

---

# NEW MEXICO CRIMINAL JUSTICE REFORM SUBCOMMITTEE OF THE COURTS, CORRECTIONS AND JUSTICE COMMITTEE

AMANDA ESSEX, CRIMINAL JUSTICE PROGRAM

JULY 29, 2019



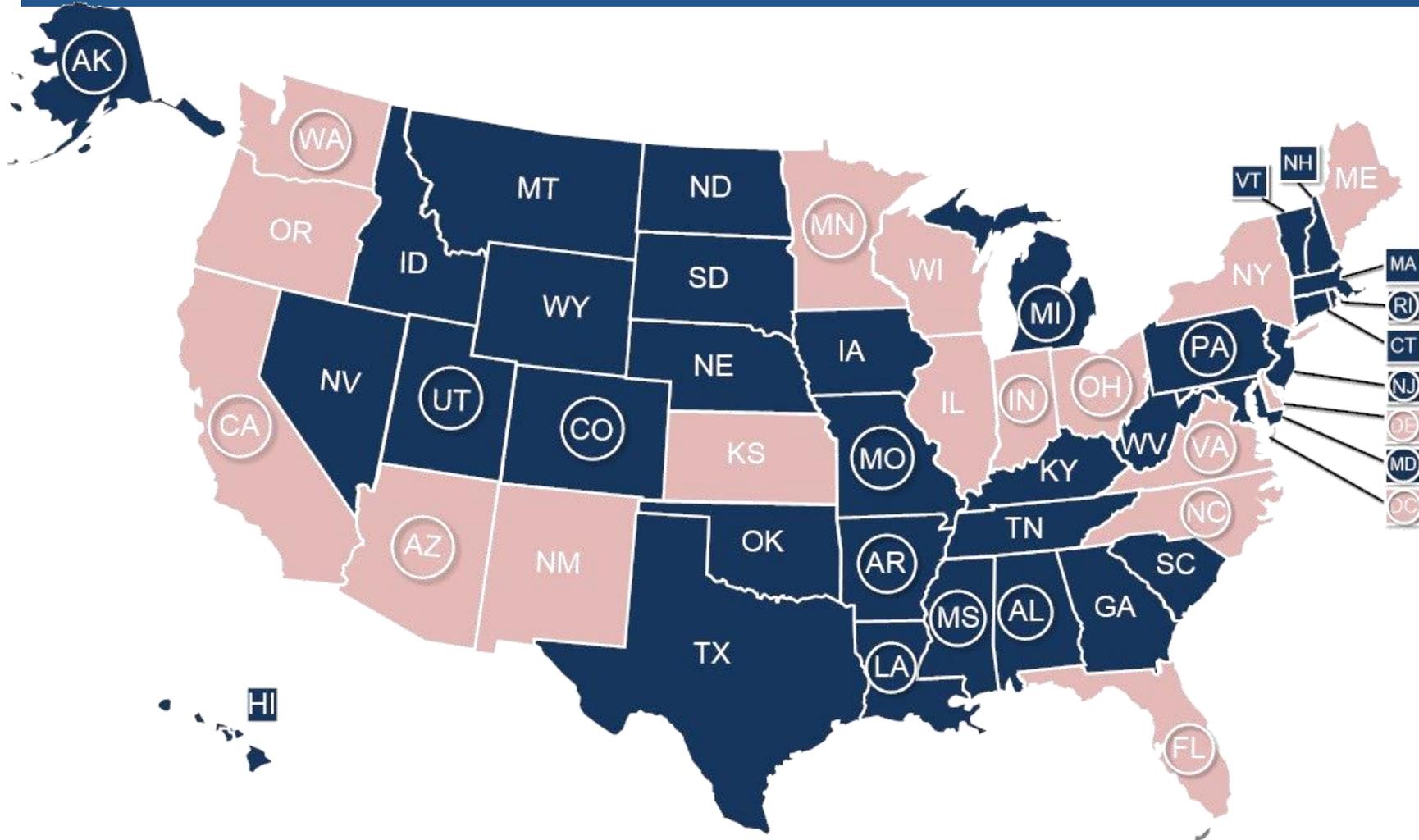
# NCSL

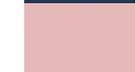
- Non-profit, bi-partisan organization.
- Members are all 50 state legislatures, 7,383 legislators and 30,000 legislative staff in 50 states, D.C. and U.S. territories.
- Offices in Denver and D.C.
- Among our goals - To provide legislatures with information and research about policy issues, both state and federal.
- NCSL tracks state policy developments in all public policy areas.

# CRIMINAL CODES

- Define criminal action & appropriate type/length of punishment
  - Infractions → fine-only
  - Misdemeanors → local jail
  - Felony → state prison
- Attention to property and drug crimes

# PRIMARY SENTENCING SYSTEMS



-  Indeterminate: 33 states
-  Determinate: 17 states
-  Structured: 26 states

# SENTENCING & CORRECTIONS REFORM

## Common denominators of reform

- Data-driven
  - Measure results
- Cross-governmental
  - Large-scale reforms
- Bipartisan

## SENTENCING OPTIONS

Community  
Supervision

Diversion

Mandatory  
Penalties

- Further depart from primary sentencing system
- Available in all states
- Support risk- and resource-sensitive strategies

## SENTENCING OPTIONS

Community  
Supervision

**Presumptive probation:** requires probation for certain offenses unless findings are made on the record

- Incorporate into guidelines: Kansas “SB 123”
- Statutory directive: South Dakota class 5 & 6 felonies

# SENTENCING OPTIONS

## Diversion

- Pre- or post-adjudication
- Sealing or dismissing of conviction
- Programs such as problem-solving courts, HOPE probation, prosecutorial diversion

## SENTENCING OPTIONS

### Mandatory Penalties

*“The court may deviate from the mandatory sentence if the court finds that the sentence would impose a **manifest injustice** and the defendant has accepted responsibility for the crime or cooperated with law enforcement.”*

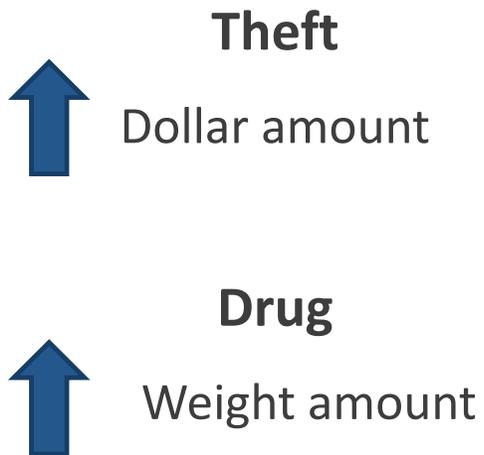
-North Dakota HB 1030 (2015)

## NOTABLE CRIMINAL CODE REVISIONS

- Redefined offense elements
- Graduated penalties
- Reclassified offenses
- Added penalty categories

# REDEFINED OFFENSE ELEMENTS

## Thresholds



## Possession v. Dealing/Trafficking

- Arkansas
  - Separate manufacture, deliver & possess with intent
- Kentucky
  - Added quantity thresholds for trafficking

# GRADUATED PENALTIES

## Georgia

- Burglary
- Theft
- Possession
- Forgery

## Mississippi

- Theft
- Commercial drugs (manufacture, possess with intent)
- Trafficking

# LOWERING PENALTIES & DECRIMINALIZATION

- Marijuana Possession
- Other personal possession
- Traffic offenses

## REDUCING INCARCERATION RATES

- 2012 national poll: support for policy changes that provide more effective and less expensive alternatives to prison
- Adjusting sentences to reserve costly prison space for dangerous offenders and expand community-based alternatives

# RELEASE & TIME SERVED

## Sentence Credits

- 41 states for *most* inmates
- Indeterminate: advance parole eligibility
- Determinate: reduce prison time

## Parole/Automatic Release

- Indeterminate: parole board
- Determinate: set by statute

## Mandatory Supervision

Required post-prison supervision for at least some inmates in 26 states

---

# Questions?

Amanda Essex

303-856-1369

[Amanda.Essex@ncsl.org](mailto:Amanda.Essex@ncsl.org)

[www.ncsl.org](http://www.ncsl.org)