A compilation of articles that appeared in the publication *Stateline Midwest* in 2021 on policies related to criminal justice and public safety
‘PROTEST TO PROGRESS’

States such as Illinois, Kansas and Minnesota have taken ‘deep dives’ into issues of race and equity; a mix of new laws and legislative proposals have been the result by Laura Kliewer (kliewer@csg.org)

The death of George Floyd at the hands of police brought people across the country to the streets in protest. Some were state legislators. Among them: Kimberly Lightford, the Illinois Senate majority leader and chair of the state’s Legislative Black Caucus. “I realized I was standing next to people from all across the state who didn’t look like me, but they were just as in support of the Black Lives Matter movement and wanting justice for all,” Lightford recalls. “It moved me to think, ‘We’re ready as a community and as a country to undo many of these policies and procedures that actually created these inequities.’” She saw a real chance to “move from protest to progress” — with the Illinois General Assembly helping lead the way. In only a few months’ time, after many hours of legislative hearings and subsequent negotiations, major policy changes in areas such as criminal justice, education and economic development went from the study stage to the desk of Illinois Gov. J.B. Pritzker for signing. “We all learned together,” Lightford says. “I think that is why it was so successful, because of the inclusion, because of the collaboration with our colleagues, because we worked from a place of research and data and best practices. “And we had the support of our governor, Senate president and House speaker.” Policymakers in other Midwestern states, such as Kansas and Minnesota, also have taken this kind of comprehensive approach. Leaders in all three of these states report notable, though varying, progress since the summer.

UNIQUE LEGISLATIVE YEAR, AND A CHANCE TO LEARN

The COVID-19 pandemic dramatically changed the policymaking environment for state legislators, and in some ways, it provided some unforeseen opportunities for legislators to focus on issues of racial justice. In Illinois, for example, the Senate only met sporadically last year, but adopted a rule allowing for hearings to take place via Zoom. That decision enabled lawmakers to study a wide range of issues, setting the stage for legislative action in late 2020 and early 2021. The Minnesota Legislature, meanwhile, held seven special sessions between June and December, primarily to address Gov. Tim Walz’s pandemic-related emergency declarations. A bill on police accountability was signed into law during one of these sessions (see page 6 for details). In addition, the Minnesota House passed a resolution declaring racism a public health crisis and creating a select committee with this task: “studying, evaluating, and conducting an assessment of the existing policies and practices of the Minnesota House of

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Minnesotans have long held a saying: "Equity is the butter on the cake," says Rena Moran, one of two co-chairs of the recently created Minnesota House Select Committee on Racial Justice. "It’s about a long history of disproportionality and inequities in funding and laws."

For instance, she says, the practice of redlining caused low rates of home ownership among minority communities for generations, and that practice still has major repercussions today. According to Moran, examples like this can be found across many areas; taken together, they give historical context to Minnesota’s current racial disparities. "Equity is not like the icing on the cake," she says, "equity is the butter that is in the cake. It makes the cake." Constructed in tandem with a long history of racial equity policies, the Racial Justice decided it did not want to create a report heavy on statistics (for example, data on racial gaps in home ownership and education levels). Instead, it wanted to tell "a story of why we are here," Moran says.

Released in December, the report also included more than 80 policy recommendations. Two legislative caucuses in Minnesota, the United Black Legislative Caucus and People of Color and Indigenous Caucus, have also released or are planning to release policy priorities as well. The committee presented its findings to the Legislature early this year, leaving it up to individual committees to pursue related bills. As of the end of February, almost a dozen measures had been introduced. They include proposals to:

- increase minority representation in Minnesota’s teacher workforce (HF 217);
- expand the reach of a homeownership program for low- and middle-income households (HF 996);
- limit the use of cash bail for certain offenses (HF 741); and
- change the state’s drug laws and rules on criminal expungement (HF 600).

**MINNESOTA: A LOOK BACK TO HELP INFORM FUTURE POLICIES**

The House Select Committee on Racial Justice decided it did not want to create a report heavy on statistics (for example, data on racial gaps in home ownership and education levels). Instead, it wanted to tell "a story of why we are here," Moran says.

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**STATE ACTIONS SINCE THE DEATH OF GEORGE FLOYD: EXAMPLES OF NEW POLICIES ENACTED IN THE MIDWEST**

**1. NEW LAWS ON POLICE TRAINING, TACTICS AND STATE OVERSIGHT**

**IOWA’S HF 2647, PASSED IN 2020**

- bans chokeholds in most instances
- requires annual de-escalation training
- allows the attorney general to prosecute officer-involved death cases
- bars police departments from hiring individuals previously convicted of a felony

**MINNESOTA’S POLICE ACCOUNTABILITY ACT, PASSED IN 2020**

- bans police chokeholds in most instances
- creates an independent unit of state government to investigate cases involving the use of deadly force and charges of sexual assault against officers
- gives citizens more input on the work and policies of the state-level Police Officer Standards and Training Board
- establishes peer-based trauma counseling for officers
- includes training requirements for officers on how to respond in cases involving a mental health crisis
- changes the arbitration system for disciplining officers

**ILLINOIS’ HB 3653, PASSED IN 2020**

- bans police chokeholds and mandates that police wear body cameras
- invests in more training as well as health and wellness services for officers
- establishes state-level standards on the use of force and de-escalation techniques
- creates a new certification system for police officers and standards for de-certification
- includes training requirements for officers on how to respond to incidents involving a mental health crisis

**2. WIDER CHANGES TO STATE CRIMINAL JUSTICE SYSTEMS**

- new laws in Ohio expanding the use of drug treatment in lieu of criminal conviction and allow more sealing of criminal records (HB 11), removing barriers to occupational licenses for individuals with a criminal record (HB 131), and prohibiting the sentencing of individuals under age 18 to life in prison without possibility of parole (SB 256)
- passage of a 20-bill package in Michigan that aims to reduce the state’s jail population — with policy changes that range from re-classifying traffic-related offenses to giving police greater discretion to issue citations rather than make arrests
- the end of the cash bail system for pretrial detention in Illinois, as well as various changes in sentencing laws (HB 1635)

**3. NEW POLICIES AND TASK FORCES TO ADVANCE RACIAL EQUITY**

- establishment by Indiana Gov. Eric Holcomb of a new cabinet-level position in his administration — chief equity, inclusion and opportunity officer
- creation by Michigan Gov. Gretchen Whitmer of the Black Leadership Advisory Council, which is recommending policies that "eradicate and prevent discrimination and racial inequity"
- development of a comprehensive set of policy strategies on criminal justice, education, economic opportunity and health care access by the Illinois Legislative Black Caucus; multiple, wide-ranging bills passed in early 2021 as a result (see main article for details)
- formation by Ohio Gov. Mike DeWine of an Equity Advisory Board “to dismantle racism and promote health equity”
- creation of a Speaker’s Task Force on Racial Disparities in the Wisconsin Assembly that includes a bipartisan group of legislators as well as community members
Those four pillars were:
1. Criminal justice, police accountability and violence reduction
2. Education and workforce development
3. Economic access, equity and opportunity
4. Health care and human services

Next, the caucus presented its vision to legislative leaders in Illinois and helped organize a series of subject-matter hearings. Bicameral co-chairs were appointed for each of the four pillars.

What followed were 32 hearings and more than 120 hours of testimony, with each of the four pillars receiving at least seven hearings.

“We developed a bold and transformative agenda that we knew could address the deep roots of racism,” Lightford says. “And the best way to do that is not from emotion, not from being discouraged or let down over the years from being a Black elected official, but doing it from the place of research, data and best practices.”

The legislative hearings included participation by advocacy groups (those for and against various policy proposals), subject-area experts and the heads of state agencies.

After the hearings, the caucus spent another two months developing legislation based on what they had learned.

By December, legislators were ready to announce their findings and proposals. Then, during the Illinois General Assembly’s lame duck session in January, the co-chairs for each of the hearings introduced legislation related to the four pillars, most of which successfully passed both chambers before the conclusion of session.

Lightford says much more work remains, including in areas such as health equity and school funding. But she believes the recent actions already point to success in moving from “protest to progress.”

are professionals from law enforcement, academia, public education, public health, local government and the justice system.

Over the course of six months, the Kansas Commission on Racial Equity and Justice held 11 virtual full meetings and 26 learning sessions.

“We all come from different perspectives, and it is really a beautiful tapestry of people that come together to address equity and learn together,” says Tiffany Anderson, who is co-chair of the commission and Topeka’s school superintendent.

By December, the commission had identified more than 60 policy steps that could be taken in the area of law enforcement.

These recommendations were organized not only by topic (improved police training and data collection, greater police accountability and investments in behavioral health), but by which branch and level of the Kansas government should carry them out.

In all, the commission developed 30 ideas specifically for legislative action.

“We were looking at big, systemic issues, and they’re not something that the Legislature alone can resolve,” says Shannon Portillo, who is the commission’s co-chair and an associate dean for academic affairs at the University of Kansas Edwards Campus.

“But we did push to have it done by December so there could be legislative action during the 2021 legislative session.”

As of late February, one commission-based bill had been introduced, SB 247.

Sponsored by the Senate Judiciary Committee, the bill would require officers to receive training on use of force and to pass a course on firearms proficiency. SB 247 also includes provisions on the hiring of officers and the administration of psychological testing.

In addition, Gov. Kelly’s proposed budget contains additional funding and supports for behavioral health services and for the state’s public defender system, both of which were commission recommendations. The group’s 14 members also have called for an expansion of the state’s Medicaid program, arguing that the lack of access to care for substance abuse or behavioral health problems leads to more encounters with police.

Kelly has said the various recommendations, if enacted, can help “create real change for Kansas communities.”

And the Commission on Racial Equity and Justice is just getting started. It is now focusing on the social determinants of health, with plans to take a deep dive into areas such as mental health, education, housing and economic opportunity.

“"We were looking at big, systemic issues, and they're not something that the Legislature alone can resolve.”

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KANSAS: NEW COMMISSION TARGETS LEGISLATIVE ACTION, AND MUCH MORE

In Kansas, where a mural of the fiery abolitionist John Brown is displayed prominently in the second-floor rotunda of the Capitol, much of the work on racial equity since the summer has been led by a newly formed, 14-member governor’s commission. Established by executive order in June, this group is studying issues of racial equity and justice in Kansas.

Gov. Laura Kelly directed the commission to first focus on actions that state agencies, the Legislature and local governments can take to improve racial equity in law enforcement and policing. Members of the commission are professionals from law enforcement, academia, public education, public health, local government and the justice system.

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Cover Story

Difference in incarceration rates among Black, White residents in Midwest (Black/White differential)

Estimated % of population, age 25 and over, with bachelor’s degree or higher (2019)

# of infant deaths per 1,000 live births, 2018

Data for American Indians include “American Indian and Alaska Native alone or in combination with one or more other races.”

* Some data on race/ethnicity were unavailable or insufficient.

Source: U.S. Census Bureau’s American Community Survey, 2019

Analysis by SCSU Center for Urban and Regional Policy (CURP)
# First Person: States Can Help Solve Cases of Missing, Murdered Indigenous Women and Children

Law in South Dakota will improve coordination, provide investigation resources

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**Examples of Midwest’s Response to Cases of Missing, Murdered Indigenous Persons**

<table>
<thead>
<tr>
<th>State</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nebraska</td>
<td>LB 154, passed in 2019, requires the State Patrol to study the scope of the problem of missing Native American women and children in that state.</td>
</tr>
<tr>
<td>South Dakota</td>
<td>Establishing a new Office of Liaison for Missing and Murdered Indigenous Persons within the state attorney general's office as the result of this year's passage of HB 1199 (see main article). The office will provide assistance to local law enforcement on cases related to missing or murdered Indigenous persons, as well as pursue new opportunities for federal funding.</td>
</tr>
<tr>
<td>Wisconsin</td>
<td>Attorney General Josh Kaul has formed a task force of tribal leaders, state legislators and others to help fight the abduction, homicide, violence and trafficking of indigenous women.</td>
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</tbody>
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**Submissions Welcome**

This page is designed to be a forum for legislators and constitutional officials. The opinions expressed on this page do not reflect those of The Council of State Governments or the Midwestern Legislative Conference. Responses to any FirstPerson article are welcome, as are pieces written on other topics. For more information, contact Tim Anderson at 630.925.1922 or tanderson@cs.org

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**MISSING AND MURDERED UNIT ESTABLISHED AT FEDERAL LEVEL, WITH OFFICES IN MINNESOTA AND SOUTH DAKOTA**

In April, a Missing and Murdered Unit was established within the U.S. Department of Interior to coordinate the work of various federal agencies to solve cases of missing and murdered Indigenous women. It will help gather intelligence on active cases, review and prioritize cases, develop plans to guide investigators, and identify outside resources.

Two years ago, under an executive order of President Donald Trump, a Task Force on Missing and Murdered American Indians and Alaska Natives was formed. One of its recommendations was to create this new Missing and Murdered Unit. Offices have been (or will be) established in seven locations nationwide, including in Minnesota and South Dakota.

In the U.S. Congress, the Violence Against Women Reauthorization Act of 2021 (HR 1620) calls for increased efforts to solve cases of missing and murdered Indigenous women. The U.S. House passed HR 1620 in March.
FIRST PERSON: HOW THREE FOUNDATIONAL GOALS ARE DRIVING MICHIGAN’S WORK ON POLICE REFORM

by Michigan Sen. Roger Victory (SenRVictory@senate.michigan.gov)

Midway through my first four-year term in the state Senate, a colleague of mine departed for a different elected position. His departure left an opening at the top of one of our heaviest-workload committees: chair of Michigan’s Senate Committee on Judiciary and Public Safety.

I was given the honor of taking on that position, and all of the new challenges and opportunities that it presented. Despite having served for six years in the House prior to being elected to the Senate, this was my first time dealing with judiciary and public safety issues.

Being a farmer by trade, I had focused heavily on quality-of-life areas, such as agriculture and natural resources, while also doing a good deal of work on appropriations. To prepare myself for this weighty committee that fell outside of my normal legislative wheelhouse, I went on an in-depth listening tour. I spoke with fellow committee members, numerous interest groups, and stakeholders who commonly appeared before our state’s judiciary committees.

One of the topics that came up most frequently during this listening tour was making improvements in policing.

THREE FOUNDATIONAL GOALS

Some preliminary bills on this topic had moved during the previous legislative term, but none had gained significant traction. As the committee’s new chair, there were questions as to what direction, if any, I would take in shepherding what was likely to be contentious legislation.

Currently, Michigan is a politically divided state. Republicans control the state Senate and House, while our governor, attorney general and secretary of state are all Democrats.

The state Senate is also down two Republican members (due to two senators’ elections to local office), so the majority is very slim.

If there is hope of any legislation being passed by both chambers and signed into law, we must find some level of support from nearly every point along Michigan’s political spectrum.

I needed to set clear goals early in the process to successfully pass through the political gauntlet. Three goals laid a stable foundation for the work ahead:

- **Goal 1** — Any bill voted out of our committee to the full Senate would seek to benefit and improve law enforcement agencies in Michigan.
- **Goal 2** — Avoid creating any unintended consequences that make policing harder or create larger divides in our communities.
- **Goal 3** — Ensure that any new laws and programs could be implemented in the real world, and did not just serve as legislative “window dressing.”

With these goals in place, I was able to keep an open mind when hearing proposals from fellow legislators, police groups, community activists and other organizations. They sometimes had wildly different ideas on which direction a bipartisan legislative package on police improvements should take.

Communicating these goals clearly and openly early on kept the discussions focused. This led to legislative proposals that were grounded, practical and seemed achievable.

In May, I was able to unveil a multi-bill package alongside a legislative colleague on the other side of the aisle (Sen. Stephanie Chang, minority vice chair of our Judiciary and Public Safety Committee).

Gaps in what is required and what is available [to police] have only served to hinder compliance and create larger inequalities between agencies.

LACK OF RESOURCES

During those early listening sessions, one discrepancy that stood out was a lack of uniformity of best practices throughout various regions of the state.

For instance, policing in west Michigan, parts of which I represent, did not necessarily match what was occurring in other areas.

Officers in some departments and agencies were able to complete numerous certifications and an accreditation program offered through our Police Chiefs Association. Other communities, on the other hand, did not have the funding, resources or staff to do this kind of training while still covering necessary patrols and additional duties.

Throughout these discussions, too, I was re-introduced to a problem that I have seen plague segments of Michigan’s government for years.

During the Great Recession of the late 2000s, revenue shortfalls caused our state to severely reduce the budgets of many departments. After the economy slowly recovered, the returning revenue never got appropriated back to many de-funded departments or programs.

The Michigan Commission on Law Enforcement Standards was a victim of these reductions, and it remains underfunded and understaffed.

In 2001, the commission had 28 staff members; as of 2018, it was down to 18. These cuts have occurred at a time when Michigan is requiring higher standards and asking more of the commission (not to mention additional public pressures focused on police practices and oversight). If state government is going to require more-reasonable investigations into officer incidents, then the agency conducting the investigations needs to be given proper resources and authority.

Similarly, if state government is going to require more police training and proven best practices across all local law enforcement agencies, we must provide the resources to meet these demands.

Lingering gaps in what is required and what is available have only served to hinder compliance and create larger inequalities between agencies.

BALANCED, REASONED APPROACH

Erasing these gaps is among the priorities in the legislative package introduced earlier this year.

Some of the measures are also responses to specific headline-making incidents in our state (better tracking of use-of-force violations, new rules on no-knock warrants, ban on chokeholds, etc.), as well as issues that arose from police agencies trying to meet requirements set by our Commission on Law Enforcement Standards.

Lastly, the legislative package addresses one of the biggest issues facing law enforcement (and every industry) across our state — the recruitment and retention of talent.

These bills have gone through very public and lengthy hearings. Groups from across the political spectrum have had the chance to speak, but one thing that we wouldn’t tolerate was outright objection without an alternative proposal for how to better address the issue.

Weeks of testimony improved many of the proposals and sharpened their focus. A good example is our bill on no-knock warrants (SB 479).

We heard horror stories of entries gone wrong that left citizens, children and police officers severely injured or worse.

However, in Michigan, we also have a recent history of incidents involving anti-government, militia-styled individuals and groups. Those situations unequivocally require the execution of a no-knock warrant. It is a tool that, especially given our history, must be available for use when absolutely necessary.

SB 479 seeks a compromise: allow no-knock warrants under some circumstances, but require more of law enforcement when executing them.

It is impossible to legislate for any and every eventuality. Through the legislative process, you must look for what is possible and practical, and what will actually address the goal you set out to achieve.

To be fair, the bills are still in committee, and a great deal of work must still be done. But I am optimistic that there will be a final product that elevates proven best practices across Michigan and supports our law enforcement agencies and the communities they serve.

We are working to improve our state and protect our people, and that includes making our judicial system better and ensuring our law enforcement officers have the tools in place to fairly and effectively keep our communities safe.

I believe that my balanced approach has laid the foundation for real achievements for the people of Michigan on these critical issues.

Sen. Roger Victory was first elected to the Michigan Legislature in 2018. Along with serving as chair of the Senate Judiciary and Public Safety Committee, he currently is assistant majority whip.
PROFILE: INDIANA HOUSE MAJORITY CAUCUS CHAIR GREG STEUERWALD

Listen to the experts: Relationship building has helped 14-year legislative veteran successfully lead on big policy initiatives — including a new law on policing

by Derek Cantú (dcantu@csig.org)

Q: This year, you helped to spearhead the unanimous passage of HB 1006, which addresses a wide range of issues related to policing. Can you talk about that measure and your approach to building the consensus you needed?

A: I cannot begin to tell you how important law enforcement was. They gave me their time and their expertise and their support. Law enforcement in Indiana stood tall. Without them, this would not have gotten done.

I was having a conversation with the Sheriff’s Association president and he said, “You know Greg, everything in law enforcement just begins with proper training. If you have the proper training, everything kind of flows from there.”

I met individually with the Police Chiefs’ Association here in Indiana, their representatives. Then I met with the state police superintendent, the Fraternal Order of Police — and in Indiana, to be certified here [as an] Indiana law enforcement officer, you go through the Indiana Law Enforcement Academy, which happens to be in my county. I met with all these groups individually. Every one of them mentioned, “You begin with training.”

There were three major topics that [were] gleaned from those conversations. One was the training. Second, we had extensive conversations on car and body cameras. And the third major part of the bill — which probably will have as big an effect on law enforcement as anything we’ve done — is the ability to eliminate what they used to call the “rogue,” now they call the “wandering” officer. Somebody gets in trouble someplace and quits and moves on, and then he goes on to the next department.

Q: In terms of the legislative process, how did you go about building such wide support for HB 1006, including on the other side of the aisle among your Democratic colleagues?

A: Robin Shackelford is the chair of the Black Legislative Caucus, and the caucus had contacted our House speaker last summer about the issue and he said at the time, “Hey, Steuerwald is working on this.” So the caucus contacted me. … I was very open with them and said, “Here are some things that we’re not going to do.” They were the same things I told law enforcement I was not going to do. We’re not going to eliminate qualified immunity. We’re not going to totally eliminate chokeholds. We may put some limitations on them, which is exactly what we ended up doing. We defined chokeholds as deadly force. So a law enforcement officer that’s in a deadly force situation can use a chokehold under the same circumstances that he can use a firearm.

In talking with Robin, I was kind of doing my thing, writing the bill and meeting with different groups and entities. … Robin was meeting with her constituents and telling them what was going on. We both had our issues to deal with, and she was fantastic. I mean, I couldn’t ask for a better partner.

Q: You led efforts to revamp Indiana’s criminal code and sentencing laws. What did you seek to accomplish with those reforms, which took effect in 2014?

A: That kind of major overhaul of the criminal code hadn’t been done in almost 40 years here in Indiana, … I always like to say that we separated the people we’re mad at from the people we’re afraid of, and dealt with them differently. We focused our attention on increasing penalties for crimes against a person, but then we took a different, alternative look at a lot of drug penalties. And we established what’s called “officer immunity.” We’re not going to totally eliminate qualified immunity. We’re not going to eliminate qualified immunity. We’re not going to totally eliminate chokeholds. We may put some limitations on them, which is exactly what we ended up doing. We defined chokeholds as deadly force. So a law enforcement officer that’s in a deadly force situation can use a chokehold under the same circumstances that he can use a firearm.

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Q: When you’re dealing with that many different people and that many different opinions, sometimes you have to work on some compromises within your own caucus. You have to try to come up with the best policy and convince everybody within the caucus — this is the best policy and what we want to do at this point in time, so that’s interesting. It can be a challenge sometimes because everybody has some pretty strong opinions.

A: My sheriff here from Hendricks County, who’s now the president of the Sheriffs’ Association, said, “We’re all tired of this. We’re all tired of the bad acre causing us all these problems.” We have our local merit board that can suspend or terminate, but he said, “That didn’t stop [an officer] from going elsewhere. We needed to take a look at — with help from the Law Enforcement Academy — how we decently an officer here in Indiana.”

These guys who get in trouble say, “Hey, I’ll quit if you drop your disciplinary action.” And the tendency is to accept that. And [law enforcement groups] said that’s not good policy. So there is language in the law that says these [disciplinary] actions continue even if the officer resigns from his current position. …

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A: Robin Shackelford is the chair of the Black Legislative Caucus, and the caucus had contacted our House speaker last summer about the issue and he said at the time, “Hey, Steuerwald is working on this.” So the caucus contacted me. … I was very open with them and said, “Here are some things that we’re not going to do.” They were the same things I told law enforcement I was not going to do. We’re not going to eliminate qualified immunity. We’re not going to totally eliminate chokeholds. We may put some limitations on them, which is exactly what we ended up doing. We defined chokeholds as deadly force. So a law enforcement officer that’s in a deadly force situation can use a chokehold under the same circumstances that he can use a firearm.

In talking with Robin, I was kind of doing my thing, writing the bill and meeting with different groups and entities. … Robin was meeting with her constituents and telling them what was going on. We both had our issues to deal with, and she was fantastic. I mean, I couldn’t ask for a better partner.

Q: When you’re dealing with that many different people and that many different opinions, sometimes you have to work on some compromises within your own caucus. You have to try to come up with the best policy and convince everybody within the caucus — this is the best policy and what we want to do at this point in time, so that’s interesting. It can be a challenge sometimes because everybody has some pretty strong opinions.

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FIRST PERSON: MINNESOTA FORMS NATION’S FIRST TASK FORCE ON MISSING AND MURDERED BLACK WOMEN

Group will guide Legislature on new policies to reduce violence, racial disparities

I am still haunted by [the victim's mother's words as she implored for support of HF 952 and tearfully shared that she wakes up every day wondering if Brittany would be alive today had that initial police response been different.] by Minnesota Rep. Ruth Richardson

MINNESOTA'S NEW TASK FORCE ON MISSING AND MURDERED AFRICAN AMERICAN WOMEN

created with this year’s passage of HF 63 (during special session)

includes four legislators, representatives from law enforcement, prosecutors, a coroner and advocacy groups for victims of violence

studying systematic factors and underlying causes of disproportionately high levels of violence against African American women and girls

explores policies related to policing, child welfare, coroner practices, and the investigation and prosecution of cases

reviewing measures to reduce violence and to help victims, their families and communities

will make recommendations to Legislature by Dec. 15, 2022

by Minnesota Rep. Ruth Richardson and Minnesota Coalition Against Sexual Assault.

For decades, a disproportionate number of Black women and girls have gone missing across this country. There is a clear crisis, with more than 64,000 Black women and girls missing in the United States.

Even more concerning is what we see lacking in the response — a dearth of law enforcement resources and little legislative action. For instance, a 2015 study found that Black children made up 35 percent of missing-person cases, but only received 7 percent of media references.

Research also shows that Black girls are more likely to be classified as runaways rather than as victims of foul play. Why does this matter? First, children classified as runaways don't prompt AMBER alerts, the emergency-messaging system used when law enforcement determines that a child has been abducted and is in imminent danger. (More than 1,000 children have been rescued specifically because of these alerts.)

Second, runaway cases receive significantly less media attention. Third, what happens in the first 48 hours of a person going missing is critical. Intense early coverage of cases provides the greatest chance of recovery. Local and national media coverage and police involvement are critical to recovering missing persons.

Unfortunately, the data demonstrate that Black women and girls are disproportionately disadvantaged on both fronts. Cases involving Black women and girls remain open and unresolved four times longer than cases involving White women.

Behind the data are real people and families that have been devastated by this crisis.

During the 2021 legislative session, I introduced the historic HF 952, a bill to create the nation’s first state-level Task Force on Missing and Murdered African American Women. In doing so, I wanted to center the experience and stories of impacted families.

Lakeisha Lee and her mother, Marquita Clardy, testified before our Minnesota House Public Safety Committee about how their 18-year-old sister and daughter, Brittany, went missing in 2013. Their testimony was powerful and heartbreaking. Lee and her mother reached out to police right away when Brittany went missing, but were told she probably just ran off with her boyfriend. Her mother was adamant that something was wrong. Brittany was not answering her phone. In the world of technology, they reached out to all of her friends and logged into her social media accounts but could not find a trace of her. The family undertook its own investigation. Working with an auto dealer who had recently sold Brittany a car, the family eventually tracked down the vehicle.

Brittany was found dead in the trunk of the vehicle 10 days after the family’s initial report had been made to police.

I am still haunted by Marquita Clardy’s words as she implored for support of HF 952 and tearfully shared that she wakes up every day wondering if Brittany would be alive today had that initial police response been different.

VALUING LIVES OF BLACK WOMEN AND GIRLS

Minnesota is unique among state legislatures. We are the only divided state legislature in the nation — a Republican-led Senate and Democrat-controlled House. Every single bill that we pass and get signed into law must truly be bipartisan.

Our efforts to build that kind of support for HF 952 began in the summer of 2020 during my first term, when I served as chief author of a resolution (HR 1) declaring racism a public health crisis.

With passage of that measure, Minnesota became the first state where a legislative chamber had adopted a bipartisan resolution declaring racism a public health crisis and established a Select Committee on Racial Justice.

I had the honor of serving as co-chair of this select committee. Its subsequent work proved to be critical — especially our decision to make the experiences and voices of community members front and center, and then complementing this powerful testimony with data on racial disparities.

That was our same approach to finding consensus on HF 952: give legislators on both sides of the aisle the opportunity to hear the powerful stories and real-life experiences of our fellow Minnesotans. (Under the leadership of Sen. Mary Kunesh, a similar strategy was used successfully to establish a new Missing and Murdered Indigenous Women and Girls Task Force.)

In addition to the compelling testimony of Brittany’s family, we heard the perspective of law enforcement (Suwana Kirkland, president of the National Black Police Association) and of an on-the-ground activist (Artika Rollor, executive director of the Minnesota Coalition Against Sexual Assault).

A strong case for HF 952 was presented to the House Public Safety Committee, which unanimously approved the measure. Ultimately, it was included in our omnibus public safety bill (HF 63 from this year’s special legislative session).

While Minnesota is the first state to create a task force to develop a comprehensive road map and recommendations for addressing the crisis of missing and murdered Black women and girls, it should not be the last.

In our pursuit of a just society and inherent struggle to live up to the promise of us all being created equal, we have significant work to do to ensure that our systems are operating in ways that value Black women and girls’ lives equally to their White peers.

We can and must do better. It is a matter of equity. It is a matter of justice.
Collin’s Law mixes stiffer penalties with comprehensive anti-hazing campus plan

**FIRST PERSON: EMERGES AS NATIONAL LEADER ON PREVENTING HAZING AND ITS TRAGIC CONSEQUENCES**

by Stephanie Kunze

Collin’s mother, Kathleen Wiant, and the Wiant family are my constituents. I was introduced to them shortly after the death of Collin, and worked with them over the past three years to create legislation that would increase penalties for hazing, enhance education of the dangers of it, and bring more transparency to instances that take place on our college campuses in Ohio.

I am inspired by the strength and determination that Kathleen showed during the time we worked together on this issue. That included her impactful testimony to our General Assembly. “We don’t want another family to go through the pain and loss our family has experienced... No family should ever have to go through what our family has gone through.”

Sadly, the family of Stone Foltz, a sophomore at Bowling Green State University who passed away from hazing during the time we worked together on anti-hazing legislation, had an online or in-person educational program on hazing. We work together, our new statewide plan emphasizes the importance of hazing-prevention education, intervention strategies, accountability for violations, and public acknowledgment when incidents occur.

Our goal with this legislation was not only to enhance penalties, but to push for a change in campus culture. Increased consequences for hazing show how serious we as a state will take hazing. The education pieces in Collin’s Law help our colleges and universities recognize the signs and dangers of hazing.

**ENDING THE HAZING CULTURE**

Collin’s Law contains a more strict set of criminal penalties that will help to curb hazing culture by deterring individuals and organizations. Under SB 126, an instance of hazing resulting in serious physical harm is now a third-degree felony, and the criminal penalty for recklessly participating in or permitting hazing is now a second-degree misdemeanor.

In addition, we now have new reporting requirements for school administrators and employees, faculty members and others. For them, the failure to report a hazing incident is a fourth-degree or a first-degree misdemeanor (a more serious charge occurs if the hazing incident caused serious physical harm).

We also have directed our chancellor of the Ohio Department of Higher Education to develop a statewide plan for preventing hazing.

This plan will have two critical components:

One is new guidelines for anti-hazing education and training on our college campuses for students, school administrators and faculty, as well as organizations recognized by, or operating under the sanction of, an institution.

Two, the chancellor will develop a model anti-hazing policy and distribute it to all institutions of higher education in Ohio.

In turn, each of these institutions must have its own anti-hazing policy in place. Use of the chancellor’s model policy is one option. All student organizations will receive the policy, which will be posted on a university’s website. These schools also will provide students with an online or in-person educational program on hazing.

Taken together, our new statewide plan emphasizes the importance of hazing-prevention education, intervention strategies, accountability for violations, and public acknowledgment when incidents occur.

From their stories came our mission: stop hazing on college campuses and prevent other families from losing loved ones.

Together with my colleague, Sen. Theresa Gavarone, we worked with a wide range of stakeholders on crafting and refining a bill called “Collin’s Law.” Along the way, we heard and learned from prosecutors, police, university leaders, the North American Interfraternity Council (representing 58 national fraternities), and the National Panhellenic Conference (representing 26 national sororities).

The end result: SB 126, legislation that was signed into law earlier this year and that has the potential to make Ohio a national leader in anti-hazing reform.

**HOW OHIO’S RECENTLY ENACTED COLLIN’S LAW DEFINES HAZING AND PUNISHES THE BEHAVIOR**

**DEFINITION**

“Coercing, including the victim, to do any act of initiation into any student or other organization or any act of continue or reinstate membership in or affiliation with any student or other organization that causes or creates a substantial risk of causing mental or physical harm to any person, including coercing another to consume alcohol or a drug of abuse.”

**PUNISHMENT**

- third-degree felony for hazing (including coerced consumption of alcohol or drug) that results in serious physical harm
- second-degree misdemeanor for recklessly participating in, or permitting, hazing
- second- and fourth-degree misdemeanor for failing to report hazing

One of the things that I am most grateful for is the fact that more than 25,000 students from universities across Ohio voiced their support for Collin’s Law. I believe this is the generation that will end the barbaric practice of hazing, and deliver on my hope that no other family will be asked to knock at the door.

Stephanie Kunze is currently serving her second term in the Ohio Senate and previously was a member of the state House of Representatives.

Students at Ohio University Sorority and Fraternity Life lead a letter-writing campaign earlier in support of anti-hazing legislation (SB 126, or Collin’s Law). Law was signed by Gov. Mike DeWine in July. (Photo: Accnt.Associates/Interfraternity Council)

SUBMISSIONS WELCOME

This page is designed to be a forum for legislators and constitutional officers. The opinions expressed on this page do not reflect those of The Council of State Governments or the Midwestern Legislative Conference. Responses to any FirstPerson article are welcome, as are pieces written on other topics. For more information, contact Tim Anderson at 630.925.1922 or tanderson@csg.org.

STATELINE MIDWEST | DECEMBER 2021
CRIMINAL JUSTICE & PUBLIC SAFETY

Kansas seeks budget savings for state by standardizing supervision, expanding diversion

by Mitch Avison (mavison@csg.org)

Like most states, Kansas is facing a budget deficit in fiscal year 2021 because of the COVID-19 pandemic. Estimated in the fall to be $152 million after an initial $1.4 billion deficit forecast in April, it will precipitate cuts this legislative session.

Advocates of criminal justice reform say recommendations approved in November by the Kansas Criminal Justice Reform Commission could help close that gap, as well as save money into the future, by using stronger, non-incarceration supervision and community-based treatments.

“When you think about the cost of housing someone in prison ($30,000 to $75,000 per year), and then the ancillary economic costs of criminal activity, you begin to realize that focusing on treating the symptoms of what leads people to criminal behavior would be a more cost-effective approach to dealing with crime,” says Rep. Stephen Owens, vice chair of the commission.

One recommendation seeks to standardize and consolidate parole and probation supervision standards to eliminate duplicative state efforts.

Currently, the Kansas Department of Corrections handles parole supervision while various state courts handle probation supervision. This can lead to dual supervision for one person — multiple meetings, fees, drug tests and little to no coordination of efforts among state agencies.

In fiscal year 2019, $84 million of Kansas’ spending on criminal justice came from individuals incarcerated due to violations of supervision or drug offenses.

To reduce these costs, and prioritize prison beds for violent offenders, the commission recommends expanding the use of diversion programs.

SB 123 of 2003 authorized prosecutors and judges to assign nonviolent drug possession offenders with no prior convictions to certified substance abuse treatment.

In practice, however, this supervision falls under the responsibility of county/district attorney offices, many of which in Kansas are run by a single, part-time, prosecutor.

On behalf of the commission, Owens introduced HB 2708 in February 2020. The bill would have authorized prosecutors to enter into memos of understanding with court services or community corrections offices to supervise offenders. It also would have provided funding via federal grants.

HB 2708 unanimously passed the House but died in the Senate’s Judiciary Committee when COVID-19 shut down most legislative activity.

Owens says the measure will be considered again in 2021.

“The goal being, let’s help the people who need help with their addictions,” he says. “Let’s help them turn their lives around and in the end if they’re able to, let’s make sure they’re not branded with a felony for the rest of their life.”

The Council of State Governments Justice Center helped the Kansas commission by providing comparative research from other states, and with the-ground data collection and stakeholder interviews in nearly 100 Kansas counties.

“They team literally swarmed our state and did research that, as citizen legislators, we simply don’t have time to do,” Owens says.

“For them to be able to step in and do so much of that homework, that research, and to work with all of these different agencies, [it] was an invaluable resource [leading] to the success of our Criminal Justice Reform Commission.”

Mitch Avison serves as CSG Midwest staff liaison to the Midwestern Legislative Conference Criminal Justice & Public Safety Committee.

GREAT LAKES

Proposed Asian carp barrier gets federal backing; new rules on treatment of ballast water moving forward

by Tim Anderson (tanderson@csg.org)

The year 2020 ended with two policy developments likely to shape future regional efforts to protect the Great Lakes from one of its greatest threats — the introduction and spread of aquatic invasive species.

As part of a spending bill approved in December, U.S. Congress authorized an $856 million project to add a new electric barrier and other fish-control technologies at Brandon Road Lock and Dam near Joliet, Ill. The goal keep Asian carp and other invasive species from reaching the Great Lakes via the Chicago Area Waterway System.

This fall, too, the U.S. Environmental Protection Agency released draft standards for how the ballast water on oceangoing vessels must be treated.

PROGRESS ON BRANDON ROAD

The new barrier and controls at Brandon Road are a project of the U.S. Army Corps of Engineers. Such projects typically require a monumental amount that pays for 35 percent of the costs, but Great Lakes advocates and congressional supporters were able to boost the federal share of Brandon Road to 80 percent.

That still leaves a considerable amount of money needed for a project with a current price tag of close to $1 billion. Illinois has signed an agreement with the Army Corps to be the project’s non-federal sponsor for the pre-construction engineering and design phase.

And it will be receiving some financial assistance from a Great Lakes neighbor. Michigan has committed $8 million for this phase of the project. Illinois will contribute the remaining $2.5 million that is needed. The two states entered into an intergovernmental agreement in late December. More costs will come, and have to be covered, for the actual construction phase.

NEW RULES, BUT NOT YET

Concerns about Asian carp are behind the push for the Brandon Road project.

These species of fish were initially brought to the United States to control algae blooms and vegetation in aquaculture facilities in the South. They escaped and have spread throughout the Mississippi and Ohio rivers, which are connected to the Great Lakes via the Chicago Area Waterway System, where Brandon Road Lock and Dam is located.

But most invasive species, including sea lamprey and zebra mussels, came to the Great Lakes via the discharge of ballast water from oceangoing vessels.

“It accounts for anywhere from 55 to 70 percent of the reported introductions since 1959,” Sarah LeSage, aquatic invasive species program coordinator for the Michigan Department of Environment, Great Lakes and Energy, said in December during a presentation to the Great Lakes-St. Lawrence Legislative Caucus.

Preventing these introductions is the goal of the EPA’s proposed new rules, which include discharge-specific standards for 20 different types of vessels, equipment and treatment systems. They are the result of the Vessel Incidental Discharge Act of 2018.

Great Lakes advocates largely supported this law because it ensures that the EPA can regulate ballast water discharges as a pollutant under the Clean Water Act, and thus establish science-based treatment standards.

But these gains in federal protection will come with a loss of policy authority for states, which will be largely barred from setting more-stringent standards of their own. Michigan, Minnesota and Wisconsin currently have state-level permitting programs and/or requirements for ballast water management. “That [pre-emption] happens when the federal rules are final, effective and enforceable,” LeSage said.

These new federal rules, which will be enforced by the U.S. Coast Guard, could take effect as early as 2023, she said.

At that point, the only policy pathway for Great Lakes states will be for their governors to petition the EPA and ask for more-stringent standards.

by Mitch Avison

ASSESSING THE HEALTH OF THE GREAT LAKES ECOSYSTEM

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<th>Indicator</th>
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<td>Groundwater</td>
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<tr>
<td>Climate trends</td>
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Source: “Status of the Great Lakes 2019” (Governments of Canada and the United States)
New laws in Michigan are the result of a bipartisan effort to understand the causes of a rising jail population.

by Mitch Arvidson (mavidson@csjs.org)

In one of its last acts of the 2020 session, the Michigan Legislature passed 20 bipartisan bills on criminal justice reform, all of which were the result of a multi-branched working group that helped connect the role of policy to the state’s rising jail population. The Joint Task Force on Jail and Pretrial Incarceration was formed in April 2019 to figure out why this population had risen from 63 inmates per 100,000 people in 1975 to 166 in 2015—despite Michigan’s total crime rate dropping dramatically over this 40-year period.

“Michigan has a problem with overcriminalization,” says Rep. Bronna Kahle, who helped lead efforts to get the measures passed. Before this package of legislation, there were more than 3,100 criminal acts defined in Michigan law.

After analyzing data from 83 individual counties and finding statewide patterns, the task force delivered 18 recommendations to the Legislature in January 2020. For a brief while, it seemed that Michigan would quickly enact sweeping criminal justice reforms based on the task force’s recommendations. COVID-19 temporarily halted this momentum. Not until the fall were legislators able to refocus on those recommendations.

For example, the task force found that driving without a valid license was the third most common reason for jail admissions. To get the measures to appear in court or to pay court fees and fines.

“Everyone can agree that dangerous drivers should not be on the road,” Kahle says. “But taking away a person’s driver’s license has become our default penalty to enforce dozens of rules that have nothing to do with driving safety.” Under HB 5846, driver’s licenses will no longer be suspended or revoked due to offenses unrelated to dangerous driving (for example, certain drug-related crimes or failing to pay child support). HB 5853 reclassifies many traffic misdemeanors as civil infractions, thus allowing people to pay a ticket instead of having to appear in court. Kahle, who sponsored both of these bills, says she became interested in driver’s license suspensions because of how disruptive they are to workforce participation.

“Eliminating license suspensions is not about removing accountability, she says. “It’s about finding smart and targeted ways of holding people accountable.”

Several of the task force’s other recommendations are now state law. For example, the use of mandatory minimum sentencing has been greatly reduced, and police now have greater discretion to issue citations and court summonses as opposed to making arrests. Put together (see table), these bills seek to increase the use of jail alternatives and reserve limited jail space for those actually threatening public safety, Kahle says.

She encourages other states in the Midwest to take a closer look at Michigan’s path to reform: “Forming a bipartisan task force helps the task force, produce a new, more common-sense approach to addressing low-level offenses.”

Mitch Arvidson serves as CSG Midwest staff liaison to the Midwestern Legislative Conference’s Criminal Justice & Public Safety Committee.

**ILLINOIS REVAPPS COLLEGE-LEVEL DEVELOPMENTAL EDUCATION WITH GOAL OF IMPROVING COMPLETION RATES**

by Tim Anderson (tanderson@csj.org)

This past summer, following the killing of George Floyd, legislators across the country began asking questions about racial justice and disparities in their own states. Among them was Illinois Rep. Carol Ammons, and one of her questions, along with other leaders in her state’s Legislative Black Caucus, was this: “Is this just a police issue?”

“Our answer was no,” she says. Their legislative response was to develop a sweeping policy agenda built on four pillars: criminal justice reform, economic equity and opportunity, health care and education.

Much of the work on that last pillar fell to Ammons, last year’s chair of the House Higher Education Committee. Her efforts culminated in January with the passage of HB 2170. The measure seeks changes at all levels of the education system, with an overarching goal of advancing racial equity. On the higher-education side, one piece of that bill illustrates the kind of systemic reforms being sought. It has to do with how the state’s community colleges deliver developmental education to students, and how these institutions choose who takes part in this coursework.

Developmental education is remedial instruction in subjects such as English and math, often traditionally taken before students can move on to college-level, credit-bearing courses. State-level reforms in this policy area became “a centerpiece,” Ammons says, in part because of what legislators learned in committee testimony over the summer. In Illinois, almost half of high school graduates enrolled full-time in a community college are placed in developmental education. Among minority students, this rate is even higher—nearly 71% out of every 100 Black students, for example, and among this group, only six of 100 go on to graduate.

“The traditional developmental-education courses cost students time, money and financial aid but they don’t count toward college credit,” Ammons says. “It becomes a barrier.” HB 2170 seeks to change that.

First, community colleges must look beyond standardized test scores and college-placement tests when determining who gets placed in remedial education. For example, a graduating high school student who has a high-grade-point average or who has successfully completed college-level or transitional classes must be placed in credit-bearing courses. Second, HB 2170 uproots the traditional developmental-education approach, calling for it to be replaced with an “evidence-based model that maximizes a student’s likelihood of completing an introductory college-level course within his or her first two semesters.”

One likely result: community colleges’ adoption of a “co-requisite model,” under which students are placed directly into college-level coursework with concurrent instructional supports.

“What we’ve seen with the traditional model is that 18 percent of Black students in math and 29 percent in English completed a gateway course with a C or better in three years,” says Emily Goldman, senior policy manager for the Partnership for College Completion. “With the co-requisite model, it’s 69 percent and 64 percent.”

Illinois isn’t alone in seeking these kinds of policy changes. More states around the country are recognizing the traditional model as an obstacle to postsecondary completion, says Nikki Edgecombe, a senior research scholar at the Community College Research Center. The loss of time and money (including the possible exhaustion of financial aid) while taking remedial courses are factors, she notes, but so is the impact on a student’s academic outlook.

“It can be demotivating for a student, ‘I applied to college, they let me in, and now they won’t let me take college classes,’” Edgecombe says.

“Getting students into and through their gateway courses is important to generating academic momentum.”

Tim Anderson serves as CSG Midwest staff liaison to the Midwestern Legislative Conference Education Committee.

**NEW LAWS IN MICHIGAN: SIGNING OFF ON EARLY JANUARY**

by Tim Anderson (tanderson@csj.org)

Michigan and Bronna Kahle

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<tr>
<th>Bill number</th>
<th>Description</th>
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<tr>
<td>HB 5846-47</td>
<td>Prohibits suspension of driver’s licenses for offenses unrelated to dangerous driving</td>
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<tr>
<td>HB 5849-52</td>
<td>Reclassifies some vehicle- and traffic-related offenses as civil infractions rather than misdemeanors</td>
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<tr>
<td>HB 5853</td>
<td>Removes mandatory minimum sentencing for certain offenses</td>
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<tr>
<td>SB 1046</td>
<td>Gives law enforcement greater discretion to issue citations rather than make arrests for misdemeanors</td>
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<td>SB 1047</td>
<td>Ensures use of court summonses for most first-time failures to appear in court and allows defendants to resolve low-level warrants without being arrested</td>
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<tr>
<td>SB 1049</td>
<td>Expands deferred judgment of guilt eligibility to 24- and 25-year-olds</td>
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<tr>
<td>SB 1050</td>
<td>Limits jail sanctions for technical probation violations and lowers probation terms</td>
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<tr>
<td>SB 1051</td>
<td>Requires parole conditions to be individualized; consider parolee’s assessed risks and needs, reduce recidivism, and address needs of the victim</td>
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**PREVALENCE OF DEVELOPMENTAL EDUCATION IN U.S. COLLEGES**

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<thead>
<tr>
<th>% of State Community College Students Who Took One or More Remedial Courses</th>
<th>% of All Postsecondary Students Who Took One or More Remedial Courses</th>
<th>Prevalence of Remedial Education in U.S. Colleges</th>
</tr>
</thead>
<tbody>
<tr>
<td>40.9%</td>
<td>59.8%</td>
<td>Source: National Center for Education Statistics (Based on study released last year of ninth-graders in 2009 who started postsecondary careers in 2013-14)</td>
</tr>
</tbody>
</table>

**EDUCATION**

Illinois revamps college-level developmental education with goal of improving completion rates
PRISON OVERCROWDING IS NOTHING NEW for the state of Nebraska and its legislators.

Now in his seventh year as a senator, Sen. John Stinner has seen proposal after proposal come the Legislature’s way to deal with the problem. “During my tenure, we’ve built about 800 beds that, because of budget constraints, they’re community custody beds, minimum-security beds, or maximum-security beds,” he says. “We’re just not catching up because the inflow of prisoners is at 100 to 200 per year. It just continues to be a situation where they’re going to continue to overcrowd unless you can answer or stymie that inflow.”

At the end of 2019, 5,546 prisoners were in state facilities designed to hold 3,555. The state’s prison population, custody population as a percent of capacity stood at 156.9 percent, the third-highest rate of occupancy in the country.

This legislative session, Stinner and other lawmakers took steps to address persistent overcrowding by building more capacity. It’s a move that bucks national trends, but that some state officials say is necessary for Nebraska’s particular situation.

The state’s new budget for capital construction projects (LB 383) includes close to $15 million for the Department of Correctional Services to “prepare designs and plans for a new multi-custody-level correctional facility.” The state will also update a master facility plan from 2014 that analysts demand for behavioral health, mental health, and substance abuse services.

Finally, legislators set aside $100 million in general funds for the potential construction of a new prison (LB 380). For such a facility to be built, another legislative vote, along with additional appropriations, would be required.

Nebraska Department of Correctional Services inspector general Doug Koebornick has said the state should not expect diversion programs or other reforms to dramatically reduce its prison population. The state already has a relatively low incarceration rate: 289 inmates per 100,000 residents, among the lowest numbers in the country. In recent years, too, the Legislature has passed criminal justice reforms — for example, changes in sentencing laws and a strengthening of post-release supervision.

Still, Nebraska Sen. Justin Wayne sees room for further improvement. “You have people who do zero to five (years),” Wayne says. “They get out, 30 percent of them reoffend in Nebraska, and the next sentence is 10 to 20 (years).” His preferred policy response: invest more in re-entry services that reduce recidivism and that stop individuals from serving longer sentences in prison.

“Every 5 percent reduction (in recidivism) is about $3 million saved on corrections, and it greatly reduces overcrowding,” he says. One way or another, the state is quickly approaching a major decision point.

The Nebraska State Penitentiary, built in 1869, is nearing the end of the 50-year useful lifespan that builders gave it after major renovations in 1918. Nebraska Gov. Pete Ricketts has said the Legislature has two options: fix the old facility for an estimated $200 million, or build a new $230 million prison. But at a time when states such as California, Connecticut and Missouri are closing prisons, the idea of building a new one in Nebraska has been met with resistance.

Stinner says that this year’s legislative actions are part of a three-pronged approach in Nebraska: reform the criminal justice system, prepare to replace aging facilities, and deal with overcrowding over the short and medium term.

“The step-by-step approach is one of building confidence,” he adds. “When we talked to the architects and the engineers, they said its going to take us at least a year [no design and plan] after you find the site. ... Hopefully with the master facility plan, we can move ahead with confidence that we’ve
taken care of and done the appropriate due diligence and provide a better cost estimate.”

Mitch Arvidson serves as CSG Midwest staff liaison to the Midwestern Legislative Conference’s Criminal Justice & Public Safety Committee.
Support for expanding expungement eligibility builds in Wisconsin as result of legislative changes

by Mitch Arvidson (arvidson@csgrmidwest.org)

Today, most Wisconsin residents convicted of a crime, even a nonviolent felony or a misdemeanor, have little chance of expunging the offense from their records. One of these many Wisconsinites (an estimated 1.4 million have a criminal record) told his story to Rep. David Steffen. It made a lasting impression on the four-term lawmaker. “I never realized my three-year probation actually was a life sentence,” the man, 27 years old at the time, told Steffen. That time on probation stemmed from a physical altercation as a 17-year-old. The man, a constituent of Steffen’s, has had difficulty finding full-time employment since then because of his criminal record. “Our criminal justice system is very good at establishing and using sticks,” Steffen says. “However, it rarely finds effective ways to use carrots.” A new “carrot” approach is part of Steffen’s bipartisan legislation this year that would greatly expand expungement eligibility in Wisconsin. This would not be done by changing the types of crimes that can be expunged, but by ending two relatively strict and unusual aspects of the state’s laws on criminal records. The proposed reforms would eliminate the age limit and allow for post-sentence expungement, an incentive for offenders to successfully complete their sentences and pay all fines, fees and restitution to the victim. Steffen, a Republican, and Rep. Evan Goyke, a Democrat, first sought to expand expungement eligibility in 2017. Bills have failed to advance in previous sessions, but the proposal’s supporters and sponsors are more hopeful this year. First, law-enforcement groups such as the Wisconsin Chiefs of Police Association and the Milwaukee Police Association are backing AB 69/SB 78. This session’s version of the bill includes an exception for police departments, which will still have access to a job applicant’s publicly expunged convictions. Another key change: language requiring that a crime victim be notified if the offender is seeking expungement and be allowed to provide comments to the judge. A primary goal of AB 69/SB 78 is to give Wisconsinites a greater chance at redemption, employment and a normal life. But Steffen also points to another positive effect of changing the state’s laws on expungement: a greater pool of workers as the pandemic ends, the economy reopens, and some businesses report difficulty filling open positions. (Wisconsin’s unemployment rate in April was 3.9 percent.) “Because our legislation is retroactive, we have an opportunity to, in short order, add thousands of people to the workforce that were previously ineligible to participate,” he says. “Expungement is a cost-free option of workforce development.”

New online tool helps legislators measure progress in protecting lakes and compare policies across basin

by Carolyn Orr (carolyn@strawdimage.com)

Will this investment of taxpayer dollars lead to better outcomes? Has a legislative-initiated program or law had its intended effects? These questions are at the top of policymakers’ minds across all issue areas. For legislators working to protect and restore the Great Lakes, a new web-based tool being developed by the Great Lakes Commission will provide some answers. Blue Accounting (Blueaccounting.org) has been years in the making, a response to calls among the region’s leaders to take a “ smarter and more comprehensive approach to monitoring Great Lakes resources,” Erika Jensen, the commission’s interim executive director, said during a web-based meeting held this year by The Council of State Governments’ Great Lakes-St. Lawrence Legislative Caucus (GLLC). The new Blue Accounting site, which is being rolled out this year, will track progress on a series of regionwide or jurisdiction-specific Great Lakes objectives. For example, under the binational Great Lakes Water Quality Agreement, one core goal is to reduce phosphorus loads into Lake Erie by 40 percent. How well is the region doing in meeting this target? Blue Accounting will provide specific data on nutrient runoff — by year and by tributary, for instance. Likewise, legislators will be able to compare policies in place in different states and provinces. What programs are in place to curb nonpoint source pollution? Or what are Great Lakes jurisdictions doing to regulate and prevent the spread of invasive species? “That’s where I think it’s really going to help you legislatively,” Nicole Zacharda, program manager for the commission, told lawmakers. “You’re going to be able to see some of the good things happening in your neighboring jurisdictions, or maybe you’re going to see where your jurisdiction isn’t doing so well as its neighbors are doing.” This virtual meeting on Blue Accounting was held as part of the ongoing work of the caucus’s Task Force on Nutrient Management. Led by Wisconsin Sen. Andre Jacque, this binational, interstate group of legislators has explored and developed model policies for states to curb nutrient runoff. Zacharda showed policymakers how they could use Blue Accounting to monitor phosphorus loads from a single watershed — in this case, the Maumee River, which drains into Lake Erie (see graphic). Viewing just one bar chart on the site shows the impact of extreme rainfall events from 2019. In the years prior, phosphorus loads were near or even below the 40 percent reduction target. That changed because of the impact of those heavy rains. That example shows how difficult measuring the impact of various state programs and investments can be. Phosphorus loads didn’t spike in 2019 because of a change that year in state policy, but rather because of the weather. But such data can point to the need for Great Lakes jurisdictions to do more. The initial rollout of Blue Accounting is focusing on invasive species and Lake Erie nutrient management. Eventually, progress on a whole range of issue areas will be tracked — from maritime trade and drinking water, to wetlands protection and coastal resiliency to climate change. Pages of in-depth information on each topic will be available, along with progress icons and a list of metrics. In developing the site, the Great Lakes Commission received input from the caucus and its members. Likewise, legislative input will be sought in the months and years ahead. “We heard from members of the GLLC through our surveys and workshops that legislators want to know what policies are working, how well they’re working, and how to measure and replicate successes,” says Eric Brown, senior advisor for external relations at the commission.
ECONOMIC DEVELOPMENT

Hurt hit by pandemic, many women, minority and non-degreed workers still face labor-market challenges

by Laura Tomaka (ltomaka@csj.org)

The pandemic-related dip in jobs and economic output that has been referred to as the “shecession” because of its disproportionate, adverse impact on female workers. Economist Michael Horrigan told legislators in July that federal data on employment tell a slightly more nuanced story. It’s a “less-than-B.A. recession,” he said, “with significant impacts on women and minorities.”

Likewise, many groups of workers without postsecondary degrees or credentials continue to struggle even as the U.S. economy grows. “Those with less than a Bachelor’s degree” have had an especially difficult time regaining employment since April 2020,” Horrigan, president of the W.E. Upjohn Institute for Employment Research, said during a session organized by the Midwestern Legislative Conference Economic Development Committee. During the first few months of the pandemic (February to April 2020), overall employment declined by 2.2 million jobs. This drop was highly concentrated in lower-wage sectors and establishments — 64 percent of the national total.

“Ten industries alone accounted for over half of those employment declines,” said Horrigan, noting huge losses in jobs related to hospitality, entertainment, travel, retail and child care. Women have had a higher rate of job loss relative to their employment status, and in particular, minority women have been at a greater risk of labor market-related displacement and disruption. For example, as of February 2020, minority women represented less than 12 percent of employment; they accounted for nearly 21 percent of the people who lost jobs between February and April 2020.

“This is a really important lesson in terms of who got hurt by the pandemic,” Horrigan said. Bouncing back for many displaced workers has not been easy. As of June 2021, more than 42 percent of the nation’s population of jobless workers were “long-term unemployed.” This means they had been out of work and searching for a job for 27 weeks or longer. “The labor market is changing in terms of skill requirements, automation,” Horrigan said. “These [long-term unemployed] are the folks who are going to have the hardest, long-term problems in the labor market.”

Minorities make up a disproportionate share of the nation’s long-term unemployed: 23.9 percent and 17.1 percent for minority males and females, respectively. As of May, Horrigan suggested that policymakers also pay close attention to trends in the “near unemployed”: individuals who have been laid off, either temporarily or permanently, but are not yet searching for work. This group is considered out of the labor force and not counted as unemployed.

“(Some) are coming back in,” he said, “or we hope they are coming back in.” As of June 2021, nearly 7 million individuals who were out of the labor force reported that they wanted a job now. But they cited various factors, including child care, family responsibilities, transportation, etc. — for not seeking work.

“We think of the ‘hidden’ or ‘near’ unemployed; there is a disproportionately share of females without a college degree as well as minority females. It is unknown how many of these workers will remain out of the labor force or for how long. Horrigan said. He urged legislators to focus on strategies that help bring them back to the workplace.

Laura Tomaka is CSG Midwest staff liaison to the MLC Economic Development Committee.

CRIMINAL JUSTICE & PUBLIC SAFETY

With more jobs requiring occupational licenses, states look to remove obstacles for formerly incarcerated

by Mitch Arvidson (mavridson@csj.org)

Sixty years ago, about one in 20 jobs required an occupational license. Today, it’s four in five. That trend has closed many employment and career opportunities for individuals with a criminal record because of another figure: 13,000, the approximate number of provisions in state law that serve as barriers to licensure, according to the National Inventory of Collateral Consequences of Conviction. As lawmakers learned in July at a session of the Midwestern Legislative Conference Annual Meeting, states have determined that certain low-level offenses do not pose a public safety risk. They now broadly prohibit such offenses from being considered in licensing applications.

In states such as Indiana, Kansas and Ohio, after a certain period of conviction-free years, individuals are less likely to have their criminal records stand in the way of securing a license. This is because of laws that reflect what the data show about the likelihood of reoffense: it declines significantly as more time passes from when the conviction occurred.

Another policy idea is to enact procedural protections at the back end of the licensing process. North Dakota and Ohio are among eight states that require a written explanation of specific reasons for conviction-based denials. This provides applicants with a record for challenge or appeal, and informs them of possible remedies. It also ensures that licensing bodies are properly applying the law.

On the front end, states can inform applicants about what licenses are possible. Indiana, Iowa, Nebraska, Ohio and Wisconsin provide pre-application determinations letting individuals know if they can apply for a license.

The hope is that these policy changes improve employment outcomes. According to the Prison Policy Initiative, 27 percent of formerly incarcerated individuals are unemployed. Figures are even higher for women and people of color. Formerly incarcerated Black women, for example, have a jobless rate of nearly 44 percent; that compares to 6 percent for Black women in the general population.

Mitch Arvidson is CSG Midwest staff liaison to the MLC Criminal Justice & Public Safety Committee.

FAR LICENSING PROVISIONS IN MIDWEST

Fully implemented: explicit ban on consideration of pardoned, sealed and expunged records as well as requirement that applicants and their convictions get individualized consideration

Partially implemented: explicit ban on consideration of pardoned, sealed and expunged records; fully implemented requirement that applicants and their convictions get individualized consideration

Fully implemented: explicit ban on consideration of pardoned, sealed and expunged records; partially implemented requirement that applicants and their convictions get individualized consideration

Partially implemented: explicit ban on consideration of pardoned, sealed and expunged records; fully implemented requirement that applicants and their convictions get individualized consideration

Partially implemented: explicit ban on consideration of pardoned, sealed and expunged records; fully implemented requirement that applicants and their convictions get individualized consideration

Source: CSG Justice Center, Josh Gaines and Korey Johnson

RATIO OF EMPLOYMENT TO TOTAL POPULATION AMONG PEOPLE WITHOUT A BACHELOR’S DEGREE

<table>
<thead>
<tr>
<th>Ratio</th>
<th>White, non-Hispanic males</th>
<th>Minority males</th>
<th>White, non-Hispanic females</th>
<th>Minority females</th>
</tr>
</thead>
<tbody>
<tr>
<td>February 2020</td>
<td>60.1%</td>
<td>62.7%</td>
<td>47.4%</td>
<td>51.3%</td>
</tr>
<tr>
<td>May 2021</td>
<td>57.7%</td>
<td>60.2%</td>
<td>44.8%</td>
<td>46.4%</td>
</tr>
</tbody>
</table>

**FISCAL AFFAIRS**

With revenue growth strong, Iowa, Nebraska, Ohio and Wisconsin legislators cut income taxes in 2021

by Tim Anderson (tanderson@csg.org)

States unexpectedly strong revenue growth since the COVID-19 pandemic allowed for a policy trend that fiscal analysts would have predicted at the start of this year — cuts in individual and corporate income taxes.

“In a lot of states, some of those plans may have been in the works for a while, but that growth provided the opportunity to get them done,” says Katherine Lougheed, senior policy analyst for the Tax Foundation.

As of July, four of the 11 U.S. states that enact these tax cuts in 2021 were in the Midwest: Iowa, Ohio and Wisconsin (reductions in the individual income tax) and Nebraska (corporate income tax).

Lougheed co-authored a July study on these changes, and one commonality among all 11 states was a jump in general fund revenues between fiscal years 2019 and 2021: increases of 9 percent in Wisconsin, 13 percent in Iowa and Ohio, and 23 percent in Nebraska.

Three years ago, Iowa legislators passed a measure tying future tax cuts to specific revenue targets. As of March, growth was slightly below target, but this year’s SF 619 removed those triggers.

As a result, starting in 2023, the number of tax brackets in Iowa will fall from nine to four and the top marginal rate from 8.53 percent to 6.5 percent. For tax year 2021, Iowa’s top rate applies to incomes of $75,420 or more.

Ohio also is consolidating tax brackets, and reducing rates in the ones that remain. At the higher end, the top marginal rate is being dropped from 4.797 percent to 3.99 percent; in tax year 2020, this rate applied to incomes of more than $231,200.

In addition, income in Ohio will now begin to be taxed at $23,000, rather than $22,150. According to Gov. Mike DeWine, this change in HB 110 means that 125,000 lower-wage earners will pay no state income tax at all.

Wisconsin’s top marginal rate of 7.65 percent will stay the same, and its four tax brackets remain in place. Its new cuts (AB 68) are targeted for incomes between $24,250 and $266,930 for single filers and between $32,330 and $355,910 for joint filers.

The rate for incomes between $24,250 and $266,930 for single filers and between $32,330 and $355,910 for joint filers. The rate for these incomes is falling from 6.27 percent to 5.3 percent.

Over the next two years, individual income tax collections will fall by $2 billion due to the changes, according to a Wisconsin Legislative Fiscal Bureau analysis.

Nebraska’s tax rates on individual income were left untouched this year, but the state’s corporate income tax (incomes of $100,000 or more) is being reduced from 7.81 percent to 7.25 percent by 2023. LB 432 also includes language expressing “the intent of the Legislature” to drop the rate even further in 2024 and 2025.

According to Lougheed, many of the changes were made possible by the influx of federal stimulus dollars, which helped to stabilize states’ income and sales tax revenues.

Consumers continued to spend during the pandemic, and tended to do so on items that most states tax (goods) vs. not tax (services).

Still, she warns that today’s uncertain economic conditions merit caution: “You want to make sure future tax cuts are sustainable.”

Options for states wanting to make such reductions include providing for phase-in periods or creating triggers such as Iowa’s 2018 law.

### FISCAL AFFAIRS

<table>
<thead>
<tr>
<th>State</th>
<th># of brackets</th>
<th>Top marginal rate</th>
<th>Highest income bracket</th>
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</thead>
<tbody>
<tr>
<td>Illinois</td>
<td>1</td>
<td>Flat rate: 4.5%</td>
<td>N/A (flat rate)</td>
</tr>
<tr>
<td>Indiana</td>
<td>1</td>
<td>Flat rate: 3.23%</td>
<td>N/A (flat rate)</td>
</tr>
<tr>
<td>Iowa</td>
<td>9</td>
<td>8.53%</td>
<td>Over $57,400</td>
</tr>
<tr>
<td>Kansas</td>
<td>3</td>
<td>5.7%</td>
<td>Over $130,000 (single filers)</td>
</tr>
<tr>
<td>Michigan</td>
<td>1</td>
<td>Flat rate: 4.2%</td>
<td>N/A (flat rate)</td>
</tr>
<tr>
<td>Minnesota</td>
<td>4</td>
<td>9.85%</td>
<td>Over $156,040 (single filers)</td>
</tr>
<tr>
<td>North Dakota</td>
<td>4</td>
<td>6.04%</td>
<td>Over $32,210 (single filers)</td>
</tr>
<tr>
<td>Ohio</td>
<td>6</td>
<td>4.97%</td>
<td>$221,300</td>
</tr>
<tr>
<td>South Dakota</td>
<td>0</td>
<td>No tax</td>
<td>N/A</td>
</tr>
<tr>
<td>Wisconsin</td>
<td>4</td>
<td>7.65%</td>
<td>Over $268,930 (single filers)</td>
</tr>
</tbody>
</table>

Source: Federation of Tax Administrators.

### CRIMINAL JUSTICE & PUBLIC SAFETY

Iowa adds statutory language that aims to retain qualified-immunity protections for police officers

by Derek Cantù (dcantu@csorg.org)

A provision in Iowa’s so-called “back the Blue Act” cements state statute liability protections known as “qualified immunity” for government officials and law enforcement. Although certain government actors already enjoy legal protections, the new law supplements what was previously just judicial doctrine.

This year’s passage of SF 342 in Iowa reflects increased legislative activity around the country on qualified immunity, a type of liability protection that dates back decades and has more recently become the focus of various police reform measures — in state capitals and Washington, D.C.

The recent changes in Iowa stand out, though, in how they seek to codify legal protections for police officers. In contrast, legislatures in Colorado, Connecticut and New Mexico have passed measures limiting the ability for law enforcement to seek qualified-immunity protections.

During legislative discussions on SF 342, Iowa Rep. Jon Thorup spoke of the difficult decision-making that officers encounter on a regular basis.

“Attorneys and judges have hours, months, and years to make judgments to decide if what [police officers] did was right or wrong,” Thorup, an Iowa state trooper himself, said. “We only have a few seconds.”

SF 342 spells out when employees of the state “shall not be liable for monetary damages:” if the right, privilege or immunity alleged to have been deprived “was not clearly established [in law] at the time” or if it was “not sufficiently clear that every reasonable employee would have understood that the conduct (being) alleged constituted a violation of the law.”

Three years ago, in Baldwin v. City of Esteville, the Iowa Supreme Court settled on a “due care” standard (based on an existing statute on state tort claims). “To be entitled to qualified immunity,” the justices wrote, “a defendant must plead and prove as an affirmative defense that he or she exercised all due care to comply with law.”

Iowa Rep. Christina Bohannan argued in favor of this criterion, rather than the language in SF 342. “[Due care] is a better standard because it does provide immunity, but it bases that immunity on the reasonableness of the officer’s conduct,” she said.

SF 342, though, follows the direction that this litigated result has taken in the result of a series of U.S. Supreme Court decisions: this liability protection applies except in instances where “clearly established” rights or laws have been violated, and where such violations would be to “every reasonable employee.”

Writing for the majority in the Baldwin case, Iowa Supreme Court Justice Edward Mansfield argued that this approach by the federal judiciary “gives undue weight to one factor: how clear the underlying constitutional law was.”

Some lawmakers have suggested that because SF 342 has language on qualified immunity that conflicts with the Iowa Supreme Court’s due-care requirement, it could be deemed unconstitutional.

“It’s not as if we’re dusting off a decision from 40 or 50 years ago to find out if it’s still relevant,” Iowa Sen. Nate Bourlton says. “Passing a no-reasonably constitutional statute does not help us have the best training and education for officers on the streets; it only adds more questions, less clarity and frankly the job of a police officer more dangerous.”

Dave Roland of the nonprofit Freedom Center of Missouri notes that while states have no authority over federal law or how it is interpreted or applied, they can pass their own versions of civil rights acts that allow citizens, pursuant to state law, to pursue constitutional claims against officials.

Last year, Colorado became the first U.S. state to act on this authority. SB 217 allows individuals to initiate civil actions against an officer for violating their rights under the state Constitution. The law also specifies that qualified immunity is not a defense to these civil actions.

Meanwhile, certain federal court systems have begun to push back on enunciating liability. This year, in two separate cases, the 8th Circuit Court of Appeals — which encompasses multiple Midwestern states, including Iowa — ruled in part against officers’ requests for qualified-immunity recognition.

Mixed decisions on ag trespassing: Kansas statute ruled unconstitutional; parts of Iowa law upheld

by Carolyn Orr (carolyonderwingfarm.us)

Nearly a decade has now passed since the Iowa Legislature first adopted what became a series of laws derided as “ag gag” measures by opponents but as important safeguards for farmers by proponents. A legal fight began soon after the passage of that first law in 2012. It continues today.

One of the latest developments: A U.S. Court of Appeals decision in August that says animal-rights groups do not have a First Amendment right to lie (by making false statements or using false pretenses) in order to gain access to a farm operation for the purposes of conducting undercover investigations. This decision of the Eighth Circuit overturned a previous U.S. District Court ruling against Iowa’s HF 431.

Under this law, it is illegal to “obtain access to an agricultural production facility by false pretenses” and to make a “false statement or representation” in an employment application if the person intends to commit any unauthorized actions, such as videotaping, once hired. On the “access” question, the Court of Appeals ruled that First Amendment protections do not extend to “lies associated with a legally cognizable harm — namely trespass to private property.”

As a result, Iowa can charge activists under the law, the three-judge panel ruled. It did strike down provisions dealing with employment applications, but left open the possibility that more narrowly tailored language (addressing only false statements explicitly made to get a job) could pass constitutional muster.

“this is a win for animal agriculture, providing recourse for farms,” says Iowa Sen. Annette Sweeney, a sponsor of HF 431 nine years ago. “The judges have also provided states with a way to limit lying on employment applications.”

Earlier this year, the Iowa Legislature passed HF 775, which makes it a misdemeanor to enter agricultural facilities without consent; to use a recording device when trespassing; or to take soil, water or samples from animals without permission. A second offense is punishable by up to five years in prison. What constitutes trespassing of an agricultural production facility? Two years ago, Iowa lawmakers added language (SF 519) making it a crime to obtain access to or employment by use of deception with the intent to cause “physical or economic harm or other injury.”

A federal judge halted enforcement of the law. Lastly, an Iowa law from 2020 (SF 2413) makes “food operation trespass” a crime. It applies to individuals who trespass despite having been notified or requested by signs “to abstain from entering.”

KANSAS LAW STRUCK DOWN

Across the country, nine lawsuits have been filed challenging state laws such as Iowa’s. In August, the U.S. Appeals Court of the Tenth Circuit ruled that Kansas’ Farm Animal and Field Crop and Research Facilities Protection Act violated the First Amendment.

That 31-year-old law banned certain actions by individuals whose intent was to “damage with a view to profit” (agricultural) enterprises. For example, these individuals could not enter a facility or take video without the owner’s consent.

In its 2-1 decision, the federal court ruled that “even if deception used to obtain consent to enter is unprotected speech due to the entry upon private property. Kansas may not discriminate between speakers based on the unrelated issue of whether they intend to harm or help the enterprise.”

In Canada, Alberta, Manitoba and Ontario are among the provinces that have laws specific to trespassing on agricultural lands. Manitoba’s Bill-63 was passed earlier this year. It removes a requirement that an individual be warned, either verbally or in writing, before he or she can be charged with trespassing, even if land is not fully enclosed. It also rules out landowners’ legal liabilities.

“Farms are not only places of business; they are homes where children and families also reside,” Agriculture and Resource Development Minister Blaine Pedersen said earlier this year. “Trespassing can expose farms and food production facilities to biosecurity risks that could spread disease, and may cause injury and stress to farm animals.”

A bipartisan group of Wisconsin lawmakers is attempting to change how the state’s criminal justice system treats minors who are arrested on prostitution charges.

Instead of criminal prosecution, AB 185 and SB 245 would grant children immunity under a so-called “safe harbor” model.

For Wisconsin, the issue of child trafficking and prostitution isn’t new. Six years ago, a statewide human trafficking raid organized by the FBI resulted in Wisconsin having the third-highest number of children rescued from traffickers — with a majority occurring in Milwaukee.

Around that time, a member of a Milwaukee-based anti-trafficking task force referred to the city as the “Harvard of pimp school.”

But Rep. Jill Billings, a chief sponsor of AB 185, says this issue isn’t isolated to just urban centers.

“Trafficking of children occurs in all 72 counties; in fact, in the last 15 months, there were 99 substantiated reports to our Department of Children and Families of child sex trafficking,” she explains. “Half of those cases occurred in Milwaukee, while the other half occurred throughout the rest of the state.”

According to self-reported data documented by the National Center for Missing & Exploited Children, throughout 2020 there were 359 reported cases of children missing in Wisconsin, among which 19 are considered active.

According to Billings, part of the inspiration for her proposal came from seeing the effects of similar safe harbor provisions in neighboring Minnesota.

Convictions of sex traffickers quadrupled with the new law in place, she says, as their victims were able to testify and assist in investigations without fear of prosecution.

“Keep in mind, this is the Christian, anti-trafficking organization. Shared Hope International says the true effectiveness of a safe harbor law is improving how children interact with the justice system.”

“(It) oftentimes prevents re-exploitation,” she says. “If you take a child who has experienced trafficking, victimization or exploitation, and from the outset you’re applying that mentality of not ‘What did you do?’ but ‘What happened to you?’ not only can you start chipping away at some of the traumatic experiences that the child has had … but you’re not adding to the trauma through that response.”

Bendtsen Diedhiou adds that there are important distinctions between state laws that fall under the “safe harbor” banner (see map).

Some statutes, such as Minnesota’s, completely eliminate any criminalization of minors, including arrest charges, detention and prosecution. Other laws do not and/or permit hurdles before an individual can access social services.

Sponsors of the Wisconsin bills are advocating for full non-criminalization.

“The monsters who force children into sex trafficking will no longer be able to use the threat of prosecution for prostitution as a way to keep kids in a cycle of abuse,” Sen. Alberta Darling, the chief sponsor of SB 245, said in a statement.

Also important to Billings: Don’t tie safe harbor to the child having to provide information against the trafficker.

“To keep a child safe, do we want to put them in charge of turning over this incredibly powerful, scary person that’s been in their lives, often when they’ve been groomed to not trust law enforcement?” she says.

“That just isn’t a realistic expectation.”

Billings notes, too, that a criminal conviction can negatively impact a victim’s ability to later receive financial aid for college or find employment.

Beyond safe harbor, Wisconsin has and is continuing to introduce measures to help trafficking victims.

Minnesota is revamping its policies on oral health, including higher Medicaid payments for dentists. The challenge for Liebling and others was raising awareness about the problem and gaining enough support for a legislative solution.

“It was building (momentum), and this year it finally came to a head,” she says. Starting in January, reimbursement rates (set more than 30 years ago) will increase by 98 percent, and all dentists will be paid the same rates for the same services in two separate state-funded programs for both children and families.

Minnesota’s HF 33 also restores coverage of dental treatment for periodontal disease for adults (it had been discontinued, except for pregnant women, in 2010 as a part of budget cuts). Periodontal disease has been linked to chronic health conditions such as diabetes, heart disease and even dementia. Research shows that treatment can result in long-term savings.

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**CRIMINAL JUSTICE & PUBLIC SAFETY**

**HEALTH & HUMAN SERVICES**

**OVERVIEW OF SAFE HARBOR LAWS IN MIDWEST**

*Full or comprehensive non-criminalization protections for underage prostitution*

*Partial non-criminalization protections for underage prostitution*

*No non-criminalization protections for underage prostitution or punitive process to receive social services*

Examples include automatically connecting child sex workers with social service resources, creating an anti-trafficking task force, and dispensing educational materials to help hotel staff and truck drivers better identify signs of human-trafficking activity.


Nebraska Sen. John McCollister is the vice chair. Derek Cantú is CSG Midwestern’s staff liaison to the committee.

**Medicaid Reimbursement as % of Private Insurance Reimbursement for Adult Dental Services (2020)**

<table>
<thead>
<tr>
<th>State</th>
<th>% Reimbursement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alaska</td>
<td>63.5%</td>
</tr>
<tr>
<td>Arizona</td>
<td>67.9%</td>
</tr>
<tr>
<td>California</td>
<td>66.2%</td>
</tr>
<tr>
<td>Colorado</td>
<td>68.3%</td>
</tr>
<tr>
<td>Florida</td>
<td>68.8%</td>
</tr>
<tr>
<td>Georgia</td>
<td>70.0%</td>
</tr>
</tbody>
</table>

**HEALTH & HUMAN SERVICES**

by Jon Davis (jdavis@csg.org)

In Minnesota Rep. Tina Liebling’s hometown of Rochester, some of the world’s best, cutting-edge medical care is delivered every day at the internationally renowned Mayo Clinic.

But for low-income people in her community, accessing the most basic of preventative services can be a challenge.

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Her hope is that this will change with a series of legislative changes now taking effect as part of HF 33, an omnibus health bill that passed during a special session in 2021.

According to Liebling, the new law’s provisions on oral health were years in the making.

Across Minnesota, chronically low reimbursement rates and a complicated rate structure have led to a shortage of dentists willing to accept Medicaid patients.

The challenge for Liebling and others was raising awareness about the problem and gaining enough support for a legislative solution.

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Not only did many states handle a record number of jobless claims in 2020 due to the impacts of the COVID-19 pandemic, they also had to deal with a spike in reported cases of fraud. In Ohio, for example, the Department of Job and Family Services froze 270,000 unemployment claims in July out of an abundance of caution. By August, about 56,000 of those claims were verified and paid. In order to deal with the influx of both legitimate and fraudulent claims, the state agency hired 80 more employees and reassigned 185 to work through the backlog.

One estimate from Kansas has pegged recent losses in that state to unemployment fraud at $700 million. Its ongoing challenges include the resignation of the Department of Labor secretary, but also some recent policy innovations. For example, Kansas launched a one-stop-shop website (ReportFraud.Ks.gov) for individuals to report cases of identity theft; once reported, a police report is automatically generated, the victim gets tips on how to mitigate damages, and the Department of Labor is able to prevent sham unemployment claims from being paid. As of late January, this program—which began in October 2020—had thwarted 230,000 fraudulent claims.

A second anti-fraud initiative was launched earlier this year in Kansas — a new software system in which individual claimants must confirm their identity by answering questions specific to their credit history. Once a claimant’s identity is verified, he or she is prompted to set up a two-factor authentication. In its first week of operations, this new system had blocked more than one million fraudulent log-in attempts, state officials say.

Meanwhile, various bills have been introduced in Kansas this year to hold victims harmless and to modernize the infrastructure for processing claims. A rise in unemployment fraud occurred across the country in 2020, and even before last year, some Midwestern states to as much as 20 years (see map). And some of the region’s legislatures already have some leeway on when to complete the process — there are no deadlines at all in Nebraska, for instance, and language in the Minnesota and Wisconsin constitutions calls for plans to be developed at the first legislative session “after each enumeration ... made by the authority of the United States.” Li sees two challenges for states related to the delayed release of census data. One is figuring out the conflicts in deadlines; the second is ensuring that the redistricting process is done fairly, methodically and openly. Of those two challenges, the latter concerns him the most, especially because many state legislatures are likely to adopt new maps in shorter, special sessions. “What we don’t want to see is a shortcut in the process, where hearings aren’t held, where the public doesn’t have the chance to review the maps,” he says. One option for states as they wait for the actual census information is to use alternative data (such as population statistics from the Census Bureau’s American Community Survey) for public hearings and even the release of preliminary maps. But when it comes to drawing the final maps, there is no substitute for using actual census figures. “You’re just asking for a lawsuit, a one-person, one-vote challenge, if alternative data were to be used,” Li says.

Capital Closeup is an ongoing series of articles focusing on institutional issues in state governments and legislatures. Previous articles are available at csgmidwest.org.

**QUESTION OF THE MONTH**

How have states in the Midwest tried to prevent fraud in their unemployment systems?

**POTENTIAL PRISON TIME FOR UNEMPLOYMENT INSURANCE FRAUD**

<table>
<thead>
<tr>
<th>State</th>
<th>Maximum sentence/sentence range</th>
</tr>
</thead>
<tbody>
<tr>
<td>Illinois</td>
<td>180 days</td>
</tr>
<tr>
<td>Indiana</td>
<td>6 to 36 months or 2 to 8 years (varying classifications)</td>
</tr>
<tr>
<td>Iowa</td>
<td>10 years</td>
</tr>
<tr>
<td>Kansas</td>
<td>60 days</td>
</tr>
<tr>
<td>Michigan</td>
<td>1 year</td>
</tr>
<tr>
<td>Minnesota</td>
<td>20 years</td>
</tr>
<tr>
<td>Nebraska</td>
<td>90 days for each count</td>
</tr>
<tr>
<td>North Dakota</td>
<td>10 years</td>
</tr>
<tr>
<td>Ohio</td>
<td>6 months</td>
</tr>
<tr>
<td>South Dakota</td>
<td>1 or 2 years</td>
</tr>
</tbody>
</table>

Source: U.S. Department of Labor, “Comparison of State Unemployment Insurance Laws”

**INCOME TAX REFUNDS AND A PERMANENT LOSS OF ELIGIBILITY FOR UNEMPLOYMENT BENEFITS**

Income tax refunds and a permanent loss of eligibility for unemployment benefits.

Question of the Month response by Mitch Arvidson (marvidson@csg.org), a program manager for CSG Midwest, which provides individualized research assistance to legislators, legislative staff and other government officials. This section highlights a research question received by CSG Midwest. Inquiries can be sent to csg@csg.org.
Farm practices can help states meet larger carbon-reduction goals

by Tim Anderson (tanderson@csg.org)

Talk of addressing climate change typically begins with a state’s energy and transportation sectors. It shouldn’t end there, says Jimmy Daukas, a senior program officer at the American Farmland Trust, a national, nonprofit group that focuses on protecting agricultural land and advancing environmentally sound practices on it.

“One of the challenges is to get all of that land, and our forestry land, into the discussion,” he adds. If that happens, he and other proponents of farm-based conservation believe the result will be new policies that open economic opportunities for producers while reducing states’ carbon footprints.

That’s already begun to occur, in fact, albeit via state initiatives often with other conservation goals in mind. Take Minnesota’s Agricultural Water Quality Certification Program as an example. Launched statewide in 2016, the program enrolled 17,000 farms totaling 734,000 acres in its first five years. The state offers technical and financial assistance to producers who adopt evidence-based practices to prevent nonpoint water pollution. Minnesota not only has tracked the impact of these practices on water quality and farm profitability (positive on both fronts), but on the state’s carbon footprint. The results: A reduction in greenhouse gas emissions equivalent to 100 million fewer miles being driven by an average passenger vehicle.

That’s because a sound nutrient management plan decreases a farm operation’s nitrous oxide and methane emissions. Likewise, when an agriculture producer begins using cover crops or conservation tillage, more carbon is sequestered in the soil.

“One of the exciting things about soil health is that it’s a win-win,” says Bianca Moebius-Clune, climate initiative director for the American Farmland Trust. Investments in soil health and water quality already are commonplace in the Midwest, and the American Farmland Trust points to strategies being tried in states such as Illinois and Iowa, where farmers who plant cover crops get a $5-an-acre reduction in crop insurance premiums.

Daukas says the next step is to create new programs with a stated goal of reducing greenhouse gas emissions and sequestering carbon on farmland. “What we don’t want to have happen is for states to say, ‘We have a water quality program and it does climate, so we don’t need anything else,’” he says. In Wisconsin, the Governor’s Task Force on Climate Change has proposed paying “carbon farmers” for their regenerative agricultural practices. Gov. Tony Evers included this idea in his budget, calling for up to $25,000 of grants and technical assistance per recipient. It did not end up in the Legislature’s final budget agreement.

At the federal level, emphasis on climate change became a part of the last farm bill thanks to programs targeting soil health.

A more explicit, climate-focused conservation policy is part of the proposed Build Back Better legislation being negotiated in the U.S. Congress. It calls for a total of $28 billion going to various agricultural initiatives that reduce greenhouse gas emissions — for example, $5 billion alone to increase the use of cover crops.

Other opportunities emerging for the Midwest’s farmers include participating in carbon offset markets and contributing to new, private-sector-led sustainability goals.

“More and more major food companies are beginning to set climate targets within their supply chains,” Rod Snyder, president of Field to Market: The Alliance for Shared Agriculture, said to legislators during a session of this year’s CSG Midwestern Legislative Conference Annual Meeting. “If you look at some of the corporate initiatives, they often start within their own four walls or their transportation fleet. … ‘But they’ve now begun to look even further to say, ‘How can we partner with farmers?’”

South Dakota Senate Majority Leader Gary Cammack has chosen agriculture conservation as the focus of his Midwestern Legislative Conference Chair’s Initiative for 2021. A series of articles will appear in Stanteline Midwest this year in support of this initiative.

**QUESTION OF THE MONTH**

Do states in the Midwest have statutory language specifying strangulation as a felonious assault?

Over the past 20 years, most legislatures in this region have passed measures adding this language as part of efforts to better protect victims of domestic abuse.

Four years ago, for instance, SB 112 in Kansas created the crime of aggravated domestic battery, a felony offense for “knowingly impeding the normal breathing or circulation of the blood … of a person with whom the offender is involved or has been involved in a dating relationship or a family or household member.”

Along with Kansas, Illinois, Indiana, and Wisconsin now classify strangulation as aggravated domestic battery (a felony). It is considered a felony assault in Iowa, Michigan, Minnesota, Nebraska, North Dakota and South Dakota.

Unlike in the least of the Midwest, the act of strangulation has not been specified as a felony offense under Ohio criminal code. That would change with the passage of either HB 3 or SB 90. Both measures would make purposely impeding someone’s breathing or blood circulation at least a third degree felony offense. HB 3 was passed by the House in late October.

“Because of the seriousness that we see in the statistics from people who have been strangled by their domestic partner, I want to be able to increase jail time for the perpetrator,” says Sen. Stephanie Kunze, a sponsor of SB 90.

“I think victims would have a lot more ability to access resources and services and potentially get out of that situation, where if somebody is only in jail for a week, they really don’t have quite the same opportunity to leave.”

Kunze has sponsored similar legislation since 2015, and has noted a rise in the number of states that have added strangulation as a felony since that time.

“When I started, I was looking at my original testimony … I think it was 38 states as of 2015, and now we’re into the 40s here in 2021,” Kunze says. It’s 48, to be exact, according to the Training Institute on Strangulation Prevention, with South Carolina being the only other state without such a law.

The punishment for strangulation sometimes differs depending on factors such as the type of victim assaulted or whether an assailant was a repeat offender.

For example, in North Dakota, strangling a person under age 12 or a peace officer carries a harsher Class B felony charge; in Indiana, it becomes a Level 5 felony charge if the victim was pregnant. In Michigan, the maximum prison sentence for a strangulation conviction is 10 years; in Illinois, subsequent convictions result in a sentence of at least three, but no more than seven, years behind bars.

Strangulation only rises to the level of a felony assault in Iowa if the assailant is a repeat offender (his or her third offense, as the first two instances would be categorized as misdemeanors) or if his or her actions cause bodily injury.

**Sources of U.S. Greenhouse Gas Emissions in 2019**

<table>
<thead>
<tr>
<th>Source</th>
<th>Industry</th>
<th>Agriculture</th>
<th>Energy</th>
<th>Transportation</th>
<th>Residential</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commercial</td>
<td>15%</td>
<td>16%</td>
<td>32%</td>
<td>11%</td>
<td>29%</td>
</tr>
<tr>
<td>Non-commercial</td>
<td>25%</td>
<td>16%</td>
<td>30%</td>
<td>12%</td>
<td>28%</td>
</tr>
</tbody>
</table>

*Agriculture’s contribution varies from year to year and between regions that enroll in this application, renewable energy and municipal forests have been excluded.

Sources: U.S. Environmental Protection Agency

**Felony Classification of Strangulation in Criminal Codes (as of October 2021)**

- Classified as felony assault offense
- Classified as felony aggravated domestic battery
- Not classified as felony

Sources: Training Institute on Strangulation Prevention

According to the Training Institute on Strangulation Prevention, strangulation does not always result in visible injuries. In other cases, injuries may be deemed too minor to photograph.

A 2008 study by Johns Hopkins University researchers found that a person who has been non-fatally strangled by his or her domestic partner is 750 percent more likely to later be murdered by that partner.

**Question of the Month response by Derek Cantis (dcantis@csg.org), policy analyst for CSG Midwest, which provides individualized research assistance to legislators, legislative staff and other government officials. This section highlights a research question received by CSG Midwest. Inquiries can be sent to csmresearch@csg.org.**