



Keeping Kids and Parents Together

A Healthier Approach to Sentencing
in Massachusetts

Executive Summary

Separating and isolating our parents is an act of violence that millions of children in this country have to endure.

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

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 Massachusetts Senate Bill S770. If passed, this bill 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 Massachusetts, about 5,665 children are separated from a parent due to incarceration.

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.

Reducing the harm from incarcerating parents is doable in Massachusetts.

In 2016, about 2,500 parents who are currently incarcerated would have been eligible for this alternative sentencing in Massachusetts — potentially keeping them together with their kids while still being held accountable for their actions.

In Boston, about 1 of every 20 children has had an incarcerated parent.

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.

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.

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 Massachusetts programs that could serve parents sentenced to community alternatives under this proposed legislation.

Visit www.humanimpact.org to read the full report and view references.



Acknowledgments

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Introduction

You have to look deeper than the crime that someone makes. You have to look at what type of person they are and why they did the crime. My dad taught me how to ride my first bike, he was a playful and happy guy. He always was there for me. He was a super dad. So for the system to take him away, it was heartbreaking.

– Janasia, whose father spent four years incarcerated

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 Massachusetts Senate Bill S770. 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 2,500 parents who are currently incarcerated would have been eligible for this alternative sentencing in Massachusetts — potentially keeping them together with their kids while still being held accountable for their actions.^{a 2 3 4 5 6}

What is Senate Bill S770?

Massachusetts Senate Bill S770 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.⁷

The bill 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. Legislative bill sponsors specified eligibility for alternative sentencing to primary caretakers who face “non-violent” convictions such as drug and property offenses.

Senate Bill S770 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

^a Massachusetts has about 2,500 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 these parents 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.

► Education

- Domestic violence education and prevention
- Anger management
- 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.⁹

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.¹⁰ The policies leading to mass incarceration have profoundly affected health and impact large proportions of people of color contributing to racial health inequities. In Massachusetts, the health of Black, Brown, and low-income rural White communities are all disproportionately impacted by incarceration.¹¹

About This Report

This report represents a partnership between Families for Justice as Healing (FJAH) and Human Impact Partners (HIP). FJAH works to end the incarceration of women and girls in Massachusetts. 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 Massachusetts?

There are approximately 2,500 parents currently incarcerated in state prisons and county jails in Massachusetts who would have been eligible for community-based alternatives had they been sentenced under this law.^{b 2 3 4 5 6}

It's important to note that the relatively low number of people potentially impacted makes this bill manageable. Massachusetts is a small state with a robust nonprofit infrastructure, setting the stage for the state to lead the way in implementing this humane and common-sense policy. A Boston Foundation report about nonprofits in Massachusetts found that there are about 34,000 nonprofits and about 5,000 of them are "safety net" organizations providing housing, social services, and health and medical services.⁸¹

Scope of Parents and Children Affected by Incarceration in Massachusetts

Massachusetts incarcerates thousands of parents

Approximately 80% of incarcerated women are mothers,²⁰ and are the primary caretakers of children prior to their arrest.¹⁴ 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.¹⁶

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 children¹ however, only 9% of incarcerated fathers are single fathers living alone with their child.¹⁷

1 out of 20 kids in Boston has had an incarcerated parent

Across Massachusetts, about 5,665 children have a parent in prison or jail.^c However, the numbers of children who have ever experienced parental incarceration is likely much higher. A study of children's health in Boston in 2013 found that 4.8% of children and teens, or almost 5,000 youth in Boston alone, had ever experienced having a parent or guardian in prison or jail at some time in their young lives.¹⁸

Nationally, more than one in five of children with a parent in prison is under five years old,¹⁹ and 2.3% of US resident children under age 18 had a parent in prison.

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

In 2014 the Massachusetts legislature passed the "anti-shackling law," which promotes the health of pregnant women in prison and jail, and which reflects a step forward for respecting basic human rights.¹²

Black children are nine times more likely and Latinx children are three 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 Massachusetts, the types of crimes people are incarcerated for that would be eligible under this bill, the proportion male and female, and the proportion of women and men who tend to be primary caretakers. This estimate is somewhat conservative; there was no data publicly available for most of the jails in Massachusetts.

^c This estimate comes from the same calculations described above for numbers of primary caretakers.

S770 in the context of historical criminal legal system policies

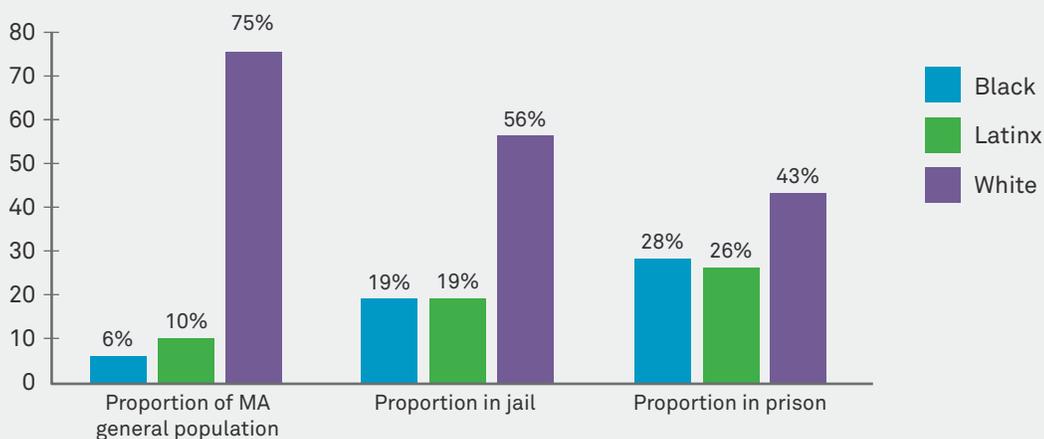
There are myriad policies and practices that have converged to create the criminal legal system that operates today, which incarcerates many Bay State residents — particularly people of color and those living in poverty.²⁰ Many of those currently caught up in the criminal legal system are there due to well-known public policies:²¹

- 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.²²

Massachusetts 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 Massachusetts.

Figure 1. Incarceration Rates in Massachusetts



Source: Council of State Governments. 2016. Massachusetts Criminal Justice Review. Research Addendum. Working Group Meeting 3 Interim Report July 12, 2016. Council of State Governments Justice Center.

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

The majority of incarcerated women live in poverty, are single, have lower rates of educational attainment, and are disproportionately people of color.¹⁵

The incarceration of women in Massachusetts has increased

While incarceration in general decreased in Massachusetts, women are being incarcerated more often. According to the Council of State Governments, female admissions to jails have increased by 40%.²³ Female incarceration in prisons has fluctuated. From 2008 – 2010, there was a 9% decrease in admissions to state prisons, from 2010 – 2014 there was a 10% increase, and from 2014 to 2016 there was a 14% decrease.²⁴ While these decreases in prison admissions of women who are, in the majority, parents and the primary caretakers of their children is heartening, given the fact that Massachusetts jails admit three times as many people as prisons,²³ it is likely that incarceration of parents has increased.

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.¹⁷ In this situation, kids often get to stay in their own home with a parent who was already taking care of them — only 9% of incarcerated fathers were single fathers living alone with their child.¹⁷ 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.¹

Most of my childhood I remember my mother struggling to keep a roof over our heads, food in our stomach, hot water to wash up, and to keep the lights on. She never had nobody to help her, and we was barely making it with the “help” of the government.

– Loyalty, whose father was incarcerated during her childhood

Children of incarcerated mothers are more likely to be displaced from their homes and placed with a non-parent guardian.¹⁵ Mothers report that when they are incarcerated, 51% of the time grandmothers care for children.¹⁹ On the low side, 17%¹³ of children live with their fathers, with other reports showing as much as 28%.¹⁹ 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.¹⁹

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.²¹

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.²⁵ 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.”²⁶

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.^{27 28} 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.¹³ 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.²⁹

The criminalization of substance use disorder leads to incarceration

Substance use disorder is common among people housed in Massachusetts Department of Corrections prisons.²⁴ Also, for people on probation in Massachusetts, 34% have need of substance use disorder treatment, with an additional 8% needing both substance use and mental health treatment. For those on parole after incarceration, 60% need substance use disorder treatment and an additional 5% need both substance use disorder and mental health treatment.³⁰

Most parents are incarcerated for “non-violent” reasons, such as 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.¹⁹ The majority (60%) of women in state prisons have a history of drug dependence.¹⁹ In a sample of almost 500 women in jails across the country, 82% had experienced drug or alcohol abuse or dependence.⁶

The criminalization of 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 treatment, and even so the treatment is woefully inadequate.³¹ While 12% women in jails have severe psychiatric disorders, fewer than 25% of them receive mental health services.¹⁹ To decrease the number of people with mental health issues being arrested and sent to prisons and jails, an increase in affordable and accessible mental health services must be offered in the community.^{84 85 86}

The prevalence of mental health issues in Massachusetts prisons is summarized in Table 1.

Table 1. Prevalence of Mental Health Issues in Massachusetts Prisons

	Open mental health cases*	Serious mental illness†
Women in MA prisons	74%	15%
Men in MA prisons	29%	7%

Source: Research and Planning Division. *Massachusetts Department of Correction Prison Population Trends 2016*. Massachusetts Department of Correction; 2017.

* Open Mental Health Case is defined by the Massachusetts Department of Corrections as an inmate diagnosed with a mental illness or determined to be in need of mental health intervention on an ongoing basis

† Serious Mental Illness is defined by the Massachusetts Department of Corrections as an inmate determined by the DOC's health vendor to have one of nine DSM-V diagnoses, including disorders such as bipolar, major depressive, schizoaffective, psychotic, delusional, and schizophrenia.

The unmet need for mental health services in Massachusetts

In 2013, the Treatment Advocacy Center, a national nonprofit research organization, gave Massachusetts an “F” grade for how well the state does at diverting people with severe mental illness from the criminal legal system. This study noted that there has been a 31% reduction in the availability of public psychiatric beds between 2005 to 2010, which has contributed to people being 20% more likely to be jailed rather than hospitalized for symptoms and behaviors associated with untreated severe mental illness.³²

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

Education

Having a low level of education, due to many societal and interpersonal influences, is a risk factor for incarceration. As Table 2 indicates, high proportions of people held in prisons in Massachusetts have low reading and math levels. In comparison, about 21% of adults in the United States read below a 5th grade level.³⁴

Table 2. Reading Levels of People in Massachusetts Prisons

	Men in MA prisons	Women in MA prisons
Below 9th grade reading level	45%	31%
Below 6th grade math level	44%	31%

Source: Research and Planning Division. *Massachusetts Department of Correction Prison Population Trends 2016*. Massachusetts Department of Correction; 2017

Massachusetts trends reflect national trends. Just under half (44%) of women in state prisons have neither graduated from high school nor received a GED.¹⁹ In spite of this, only half of women’s jails and prisons offer post-secondary education.¹⁹ Educational attainment directly impacts people’s earnings potential. One year of education, for example, leads to roughly an 8% increase in earnings.^{35 36} Educational attainment is associated with a lower likelihood of being incarcerated.³⁷

Employment

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.¹⁹ 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

Housing

After New York and San Francisco, Boston ranks third in high rents in the US — with the average rental price at nearly \$3,000 per month. Between 2010 and 2014, family homelessness rose by 25% in Boston.⁸⁷

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).³⁹

Neglect by institutions

People who become incarcerated — especially women — have often been neglected by the very systems that are put in place to protect them.⁴⁰ 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.⁴¹

Community-Based Sentencing Is a Common Sense Alternative

Non-custodial, community-based sentencing options allowable under Senate Bill S770 are more effective and health-supportive than 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.

Can you imagine waking up and not knowing where your parent is or why they have disappeared?

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

Infants who spend quality time with their parents form stronger, more secure, and long-lasting attachments.^{42 43} In turn, parental attachment impacts every aspect of childhood development.⁴⁴ 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.^{44 17}

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.⁴⁴ 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.⁴⁴

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

- ▶ Secure attachment⁴⁵
- ▶ Lower levels of anxiety and depression⁴⁶
- ▶ A higher likelihood of maintaining custody of children following release⁴⁷
- ▶ Families are more bonded after the mother's release⁴⁷

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.⁴⁸

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).¹

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.¹⁵ 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.

Highlighting Alternatives to Incarceration

Strengthening Families Program

The Strengthening Families Program is an evidence-based family skills training program. It includes three 14-week courses on parenting, children's skills training, and family skills training, as well as structured family activities and play therapy. This program offers classes on communication, attention, rewards to increase desired child behavior, understanding feelings, consequences of substance use, effective discipline, and limit-setting.

The Strengthening Families Program is well studied and has been shown to decrease drug and alcohol use, improved communication and parenting, reduced youth behavioral problems, and enhanced resilience in children's social and life skills.⁸⁸ The program has been studied by the National Institute on Drug Abuse (NIDA), the National Institute on Alcohol Abuse and Alcoholism (NIAAA), the Substance Abuse and Mental Health Services Administration (SAMHSA), and the National Institute of Mental Health (NIMH).

Frank Robinson, Vice President of Public Health and Community Relations of Baystate Health in Springfield, MA, recalls a Strengthening Families Program in Springfield in years past. While no longer still in operation, he noted that the outcomes from the program were so positive that the Hampden County Jail and the local Department of Social Services had a waiting list for parents and children to participate.⁸⁹

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.^{19 49} However, drug treatment services during incarceration are severely deficient and do not match the needs of people incarcerated.^{19 50}

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.^{51 17} 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.⁵¹ 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.⁵²

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.⁵³

Highlighting Alternatives to Incarceration

Parenting Sentencing Alternative

The Parenting Sentencing Alternative was enacted in Washington State in June 2010. This law allows some convicted people who are parents of minor children the opportunity to avoid prison or transfer from incarceration in order to parent their children. The Family and Offender Sentencing Alternative (FOSA) portion of the law gives judges the option to impose 12 months of community custody for eligible caretakers of children, rather than a prison sentence.

The FOSA program and the other component of the Washington law are driven by the philosophy that keeping families together is best for children, and also draws upon the strengths of parents and increases their capacity to heal and get their lives on track. In the last seven years, 470 participants have successfully finished the program. Of those that have completed the program, only about 8% have returned to prison on a new felony. This is a much lower rate of returning to prison than the state's rate of 29%. Several children were averted from foster care during this time.

These successful programs have a far lower cost than the cost of prison. In Washington, it costs about \$31 per day to supervise a justice-involved person that serves time in their own community, compared to about \$91 per day for incarcerating them.^{59 60}

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.^{54 55}

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.^{17 56 45 57 15 58} As noted above, 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 in Washington, "When offenders 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, described above, cost \$31 per day to supervise someone in the community compared to a cost of \$91 per day for incarcerating that person.⁴⁸ A study of the cost of jail in Suffolk County noted that one day in a Suffolk County jail costs the county \$150.⁶¹ A residential program for incarcerated women in

Los Angeles that includes drug treatment, housing assistance, mental health services, employment assistance, and in-house residence for children costs between \$16,500 and \$22,000 per year.⁶² The average cost to house someone in Massachusetts Department of Correction prisons is approximately three times higher, at \$55,616 for one year.⁶³

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 or Houses of Correction 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.⁶⁴ In a similar vein, although Massachusetts passed a law outlawing shackling of women who are in labor delivering their children, a study by a watchdog organization found that as of 2016 zero correctional institutions were fully complying with that law.¹²

Highlighting Alternatives to Incarceration

Los Angeles County Second Chance Women's Reentry Court (WRC)

The Women's Reentry Court is a court-based diversion program for women convicted of a felony who have a substance use disorder or mental health issue. It's a unique program because it's specifically for women with felony charges and because women are reunited with their children in the program. The program has been shown to achieve meaningful outcomes, with many participants attributing reunification with their children as a contributing factor to success:

- Only 18% of WRC graduates recidivated, compared to the 49% rate in California
- WRC graduates experienced a 10-fold increase in employment
- WRC graduates experienced a 54% decrease in homelessness

The Women's Reentry Court takes a trauma-informed treatment approach, uses best practices from the drug court model, and aims to lower criminal legal system costs. Through these strategies WRC aims to increase housing stability, improve relationships, and strengthen employment and education outcomes. These individual, social and environmental factors influence recidivism, public safety, and maternal and child health outcomes.

Women sentenced to the WRC participate in a minimum of 6 months of residential services at a drug rehab inpatient and outpatient services program, followed by 6 to 12 months of outpatient services and 6 months of aftercare. To encourage family reunification, WRC offers on-site housing for up to 2 children less than 12 years of age. After a 30-day probation period, mothers may live with their children at the residential facility and children have access to mental health treatment services.⁹⁰

Incarcerating Parents is Harmful

Separating and isolating our parents is an act of violence that millions of children in this country have to endure.

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

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.⁶⁵ Having an incarcerated parent is classified as an ACE.⁶⁶

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.¹⁵ Separation from siblings is also traumatic.¹⁵

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.¹⁷

Parental incarceration can lead to physical health problems for kids

Having an incarcerated parent is associated with physical health problems such as migraines,^{67 68} asthma,^{67 68} high cholesterol,^{67 68} HIV and AIDS,⁶⁸ and rating one’s own health status as fair or poor.⁶⁸ Recent evidence suggests that ACEs cause immediate physical consequences such as chromosome damage and changes to the developing brain,⁶⁹ 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.^{27 69}

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,²⁸ and unfortunately, incarcerated parents then pass an ACE onto their children.⁴¹ 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.⁷⁰

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,^{67 68 58} anxiety,⁶⁸ emotional withdrawal,⁵⁸ posttraumatic stress disorder (PTSD),⁶⁸ and feelings of guilt,¹⁵ embarrassment, and shame.^{58 17} Sometimes children feel so much shame about their incarcerated parent that they socially isolate themselves from friends.¹⁵ Self-esteem issues are common as well.^{67 58} Young children of incarcerated mothers may be slower than others to develop autonomy, independence, and a confident self-concept.¹⁵

Children tend to be traumatized by separation, and separation from an incarcerated parent can lead to abandonment issues⁵⁸ as well as an insecure attachment to the parent, which can put children at risk for developmental delays⁵⁸ and other mental health issues.⁴⁵ 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.^{15 58}

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.^{15 67} ACEs are associated with unhealthy behaviors such as smoking, drinking heavily,⁶⁹ substance use disorder,²⁷ and sexually risky behaviors.^{27 69} ACEs increase the risk for depression, suicide, incarceration, poor educational and employment outcomes,⁷⁰ poverty,⁷⁰ and involvement in violence.^{27 69} These behaviors in turn can lead to higher chances for youth to be involved in the criminal legal system themselves.

Highlighting Alternatives to Incarceration

Brookview House

“The success of our program is tied to the kids. The youth stay in our programs long-term, which means we also have the moms’ attention and motivation to learn and change.”

– Deborah Hughes, Brookview House’s Executive Director

Brookview House’s family-centered model provides women and children experiencing homelessness and multiple social stressors with a safe, supportive environment while they pursue education, job training, and/or employment leading to self-sufficiency and stable housing.

Brookview has helped 93% of the families maintain permanent housing after leaving, and 88% of children who participate in Brookview’s programs graduate high school.⁹¹ Brookview provides safe, functional housing, on-site youth programs, housing and support services, opportunities for change through skill building, and health and wellness workshops. Studies indicate that programs like Brookview House, where mothers can serve their sentence with their children in a non-prison setting that offers housing and social services, foster mother-child bonding⁹² and healthy child development.³⁷

Kids' behaviors impact school success

These issues can play out in school where students can display issues such as absenteeism, truancy, drop out,^{15,67} and suspension, and expulsion.⁷¹ 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.¹⁵ A different study found a 34% dropout rate for children of incarcerated parents compared to a 10% rate for their peers.¹⁵

Parental incarceration can lead to kids being placed in foster care

Having an incarcerated parent increases the chance of being placed in foster care.⁷² One estimation is that at least 4.5% of foster children are in foster care because a parent is incarcerated.¹⁴ Parental incarceration may also be associated with placement in foster care even when it is not the direct cause: 20-30% of children in foster care have an incarcerated parent.¹⁴

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.¹⁴ In addition, once children are in foster care they have a reduced ability for visitation and risk of loss of maternal custody.⁷²

In general, foster care is associated with a higher risk for mental health and behavioral problems⁷³ which may result from disruptions in attachment relationships.⁷⁴ As adults, former foster youth have a higher risk of multiple chronic health conditions⁷⁵ such as hypertension, smoking, and asthma, as well as increased self-reported fair or poor general health and lack of insurance.⁷⁵ 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.⁷⁵

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.⁷⁶ 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.⁷⁶ 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.⁷⁷ The absence of a caregiver due to incarceration puts kids — and girls in particular — at risk.

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.⁶⁷ 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.¹⁵

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.¹⁹ Because there are fewer prisons for women, women are often placed even farther from their families than men.⁷² This distance, combined with the financial cost of visits for their children's foster or relative caretakers, hinder visits.^{72 78} 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.⁷² As a result, the majority of parents in prison are not able to see their children frequently, if at all.⁷² 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.¹⁹ 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.⁷⁸

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.⁷⁹

Highlighting Alternatives to Incarceration

Boston Consortium Model (BCM)

The Boston Public Health Commission pioneered the Boston Consortium Model (BCM) for low-income women of color with co-occurring alcohol/drug addiction, mental disorders, and trauma histories. The services are designed to integrate mental health and trauma services into substance use disorder treatment programs, since a majority of women with substance use disorder have a history of abuse and trauma.

There are two BCM programs: Entre Familia and the MOM's Project. Entre Familia is a 6 to 12 month residential substance use treatment program that is trauma-informed for pregnant and postpartum Latina women and their children. The MOM's Project is outpatient addiction treatment and case management for women in Boston — it serves many people who have been released from prison or jail. Both programs provide substance use disorder treatment and trauma-informed mental health services, as well as Trauma Recovery and Empowerment (TREM) Groups and Skills Building Groups focusing on employment and family reunification.

In several evaluation studies, participants in the BCM reported improved outcomes in comparison to people treated at comparable substance use disorder treatment sites without the TREM component. Evaluations found significant reductions in substance use, mental health symptomatology, PTSD, HIV, sexual risk behaviors, and perceived power in one's relationship.^{93 94}

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.^{58 80}

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.⁷⁸ 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.¹⁹ 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.¹⁴

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.^{19 14} 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.¹⁵

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%.⁷¹ When incarceration or other disruptions compromise a family's economic security, their housing security also suffers,⁸² 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.⁸¹ In addition, incarceration significantly reduces future opportunities for employment and income potential, thereby making it hard for these communities to recover.⁸³

Highlighting Alternatives to Incarceration

On the Rise

On The Rise in Cambridge, MA provides services for women who are homeless and works with women to keep their housing. Over 400 women per year participate. Since 2008, over 300 formerly homeless women have obtained housing with help from On The Rise, and of the more than 200 who were still connected to the program as of the end of 2016, 85% were still housed. On The Rise staff members assist women with negotiating with landlords, developing creative solutions regarding representative payees, navigating bureaucracy to enable them to safely and consistently see their children, getting women with substance use disorder into treatment while preserving their housing, and providing many other types of individualized assistance.

The Safe Haven Program at On The Rise welcomes homeless women with little access to other services. Most (over 80%) disclose surviving trauma and abuse and also contend with poverty, substance use issues, mental and physical health issues, criminal justice involvement, and more. Due to historical harms, many of these women distrust services and need to engage at their own pace, with flexible support. The Safe Haven Program is open six days per week — women can care for immediate needs (e.g., rest, hygiene, food, and clothing) and staff help them make use of other programs that address specific concerns, while working together to discover new possibilities, increase well-being, articulate goals, and manage trade-offs.

The Keep The Keys Program at On The Rise works with formerly homeless women to retain their housing, knowing people who have experienced homelessness often also experience trauma and face chronic health conditions. The Keep The Keys Program supports women who face a whole new set of challenges once they've obtained housing, including: social isolation from past communities, relationships or behaviors that threaten housing retention, financial obligations, independent living skills, etc. Staff members help women transition into — and keep — new homes with the same wrap-around approach to programming across all of the On The Rise programs.⁹⁵

Senate Bill S770 Is a Healthier Approach to Sentencing Parents in Massachusetts

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

Recommendations for Implementation

This report finds that Senate Bill S770 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. Massachusetts 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, Houses of Correction, 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 Massachusetts that could serve as alternative sentencing options. Rather than operating programs through the Department or Houses 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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