending a housing plan



Increase in consistency of parole release decision-making

Montana's package of legislation is projected to avert prison population growth by 13 percent by FY23



**\$69
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**383
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What's next?

Keep track of implementation mileposts:



- Subaward application approved by the Bureau of Justice Assistance
- Release of new presentence investigation reports and process by Oct 1, 2017
- The new MIIG will be piloted in October 2017 and then implemented agency-wide after pilot period is complete
- Finalized parole guidelines implemented in January 2018
- Monthly metrics begin to be reported to CSG
- Initiate community engagement process

Thank You

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Receive monthly updates about justice reinvestment states across the country as well as other CSG Justice Center Programs.

Sign up at:

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