

# Justice Reinvestment in Kansas

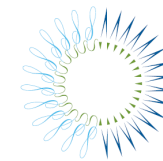
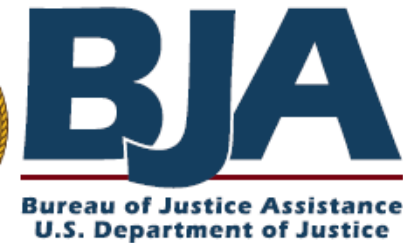
## *Presentation to House Corrections Committee*

January 23, 2013

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# Council of State Governments Justice Center

- National non-profit, non-partisan membership association of state government officials
- Engages members of all three branches of state government
- Justice Center provides practical, nonpartisan advice informed by the best available evidence



Public Safety  
Performance  
Project



# Justice Reinvestment Process

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

## Aided by Bipartisan , Bicameral, Inter-Branch Working Group

### Phase I

#### Analyze Data and Develop Policy Options

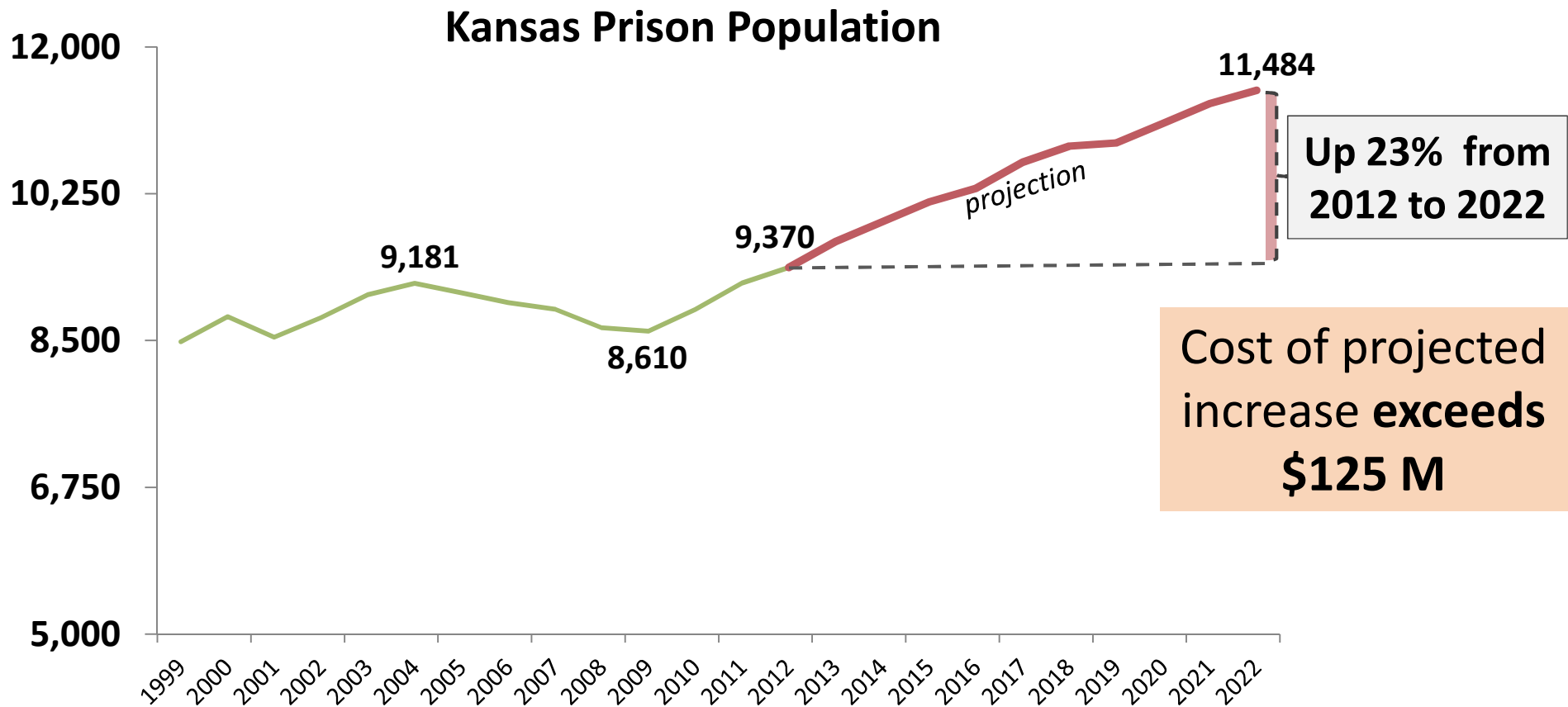
- Analyze data to look at crime, court, corrections, and supervision trends
- Solicit input from stakeholders
- Map allocation of resources
- Develop policy options & estimate cost savings

### Phase 2

#### Implement New Policies

- Identify assistance needed to implement policies effectively
- Deploy targeted reinvestment strategies to increase public safety
- Track the impact of enacted policies/programs
- Monitor recidivism rates and other key measures

# Kansas Prison Population to Grow 23% Over Next Ten Years



Sources: Kansas Sentencing Commission, 2013 Prison Population Projection, August 2012

# Presentation Overview

**Probation Under Strain**

**Reentry Issues**

**Policy Recommendations**

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**Probation Under Strain**

Reentry Issues

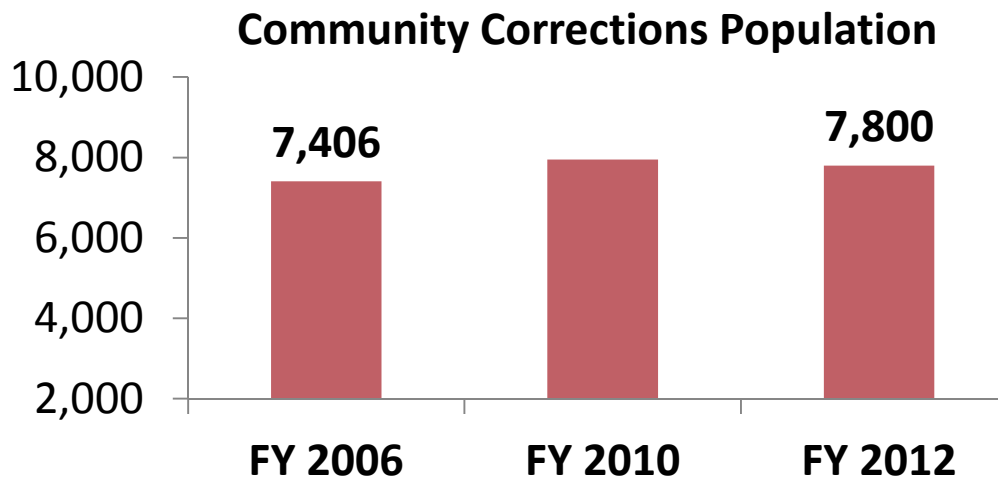
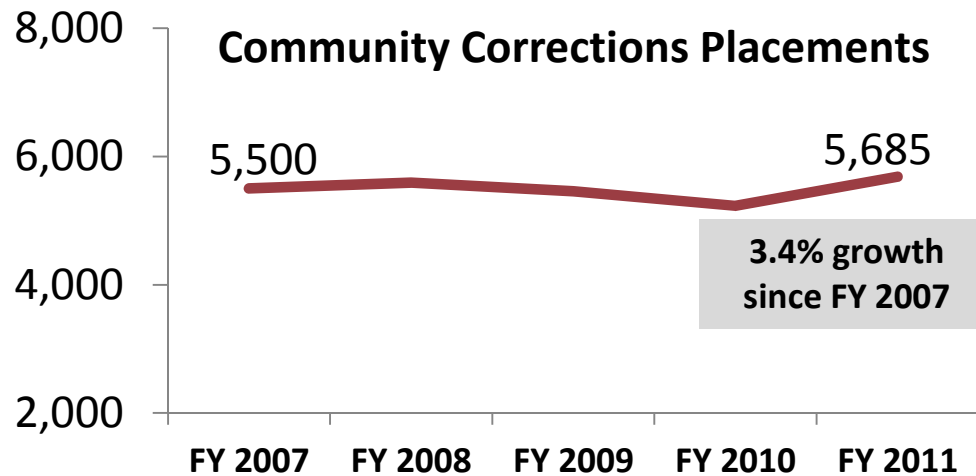
Policy Recommendations

## Summary of Probation Findings

Despite modest growth in felony probation population, revocations are on the rise, contributing to prison growth.

- ❑ 20% increase in rate of revocations to prison since FY 2009 – almost exclusively conditions violators.
- ❑ Most revoked high-risk probationers do not receive adequate programming in community.
- ❑ Successful, low-risk probationers are being supervised as long as high-risk probationers.
- ❑ Barriers exist to more effective supervision practices.

# Number Supervised by Community Corrections Has Increased 5% Since FY 2007



Modest growth in Community Corrections placements (+3%) and supervised population (+5%) actually mask other, more worrisome underlying trends...

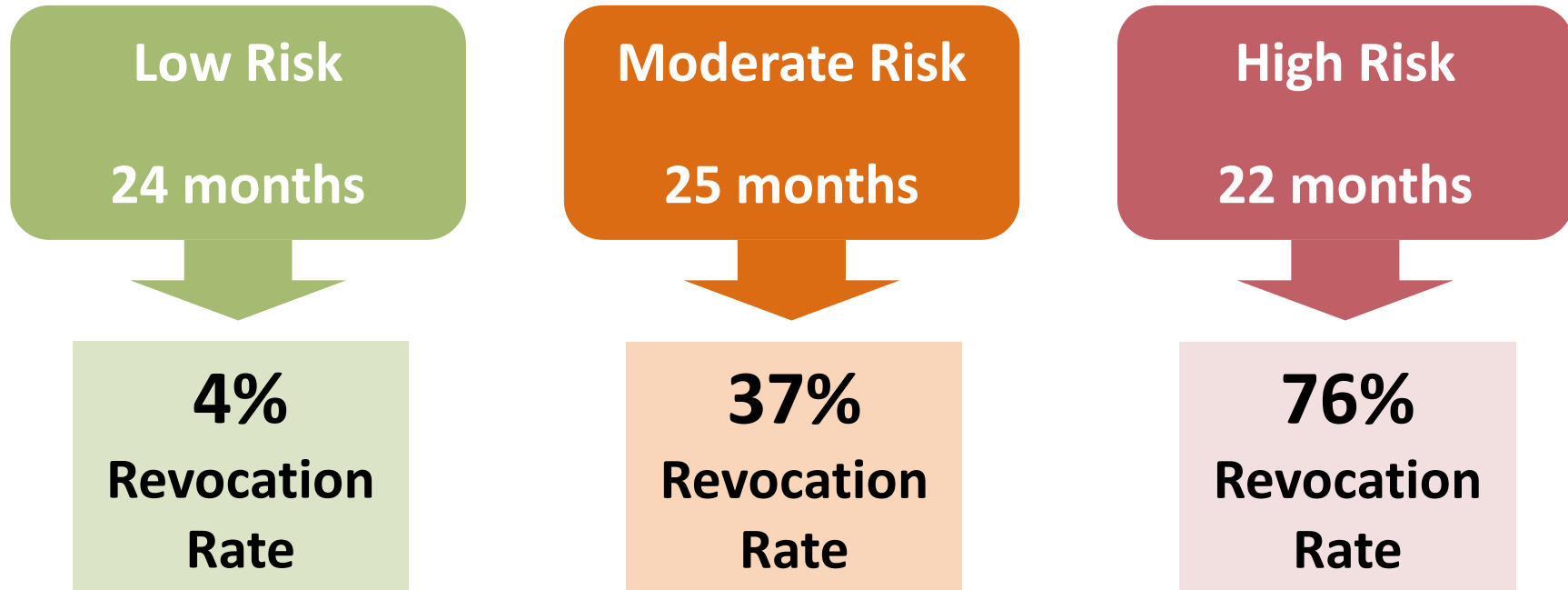
- ✓ Increasing lengths of supervision
- ✓ Increasing revocations

Sources: Kansas Department of Corrections *Annual Reports*.



# Low-Risk Community Corrections Probationers Spend As Long on Supervision as High-Risk Probationers

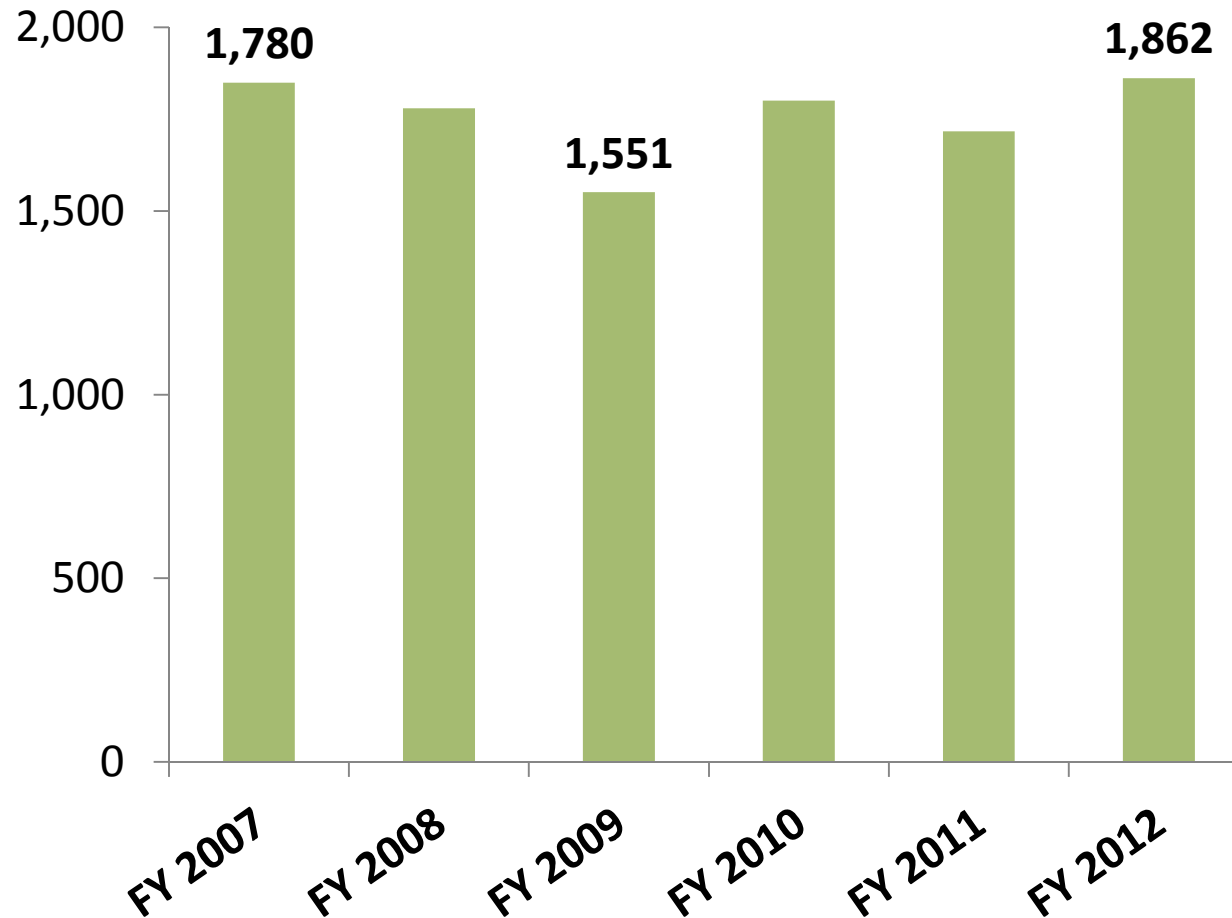
## Months on Probation for Community Corrections Terminations



Other states have found ways to better target resources towards higher risk probationers, often through the use of incentive-based earned discharge options for low-risk probationers.

Sources: Kansas Dept. of Corrections, Community Corrections Case Data.

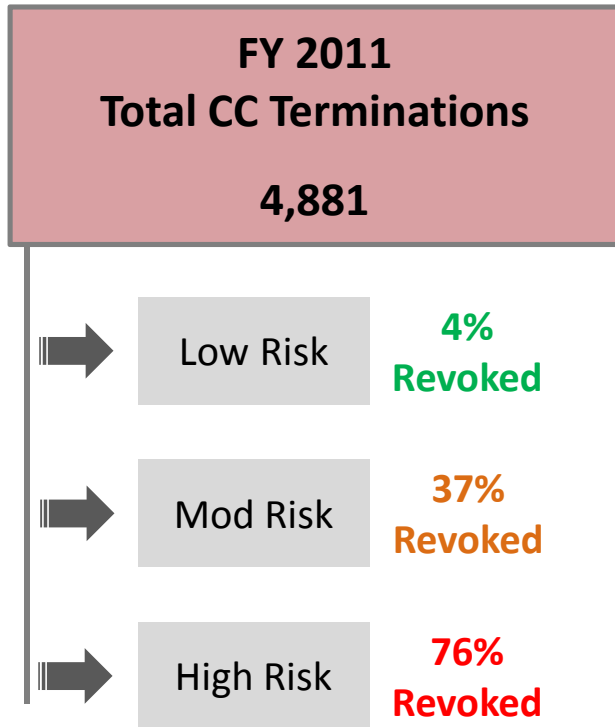
## Probation Revocations to Prison Have Increased 20% Past Three Years



After a decline in revocations from FY07 to FY09, they have since risen by 20%.

Sources: Kansas Sentencing Commission, Felony Sentencing Case Data, and 2013 Prison Population Projection, August 2012

# Successful Probationers Are Twice as Likely to Receive Programming as Those Revoked



## Of successful mod/high risk terminations:

- ✓ 57% completed two or more behavioral health programming interventions.

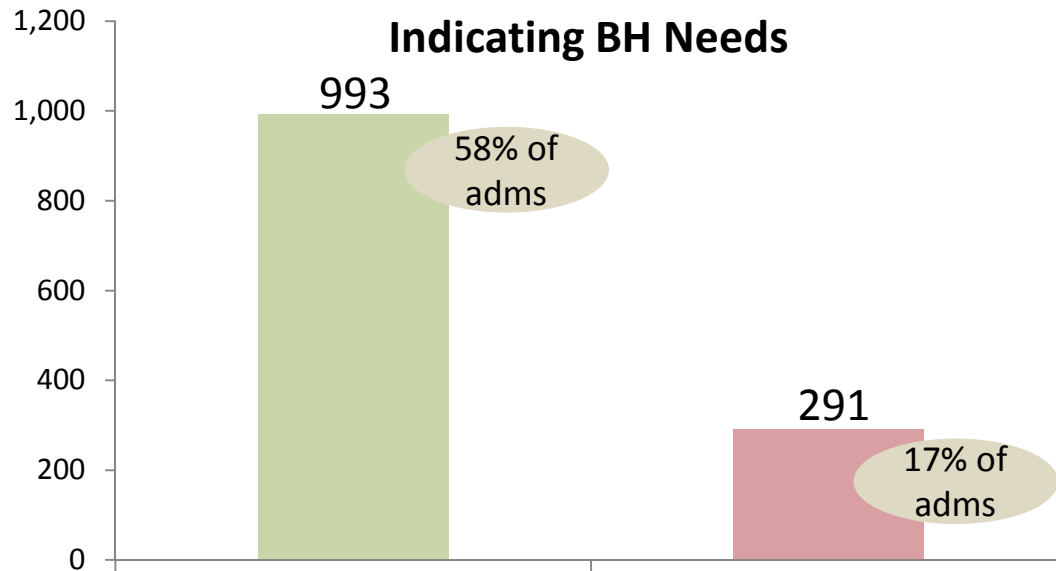
## Of the mod/high risk revocations:

- ✓ Only 31% completed two or more behavioral health programming interventions.

Sources: Kansas Dept. of Corrections, Community Corrections Case Data.

# Most Probationers Revoked to Prison Have Behavioral Health Needs

**FY 2011 Probation Revocations to Prison Indicating BH Needs**



## SA Score 4+

- SA Scores range from 0 to 9 and are based on nine questions within the substance abuse domain within the LSI-R risk assessment.  
(A score of 4 means that four of the nine questions were answered in the affirmative.)

## MH Score 3+

- MH Scores range from 1 to 7 and are based on a continuum of MH programming intensity.
  - Not currently requiring MH
  - Receives time-limited mental health services
  - Receives on-going mental health services that may include medication management
  - Receives special needs treatment monitoring
  - Placed in mental health structured reintegration program at LCF-TRU
  - Placed in intensive mental health placement at LCMHF or TCF-MHU
  - Hospitalization at LSSH

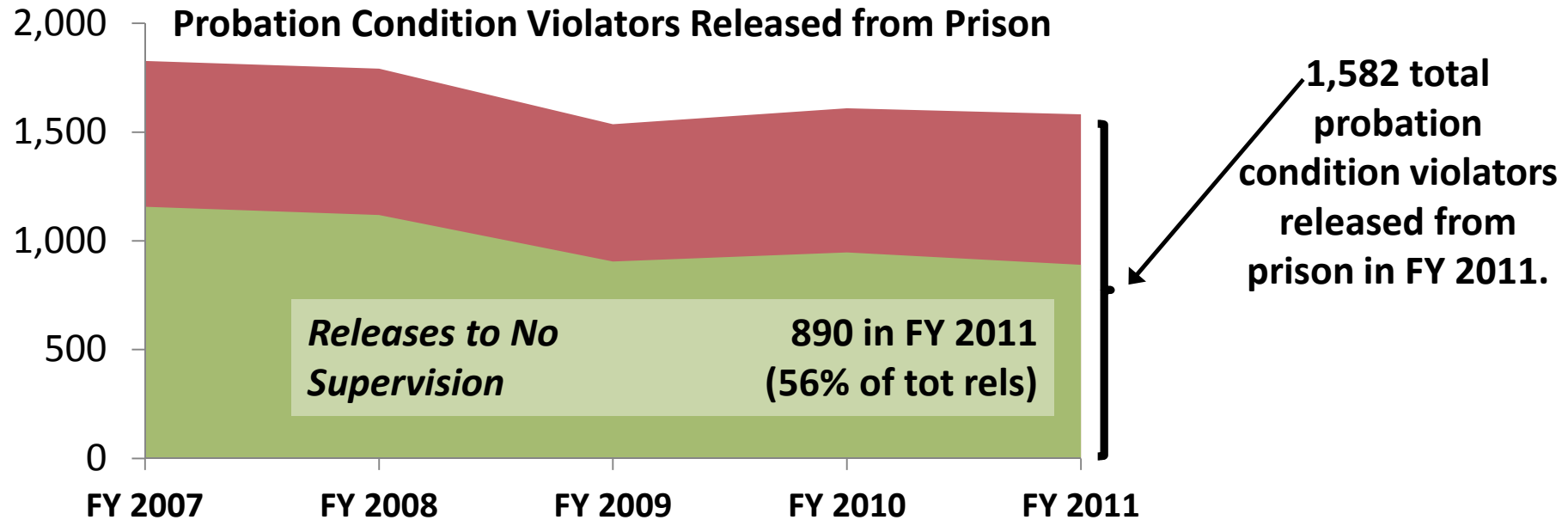
## Of FY 2011 Probation Revocations

- ✓ 58% had SA score of 4 or higher
- ✓ 17% had MH score of 3 or higher
- ✓ 12% had both

For comparison, only 16% of the successfully terminated CC probationers had an SA score of 4 or higher.

Sources: Kansas Dept. of Corrections, Prison Admissions and Inmate Assessment Case Data.

# More than Half of Probation Condition Violators Released from Prison to No Supervision



In stark contrast to PRS, where there are capped revocation responses ensuring programming and return to supervision, most probation condition violators:

- Exhaust sentence in prison,
- Receive little or no programming, and
- Are returned to the community without any further supervision.

Sources: Kansas Dept. of Corrections, Prison Release and Inmate Assessment Case Data

## Higher Risk Probationers with Behavioral Health Needs Cost the State \$20 million Annually when Revoked

Moderate/High Risk  
Probation Condition  
Violators with  
Behavioral Health  
Needs Revoked  
to Prison in FY 2011

787

- Avg. stay in prison = 330 days
- Average cost per day = \$45

**\$12 million annually**

❖ 76% of these revocations were non SB123 probationers.

- One-third had zero behavioral health interventions
- One-quarter had only one behavioral health intervention

# Graduated Sanctions Coupled with Targeted Programs and Supervision Are Less Costly than Traditional Approaches

## *Ineffective Practice*

11 months incarceration

- Unlikely to receive programs in prison to reduce risk
- No supervision upon release to monitor risk & mitigate

**~0% recidivism reduction**

\$14,850 cost per person

## *Effective Practice*

3 months incarceration

3 month program in the community

~18 months remaining on supervision

**~20% recidivism reduction**

\$8,170 cost per person

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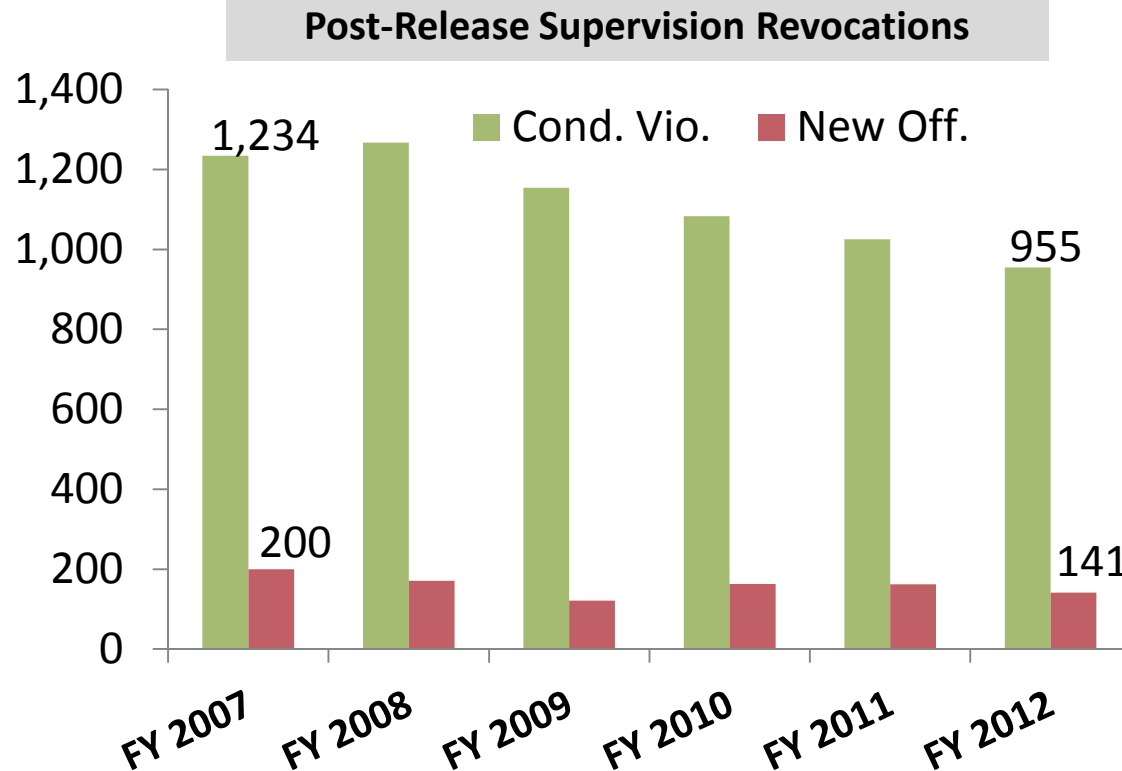


## Summary of Reentry-Related Findings

Kansas has demonstrated success in reducing recidivism for those released to post-release supervision, and there are opportunities to expand that success even further.

- ❑ Increased delivery of behind-the-walls programming for those in need and resulting reductions in recidivism.
- ❑ As with probation, supervision resources unnecessarily devoted to low-risk PRS population.

# Post-Release Supervision Revocations Down Almost 25% Since FY 2007



During the past five years, while the numbers on post-release supervision have risen:

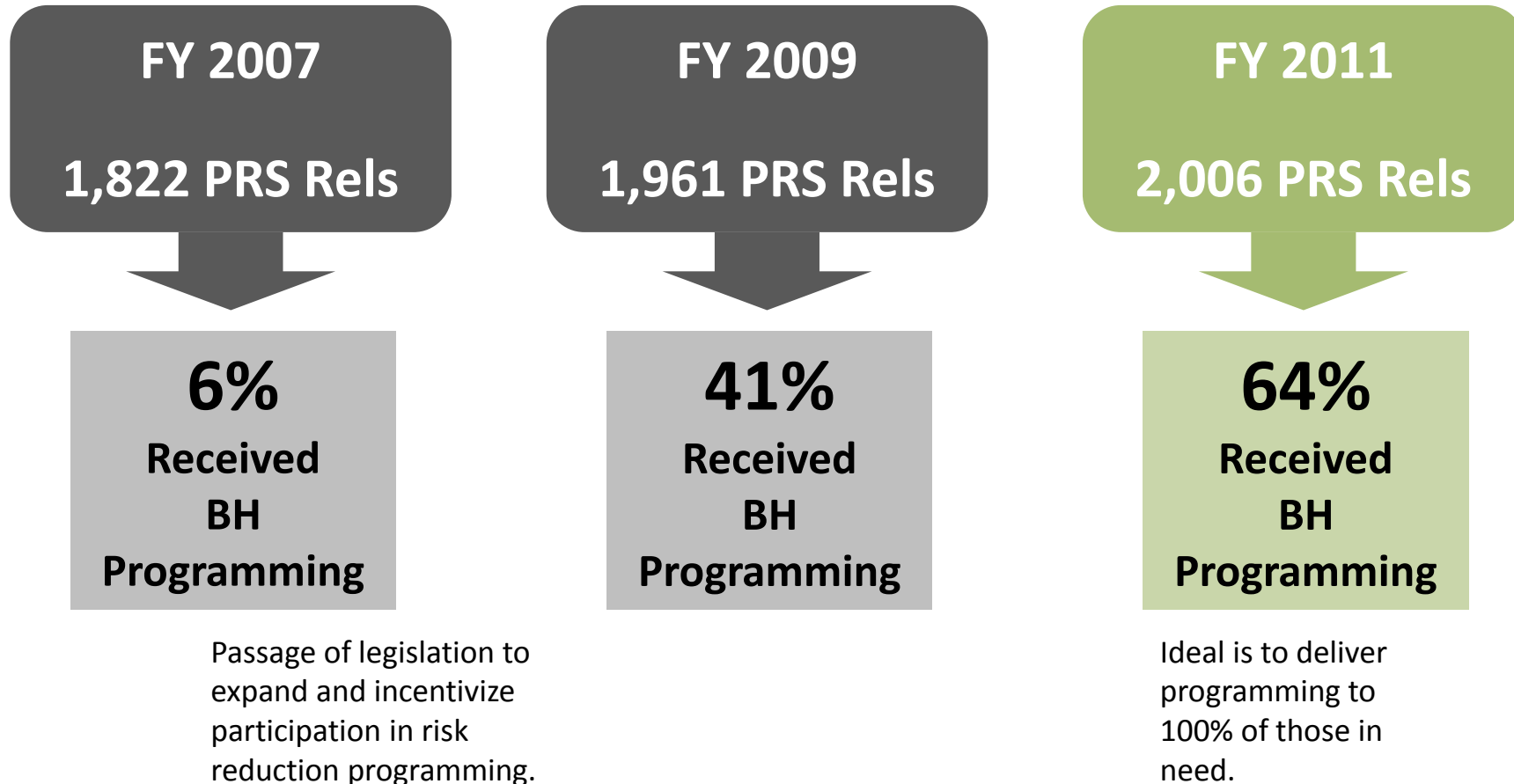
- ✓ **PRS condition violation revocations have declined 23%**
- ✓ **PRS new offense revocations have declined 30%**

PRS Supervision	FY 2007	FY 2011	% Change
Releases to PRS	3,393	3,427	+ 1%
Supervised Pop.	5,626	5,938	+ 6%

Sources: Kansas Sentencing Commission, 2013 Prison Population Projection, August 2012, and Kansas Department of Corrections *Annual Reports*.

# Programming in Prison Has Increased Tenfold Since FY 2007

## Prisoners with Behavioral Health Needs Released to Post-Release Supervision



Sources: Kansas Dept. of Corrections, Prison Release and Inmate Assessment Case Data

# Low-Risk Post-Release Supervision Clients Spend As Long on Supervision as High-Risk Clients

## Months on Probation for Post-Release Supervision Terminations



Other states have found ways to better target resources towards higher risk parolees, often through the use of incentive-based earned discharge options for low-risk parolees.

## Key Findings from the Data Analyses and Stakeholder Engagement

1. Challenges to probation effectiveness
2. Opportunities to build upon re-entry successes

- Rising revocations to prison
- Lack of programming for high risk probationers with behavioral health needs
- Barriers to effective supervision
- Community Corrections probation and Post-Release Supervision unnecessarily long for low risk groups

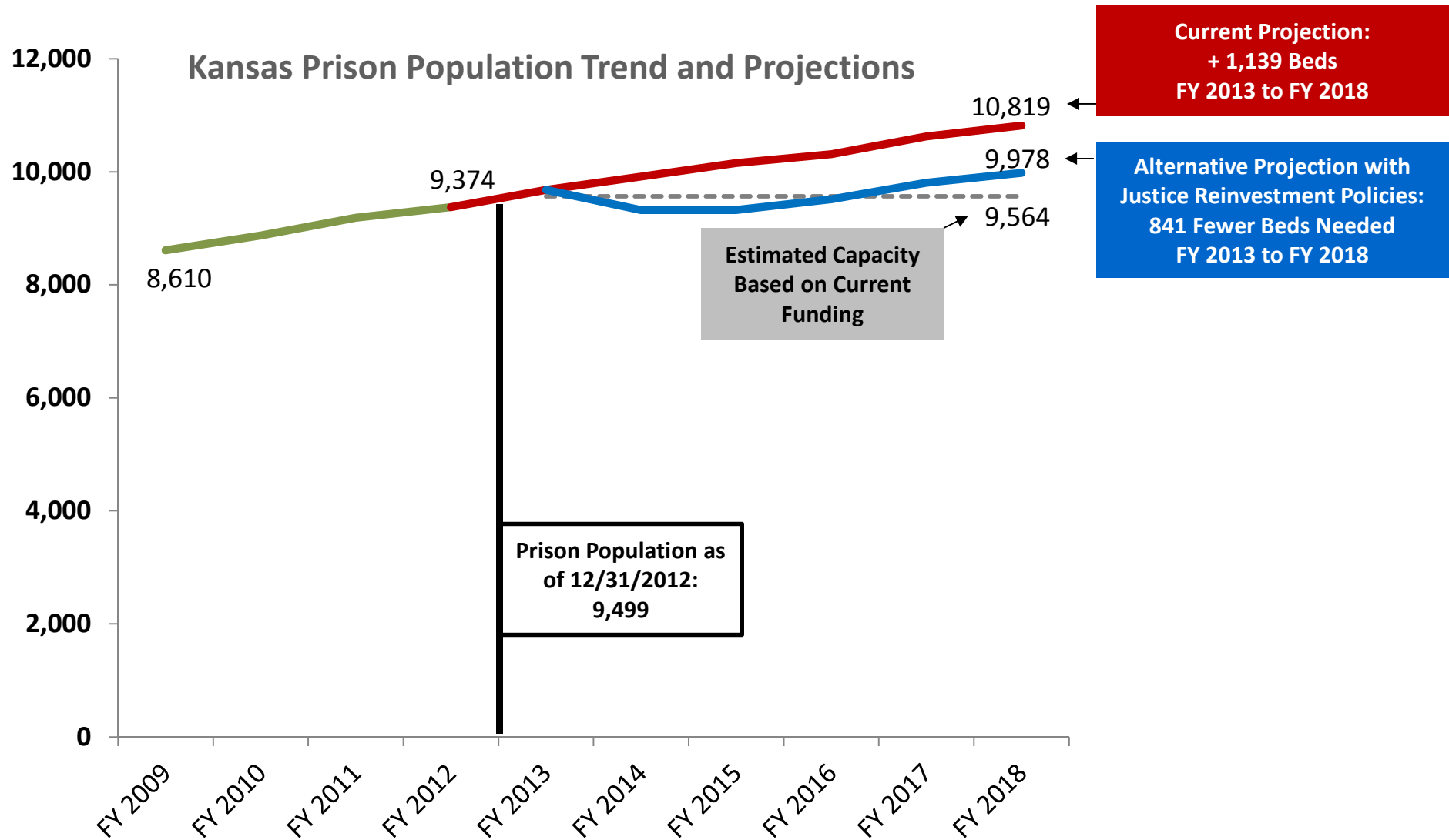
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# Recommended Policies Will Reduce Growth in Prison Bed Demand by More than 800 Beds



Sources: Kansas Sentencing Commission, 2013 Prison Population Projection, August 2012

# Policy Recommendation 1

**Increase access to community-based programming for people sentenced to felony probation supervision who are at a higher risk of reoffending.**

- These services shall include treatment for substance use and mental health disorders, as well as cognitive behavioral treatment.
- Increase funds appropriated to DOC for this purpose.

*Rationale: Most probation failures involve higher-risk offenders who could not access quality treatment programs in the community.*



## Policy Recommendation 2

**Enable community corrections officers to apply swift and certain responses to people under felony supervision who commit minor violations.**

- Create a set of meaningful responses (e.g. placement on electronic monitoring, requiring cognitive behavioral treatment, rapid assignment into substance use treatment, or a short 2- or 3-day jail stay) that community corrections probation officers can use for this purpose without having to go back to court.
- Require that this authority be established as a part of each sentence imposed, unless waived by the judge.
- Establish procedures to protect the due process rights of individuals on community corrections while imposing these sanctions.

*Rationale: Delayed and inconsistent responses to violations fail to change behavior.*

## Policy Recommendation 3

**Establish a shorter violation response sanction for technical violations to replace the existing costly and ineffective community corrections revocation process.**

- Upon the first probation violation hearing, modify the community corrections term with 120 days of incarceration. The second violation hearing shall result in 180 days of incarceration. Thereafter, the offender may be revoked for the remainder of his or her sentence.
- Probation condition violators facing return to prison as part of this sanction would be eligible to earn time credits on a 2-for-1 basis, resulting in stays of 60 and 90 days based on good behavior and compliance with expectations while incarcerated.
- Sanctions of incarceration (other than the 2- or 3-day sanction) should be served in prison.

*Rationale: Despite being returned to prison for similar violations, probation violators are sanctioned for almost four times as long (~11 months) as post-release supervision (PRS) violators.*

## Policy Recommendation 4

**Allow community corrections officers to prioritize higher-risk cases and reduce the length of supervision time for successful, lower-risk offenders.**

- ❑ Improve the incentive for community corrections probationers who are at low risk of reoffending to comply with probation conditions by offering to terminate their term of supervision if they can demonstrate compliance with conditions of supervision and full payment of restitution obligations.

*Rationale: Probation officers spend as much time supervising low-risk as high-risk probationers.*

## Policy Recommendation 5

**Allow the Prisoner Review Board to focus resources on higher-risk cases and reduce the length of time on post-release supervision (PRS) that successful, lower-risk people serve.**

- Encourage people assigned to PRS who are at low risk of reoffending to comply with supervision conditions by offering those who have complied with their conditions of release and met their restitution obligations to end their term of PRS.
- Amend the statute related to the way institution DOC time credits are calculated so that credits earned and retained are not added to the length of PRS, except for sex offenders. Such a change in law would not reduce the amount of time a person serves in prison.

*Rationale: Successful, lower-risk offenders spend longer on PRS than higher-risk offenders, but longer periods of supervision do not increase success for lower-risk offenders.*

## Policy Recommendation 6

**Require that people who are reincarcerated for a probation revocation and subsequently released to the community be assigned to PRS.**

- ❑ Ensure that after a person returns to the community following a prison stay due to probation revocation for violation of conditions of release, he or she receives a period of post-release supervision. The mandatory PRS term would be determined by the original crime of conviction on the sentencing grid and the corresponding supervision requirement.

*Rationale: Supervision following prison is critical to removing the current loophole that allows probationers to “get off supervision” by being revoked for technical reasons.*

## Policy Recommendation 7

**Create a task force to study ways to make the crime victim restitution collection process more efficient and effective.**

- ❑ Charge the Kansas Attorney General's Office with creating and overseeing a task force to develop a well-defined set of issues relating to victim restitution for study to be reported on for consideration by the 2014 legislative session.

*Rationale: Increasing victim restitution collection will help ensure offender accountability and contribute toward restoration of financial losses of victims.*

## Bottom Line

- ❑ By slowing growth in the state prison population between FY 2014 and FY 2018, this package of policies averts over \$53.1 million (approximately \$1.6 million in FY 2014; \$9.0 million in FY 2015; and \$12.6 million annually from FY 2016 through FY 2018) in additional spending that would otherwise be needed to accommodate prison population growth.
- ❑ These savings will position the state to invest \$2 million in FY 2014 and \$3 million in FY 2015 through FY 2018 in community-based substance abuse programming.



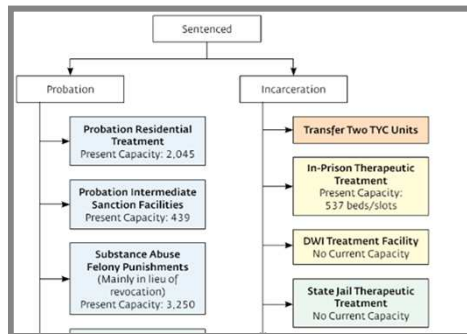
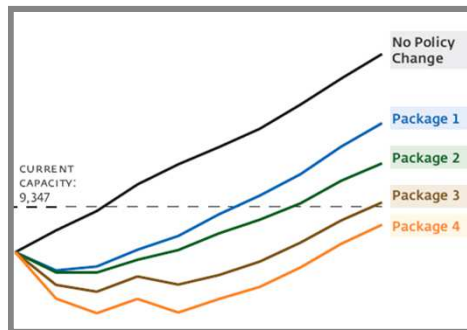
# Thank You

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