



Keeping Kids and Parents Together

A Healthier Approach to Sentencing
in Louisiana

Executive Summary

Think about the families, the good that they could do, and not just the bad they have done. Don't think about the bad they could potentially do, either. Think about teaching them so they can be better and won't make the same mistake. Think about how that could benefit them and their family.

– Kyndia, in college, who grew up with both parents incarcerated

More than 800,000 parents are incarcerated across the US — a common practice that tears families apart, hurts children, and harms the health of entire communities. In this report, we evaluate the health and equity impacts of Primary Caretaker legislation in the state of Louisiana. If passed, this legislation would expand the ability to set community-based sentences for parents.

Community-based sentencing is a healthier and fiscally responsible alternative.

The benefits of allowing incarcerated parents to stay with or have more contact with their children are tremendous. Parents are more likely to succeed at treatment for substance use disorders and less likely to return to prison. By staying connected with their parents, children have the opportunity to experience healthy development and attachment, which contributes to good mental health and fewer behavioral issues. Community-based sentencing also decreases costs to prisons and jails and keeps parents connected to the workforce.

Youth of color are more likely to experience their parent getting locked up.

As a result of the racial inequities in the criminal legal system in the US, Black children are nine times more likely and Latinx children are three times more likely than White children to have a parent in prison. Kids with incarcerated parents are at risk of facing a variety of physical, mental, and behavioral health issues throughout the rest of their lives as a direct result of separation from their parent due to incarceration. In fact, this type of child-parent separation is classified as a specific type of trauma: an adverse childhood experience (ACE). Across Louisiana, about 1 in every 12 kids has experienced separation from a parent due to incarceration.

Reducing the harm from incarcerating parents is doable in Louisiana.

In 2016, about 2,650 parents who are currently incarcerated would have been eligible for this alternative sentencing in Louisiana — potentially keeping them together with their kids while still being held accountable for their actions.

In Louisiana, about 1 of every 12 children has had an incarcerated parent.

Mothers and grandmothers bear the burden at home.

When a father is incarcerated, his children’s mother remains as the primary caretaker 90% of the time. When a mother is incarcerated, her children are often displaced from their homes and frequently placed in the care of their grandmother. In both of these situations, mothers and grandmothers face the additional financial burden and emotional toll of a single parent home.

Almost 9 out of 10 women who are incarcerated have extensive histories of emotional, physical, and sexual abuse. They should be supported and have access to treatment — not punished.

Incarceration is harmful to individual and community health.

Prison and jail environments are not conducive to family visits. In addition, most mothers and fathers in state and federal prisons are held over 100 miles from their homes, creating significant barriers for kids to visit their parents. Incarcerated parents who aren’t able to maintain a connection with their children are more likely to experience depression, anxiety, and hopelessness, be re-incarcerated, and lose parental rights. In communities targeted by mass incarceration, the loss of working adults and parents to jails and prisons fuels the cycle of poverty without reducing crime or increasing public safety.

Alternative sentencing holds parents accountable and keeps families together.

Research shows that community-based sentencing creates a supportive environment where parents can heal and be held accountable for the consequences of their conviction — while staying with their kids. These sentencing alternatives can also properly address substance use, mental health issues, and homelessness, instead of criminalizing behaviors that merit public health interventions. This report highlights Louisiana programs that could serve parents sentenced to community alternatives under this proposed legislation.

Visit www.humanimpact.org/caretakersLA or bit.ly/operationrestorationcaretakers to read the full report and view references. Health professionals can support Louisiana Primary Caretaker Legislation: bit.ly/isupportthealthinla201803.



Acknowledgments

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Suggested Citation

Human Impact Partners and Operation Restoration. March 2018. Keeping Kids and Parents Together: A Healthier Approach to Sentencing in Louisiana. Oakland, CA.

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The work in this report was made possible by the generous funding of the Kresge Foundation.

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Introduction

If you care about any citizen in the state of Louisiana, before you sentence him try to see what else can be done to help their families. Stop to think about what danger you could be causing by not adequately thinking about the family when you are sentencing someone. Because you literally just ripped my childhood away from me.

– Dominique, 35, whose father has been incarcerated her entire life

Ensuring a safe, stable, and nurturing environment for children is a priority most of us can agree with. However, when it comes to protecting kids and their family ties, our criminal legal system ignores the harm of incarcerating parents for low-level convictions. More than 800,000 parents¹ are incarcerated across the US — a common practice tearing families apart, hurting children, and harming the health of entire communities.

This report evaluates the health and equity impacts of Primary Caretaker legislation in the state of Louisiana. If passed, this bill would expand the ability to set community-based sentences rather than prison- or jail-based sentences for people who are parents. In 2016, about 2,650 parents who are currently incarcerated would have been eligible for this alternative sentencing in Louisiana — potentially keeping them together with their kids while still being held accountable for their actions.^{1 2 3 4 5 a}

Louisiana's Primary Caretaker Legislation

Primary Caretaker legislation would expand the ability to use community-based alternatives to sentence parents and other primary caretakers of dependent children, so they can care for their families while being accountable for the consequences of their conviction.

The legislation defines “primary caretakers” as those who have assumed responsibility for a dependent child under the age of 18. This includes those who have responsibility for the housing, health, financial support, education, family ties, or safety of that child.

The Primary Caretaker legislation was crafted by women who are currently and formerly incarcerated who were motivated because of the harms they experienced due to separation from their children by imprisonment.

What are community-based sentencing alternatives?

Community-based sentencing alternatives allow for community rehabilitation, accountability, and parent-child unity. Examples of community-based sentencing options identified in this bill include:

► Treatment

- Drug and alcohol treatment
- Physical and sexual abuse counseling
- Family and individual counseling

► Education

- Domestic violence education and prevention
- Anger management

^a Louisiana has about 2,650 parents currently incarcerated in state prisons and county jails who would be eligible to benefit from community-based sentencing alternatives. The bill is not retroactive and parents who are currently incarcerated will not be eligible for alternate sentencing as a result of passing the bill. Rather, moving forward on a case-by-case basis, individuals may request via their defense counsel consideration as primary caretakers for alternate sentencing.

- Financial literacy
- Parenting classes

▶ **Services**

- Vocational and educational services
- Job training and placement
- Affordable and safe housing assistance
- Family case management

Incarceration is a Determinant of Health

Although health care and individual behaviors undoubtedly influence health and well-being, more than 50% of our health is actually determined by social and environmental conditions — social determinants of health.⁸ These are shaped by environmental, economic, and social policies, which can either help build healthier communities or harm them.⁶

Being incarcerated can affect an individual's health in profound ways, and social policies that lead to mass incarceration can impact the health of entire groups.⁷ The policies leading to mass incarceration have profoundly affected health and impact large proportions of people of color contributing to racial health inequities. In Louisiana, the health of Black, Brown, and low-income rural White communities are all disproportionately impacted by incarceration.⁸

About This Report

This report represents a partnership between Operation Restoration and Human Impact Partners (HIP). Operation Restoration supports formerly incarcerated women and girls in Louisiana as they transition back into society. HIP's Health Instead of Punishment Program increases the consideration of health in public decisions about criminal legal system policy and practices. The research in this report includes peer-reviewed literature, government reports and data, grey literature, and oversight and testimony of people who are either parents who were incarcerated or children of incarcerated parents. These data sources synthesize the health and equity impacts of offering community-based alternatives to incarcerating parents.

Notes about language in this report

- ▶ We use the term “parent” to signify a primary caretaker: a person who has assumed responsibility for a dependent child’s housing, health, financial support, education, family ties, or safety.
- ▶ We use the following terms: “people in prison,” “incarcerated individuals/people,” and “system-involved individuals or people” rather than “prisoner” or “offender.” We also use “formerly incarcerated individuals/people” instead of “convict.” Our intent is to avoid defining people permanently by past experiences or behaviors.
- ▶ We embrace the practice of removing “justice” from the term “criminal justice system” and replace it with the term “criminal legal system.”

Highlighting alternatives to incarceration

Throughout the report we describe several alternative programs to incarceration that are working well in communities across the United States. We identified them as examples that may work and be of value.

Who is Affected by Incarceration in Louisiana?

There are approximately 2,650 parents currently incarcerated in state prisons and county jails in Louisiana who would have been eligible for community-based alternatives had they been sentenced under this law.^{1 3 4 5}

It's important to note that the relatively low number of people potentially impacted makes this bill manageable. Louisiana's nonprofit infrastructure can help the state lead the way in implementing this humane and common-sense policy. According to the National Center for Charitable Statistics, there were about 17,500 nonprofits registered in Louisiana in 2013. About 2,000 of them are "safety net" organizations providing housing, health and human services, and crisis intervention.⁹

Scope of Parents and Children Affected by Incarceration in Louisiana

Louisiana incarcerates thousands of parents

Approximately 80% of incarcerated women are mothers,¹¹ and they are the primary caretakers of children prior to their arrest.¹² Incarcerated mothers have an average of 2.4 dependent children each.¹⁵ Some women are pregnant when incarcerated — a survey of jailed and imprisoned mothers found that 9% of respondents gave birth while incarcerated.¹³

The number of fathers in prisons and jails is much higher, which reflects the far greater number of imprisoned men in general. Fathers in prison report having an average of 2.1 children,⁴ however, only about 2% of incarcerated fathers are single fathers living alone with their child.¹⁴

1 out of 12 kids in Louisiana has been separated from a parent due to incarceration

A 2016 study by The Annie E. Casey Foundation, found that 8% of children and teens, or 94,000 youth, living in Louisiana had ever experienced having a parent in prison or jail at some time in their young lives.¹⁵

Nationally, more than 1 in 5 of children with a parent in prison is under five years old,¹¹ and 2.3% of US resident children under age 18 had a parent in prison.

Louisiana is starting to meet the basic needs of incarcerated parents.

In 2017 the Louisiana legislature passed a criminal justice reform package, which reduces financial burdens on the formerly incarcerated by allowing access to safety net programs and tailoring court fees based on ability to pay.¹⁰

Black children are 9 times more likely and Latinx children are 3 times more likely than White children to have a parent in prison.^{1 19}

^b This estimate is compiled using numbers of people incarcerated in prisons and jails in Louisiana, the proportion male and female, and the proportion of women and men who tend to be primary caretakers. This estimate is somewhat conservative as certain jail data was not available in Louisiana.

Primary Caretaker legislation in the context of historical criminal legal system policies

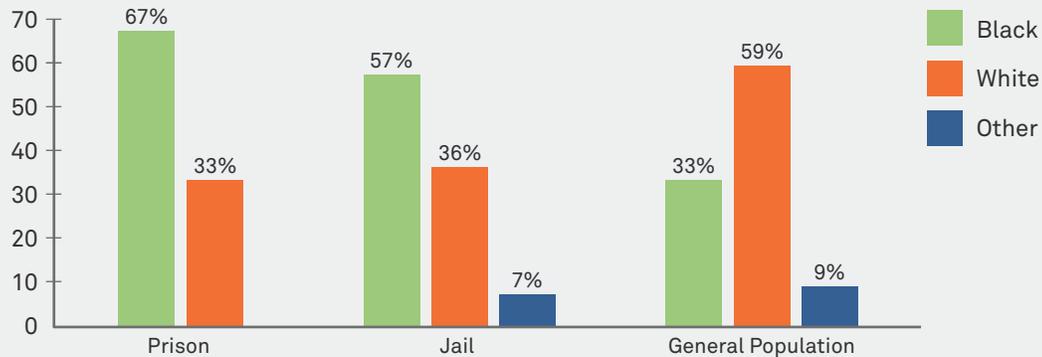
There are myriad policies and practices that have converged to create the criminal legal system that operates today, which incarcerates many Louisiana residents — particularly people of color and those living in poverty. Many of those currently caught up in the criminal legal system are there due to well-known public policies:¹⁶

- The “War on Drugs” led to extreme and racialized sentencing laws.
- Mandatory minimums and sentence enhancements that have served to incarcerate more people for a longer amount of time.
- Collateral consequences of criminal conviction make it extremely difficult for someone returning from incarceration to succeed.
- Mental health systems and social safety net programs have been dismantled.
- Laws that criminalize people who have illnesses of addiction and mental health struggles, and those who face homelessness.
- Police engage in hyper-surveillance and arrest of communities of color and low-income communities.
- Privatization of prisons and jails create economic incentives rewarding sentencing for minor infractions and over-policing.
- Prison and bail industries that seek profit over humane treatment.
- Increased criminalization of the homeless, sex workers, undocumented immigrants, transgender individuals, and others led to people arrested for behaviors arising in response to a decreased social safety net and policies of marginalization.¹⁷

Louisiana disproportionately punishes parents of color and those who are poor

If you're Black or Latinx,^d you are more likely to be criminalized and subsequently incarcerated. Figure 1 shows disproportionate incarceration rates in Louisiana.

Figure 1. Incarceration Rates in Louisiana



Sources:

Vera Institute of Justice. Incarceration Trends.

Louisiana Department of Public Safety and Corrections. Corrections Services. Briefing Book Fact Sheet December 2015.

United States Census Bureau.

The majority of incarcerated women live in poverty, are single, have lower rates of educational attainment, and are disproportionately people of color.¹⁸

Louisiana incarcerates women at a higher rate than the national rate

While incarceration in general has declined slightly in Louisiana, Louisiana has the seventh-highest rate of incarcerated women in the world, and incarcerates women at a rate of 198 women in prison per 100,000 people in the population. For comparison, the US national rate is 127 per 100,000.^{19 1}

Mothers and grandmothers bear the burden when a parent is incarcerated

When fathers are locked up, their children's mothers remain as primary caretakers 90% of the time.¹⁴ In this situation, kids often get to stay in their own home with a parent who was already taking care of them — only approximately 2% of incarcerated fathers were single fathers living alone with their child.¹⁴ As primary caretakers, many mothers must also bear the financial burden: 54% of incarcerated fathers report that they are the primary source of financial support for their children prior to incarceration.⁴

I grew up with my grandparents, but it was sort of like they acted as a placeholder.

– Kyndia, in college, who grew up with both parents incarcerated

^d Latinx is a gender-neutral alternative to Latino/a.

Children of incarcerated mothers are more likely to be displaced from their homes and placed with a non-parent guardian.¹⁸ Mothers report that when they are incarcerated, 51% of the time grandmothers care for children.¹¹ On the low side, 17%¹³ of children live with their fathers, with other reports showing as much as 28%.¹¹ Other relatives and family friends take this role 20% and 4% of the time, respectively. In 11% of cases, children go to a foster home or agency.¹¹

The Role of Trauma and Other Health Issues

There is a long and complicated history that the United States has perpetuated to create our current criminal legal system. That history includes hundreds of years of outright and institutional racism, judgment and oppression of those in poverty, and reduction in equitable resources to ensure success and health for all people. Overlaid with this is the decades-long use of policing, sentencing, and incarceration as a tool to suppress Black communities and other people of color, leading to laws that criminalize some of the health issues identified below.¹⁶

Because of this history of neglect and oppression, these parents are often coping with issues that require support, which could mean treatment and time to heal from trauma, assistance getting jobs, housing, and an education. Overwhelmingly, these parents can still be loving caretakers to their children and should remain in that role despite the institutional obstacles they face.

The majority of people involved in the criminal legal system have experienced trauma

Between 77% and 90% of women who are incarcerated have extensive histories of emotional, physical, and sexual abuse.²⁰ Instead of treating this trauma appropriately, society's common response has been to respond by criminalizing the behaviors that can result from experiencing or witnessing violence and neglect.

There is a vast research base looking at toxic stress in childhood and the lifelong problems it causes, including a higher likelihood of incarceration. There is a relationship between being a survivor of crime and abuse, and then being responsible for crime and abuse. A study documenting this phenomena states, "Nearly everyone who commits violence has also survived it, and few have gotten formal support to heal."²¹

The majority of incarcerated women have experienced prior sexual abuse or sexual violence

The experience of sexual abuse or sexual violence is a common characteristic of women who are imprisoned.^{22 23} One researcher found that 55% of a sample of 102 women in prison had been sexually abused, which is double the rate in the general population.²⁴ Another study found that 86% of women in jails had experienced sexual violence in their lives, 77% had experienced partner violence, and 60% had experienced caregiver violence.²⁵

Criminalizing addiction and substance use disorders leads to incarceration

Substance use disorder is common among people housed in Louisiana Department of Corrections prisons. About 80% of people serving state sentences in Louisiana have substance abuse issues.²⁶

Most parents are incarcerated for things like drug-related behaviors. In fact, people who committed drug and public-order crimes in prisons are more likely to have children than those who committed violent crimes.¹ Women in state prisons are more likely than men to be incarcerated for a drug or property offense and less likely than men to be incarcerated for a violent offense.¹¹ The majority (60%)

of women in state prisons have a history of drug dependence.¹¹ In a sample of almost 500 women in jails across the country, 82% had experienced drug or alcohol abuse or dependence.⁵

Louisiana's response to the opioid epidemic has continued to fuel incarceration and criminalization of the illness of addiction. While the legislature reduced drug possession convictions in several ways in the historic 2017 criminal justice system overhaul, lawmakers created a new mandatory minimum of one year for illegally possessing several prescription medications, especially opioids.²⁷

My dad was a drug addict. He stole and robbed because he needed money to buy drugs. He needed help. All three times he was arrested were in relation to his addiction. So it's messed up my life because he robbed to buy drugs.

– Dominique, 35, whose father has been incarcerated her entire life

Criminalizing mental health issues leads to incarceration

People who have experienced trauma are more likely to have mental health issues. With laws that criminalize behaviors of those suffering from mental illness, trauma, and other behavioral health issues, more and more people who require health interventions are instead locked up in jail or prison. Combined with de-institutionalization of state mental hospitals and the decimation of systems to treat these issues, jails and prisons have wrongly become one of the few places that people can access mental health services, and even so the treatment is woefully inadequate.²⁸ While 12% women in jails have severe psychiatric disorders, fewer than 25% of them receive mental health services.¹¹

According to a 2017 report on the Orleans Parish Jail, only about 10% of incarcerated persons were counted in its “mental health caseload.”²⁹ In 2006, the nationwide average of mental illness among those incarcerated in state jails was 64%, meaning that the parish jail system is unequipped to test and care for those with mental illness.²⁹ Additionally, a 2017 lawsuit against the Davis Wade Correctional Center stated that mental health complaints often were treated as disciplinary infractions and that “mentally ill inmates were slapped and punched.”³⁰ To decrease arrest and incarceration in prisons and jails of people with mental health issues, public institutions in Louisiana must offer appropriate and affordable mental health services in the community.^{31 32}

The unmet need for mental health services in Louisiana

In 2013, the Treatment Advocacy Center, a national nonprofit research organization, gave Louisiana a “D” grade for how well the state does at diverting people with severe mental illness from the criminal legal system. A more recent report noted that there has been a 32% reduction in the availability of public psychiatric beds between 2010 and 2016, making it almost 5 times more likely for a person to be jailed rather than hospitalized for symptoms and behaviors associated with untreated severe mental illness.³³

The Role of Disinvestment in Education, Employment, and Housing

The greatest dangers to our communities are not people who commit non-violent drug offenses but gentrification, under-invested public schools coupled with an over-invested police force, lack of access to jobs and housing, all of which perpetuate the crimes our families are being punished for. We are suffering and it seems we are perpetually in a state of grief.

– Ayana, age 22, whose father was incarcerated for 17 years

Access quality public education can reduce the risk of incarceration

Having a low level of education, due to many societal and interpersonal influences, is a risk factor for incarceration. According to the Louisiana Department of Corrections, about 81% of people entering Louisiana state prisons do not have a high school diploma or GED.²⁶ As Table 2 indicates, high proportions of people held in prisons in Louisiana have low education levels; two out of three people in prison in Louisiana are have below a 10th grade education.³⁴ In comparison, about 21% of adults in the United States read below a 5th grade level.³⁵

Table 2. Education Levels of People in Louisiana Prisons

10th grade and higher	29%
Between 5th and 9th grade	42%
Below 5th grade	29%

Source: http://www.nola.com/crime/index.ssf/page/louisiana_prison_capital.html

Louisiana trends higher than the national average. Nationally, just under half (44%) of women in state prisons have neither graduated from high school nor received a GED.¹¹ In spite of this, only half of women's jails and prisons offer post-secondary education.¹¹ Educational attainment directly impacts people's earnings potential. One year of education, for example, leads to roughly an 8% increase in earnings.^{36 37} Educational attainment is associated with a lower likelihood of being incarcerated.

Access to stable, safe employment can reduce the risk of incarceration

Structural obstacles to stable employment are also a risk factor for criminalization and incarceration. People in prison have experienced low levels of employment. Like the gender gap in general society, incarcerated women have high rates of unemployment — half of all incarcerated women did not work

at all in the month before being incarcerated, and 60% did not work full-time. Thirty-seven percent had incomes below \$600 per month. Among incarcerated men, 40% were not employed full-time when they were arrested and 28% earned below \$600 in the month before their arrest.¹¹ Finding employment can be even more challenging after being released from prison due to having a prior felony conviction — thus, people formerly in prison are at a high risk of economic insecurity.³⁸

Access to safe, affordable housing can reduce the risk of incarceration

A minimum wage earner in Louisiana would have to work 74 hours each week to afford a modest 1-bedroom rental (at Fair Market Rent).³⁹ According to the annual Point-in-Time (PIT) count in Louisiana, homelessness has declined by over 68% since 2009.⁴⁰ However, on a single night in 2015 about 120 families, or 25.25% of the PIT count, were homeless.⁴¹

When people don't have access to affordable and stable housing, they can end up criminalized for not being able to maintain housing. For context, the National Law Center on Homelessness and Poverty conducted a survey with 187 cities and found that:

- ▶ More than 33% of cities have city-wide bans on camping in public
- ▶ 43% of cities prohibit sleeping in vehicles
- ▶ 53% of cities ban sitting or lying down in certain public places

Worse, once someone has been locked up in jail or prison, their odds of experiencing homelessness go from 1 in 200 (for the general population) to 1 in 11 (for people recently released from prison).⁴²

Neglect by institutions

People who are locked up in jail or prison — especially women — have often been neglected by the very systems that are put in place to protect them.⁴³ In a conference that brought together women who had experienced incarceration themselves or of their families and women in public health, formerly incarcerated women shared many experiences of reaching out for help — to a school counselor, a school nurse, a clinic staff — and being ignored or neglected. This institutional neglect added to family or community trauma ultimately led to decisions and behaviors that resulted in incarceration.⁴⁴

Community-Based Sentencing Is a Common Sense Alternative

Non-custodial, community-based sentencing options allowable under Primary Caretaker legislation in Louisiana are more effective and promote individual, family, and community health compared to incarceration.

Community-Based Sentencing is Healthier for Children

Keeping parents and children together is better for children's attachment and development

When children can stay with their parents throughout their infant, childhood, and adolescent years, they have better bonding and attachment, development, and lifelong health outcomes.

Infants who spend quality time with their parents form stronger, more secure, and long-lasting attachments.^{45 46} In turn, parental attachment impacts every aspect of childhood development.⁴⁷ Infants seek bonds with their parents to gain protection and safety, and they also need attachment to parents for their intellectual, social, and psychological development.^{47 14}

Attachment to parents is essential for the health of older children as well: adolescents who are securely attached to parents are less likely to engage in high risk behaviors, have fewer mental health problems, and have better social skills and coping strategies as compared to those who do not have secure attachments.⁴⁷ For infants and older children alike, healthy attachment to parents gives children the feeling of safety and stability that allows them to explore the world around them.⁴⁷

It's the little stuff that people with their parents take for granted. It (incarceration of parents) doesn't allow you to be close to them.

– Kyndia, in college, who grew up with both parents incarcerated

Research demonstrates that allowing children to remain with their mothers, even while they are in correctional control, is associated with:

- ▶ Secure attachment⁴⁸
- ▶ Lower levels of anxiety and depression⁴⁹
- ▶ A higher likelihood of maintaining custody of children following release⁵⁰
- ▶ Families are more bonded after the mother's release⁵⁰

Community-based sentencing keeps children with their families instead of foster care

When parents can maintain their caretaking roles, their children avoid placement in foster care. An alternative sentencing program in the state of Washington prevented 44 children from going into the foster care system. Eight children came out of foster care and were returned to their parents.⁵¹

Children whose mothers are incarcerated are at high risk of being placed in foster care.

In a Bureau of Justice Statistics study, mothers in prison were five times more likely than fathers in prison to report that a child was in foster care (11% vs. 2% respectively).⁴

Community-Based Sentencing is Healthier for Parents

Much of the research about the health impacts of parental incarceration is about children and mothers — as such we report information about mothers in this section on parents, noting that there is a research gap regarding impacts on fathers.

Sentencing programs for mothers in which children can cohabitate or stay overnight, or where mothers just go during the daytime only, preserve and strengthen families.¹⁸ After completing community-based programs, parents have successfully reduced substance use disorder, improved parenting skills, and reduced recidivism. These benefits also extend to entire families. If our corrections system truly seeks to correct behaviors and rehabilitate people while holding them accountable for the consequences of their conviction, the most evidence-based method of achieving this is to allow people to serve time in their communities.

Substance use disorder treatment is more effective if parents remain connected to children

Current or prior substance use disorder is a common though not universal issue for people in prison.^{11 52} However, drug treatment services during incarceration are severely deficient and do not match the needs of people incarcerated.^{11 53}

Among women who participate in residential drug treatment, those who have their children with them are far more likely to complete the program when compared to those who are separated from their children.^{54 14} One study found that 88% of women who had their children with them at a residential drug treatment program completed the program, while only 12% of those who were separated from their children finished the program.⁵⁴ This benefit can extend to the next generation: children of parents who participate in family-based drug treatment are less likely to develop their own substance use disorders.⁵⁵

More broadly speaking, drug and alcohol treatment is more effective when one's family is involved. In a study of factors that predict retention in and dropout from alcoholism treatment programs, clients stayed in outpatient treatment longer when they had been assigned to couples or family interventions compared to those receiving individual treatment.⁵⁶

Highlighting Alternatives to Incarceration

Odyssey House Louisiana in New Orleans and Freedom House in Covington are two programs that could be considered as alternatives to incarceration that offer substance use disorder treatment, and in particular opioid addiction treatment.

Odyssey House Louisiana

Odyssey House is a nonprofit behavioral health care provider with an emphasis on addiction treatment, including opioid addiction. The system of care includes detox, behavioral and medical healthcare, life-skills, counseling, and case management to help people reclaim productive lives. Their philosophy is to treat the whole person, not just the addiction, offering complete health care, life-skills training, vocational training, counseling, parenting classes, childcare, housing placement and case management in addition to substance use treatment.

Odyssey House offers a range of substance use disorder treatment, from short-term adult residential, adolescent residential, long term housing and intensive outpatient treatment, medication-assisted treatment, and a reentry program. In addition to providing treatment services, Odyssey House advocates for crime reduction by linking prevention providers, treatment services, the criminal justice system, and the community.

Odyssey House serves about 900 clients each month. Every \$1 that goes toward treatment services saves \$7 on average in decreased health care and criminal justice costs and increased employment. For the more than \$11 million Odyssey House will spend delivering treatment in 2018, they estimate that they generate \$79 million in savings to the state of Louisiana. Former clients described how they have received Bachelor's and Master's degrees, pursued careers in social work, and found employment at treatment centers.⁵⁷

Freedom House

Freedom House is a sober living home for women in Covington, Louisiana. Freedom House provides a space and support to transition from drug treatment to a new way of life. Serving up to nine women at a time, participants come after rehabilitation, detoxification, or sometimes jail. Since every woman there is in recovery, they are able to support each other as well as hold each other accountable. Supportive housing for people overcoming addiction, particularly opioid addiction, is a key factor in their recovery and keeping clear of arrest.⁵⁸

Family-based alternatives to incarceration can improve parenting skills

Family-based drug treatment programs that also offer parenting classes and home-based case management services are successful in reducing substance use and improving parenting skills. Parenting classes for fathers are shown to improve relationships and attachment with their children, as well as feelings of competence.^{59 60}

Parents who stay connected to their children are less likely to return to jail or prison

Multiple studies show that parents who serve sentences while staying connected to their children recidivate less.^{14 61 48 62 18 63} For example, the Parent Sentencing Alternative in Washington has a recidivism rate of 8% compared to the 29% for women in prison who are separated from their children. According to Susan Leavell, Program Administrator of Parenting Sentencing Alternative, “When [convicted people] are successful parents, they stay out of prison. They stay engaged with their kids. When parents are engaged with their kids we see healthy young adults.”

Community-Based Sentencing is Fiscally Responsible

Community-based alternatives to incarceration are far more cost effective than incarcerating people and cost taxpayers much less. The programs included in Washington’s sentencing alternative law, cost \$31 per day to supervise someone in the community compared to a cost of \$91 per day for incarcerating that person.⁵¹ According to the Lafayette Parish Sheriff’s Office, one day in the Lafayette Parish Correctional Center cost the county \$54.⁶⁴ A residential program for incarcerated women in Oklahoma that includes housing and housing assistance, drug treatment and mental health services, education and employment assistance, parenting classes and other programming costs about \$17,000 per year with participants staying 18 to 24 months, compared to the \$19,000 per year for incarcerating women, which lasts typically from two years to life in prison.⁶⁵ The average cost to house someone in Louisiana Department of Correction prisons is approximately \$18,863 for one year, with the average length of stay in 2015 being just shy of six years.⁶⁶

Another fiscal benefit to keeping more parents in their communities, as long as they are still able to be safe and loving caretakers, is keeping wage earners in the workforce. This would avoid some of the negative financial and health impacts to families and also to communities where large numbers of wage earners disappear into incarceration.

Prisons and jails have a poor track record in prioritizing health

The criminal legal system has a spotty record of implementing programs that prioritize the health of parents and families. Given the system’s historical value of punishment over rehabilitation, entrusting implementation of this law to the Department of Corrections is not recommended. For example, the California Department of Corrections and Rehabilitation implemented the California Prisoner Mother Program that allowed children to live with mothers in prison. The implementation showed a failure meet children’s needs — from poor nutritional quality of food for the children, limited access to medical care, to disturbing racial inequalities with better- funded programs.⁶⁷

In 2015, a class action complaint filed against the Louisiana DOC and Angola details a consistent denial of medically necessary surgeries and medical attention, inhumane use of solitary confinement for disabled persons, and a cancer that advanced due to a dismissal of health concerns.^{68 69} In 2013, the mortality rate at Angola prison was 3.36% higher than the average mortality rate for state prisons in the United States.⁷⁰ Inadequate health care is also a problem in parish jails. According to Human Rights Watch, only 5% of parish jails regularly offer HIV tests and incarcerated persons with HIV “often go undiagnosed, untreated, and without effective community care upon release.”⁷¹

Highlighting Alternatives to Incarceration

ReMerge - Oklahoma City

ReMerge is a comprehensive 18 to 24 month program designed to keep women in the community with their children in lieu of prison. ReMerge has been operating for six years and has tweaked their program over time to best address the needs of women and children and maintain successful outcomes.

ReMerge operates in four phases. The first phase is residential onsite at a community partner's housing programs, and includes 90 days of highly structured and supervised programming. Women are at ReMerge Monday through Friday during the day, participating in an individualized program with evidence-based mental health and substance use disorder treatment if needed, education, employment training, parenting classes, and other programming. If the women meet the requirements to graduate to Phase 2, they may move to less structured but still sober housing, and decrease to four days a week at ReMerge and the other day in school or searching for a job. As the women "phase up" they gain more independence, spend less time at ReMerge, and in Phase 2 or 3 they can be reunited with their children. As part of the phasing up, ReMerge covers less and less of the women's housing costs over time as women learn or re-learn how to live on their own. In Phase 4, women are in school or working, and only seeing the ReMerge staff one day a week for accountability.

ReMerge began after legislation passed in 2010 authorizing the establishment of pilot programs to work with mothers of minor children and keep them in the community instead of prison. The United Way of Central Oklahoma brought 25 nonprofits together and created ReMerge. Currently ReMerge partners with more than 40 other organizations and agencies, which is a large part of their success. ReMerge is a community-based program that collaborates with the Oklahoma Department of Corrections but operates independently and is currently only available in Oklahoma County.

The program has a 67% completion rate, and of those who have graduated, there is a very low 5% recidivism rate. Other outcomes include about three-quarters of graduates reporting housing stability, that their children live in their home, and that they are employed. Of these women, 100% report living a life of sobriety with 86% of them sober for more than one year, and 93% report having better relationships with their children.

ReMerge has saved the state of Oklahoma \$13 million. While the annual cost of the ReMerge program — about \$17,000 per participant — is just a bit less than the cost of incarceration in prison (\$19,000), the participants are generally engaged in ReMerge for many fewer years than they would have been incarcerated.⁶⁵

Incarcerating Parents is Harmful

The one thing I cannot get out of my head is the first time I saw him handcuffed and shackled, with the orange jumpsuit on. I cannot get that image out of my head. I think about it at least 3 to 4 times a day.

– Dominique, 35, whose father has been incarcerated her entire life

Having an Incarcerated Parent is a Traumatic Event and is Hazardous to Health

Kids with incarcerated parents are at risk for a variety of health and social problems that could last a lifetime. A growing body of research is revealing a link between adverse childhood experiences (ACEs) and a greater chance of lifelong physical, mental, and behavioral health problems.⁷² Having an incarcerated parent is classified as an ACE.⁷³

Changes in caretaker and family structure can be a source of trauma for children

Most children of incarcerated mothers experience at least one change in caretaker while their mother is incarcerated. Two thirds of these children have at least one change in caretaker, and 1 in 10 children have two or more changes in caretaker.¹⁸ Separation from siblings is also traumatic.¹⁸

If children are separated from their primary caretakers in the first weeks and months of life, reestablishing bonds at a later time becomes difficult. Such a “disorganized attachment relationship” during infancy is the strongest predictor of hostile behaviors toward peers in preschool.¹⁴

Parental incarceration can lead to physical health problems for kids

Having an incarcerated parent is associated with physical health problems such as migraines, asthma, high cholesterol,^{74 75} HIV and AIDS,⁷⁵ and rating one’s own health status as fair or poor.⁷⁵ Recent evidence suggests that ACEs cause immediate physical consequences such as chromosome damage and changes to the developing brain,⁷⁶ and are risk factors for longer-term physical health problems such as heart disease, cancer, chronic lung disease, skeletal fractures, liver disease, AIDS, having one or more STD, and morbid obesity.^{22 76}

They put me under an MRI scanner and showed me different images. When they showed me pictures of prison or visitation rooms, my blood pressure would heighten, I would sweat more.

– Kyndia, in college, who grew up with both parents incarcerated

Adverse childhood experiences can also have intergenerational impacts

ACEs can also have inter-generational impacts. Having an ACE can be the reason why parents end up being incarcerated in the first place,²³ and unfortunately, incarcerated parents then pass an ACE onto their children.⁴⁴ Despite great adversity, research indicates that some interventions that promote a supportive, responsive relationship between parent and child can reverse the inter-generational impacts of ACEs and toxic stress.⁷⁷

Parental incarceration can contribute to mental health problems in kids

Children of incarcerated parents experience more mental health and “internalizing” problems. One researcher reported that 70% of children of incarcerated mothers had emotional or psychological problems¹⁵ such as depression,^{74 75 76} anxiety,⁷⁵ emotional withdrawal,⁶³ posttraumatic stress disorder (PTSD), and feelings of guilt,⁷⁵ embarrassment, and shame.^{63 14} Sometimes children feel so much shame about their incarcerated parent that they socially isolate themselves from friends.¹⁸ Self-esteem issues are common as well.^{74 63} Young children of incarcerated mothers may be slower than others to develop autonomy, independence, and a confident self-concept.¹⁸

Children tend to be traumatized by separation, and separation from an incarcerated parent can lead to abandonment issues⁶³ as well as an insecure attachment to the parent, which can put children at risk for developmental delays⁶³ and other mental health issues.⁴⁸ In particular, infants and toddlers face attachment problems when moved into and out of their mother’s care, and they may develop insecure attachments to other caretakers as well.^{18 63}

In my second year of college, I went through a regression. I didn’t want to go to class, I wanted to sleep all the time. My psychologist diagnosed me with PTSD and major depression from the incarceration of my parents being such a traumatic experience, and because I wasn’t adequately dealing with them being in prison by talking about it.

– Kyndia, in college, who grew up with both parents incarcerated

Parental incarceration is a driver of behavioral issues

“Internalizing” issues can go hand in hand with “externalizing” or behavioral issues such as anger, aggression, hostility, substance use disorder, gang activity, lying, and stealing.^{18 74} ACEs are associated with unhealthy behaviors such as smoking, drinking heavily,⁷⁶ substance use disorder,²² and sexually risky behaviors.^{22 76} ACEs increase the risk for depression, suicide, incarceration, poor educational and employment outcomes, poverty,⁷⁷ and involvement in violence.^{22 76} These behaviors in turn can lead to higher chances for youth to be involved in the criminal legal system themselves.

(When I got in trouble over and over), the dean of students said, “Why are you doing this? What’s wrong?” I told him that if I got in enough trouble, I would go and be with my parents, that I could go to jail with them.

– Kyndia, in college, who grew up with both parents incarcerated

Kids' behaviors impact school success

These issues can play out in school where students can display issues such as absenteeism, truancy, drop out,^{18 74} suspension, and expulsion.⁷⁸ In a study of children of incarcerated mothers and fathers, 70% of children of incarcerated mothers showed poor academic performance, and 50% showed classroom behavior problems.¹⁸ A different study found a 34% dropout rate for children of incarcerated parents compared to a 10% rate for their peers.¹⁸

Highlighting Alternatives to Incarceration

Delgado Forward

The Delgado Forward program is a partnership between the Delgado Community College and the Orleans Parish Criminal District Court Section K to provide an alternative to incarceration. Due to success with educational programs at the Louisiana State Penitentiary at Angola, Judge Arthur Hunter sought an alternative for non-violent people at an earlier stage — those coming into his court.

Delgado Community College offers court participants an opportunity to follow three types of educational pathways to careers: Adult Basic Education to obtain a high school diploma, taking classes for no credit but to prepare for a fast track to employment, or partaking of the more than 70 certificate or associate degree programs at Delgado.

Court participants begin with an assessment at the Single Stop center to address which track they would like to pursue and any barriers they might have that the Single Stop Center can help them address, such as the need for benefits (medical, housing, nutrition assistance), legal aid, and tax counseling. Single Stop can help participants with the sometimes overwhelming task of dealing with school and other bureaucracies, and make sure that complexity is not a barrier.

Delgado Forward is in its pilot phase. The students involved range from those who are savvy, know what they want to get out of the program and how to navigate it to people facing tragic obstacles that obstruct their success. Delgado Forward is carefully building out supports from community partners and mental health services, with the goal of ensuring academic success so participants can pursue a different course in life.

Dr. Arnel Cosey, the Vice Chancellor of Student Affairs at DCC, feels that Delgado Forward is a key alternative for parents who are facing conviction. “One man in the program is a good example of this. He mentioned to me that he is looking forward to a different type of future than he envisioned for himself. He’s the caretaker of 5 kids — he is 28 years old — and you can see the brightness in his eyes that he sees for himself and for his kids. He’s really got the big picture.”⁷⁹

Highlighting Alternatives to Incarceration

Women FIRST (Formerly Incarcerated Returning Students Team)

The Women FIRST Clinic has served as a space where women can pursue their educational goals. They serve formerly incarcerated women and also serve as an alternative to incarceration in New Orleans since the summer of 2016. When judges sentence women to get their General Equivalency Diploma (GED), Women FIRST provides classes to ready women for the HiSET (High School Equivalency Test). Women FIRST also provides supports that women need to be able to study, such as transportation, childcare, meals, individual tutoring, mentorship, funding of the cost of the HiSET or college applications, and coordination with court.

The program averages about 6 months to complete, although some women are able to feel prepared by only 1 to 2 months — the program is very individualized based on the types of supports that women need to succeed. A very low student-to-teacher ratio is part of the Women FIRST model, and has led to 80% of the first cohort of students completing the program, 96% of students were satisfied with the services, and student scores on pre- and post-tests improved in reading, language, and overall.

One student participant summed it up this way, “I learned how to prepare for testing by doing short testing, relaxing, taking time to really understand the way the math or reading was done. Most of the work was easy — I just had to open my mind and listen.” One of the volunteer tutors said that the most valuable part about the course was “involvement not just during sessions, but outside as well — many tutors made themselves available via text, cell, email, provided students with as much info as possible.”

Women FIRST is currently funded through private grants, with a small annual budget of \$10,000 to serve approximately 30 students a year. There is a wait list of women wanting to access the program, and due to resource limitations have had to limit the number of people they can serve and improvements they are able to make.⁸⁰

Parental incarceration can lead to kids being placed in foster care

Having an incarcerated parent increases the chance of being placed in foster care.⁸¹ One estimation is that at least 4.5% of foster children are in foster care because a parent is incarcerated.¹² Parental incarceration may also be associated with placement in foster care even when it is not the direct cause: 20 to 30% of children in foster care have an incarcerated parent.¹²

Children of incarcerated parents in foster care as well as those who are cared for by relatives face economic disadvantages, stigma, disruption of parent-child attachments, and unstable living arrangements.¹² In addition, once children are in foster care it is more difficult for them to visit their parents in prison or jail, and mothers are at higher risk of losing custody of them.⁸²

In general, foster care is associated with a higher risk for mental health and behavioral problems⁸¹ which may result from disruptions in attachment relationships.⁸³ As adults, former foster youth have a higher risk of multiple chronic health conditions⁸⁴ such as hypertension, smoking, and asthma, as well as increased self-reported fair or poor general health and lack of insurance.⁸⁴ In a study examining

health outcomes in young adults who were in foster care as youth, all of these conditions were found to be worse for former foster youth even as compared to adults who were economically insecure as youth but not in foster care.⁸⁴

Having an absent parent puts kids at higher risk for sexual abuse and victimization

Many studies have indicated that living without one's mother or father at some point during childhood is associated with higher vulnerability to sexual abuse than living with both parents.⁸⁵ For example, living apart from one's mother caused an almost threefold higher risk of sexual abuse, and separation from either parent for six months or longer before the age of 16 led to a higher likelihood of being a victim of sexual abuse.⁸⁵ Another study compared youth involved in the juvenile system who had been arrested for sexual trafficking to those who were arrested for other offenses. All youth had a high rate of having had a household member incarcerated, but approximately 85% of youth who had been sexually trafficked had a person in their household incarcerated versus about 65% of other system-involved youth.⁸⁶ The absence of a caregiver due to incarceration puts kids — and girls in particular — at risk.

I went from relationship to relationship not even being able to identify when I was being emotionally abused by a man. I didn't learn, I didn't have my father around to protect me or stand up for me and say, 'This is my daughter and I will not allow you to do this to her.'

– Dominique, 35, whose father has been incarcerated her entire life

Highlighting Alternatives to Incarceration

Women With A Vision (WWAV) – Crossroads Diversion Court

A core principle that Women With A Vision holds is that people should not be criminalized for what they do with their own bodies. To that end WWAV is the service provider and lead organization for the Crossroads Diversion Court Program. Since 2014, Crossroads provides an alternative to incarceration for people arrested and accused of misdemeanor prostitution. Partners include the New Orleans Municipal Court, the Orleans District Attorney's Office, the City Attorney, Orleans Public Defenders, and the New Orleans Police Department.

The program includes an initial needs assessment, goal setting, job readiness, case management, and other services. Participants are diverted and attend between 6 to 12 sessions. Curriculum includes communication, safe sex, GED classes, healthy relationships, financial responsibility, stress management, and exploration of historical trauma and oppression. Crossroads uses evidence-based practices and trauma-informed counseling.

To ensure that Crossroads Diversion Court does not result in increasing involvement with the criminal legal system through net-widening, the court does not charge fines, supervision fees, and there is no drug testing. Crossroads also decreases obstacles to participation by providing childcare, food, and bus tokens or passes.

Many women who are arrested for sex work have children. The intersecting forces that lead women to engage in sex work, such as racism, poverty, lack of educational or job opportunities that provide a living wage, are only exacerbated by incarceration and conviction. The program has been funded through grants from the American Bar Association and the Bureau of Justice Administration. They report no rearrests of participants to date, and that the program empowers women and men to leave the sex industry.⁸⁷

Parental incarceration can change the course of kids' lives

Children with an incarcerated parent tend to disproportionately face difficult issues as adults such as lower incomes, higher rates of being uninsured, higher rates of homelessness, and feelings of powerlessness.⁷⁴ These children have a higher likelihood than children without an incarcerated parent to be incarcerated themselves: a small sample of studies in the 1990s found that between 10% and 29% of incarcerated mothers reported that their children had been arrested or incarcerated.¹⁸

Separation from One's Children is Harmful to Parents Too

Studies indicate that being responsible for one's child keeps a parent away from crime. Conversely, a mother's lack of contact with children and constant fear of losing parental rights can lead to engagement in more crime.³ Eighty-five percent of all arrests of mothers who have children in foster care occurred after placement of the child rather than prior.³

Most mothers and fathers in state and federal prisons are held over 100 miles from their homes.^{11 19} Because there are fewer prisons for women, women are often placed even farther from their families than men.⁸² This distance, combined with the financial cost of visits for their children's foster or

relative caretakers, hinder visits.^{82 88} In some cases, relative or foster caretakers for an incarcerated parent's children may also be unwilling to keep in touch with an incarcerated parent. As a result, the majority of parents in prison are not able to see their children frequently, if at all.⁸² Over half of incarcerated mothers have never had a visit from their children, and approximately one-third of mothers in prison have never even spoken with her children by phone while incarcerated.¹¹

Incarcerated fathers do not fare any better: one survey found that a third of incarcerated fathers had not seen their children since entering prison, and more than half had not seen their children in the prior six months.⁸⁸

Even though jails are typically closer to home, because they usually house people serving shorter sentences, they usually do not offer comprehensive visitation policies in which children and parents can physically interact with one another.⁸⁹

For parents who are incarcerated, having less frequent or no contact with their children is devastating. For mothers, this lack of contact with children often leads to depression, guilt, distress, decreased self-esteem, and a sense of tremendous loss.^{63 90}

The threat of losing custody of children weighs heavily on parents who are incarcerated, and this threat is particularly real for women. Incarcerated mothers whose children are in foster care while they are in prison have to work very hard to maintain their parental rights.⁸⁸ As a result, women in prison are five times more likely than men to report having children removed from their immediate families and placed in a foster home or other agency.¹¹ One review study found that parental rights were terminated in over 90% of cases in which the mother was incarcerated and 100% of cases in which both parents were incarcerated.¹²

Families and Communities Suffer When Parents Are Incarcerated

As discussed previously, grandmothers are the most common caretakers for children of incarcerated mothers, followed by other relatives.^{11 12} These family members who are willing to step in to raise these children help provide stable environments and continuity of family relationships that the children need. However, this responsibility can also cause financial hardships for the relative caretakers.¹⁸

This burden compounds existing financial burdens that the family is likely already facing because the parent no longer earning wages at her or his job. When fathers are incarcerated, a family's income drops by an average of 22%.⁷⁸ When incarceration or other disruptions compromise a family's economic security, their housing security also suffers,⁹¹ and ability to afford other resources that are vital to health such as healthcare and healthy food.

In communities highly affected by mass incarceration, there are numerous absent parents concentrated in one place. The absence of many adults who were formerly earning incomes can impoverish entire communities.⁹² In addition, incarceration significantly reduces future opportunities for employment and income potential, thereby making it hard for these communities to recover.⁹³

(Community-based alternatives to incarceration would help parents) find a different way to be in the community and still make a way for themselves that would have taught them a lot about themselves. How to have a better relationship with themselves and with the community, and how to do something correct.

– Kyndia, in college, who grew up with both parents incarcerated

Primary Caretaker Legislation Is a Healthier Approach to Sentencing Parents in Louisiana

Louisiana doesn't have to continue the harmful and inhumane practice of separating children from their mothers and fathers through unnecessary incarceration. By encouraging judges to use their discretion to authorize alternatives to incarceration that include treatment instead of prison or jail, Louisiana has the opportunity to help parents heal and get the resources they need while staying connected to their loved ones, and ultimately support youth to also grow up to be successful and healthy.

Recommendations for Implementation

This report finds that Primary Caretaker legislation would have a positive health impact on children, parents, and communities, especially those that are the hardest hit by incarceration. If the bill passes, we recommend the following:

- ▶ **Prioritize health in the implementation of the Primary Caretakers law and its evaluation.** The current system ignores the healthy development of kids with incarcerated parents, the healthy healing of parents who have trauma or substance use disorder issues, and the community health of those left behind when large numbers of families are torn apart by punitive responses to behaviors that merit public health intervention. Louisiana can raise the bar and prioritize the health of its residents and communities by implementing this new legislation with health outcomes as a top priority. A public health organization or university-based evaluator with a public health frame should partner with Department of Corrections, jails, and probation researchers to monitor and evaluate process and outcomes of implementation of this policy beyond the usual recidivism data points.
- ▶ **Involve those who have been directly impacted by parental incarceration in implementation and evaluation decisions.** Involving parents who have experienced incarceration and kids who have experienced a close family member incarcerated can ensure programming considers the needs of those most impacted.
- ▶ **Identify funding for implementation of the Primary Caretakers law and the programs that it allows.** While sentencing primary caretakers to alternatives to incarceration promises to save money, the legislature and any implementing state agency must identify funds to ensure that alternative programs can be successful, healthy, serve all races and ethnicities equitably, and have the capacity to collect data for evaluation. Some effective alternatives already exist, although they typically rely on private funding. The state should contribute to support these programs as alternatives to incarceration for primary caretakers.
- ▶ **Allocate programming resources to community-based alternatives instead of growing the criminal legal system.** As this report identifies, there are model programs in Louisiana that could serve as alternative sentencing options. Rather than operating programs through the Department of Corrections, resources should be identified and allocated to community organizations or health-based agencies.

- ▶ **Educate defense attorneys, judges, and grassroots advocates about the new law.** A convicted person or their legal defense needs to initiate the process to be considered for an alternative sentence to incarceration. So, it's vital that advocates for defendants, including grassroots organizations as well as legal advocates, are aware of this law.
- ▶ **Impose the least restrictive conditions possible.** When judges are sentencing, they should impose the least restrictive conditions on parents possible so they can stay connected with their children, which in turn makes them more likely to be successful.

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