



As 2020 Presidential Hopefuls Debate Criminal Justice Reform, The Most Important Action Is In States

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President Donald Trump hands a pen to Sen Chuck Grassley, R-Iowa, after signing criminal justice reform legislation in the Oval Office of the White House, Friday, Dec. 21, 2018, in Washington. Rep. Virginia Foxx, R-N.C, front row, second from right, watches. (AP Photo/Evan Vucci)

The First Step Act, the criminal justice reform bill enacted by President Donald Trump last year with bipartisan support, is beginning to take effect. While that is happening a debate over the 1994 crime bill is ramping up in tandem with the 2020 presidential campaign, with Joe Biden and President Trump already trading barbs over the matter.

While these 2020 campaign-related events will get more headlines in the coming months, the most important developments on criminal justice reform are happening in state legislatures across the country. As Kevin Ring, president of FAMM Foundation, explained in the June 6 episode of the Cato Institute's daily podcast, "most people are locked up in state prisons and jails, and so that's where most of the action is and should be."

As the halfway point of the year approaches, an examination of activity in statehouses finds both Republican and Democratic lawmakers continuing to introduce and implement more criminal justice reforms in 2019.

Take Tennessee, where Governor Bill Lee (R) and Volunteer State lawmakers had a productive 2019 legislative session, enacting reforms to expand school choice and provide more tax relief. While it didn't get as much media coverage as the education reform bills, Governor Lee and Tennessee lawmakers also built upon the state's criminal justice reform record this year.

Governor Lee made clear early on that criminal justice reform would be a priority for his administration, mentioning it during the January State of the State Address that outlined his first year agenda. In fact, the criminal justice reforms enacted in Tennessee this year are projected to yield savings that could facilitate further tax relief and other reforms in the future. According to

fiscal notes for two sentencing reform measures that were passed in Tennessee this year ([HB 167/SB 403](#) & [HB 197/SB 215](#)), they account for 94% of the taxpayer savings legislatively enacted in Tennessee this year.

“Both of these measures are part of our much broader plan to overhaul our current system of justice so that we can continue to remain tough on crime and hold violent offenders accountable, but also smart on crime and better prepare those who have paid their debt to society for successful reentry,” said Tennessee House Judiciary Committee [Chairman Michael Curcio](#) (R-Dickson). “These and other initiatives passed in 2019 and in the years ahead will ultimately reduce recidivism rates, save additional taxpayer dollars, further our efforts to create safe communities, and guarantee Tennessee remains a national leader on criminal justice reform.”

Kentucky Gov. Matt Bevin, left, and Tennessee Gov. Bill Lee take part in a discussion on state-level criminal justice reform, Wednesday, April 17, 2019, in Nashville, Tenn. (AP Photo/Mark Humphrey)

“House Bill 167 not only equates to a substantial cost savings for our taxpayers, it also makes communities across Tennessee safer,” said House [Majority Leader William Lamberth](#) (R-Portland). “This bill and our ongoing work modernizing our criminal justice system will guarantee we have a system of justice that can keep up with present-day demands, cracks down on the worst of the worst, and also supports those who desire to work towards prosperity.”

This comes on the heels of the 2018 enactment of Tennessee’s Juvenile Justice Reform Act, whose [fiscal note](#) shows it will save Tennessee taxpayers more than four million dollars annually. Julie Warren, Right On Crime’s Tennessee & Kentucky director, [explains](#) why that 2018 reform was meaningful:

“The Act will require that stakeholders develop a data collection infrastructure and performance measures to better track outcomes for youth and improve cross-agency information-sharing. It will also ensure that Tennessee invests its limited public safety dollars into the most effective community-based programs, expanding the use of these programs for youth who would otherwise be placed in out-of-home facilities...While the Act only adopted several of the Task Force recommendations, it’s an important first step that will lay the foundation for further reforms.”

Tennessee is not the only state where criminal justice reform legislation has been introduced this year. Nevada lawmakers recently passed [Assembly Bill 236](#), a sentencing reform measure that, like those enacted in Tennessee, will yield significant taxpayer savings.

“This legislation establishes crisis intervention training and alternatives to jail for those with behavioral health needs,” [writes](#) Americans for Tax Reform’s Laurel Duggan about Nevada’s AB 236. “This will ensure that this population receives the help they need to no longer threaten public safety. The bill creates graduated sanctions for parolees, replacing the system in which technical violations result in reflexive imprisonment...The resulting decrease in incarceration is projected to save taxpayers \$543 million over ten years.”

Pennsylvania lawmakers, unlike those in Tennessee, are still in session. Criminal justice reform advocates in the Keystone State are encouraging lawmakers in Harrisburg to pass [Senate Bill 637](#), legislation that would have professional licensing and permitting boards consider applicants' criminal records individually and in the context of the profession they seek to enter, as opposed to the current practice in many instances of barring them automatically.

If SB 637 is passed by the Republican-controlled Pennsylvania General Assembly and signed by Governor Tom Wolf (D), Pennsylvania licensing boards will discern the relevance of criminal convictions for the profession at hand. Boards will retain the right to reject an applicant based on criminal convictions relevant to the license. Proponents of this reform see this as a significant improvement to the current approach, in which former offenders are blacklisted from the job market and evidence of rehabilitation is not taken into account.

Policy Innovation Through Federalism

Dozens of states passed criminal justice reforms that served as a model for the First Step Act signed into law by President Trump last year. The experience in those states demonstrated how increasing alternatives to incarceration for non-violent offenders can save state taxpayer dollars, reduce recidivism, and keep families together, all without jeopardizing public safety.

“Overall, in the 10 states that have reduced incarceration the most over the last decade, crime has fallen more than the national average and more than in the 10 states that increased incarceration the most,” says [Marc Levin](#)—Vice President of Criminal Justice Policy at the [Texas Public Policy Foundation](#). “Federal policymakers could act on the First Step Act knowing that it is not an experiment, but rather legislation that is grounded in successful reforms on the state level.”

Even those who are strictly focused on the federal government should pay attention to what is happening in the states. Criminal justice reform is one area in particular where state level reforms have successfully percolated up to the national level. It's a template for successful policy innovation that more politicians and candidates would do well to follow. Before taking something national; the success of criminal justice reform shows that it's wise to use a few of the 50 laboratories of democracy to first show the nation that a given policy works and how best to implement.