

# STATELINE MIDWEST



MIDWEST

THE COUNCIL OF STATE GOVERNMENTS | MIDWESTERN OFFICE

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



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# STATELINE MIDWEST



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## '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 ([lkiewer@csg.org](mailto:lkiewer@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.

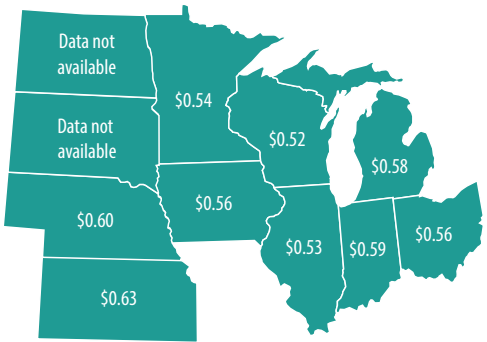
That decision enabled lawmakers to study a wide range of issues, setting the stage for legislative action in late 2020 and early 2021.

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*

### ESTIMATED MEDIAN INCOME OF BLACK HOUSEHOLDS FOR EVERY \$1 OF MEDIAN INCOME OF WHITE HOUSEHOLDS (2019)



Sources: U.S. Census Bureau's American Community Survey, 2019, and CSG Midwest calculations

### ESTIMATED CHILD POVERTY RATES IN MIDWEST, BY RACE/ETHNICITY (2019)

State	American Indian <sup>1</sup>	Asian	Black	Hispanic/Latino	Non-Hispanic White
Illinois	9%	10%	34%	20%	9%
Indiana	*	13%	34%	20%	11%
Iowa	*	7%	37%	22%	10%
Kansas	28%	16%	34%	27%	9%
Michigan	30%	9%	36%	31%	12%
Minnesota	26%	12%	37%	17%	6%
Nebraska	*	*	32%	19%	7%
North Dakota	*	*	*	*	6%
Ohio	38%	10%	39%	30%	13%
South Dakota	47%	*	*	*	8%
Wisconsin	29%	17%	36%	25%	8%

<sup>1</sup> Data for American Indians include "American Indian and Alaska Native alone or in combination with one or more other races."

\* Data on state-specific child poverty rates for this race/ethnicity were not available.

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

IN MIDWEST’S CAPITOLS, NEW LAWS PASSED, BILLS INTRODUCED ON RACIAL EQUITY AND JUSTICE

» CONTINUED FROM PAGE 1

Representatives through an intersectional lens of racial equity, setting measurable goals to advance equity through these policies and practices.”



Minnesota Rep. Rena Moran

“Where we are today is not just about today,” says Minnesota Rep. 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.”

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.

“What we knew we had to do was bring forth people with expertise, people who can give us a high-level narrative and historical perspective, so it wouldn’t be about people’s opinions, but historical fact,” she adds.

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, also have 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 998);
- 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).



ILLINOIS: BIG CHANGES, IN ONLY A FEW MONTHS’ TIME

A flurry of legislative activity has occurred in Illinois over the past few months. Legislators passed bills on criminal justice (HB 3653), police practices and oversight (HB 3653), equity-centered education (HB 2170) and economic opportunity (SB 1480, SB 1608, SB 1980 and SB 1792).

Among the many changes resulting from these various bills:

- an end to cash bail;

- a requirement that police wear body cameras;
- new procedures for certifying and de-certifying police officers;
- development of a kindergarten readiness assessment and expansion of early-intervention services for younger children;
- changes in the state’s graduation requirements and history curriculum;
- expansion of trauma-informed school services;
- new caps on the loan rates charged by consumer lenders; and
- limits on the use of criminal background records as a basis for employment and housing decisions.

These sweeping changes in state law, across many different areas of public policy, are the result of what happened in the aftermath of George Floyd’s death.

In early July, Sen. Lightford and other members of the Illinois Legislative Black Caucus met for a four-day Zoom retreat.

The caucus brought in experts on issues ranging from disparities in housing and the teaching profession, to food deserts, domestic violence and environmental justice.

“We just threw out challenges and then sought out researchers,” Lightford says.

Caucus members then came to a consensus on four pillars that Lightford says “impact us from the day we are born to the day we die.”

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. BROADER 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 1), removing barriers to occupational licenses for individuals with a criminal record (HB 133), 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 3653)



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 leadership 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.”



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.

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.”

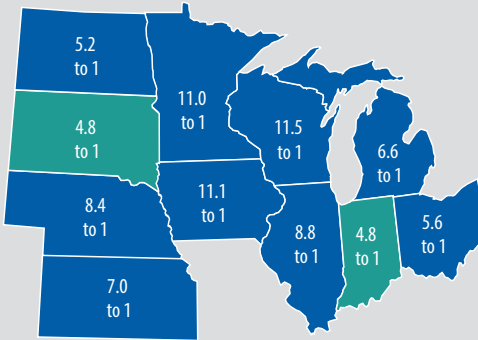
And the Commission on Racial Equity and Justice is just getting started. It is now focusing on the social determinants of health, with plans to take a deep dive into areas such as mental health, education, housing and economic opportunity.



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

Shannon Portillo, co-chair, Kansas Commission on Racial Equity and Justice

DIFFERENCE IN INCARCERATION RATES AMONG BLACK, WHITE RESIDENTS IN MIDWEST (BLACK:WHITE DIFFERENTIAL)



Lower than 50-state average ratio of 5.1:1 Higher than 50-state average ratio of 5.1:1

Source: The Sentencing Project (2016 study using federal data)

ESTIMATED % OF POPULATION, AGE 25 AND OVER, WITH BACHELOR’S DEGREE OR HIGHER (2019)

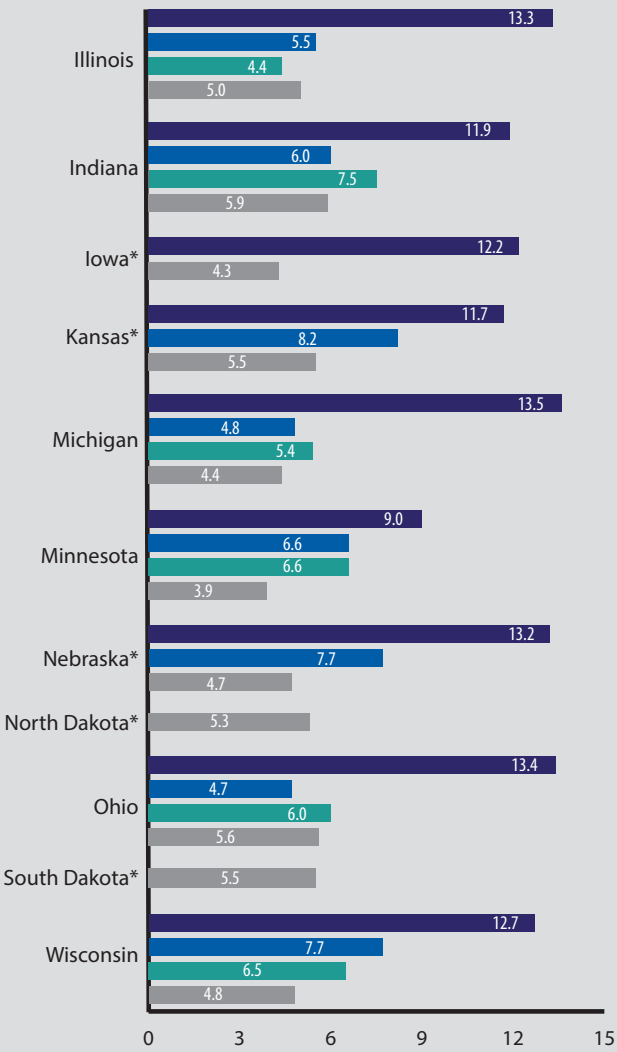
State	American Indian¹	Asian	Black	Hispanic/Latino	Non-Hispanic White
Illinois	34%	65%	23%	17%	40%
Indiana	*	59%	20%	16%	28%
Iowa	*	51%	15%	14%	30%
Kansas	20%	50%	21%	14%	37%
Michigan	18%	65%	18%	22%	31%
Minnesota	20%	46%	22%	23%	39%
Nebraska	*	*	21%	13%	36%
North Dakota	*	*	*	*	32%
Ohio	16%	63%	17%	20%	30%
South Dakota	12%	*	*	*	32%
Wisconsin	19%	47%	15%	16%	33%

¹ Data for American Indians include “American Indian and Alaska Native alone or in combination with one or more other races.”

\* State-specific rates for this race/ethnicity were not available.

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

# OF INFANT DEATHS PER 1,000 LIVE BIRTHS, 2018



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

Black Hispanic Other White

Source: Kaiser Health Foundation



# FIRST PERSON: STATES CAN HELP SOLVE CASES OF MISSING, MURDERED INDIGENOUS WOMEN AND CHILDREN

Law in South Dakota will improve coordination, provide investigation resources



by South Dakota Rep. Peri Pourier  
([Peri.Pourier@sdlegislature.gov](mailto:Peri.Pourier@sdlegislature.gov))

There is a crisis taking place right before our eyes, but it often goes unseen throughout the country.

Approximately 1,500 American Indian and Alaska Native missing persons have been entered into the National Crime Information Center, and about 2,700 cases of murder and non-negligent homicide offenses have been reported to the federal government's Uniform Crime Reporting Program.

Here in South Dakota, of the 99 missing persons statewide, 66 are Indigenous persons.

Breaking down the data further, you begin to see that those missing individuals are mostly women and children — from urban and rural areas, both on and off Indian reservation lands. In many cases, these individuals are the victims of human trafficking.

But unless you are from a tribal community or have a relative from one, or if you know someone who is an American Indian, you may be unaware of the crisis.

These cases are unique because they can fall under multiple law enforcement jurisdictions and occur in isolated areas of our state. Often, these cases fall through the cracks between jurisdictions due to a lack of resources and coordination.

Predators exploit these gaps and use them to their advantage.

## BIPARTISAN, TRIBAL CALL TO ACT

During our 2021 legislative session in South Dakota, I introduced HB 1199, an act to establish the Office of Liaison for Missing and Murdered Indigenous Persons within our state attorney general's office.

The bill was signed into law in March.

With this new office in place, our state will have a full-time specialist on missing

persons to assist and coordinate with the U.S. attorney's office, the U.S. Department of Justice, and state and tribal law enforcement agencies. Additionally, this specialist will coordinate and provide training for locating missing and murdered Indigenous persons.

HB 1199 also requires all agencies in South Dakota to cooperate with the attorney general's office, undergo any required training and report to the liaison as necessary.

I worked with the attorney general's office on this bill and, ultimately, it supported the measure. This legislation also had strong support from all nine federally recognized tribes that have geographic boundaries within South Dakota.

This was a historic piece of legislation in that the tribes were coming to the state to show support for this important issue. Further, the tribes expressed to the Legislature that they wanted to commit support for this proposed office by helping the state secure federal funding for it.

In a legislature where Republicans have strong majorities, it's a difficult feat for any Democrat to get his or her legislation to the governor's desk for signing.

My first try at passing this kind of measure occurred in 2019, during my

first term in the House. HB 1237 and HB 1238 required the state to collect data and require training on cases of missing and murdered Indigenous women (MMIW). These bills were merged into SB 164, which became law. In 2020, SB 27 passed unanimously and became law. It required the state attorney general to establish an MMIW data clearinghouse.

Those steps helped set the stage for legislative success this year.

HB 1199 passed the House State Affairs Committee on a 9-4 vote and, one day later, was approved by the full House (57-12). In the Senate, it passed out of the Judiciary Committee unanimously, and was then placed on the consent calendar and sent to Gov. Kristi Noem for signing.

Although the world of politics can be tricky, my strategy was to let the data

and people themselves — the missing women and children — tell the story.

Our most vulnerable population must stay on our radar. This issue must not be overlooked. HB 1199 is an important step toward finding a solution to human trafficking among Indigenous persons.

If this process taught me one thing, it's the value of relationship-building — not only across the aisle, but also across tribal nations. We all must be at the table actively looking for solutions through meaningful conversations and honest dialogue.

Rep. Peri Pourier has been a member of the South Dakota House since 2019. She is in the class of 2021 for CSG Midwest's Bowhay Institute for Legislative Leadership Development.

## EXAMPLES OF MIDWEST'S RESPONSE TO CASES OF MISSING, MURDERED INDIGENOUS PERSONS



As part of this year's omnibus budget bill on public safety (HF 63), the **Minnesota** Legislature is appropriating \$500,000 each of the next two years to establish and maintain an Office of Missing and Murdered Indigenous Relatives. This office will provide assistance to local and tribal law enforcement agencies on active cases, conduct case reviews, and track and collect relevant data.



**Nebraska's** 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. Legislators also charged the state agency with forging new partnerships among tribal and non-tribal law enforcement agencies to improve reporting and investigations. The State Patrol's study found that a disproportionate number of Nebraska's reported missing persons are Native American. (The share of Native Americans missing is 3.1 times larger than their share of the state's population).



Two years ago, **North Dakota** legislators required creation of a centralized, statewide repository to report and track missing persons. One intent of the new law (HB 1313) is to better track and share information on missing Indigenous people in the state. The repository includes information on the tribal membership of missing persons.



**South Dakota** is 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.



**Wisconsin** 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. It is examining the factors that contribute to missing and murdered Indigenous women; the role of social service organizations in prevention and response; and the policies need to improve data collection, reporting and investigations.

## 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.



## SUBMISSIONS WELCOME

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# FIRST PERSON: HOW THREE FOUNDATIONAL GOALS ARE DRIVING MICHIGAN'S WORK ON POLICE REFORM

More resources needed to help all departments meet higher state standards



by Michigan Sen. Roger Victory  
([SenRVictory@senate.michigan.gov](mailto: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 improvement 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).

## 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-robust 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, bans 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.

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

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# 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 Cantù ([dcantu@csg.org](mailto:dcantu@csg.org))

Over the past decade, Rep. Greg Steuerwald has helped lead some of the most complicated, potentially contentious policy reforms in his home state of Indiana.

He’s gotten it done by starting with a straightforward approach: “Shut up and listen to the experts.”

“I let them tell me what they think is good policy and what is not, and that’s what I’ve done throughout [my legislative career],” he says. “I invite everybody to the table, and then try not to get in their way.”

This past year, that meant bringing together leaders in law enforcement and working with colleagues in Indiana’s Black Legislative Caucus on a measure to enhance policing. Earlier in his career, that collaborative style led to a comprehensive overhaul of the criminal code.

“I tell people this is the most interesting and frustrating job I’ve ever had in my life at the same time,” he says. “I really enjoy being part of the policymaking [process] on a big issue, on statewide issues.”

Steuerwald came to the Indiana House 14 years ago, first by legislative appointment, and has found the position to be a perfect fit — a place to make a difference in his community and state, but in a part-time capacity that allows him to still work as an attorney at the central Indiana firm that bears his name (Steuerwald, Witham & Youngs, LLP).

In a recent interview with CSG Midwest, Steuerwald, who currently serves as House majority caucus chair, reflected on his leadership style as well as his legislative career and accomplishments to date, including this year’s police measure. Here are excerpts.

**Q** As majority caucus chair, you hold one of three elected positions (along with the speaker and majority floor leader) in a very large caucus — 71 House Republicans. What are some of the leadership challenges?

**A** Whenever 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.



**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 Sheriffs’ 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** Why was that issue of the “wandering officer” so important to address?

## BIO-SKETCH: INDIANA REP. GREG STEUERWALD

- ✓ first appointed to Indiana General Assembly in 2007; since elected seven times to represent House district west of Indianapolis
- ✓ serves as majority caucus chair in Indiana House
- ✓ is attorney and partner at Steuerwald, Witham and Youngs, LLP, law firm
- ✓ has law degree from Indiana University-Indianapolis
- ✓ lives in Avon, Ind., with his wife, Christy; has three grown children

**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 actor causing us all 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 need to take a look at — with help from the Law Enforcement Academy — how we decertify 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. ...

Also in [HB] 1006, we said that the hiring agency must contact the previous employing agency, and the previous employing agency must give the entire employment file. There are no limitations on time. We had a discussion if it should go back five, 10, 20 years. Everybody agreed, No, we’ll just put no limitations of any kind. So if an officer has been at the previous agency 30 years and had an issue 29 years ago, then the new hiring agency is going to see that.

**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 Shackleford 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 constituencies 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 Recovery Works. It’s in all 92 counties now and provides mental health and addiction services to those in the criminal justice system, which the last I heard we’ve had around 60,000 people go through. I’m sure it’s a lot more than that now.

There was a study done a couple of years ago, and we’ve reduced rates of recidivism substantially, and economic savings to the state have been in the \$100 million range. So that investment was very well worth it for many different reasons.



# 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



by Minnesota Rep. Ruth Richardson  
([rep.ruth.richardson@house.mn](mailto:rep.ruth.richardson@house.mn))

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 media coverage, a limited use 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.

## GIVING VOICE TO THOSE CLOSEST TO THE PAIN OF THIS CRISIS

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 Roller, executive director of the

## ABOUT 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
- ✓ exploring 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



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.

Minnesota Rep. Ruth Richardson was first elected to the House in 2018. She is a 2019 graduate of CSG Midwest's Bowhay Institute for Legislative Leadership Development (BILLD).

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.

## SUBMISSIONS WELCOME

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

Collin's Law mixes stiffer penalties with comprehensive anti-hazing campus plan



by Ohio Sen. Stephanie Kunze  
(Stephanie.Kunze@ohiosenate.gov)

*"Three years ago my family was awoken in the middle of the night to find two police officers and a chaplain who were there to tell us that our beautiful 18-year-old son, Collin, was found dead at 45 Mill Street in Athens, Ohio.*

*"We knew the address immediately. We knew it was the address of Collin's fraternity house. That's all we knew.*

*"In the months to follow, we began to learn more about the details that led to Collin's death, and we learned that for the last weeks of Collin's life, Collin had endured extreme, tortuous hazing.*

*"He was beaten, he was belted, he was water boarded, and he was forced drugs and alcohol. Since that most horrific night, our family, both individually and collectively, has experienced the most painful type of heartbreak imaginable, because of hazing."*

~ Kathleen Wiant

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 in March, experienced that pain.

We heard from the Foltz family as well, along with the powerful words of Tyler Perino, a young man who survived a hazing incident.

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.

## 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.

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.

Parents and students deserve and need access to information on the behaviors of organizations sanctioned for hazing.

Universities will now be required to have a website where parents and students can access this information so they can make educated, informed decisions about what organizations to join, or not join.

Had this provision been in effect when Collin was pledging a fraternity, his family would have been able to see that his fraternity had previously sent a pledge to the emergency room. The cause was a pledging activity that led to a gash in his head requiring eight staples.

Working on this law has been a challenging and emotional experience, both as a legislator and as a mother of college-aged children myself.

The bravery and courage of the Wiant, Foltz and Perino families has been inspiring. They are truly the heroes in ensuring that their stories are seen and heard to effect change.



## HOW OHIO'S RECENTLY ENACTED COLLIN'S LAW DEFINES HAZING AND PUNISHES THE BEHAVIOR

### DEFINITION

*"Coercing another, including the victim, to do any act of initiation into any student or other organization or any act to 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 drugs) that results in serious physical harm
- second-degree misdemeanor for recklessly participating in, or permitting, hazing
- second- or 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 awoken to that 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.

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# CRIMINAL JUSTICE & PUBLIC SAFETY

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

by Mitch Arvidson ([marvidson@csg.org](mailto:marvidson@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 activity 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 memoranda 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.

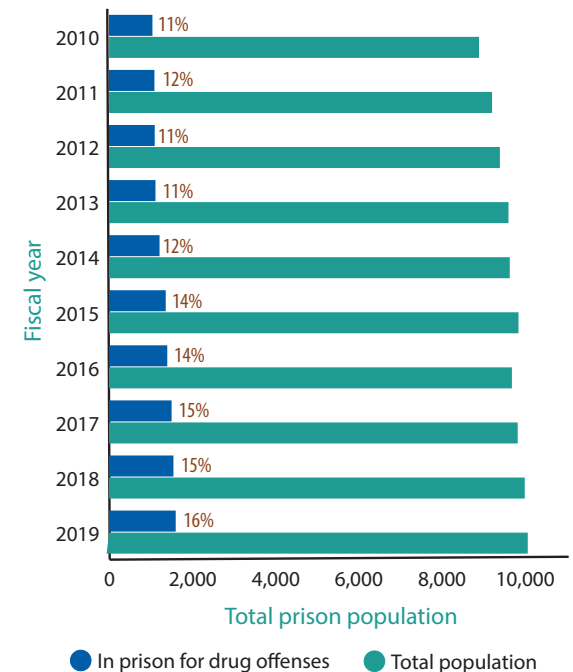
"The goal being, let's help the people who need help with their addictions," he says. "Let's help them turn their lives around and in the end if they're able to, let's make sure they're not branded with a felony for the rest of their life."

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

"Their 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

% OF KANSAS' PRISON POPULATION IN FOR DRUG OFFENSES, FY 2010-FY 2019



Source: CSG Justice Center analysis of prison population data

different agencies, [it] was an invaluable resource [leading] to the success of our Criminal Justice Reform Commission."

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



Kansas Rep.  
Stephen Owens

# CRIMINAL JUSTICE & PUBLIC SAFETY

New laws in Michigan are the result of a bipartisan effort to understand the causes of a rising jail population

by Mitch Arvidson ([marvidson@csg.org](mailto:marvidson@csg.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 multibranch 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 over-criminalization," 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 admission, and failure to appear in court was the single most common reason for arrest. In 2018 alone, 358,000 driver's licenses were suspended for failure 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 that helps point the way to "a smarter, 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.

## JAIL REFORM IN MICHIGAN: NEW LAWS SIGNED IN EARLY JANUARY

Bill number	Description
HB 5846-47 HB 5849-52 HB 6235 HCR 29	Prohibits suspension of driver's licenses for offenses unrelated to dangerous driving
HB 5853	Reclassifies some vehicle- and traffic-related offenses as civil infractions rather than misdemeanors
HB 5854-57 HB 5844	Removes mandatory minimum sentencing for certain offenses
SB 1046	Gives law enforcement greater discretion to issue citations rather than make arrests for misdemeanors
SB 1047	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
SB 1049	Expands deferred judgment of guilt eligibility to 24- and 25-year-olds
SB 1050	Limits jail sanctions for technical probation violations and lessens probation terms
SB 1051	Requires parole conditions to be individualized: consider parolee's assessed risks and needs, reduce recidivism, and address needs of the victim



Michigan Rep.  
Bronna Kahle



# CRIMINAL JUSTICE & PUBLIC SAFETY

## Nebraska takes steps for potential construction of new prison as it deals with persistent overcrowding

by Mitch Arvidson ([marvidson@csg.org](mailto:marvidson@csg.org))

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 different types of beds, whether they be 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 build unless you can answer or stymie that inflow."

At the end of 2019, 5,546 prisoners were in state facilities designed to hold 3,535. The means Nebraska's prison custody population as a percent of capacity stood at 156.9 percent, the third-highest rate of overcapacity 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 analyzes 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 Koebernick 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 1980.

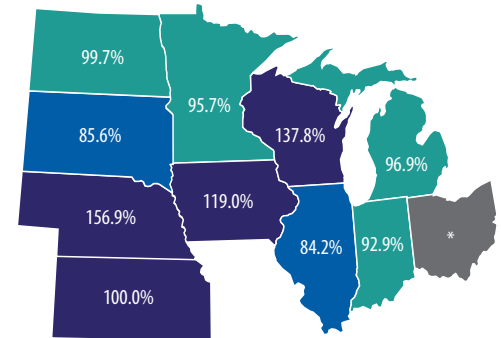
Nebraska Gov. Pete Ricketts has said the Legislature has two options: fix the old facility for an estimated \$200 million, or build a new \$230 million prison. But at a time when states such as California, Connecticut and Missouri are closing prisons, the idea of building a new one in Nebraska has been 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 [to design and plan] after you find the site. ... Hopefully with the master facility plan, we can move ahead with confidence that we've

### PRISON CAPACITY IN MIDWEST AS OF END OF 2019: # OF TOTAL PRISONERS AS % OF LOWEST PRISON CAPACITY\*



\* Capacity is measured in one of three ways: 1) Rated, the number of prisoners or beds that a facility can hold as set by a rating official; 2) Operational, the number of prisoners that a facility can hold based on staffing and services; and 3) Design, the number of prisoners that a facility can hold as set by the architect or planner. Lowest capacity represents the minimum estimate of capacity submitted by the state, using one of those three measures. Ohio did not measure this type of capacity.

- At or over 100% capacity
- At 90% to 99.9% capacity
- Below 90% capacity

Source: U.S. Bureau of Justice Statistics

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.

# CRIMINAL JUSTICE & PUBLIC SAFETY

## Support for expanding expungement eligibility builds in Wisconsin as result of legislative changes

by Mitch Arvidson ([marvidson@csg.org](mailto:marvidson@csg.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.

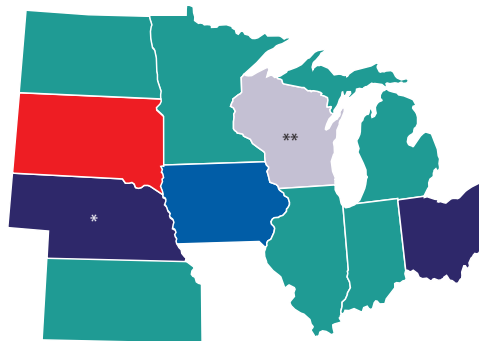
"I never realized my three-year probation actually was a life sentence," the man, 27 years old at the time, told Steffen.

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.

### REACH OF STATE LAWS THAT PROVIDE AUTHORITY FOR EXPUNGEMENT AND SEALING OF CRIMINAL RECORDS AND/OR SET-ASIDE OF CRIMINAL CONVICTIONS



- No general sealing, expungement or set-aside
- Misdemeanor relief only
- Misdemeanor relief and relief from pardoned felonies
- Misdemeanor relief and limited felony relief
- Misdemeanor relief and broader felony relief

\* In Nebraska, only pardoned convictions are eligible for sealing. Set-aside authority is provided for certain felonies and for misdemeanors.

\*\* Wisconsin has narrow, specialized authority for expunging convictions.

Source: Collateral Consequences Legal Center

First, Wisconsin is one of only a few states with an age limit for expungement. An offender must be 25 years old or younger at the time he or she commits the crime in order to

be eligible. Second, Wisconsin is the only U.S. state that requires expungement decisions to be made by the judge at the time of sentencing.

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 sponsors and supporters 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."

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North Dakota Rep. Shannon Roers Jones and Illinois Sen. Robert Peters serve as co-chairs of the Midwestern Legislative Conference Criminal Justice & Public Safety Committee. Nebraska Sen. John McCollister is the vice chair. Mitch Arvidson is CSG Midwest's staff liaison to the committee.

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# CRIMINAL JUSTICE & PUBLIC SAFETY

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

by Mitch Arvidson ([marvidson@csg.org](mailto:marvidson@csg.org))

Sixty years ago, about one in 20 jobs required an occupational license. Today, it's one in four.

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 begun to chip away at those barriers. These fair-chance licensing reforms have several objectives: Give individuals a greater chance at re-entry success, make them less likely to reoffend, and meet a state's workforce needs.

Organized by the MLC's Criminal Justice & Public Safety Committee, the session featured presentations by Josh Gaines and Korey Johnson of The Council of State Governments' Justice Center and Adam Diersing of the CSG Center of Innovation. Together, they briefed lawmakers on different ways to remove barriers to licensure.

For instance, Minnesota and other states have determined that certain low-level offenses do not pose a public



North Dakota Rep. Shannon Roers Jones helps lead the MLC Criminal Justice & Public Safety Committee as its co-chair. The committee's two other officers are Illinois Sen. Robert Peters, co-chair, and Nebraska Sen. John McCollister, vice chair. (photo: Johnny Sundby)

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 and more time passes from when the conviction occurred.

Another policy idea is to enact

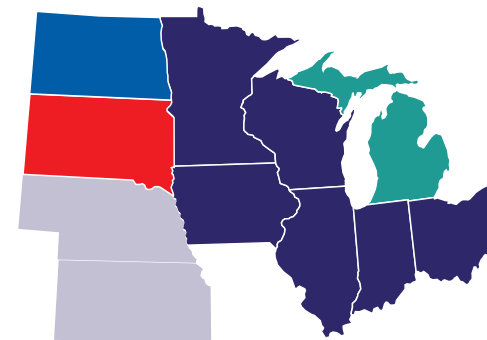
procedural protections at the back end of the licensing process. North Dakota and Ohio are among eight states that require a written explanation of specific reasons for conviction-based denials. This provides applicants with a record for challenge or appeal, and informs them of possible remedies. It 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 their criminal records are disqualifying.

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.

## 'FAIR 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

**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 as well as requirement that applicants and their convictions get individualized consideration

**Partially implemented** explicit ban on consideration of pardoned, sealed and expunged records

Source: CSG Justice Center, Josh Gaines and Korey Johnson



# CRIMINAL JUSTICE & PUBLIC SAFETY

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

by Derek Cantù ([dcantu@csf.org](mailto:dcantu@csf.org))

A provision in Iowa's so-called "Back the Blue Act" cements in 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 capitols and Washington, D.C.

The recent changes in Iowa stand out, though, because they seek to fortify 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; management has hours, weeks, months 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 Estherville*, 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 Bohannon 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 qualified immunity has taken as 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 clear 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.

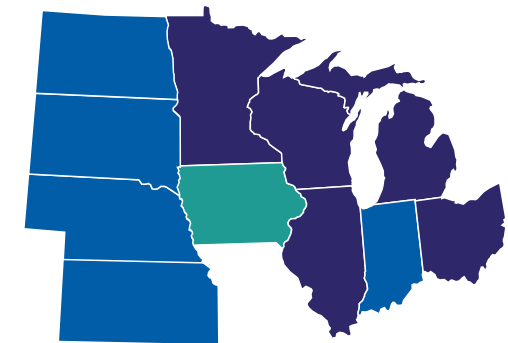
"It's not as if we're dusting off a decision from 40 or 50 years ago to find out if it's still relevant," Iowa Sen. Nate Boulton says. "Passing a questionably constitutional statute does not help us have the best training and education for officers on the streets; it only adds more questions, less clarity and frankly makes 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 excusing liability. This year, in two separate cases,

### STATE ACTIVITY ON QUALIFIED IMMUNITY (AS OF AUGUST 2021)



- Legislation introduced (not passed) to limit use of qualified immunity as it applies to police officers
- Legislation introduced and signed into law to fortify qualified immunity for police officers
- No legislation found

Source: CSG Midwest research

the 8th Circuit Court of Appeals — which encompasses multiple Midwestern states, including Iowa — ruled in part against officers' requests for qualified-immunity recognition.

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# CRIMINAL JUSTICE & PUBLIC SAFETY

In Illinois and elsewhere, prisons' treatment and care of transgender offenders are under increased scrutiny

by Derek Cantù ([dcantu@csf.org](mailto:dcantu@csf.org))

A federal judge has ordered the Illinois Department of Corrections to take a series of steps over the next few months to better address the needs of incarcerated transgender persons.

U.S. District Court Judge Nancy Rosenstengel criticized the overall rate at which change is occurring at the Illinois Department of Corrections.

"It's like a physician ordering a cholesterol test, the results coming back over 300, and yet the physician does nothing but put the lab results in the chart," she wrote in her August order.

Beginning in 2019, the U.S. Southern District Court of Illinois has ruled in favor of a group of transgender offenders who have accused the state of improperly caring for their wellbeing.

At issue are instances of offenders being denied hormone therapies for unfounded reasons, medical staff not versed in concepts such as gender dysphoria, an improper handling of strip searches, a lack of privacy granted in showers, and misgendering by IDOC staff.

In her August order, Rosenstengel acknowledged some improvements, including mandatory staff training.

In addition, IDOC has formed two committees to improve care. One has been tasked with reviewing issues related to medication delivery and gender-affirming surgeries; the second is reviewing security protections and logistics regarding prison transfers.

Under the U.S. Prison Rape Elimination Act of 2003, prisons must regularly interview transgender offenders to determine where they would feel the safest, a men's or women's facility.

However, executing transfers has proven difficult nationwide. According to NBC News research conducted last year, among the nation's estimated 4,890 incarcerated transgender individuals, only 15 were confirmed to have been transferred to a facility that matched their gender identity (including one in Illinois and one in Iowa).

One explanation for the low number, some transgender activists say, is that offenders place greater stock in personal safety and dignity over facility type.

Shelby Chestnut of the Transgender Law Center says the real damage occurs when an offender is denied gender-affirming resources, such as access to types of clothing or hygiene products.

Compared to their cisgender counterparts, transgender offenders are

more likely to experience instances of sexual abuse, attempt suicide, and be assigned to solitary confinement "for their own safety" — a phenomenon that puzzles National Center for Transgender Equality Executive Director Rodrigo Heng-Lehtinen.

"If solitary confinement is so demoralizing that it's used as punishment ... how is it also keeping someone safe?" he asks. He adds that state legislatures have the ability to address many of these issues.

Proposals in Wisconsin this year (AB 467 and SB 443) would create a Transgender Equality Taskforce. One of the subject areas: prison policy.

"We would expect ... experts who work in the criminal justice reform area to come to us and say, 'Yes, these are problems in Wisconsin and here are suggestions on how to solve them,'" says Rep. Lee Snodgrass, a sponsor of AB 467.

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4,890 |

**ESTIMATED # OF  
TRANSGENDER  
INDIVIDUALS IN  
STATE PRISONS**

34 |

**% OF TRANSGENDER OFFENDERS  
IN JAIL WHO REPORTED AT  
LEAST ONE INCIDENT OF SEXUAL  
VICTIMIZATION BY STAFF OR  
OTHER INMATE WITHIN PAST  
YEAR OR SINCE ADMISSION TO  
FACILITY (2015 REPORT)**

35 |

**% OF TRANSGENDER  
OFFENDERS IN PRISON  
WHO REPORTED AT LEAST  
ONE INCIDENT OF SEXUAL  
VICTIMIZATION BY STAFF OR  
OTHER INMATE WITHIN PAST  
YEAR (2015 REPORT)**

*Sources: NBC News (top number) and U.S. Bureau of Justice Statistics, "Prison Rape Elimination Act of 2003 Data Collection Activities, 2015" (bottom two numbers)*

## CRIMINAL JUSTICE & PUBLIC SAFETY

## Bills in Wisconsin seek comprehensive 'safe harbor' protections for exploited, underage sex workers

by Derek Cantù ([dcantu@csq.org](mailto:dcantu@csq.org))

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 nationwide 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.

Sarah Bendtsen Diédhiou of 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 Diédhiou 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 present 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.

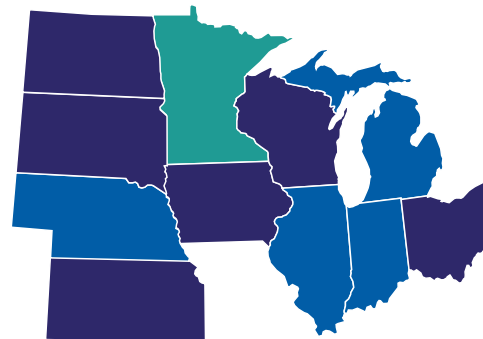
"To keep a child safe, do we want to put them in charge of turning over this incredibly powerful, scary person that's been in their lives, often when they've been groomed to not trust law enforcement?" she says.




"That's just not 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.

## 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

Source: Analysis done by Shared Hope International

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

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# QUESTION OF THE MONTH

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

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 led to 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](https://www.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 250,000 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 of the region's legislatures had taken action.

- **Indiana's** HB 1062 of 2019 allows up to \$10 million from the state's employment and training fund to be used to prevent, detect and recover delinquent contributions, penalties and improper benefit payments. (The cap on spending previously had been \$5 million.)

- Under existing **Iowa** administrative code, claims for unemployment benefits are not valid until an individual's identity is verified. Claims are locked until the required documents, one of which must contain a Social Security number, are provided.

- Four years ago, **Michigan** legislators changed how the state flags fraud in its state unemployment system (HB 5165 to HB 5172) — for example, setting new standards for identity verification and requiring prompt investigations of potential fraud. The state's Unemployment Insurance Agency also can now immediately cease benefit payments when a person with a stolen identity provides an affidavit and his or her employer corroborates the information.

States also impose a mix of monetary penalties and allow for criminal prosecutions of unemployment fraud. The maximum prison time ranges from a few months in some Midwestern states to as much as 20 years (see table). According to the U.S. Department of Labor, other deterrents include forfeiting future

### POTENTIAL PRISON TIME FOR UNEMPLOYMENT INSURANCE FRAUD

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

*Source: U.S. Department of Labor, "Comparison of State Unemployment Insurance Laws"*

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

Question of the Month response by Mitch Arvidson ([marvidson@csg.org](mailto: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 [csgm@csg.org](mailto:csgm@csg.org).



# QUESTION OF THE MONTH

## QUESTION | 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 rest 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.

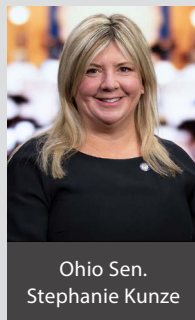
“Because of the seriousness that we see in the statistics from people who have been strangled by their domestic partner, I want to be able to increase jail time for the perpetrator,” says Sen. Stephanie Kunze, a sponsor of SB 90.

“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 weekend, 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.



Ohio Sen.  
Stephanie Kunze

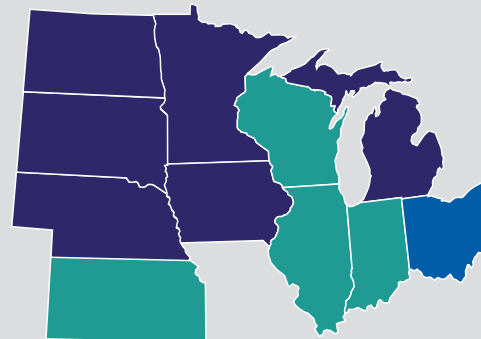
The punishment for strangulation sometimes differs depending on factors such as the type of victim assaulted or whether an assailant was a repeat offender.

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.

## 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 once 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 Cantù ([dcantu@csg.org](mailto:dcantu@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 [csgm@csg.org](mailto:csgm@csg.org).