



Ohio Justice Alliance for Community Corrections

Post Office Box 79, New Albany, OH 43054

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OHIO JUSTICE ALLIANCE FOR COMMUNITY CORRECTIONS

TESTIMONY

HB 33

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Ohio Judicial Conference
Ohio Office of Criminal Justice Services

By: Phil Nunes, OJACC Past President
March 28, 2023

Phone: (740) 420-6444 • www.OJACC.org

Chairman Edwards and esteemed members of the Ohio House of Representative Finance Committee:

I am Phil Nunes, Executive Director of Eastern Ohio Correction Center which operates Community Based Correctional Facilities in Columbiana and Jefferson Counties. I am also Past President of OJACC and have been in the community correctional field for 34 years.

Thank you for providing me the opportunity to offer testimony in support of Governor DeWine's budget. We applaud the administration's commitment to community corrections and recognizing the important role our agencies play in reducing both recidivism and the prison population. The collaborative working relationship between the Ohio General Assembly, the Ohio Department of Rehabilitation and Correction and community corrections providers has led to Ohio's position as a leader in community corrections.

ABOUT OJACC

In the mid-1980s, a group of community corrections practitioners and interested parties came together with state agencies to address the rising prison population. This group of dedicated professionals saw real value in coordinating all aspects of community corrections to work toward common goals and formed The Ohio Community Corrections Organization (OCCO) in 1986. In 2005, the non-profit organization changed its name to The Ohio Justice Alliance for Community Corrections (OJACC).

OJACC serves as an umbrella organization representing Ohio's criminal justice stakeholders to include judges, defense attorneys, prosecutors, pre-trial and probation officers, law enforcement officials, corrections officials from adult and juvenile systems, treatment providers, reentry practitioners, and victims' representatives.

OJACC focuses on collaborating with all stakeholders to educate policy makers and legislators on issues affecting community corrections. OJACC also provides education to community corrections practitioners to enhance services throughout the state. Our mission, for our over 35 year history, has been to promote and support effective community corrections in Ohio.

WHAT ARE COMMUNITY CORRECTIONS

Community corrections include a full range of local sanctions that may be imposed by the courts. These include supervision by a probation officer, drug or mental health treatment and other required programming, electronic home monitoring, community service, drug testing, as well as many other residential and non-residential sanctions designed to help change offender behavior and extends to reentry from jail or prison. The sanctions are individualized based on the seriousness of the crime committed, the risks posed by the offender, and the specific needs to be addressed.

Prison sentences protect the community from dangerous and violent offenders while the offender is in prison, but do little to prevent offenders from committing crimes after they are released from prison. Moreover, 95% of offenders who are sent to prison are eventually released and nearly half are released after serving less than one year.

Effective community corrections address the underlying issues which lead to criminal behavior. This may include drug or mental health treatment, or addressing criminal thinking, as well as educational and vocational issues. Effective community corrections also provide opportunities to hold offenders accountable. The sanctions can be tailored to the individual offender. For some, this includes a locked-down residential sanction, such as a community based correctional facility. For others, it may include a halfway house program. And for many, it may include outpatient programming and supervision by a probation officer.

COVID 19 Impact to Community Corrections in Ohio:

As you can imagine, Ohio's Community Corrections has been greatly impacted by COVID 19.

The good news is that throughout the crisis community correction providers, to include residential Halfway Houses and Community Based Corrections Facilities (CBCF), as well as non-residential services such as probation, have maintained operations serving offenders throughout the juvenile and adult system.

Community Correction providers moved swiftly throughout the state to ensure the safety of staff and offenders by acquiring personal protective equipment and implementing safe protocols including enhanced sanitation needs, addressing social distancing, purchasing safety equipment, and developing COVID 19 emergency protocol procedures. Today, we continue to operate utilizing the best guidance from the Center for Disease Control.

Although we are working on becoming more normalized, there remains a very dangerous and continued effect the pandemic has brought upon our field and perhaps the employment world everywhere. The cost of doing business has gone up due to a competitive workforce. Therefore, you will hear throughout this testimony that we must continue to invest in community corrections to raise the livable wage across all community correctional sectors to ensure we can maintain stability and continue to serve the great state of Ohio.

Today, most community correction programs are near 100% capacity, and we want to thank the leadership of Ohio for investing in and assisting us to remain in operations throughout the pandemic.

ADULT COMMUNITY CORRECTIONS IN OHIO

Since the passage of the Community Corrections Act in 1979, Ohio has committed to creating the most comprehensively funded community corrections system in the nation.

The Ohio Department of Rehabilitation and Correction (ODRC), through the Bureau of Community Sanctions, funds Community Based Corrections Facilities (CBCF), Halfway House Programs, and Jail and Prison Diversion programs for Ohio's Courts. In Fiscal Year 2022, these programs served 44,082 individuals at a substantial cost savings, (see <http://drc.ohio.gov/community>).

Diverting non-violent offenders from prison results in a huge costs savings for Ohio's taxpayer. Unlike prison, CBCFs and half-way houses provide intensive programming which is designed to change offender behavior and improve public safety.

The costs savings are even greater for offenders who are supervised on community control sanctions (probation) in a non-residential placement, rather than being incarcerated. Research demonstrates that programs designed to change offender behavior are most effective when offenders are supervised in the community.

Additionally, these programs can serve as a step-down release mechanism for Ohio's prison system to provide effective reentry services that help ex-offenders become law abiding citizens. The University of Cincinnati conducted extensive studies of Ohio's community corrections programs. These studies demonstrate that, when used appropriately, community corrections programs are highly effective in reducing recidivism and promoting public safety.

Finally, the OJACC Adult Community Corrections Collaborative committee includes representatives of all community corrections programs that received state funding including CCA programs (county probation), CBCFs and Halfway Houses. In a recent strategic planning meeting, all community corrections programs and providers indicated the primary priority for community corrections continues to be the need to raise pay ranges within their organizations to maintain a viable workforce by competitively recruiting and retaining well trained staff.

In the current version of the budget as introduced by the Governor, substantial funding has been allocated for several adult community corrections funding lines. This new funding is appreciated by all community correctional agencies in Ohio.

Although these new investments vary by funding line item, OJACC supports additional requests as submitted by partner community corrections associations as follows:

OJACC fully supports the needed increases to the 501-501 line included in the as-introduced version of the Governor's budget. Increases of 6.4% in 2024, totaling \$5,709,137, and an additional 5.4% in 2025, totaling \$5,112,200, will put CBCFs on a path towards addressing needs in staff retention and increases in overall costs. This additional investment will ensure CBCF can continue to serve judges state-wide and divert individuals from costlier jail and prison incarceration.

OJACC fully supports the increase to GRF line item 501-405 for licensed halfway houses. Much like CBCFs, this additional funding will allow halfway house providers state-wide to invest in their

staff to improve staff recruitment and retention and also support rising inflationary costs as well. This additional funding will assure for the continuation of serving as both a diversion and much needed reentry option to assist individuals in success upon release.

Community Corrections Act (CCA) 501-407 and 501-408 programs are primarily associated with probation departments that provide non-residential supervision and treatment in the community as a diversion for offenders who otherwise would be sentenced to prison or jail. OJACC supports the recommendations that resulted from the Probation Workload Study Committee and appropriate funding for implementation of the recommendations. HB 110 charged this committee with the study of probation caseload principles, education standards for probation officers, workload capacity principles and other relevant subjects. Recommendations from this committee were submitted to the Governor, President of the Senate and Speaker of the House of Representatives in December of 2021 as required by HB 110. The priority recommendations include:

- #1: Revise the ORC to require a validated risk assessment tool be used by every municipal, county, and common pleas court when assessing offenders for eligibility for community control. The ORC also should allow use of a broader set of such tools, including an improved ORAS tool.
- #2: Probation caseloads should be differentiated by assessed risk and need, and caseload sizes should be commensurate with the intensity of supervision, interventions, programming, and structure that is appropriate for the goals of supervision at each identified supervision level.
- #5: To amend the Ohio Revised Code to require that municipal and county courts accept transfers in a manner like R.C. 2301.28. Additionally, to amend the Ohio Revised Code to adopt uniform guidelines for transfer between courts and jurisdictions, including when such transfer is appropriate.
- #6: Create a list of uniform conditions of supervision that specifically support public safety, rehabilitation, and reduces technical violations leading to increased successful completion of supervision. Special conditions of supervision shall be directly related to the assessed risk and needs of the probationer.

JUVENILE COMMUNITY CORRECTIONS IN OHIO

The juvenile system in Ohio has greatly reduced the number of youth in custody in Ohio's Department of Youth Services, (ODYS). In 1992, ODYS had nearly 2,600 youth in its facilities. In fiscal year 2022, there were an average of 431 youth in these facilities. As of February 1, 2023, there were 491 youth in an ODYS facility – a sign of the increased need for community programming.

Funding for alternatives to youth incarceration is provided by ODYS through several programs, including the Youth Services Grant, RECLAIM (Reasoned and Equitable Community and Local Alternatives to the Incarceration of Minors), Targeted RECLAIM, Competitive RECLAIM, and Behavioral Health and Juvenile Justice (BHJJ). Each of these programs encourage juvenile courts to develop or invest in a range of community-based options to meet the needs of youth who are at-risk of or involved in the juvenile court system. These funds are aimed at preventing first contact or subsequent contact with the juvenile justice system in Ohio. Services covered by these

ODYS funded programs are offered to four categories of young people: felony adjudicated youth, misdemeanor adjudicated youth, status offending youth, and youth with no court history. By diverting felon adjudicated youth that jurists deem safe and appropriate from commitment to ODYS and into meaningful community programming, courts have greater subsidy dollars to allocate as jurists see fit to prevent future justice system involvement.

These alternatives to incarceration provide a more successful, and cost-effective solution than youth prisons. The children in these facilities often have significant mental health needs that local community have not been able to meet due to the need for additional community resources—68% of ODYS youth in custody are on the mental health caseload and 48% have special education needs. RECLAIM, Targeted RECLAIM, and BHJJ have all been proven to be effective while saving Ohio taxpayers millions of dollars.

Support Child Well-Being: Budget Recommendation:

To prevent children’s further involvement in juvenile court, we support the pursuit of the following evidence-based recommendations:

- Focus on upstream investment in systems and programs that particularly reach low-income children and families which are under-invested in (disproportionately Black Ohioans). Mechanisms to increase community safety long-term include adequate healthcare, high-quality education, stable employment and income, safe and affordable housing, and food assistance. These are the conditions that children need to grow into successful and productive members of society.
- Reduce reliance on youth confinement, which ultimately does not increase community safety, and use the savings to expand alternative programs. We support the expansion of positive efforts within DYS’s Targeted RECLAIM, Competitive RECLAIM, and Behavioral Health Juvenile Justice initiative, as well as adopt effective models from across the country. Funding should be flexible to foster partnerships and continuums with community members, community organizations and non-profits.
- Alternatives to incarceration should be accompanied by robust data collection, evaluation, and oversight to ensure state dollars are being spent justly and effectively on trauma-informed and healing-centered approaches.

OJACC POLICY POSITIONS

As many of you are aware, OJACC updates annually a Policy Platform Paper that we submit to all Ohio Legislators affecting areas that impact community correction policies and operation in Ohio.

In this past 2-year strategic plan, we prioritized three platform areas to work with Ohio’s Legislature to shape legislative changes to improve these areas as needed. OJACC stands ready to assist and find opportunities to affect positive changes in the following areas:

1. We support additional funding for both adult and juvenile community corrections, many of which has been previously discussed.
 - a. Another area OJACC is working, along with the Attorney General’s Task Force on

Mentally Ill and the Courts, CORJUS, OCCA and others, focuses on meeting with the Ohio Department of Medicaid to encourage Ohio to apply for 1115 Waivers with the Center for Medicaid Solutions (CMS) to allow for Medicaid paid for services and benefits to anyone in a community correctional program in lieu of serving time in jail or prison, (regardless of the designation of such facility and inmate status).

- b. Today, CBCF serve in the community in lieu of jail and prisons and are deemed a detention facility by statute; however, the individual is being diverted to or reentered from a prison or jail. Halfway Houses work with two early release programs (Transitional Control and Treatment Transfer) and because of said early release they are still considered an inmate. A blanket waiver approved by CMS client's in these programs would be far more successful in ensuring health and behavioral health needs are addressed prior to individuals returning to their neighborhoods.
 - c. There are ten states currently who have requested bold CMS Waivers. The first state awarded the waiver was California where permission was given to provide Medicaid paid services 90 days prior to release from prison. This will help those inmates better adjust, while saving taxpayers a significant amount of money. OJACC will continue to work with Ohio Medicaid to open up this opportunity for our state.
2. We support criminal justice drug reform which includes the following principles:
 - a. Recognize that drug addiction is a disease.
 - b. Ensure that treatment, instead of incarceration, is the primary purpose around any sentencing considerations for personal drug abuse.
 - c. Differentiate between petty trafficking and aggravated trafficking to clarify which situations require treatment as the primary need.
 - d. Set presumptive sanctions, rather than mandatory terms, to support judicial discretion.
 - e. Reduce the life-long collateral sanctions that may result from a drug abuse conviction.
 - f. Support earned credit for positive program participation while incarcerated.
 3. After the passage of SB 288, ODYS now has the ability to support aging youth in Ohio until the youth's 22nd birthday. Although this was an amazing accomplishment, funds to adequately provide vital needs and services such as housing, workforce development training / certification programs, and other ancillary needs must be funded to allow ODYS to implement these unfunded new opportunities. Therefore, we recommend funding in the amount of \$3,000,000 (\$30,000 per youth) to provide services to the 100 youth

projected to be released in FY 24 and then annual funding in that amount each year moving forward.

Mr. Chairman and esteemed members, we appreciate this opportunity to provide testify on these important issues. We appreciate the leadership each of you provide to our great state of Ohio every day. I would be happy to answer any questions at this time.

Thank you!

Please forward any additional questions to:

Phil Nunes, OJACC Past President
(740) 765-4324 ext. 103
pnunes@cbcf41.org

Michael Randle, OJACC President
(330) 535-8116 ext. 2072
MikeRandle@orianahouse.org

Gayle Dittmer, OJACC Executive Director
(740) 420-6444
dittmergr@gmail.com

OJACC: Over 35 years promoting and supporting effective community corrections



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Ohio Justice Alliance for Community Corrections (OJACC)

POLICY PLATFORM

(Rev. 6/21/2022)

Our Mission

To bring together stakeholders to promote and support effective community corrections that enhance public safety.

About OJACC

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Diverting non-violent offenders from prison to CBCFs and halfway houses results in a huge costs savings for Ohio's taxpayer. Unlike prison, CBCFs and halfway houses also provide intensive programming designed to change offender behavior and improve public safety.

The costs savings are even greater for offenders supervised on community control sanctions (probation) in a non-residential placement, rather than being incarcerated. Research demonstrates that programs designed to change offender behavior are most effective when supervised in the community.

Additionally, these programs can serve as step-down release mechanism for Ohio's prison system to provide effective reentry services that help ex-offenders become law-abiding citizens. The University of Cincinnati has conducted extensive studies of Ohio's community corrections programs. These studies demonstrate that, when used appropriately, community corrections programs can be highly effective in reducing recidivism and promoting public safety.

Juvenile Community Corrections in Ohio:

The juvenile system in Ohio has greatly reduced the number of youth in custody in Ohio's Department of Youth Services, (ODYS). In 1992, ODYS had nearly 2,600 youth in its facilities. In fiscal year 2022, there were an average of 431 youth in these facilities. As of February 1, 2023, there were 491 youth in an ODYS facility – a sign of the increased need for community programming.

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These alternatives to incarceration provide a more successful, and cost-effective solution than youth prisons. The children in these facilities often have significant mental health needs and special education needs. RECLAIM, Targeted RECLAIM, and BHJJ have been proven effective while saving Ohio taxpayers millions of dollars.

What are community corrections?

Community corrections include a full range of local sanctions that may be imposed by the courts. These may include a local jail sentence, supervision by a probation officer, drug or mental health treatment, required programming, curfew, electronic home monitoring, community service, drug testing, as well as many other sanctions designed to help change offender behavior. The sanctions are individualized based on the seriousness of the crime committed, the risks posed by the offender, and the specific needs to be addressed.

Prison sentences protect the community from dangerous and violent offenders while the offender is in prison, but do little to prevent offenders from committing crimes after they are released from prison. Moreover, 95% of offenders sent to prison are eventually released, and nearly half are released after serving less than one year.

Effective community corrections address the underlying issues that lead to criminal behavior. This may include drug or mental health treatment, addressing criminal thinking, as well as educational and vocational issues. Effective community corrections also provide opportunities to hold offenders accountable. The sanctions can be tailored to the individual offender. For some, this includes a locked-down residential sanction, such as a community based correctional facility (CBCF). For others, it may include a halfway house program and, for many, it may include outpatient programming and supervision by a probation officer.

OJACC Policy Positions:

- **We support appropriate funding for local adult and juvenile community corrections.** Community corrections save state tax dollars by helping to reduce the state prison population and by preventing the need to build additional prisons. Further investment and funding are necessary so that local communities have adequate options to avoid sending low-level felony offenders to the state prison system. As Ohio focuses on sentencing reform and justice reinvestment, further investment must be made in community corrections to assist in a safe prison reduction strategy.
 - A. We support the continuation of Medicaid expansion.** Before the expansion of Medicaid eligibility in 2014, less than 10% of persons in the criminal justice system had health insurance. Medicaid coverage has allowed drug-addicted offenders to receive medication assisted drug treatment, as well as other needed treatment including mental health services. Ending or significantly restricting Medicaid expansion would be a major setback in the efforts to address the opiate epidemic.
 - B. We urge the Ohio Department of Medicaid to extend Medicaid eligibility to individuals who DRC places in halfway house programs while on transitional control or through a**

treatment transfer. This is permitted by federal regulations and would allow all individuals in halfway houses to obtain needed medical and behavioral health services. This is another important tool in addressing the opiate epidemic.

We support working with Federal Medicaid's Centers for Medicare and Medicaid Services (CMS) to expand eligibility for Medicaid services for all Community Corrections Residential facilities without limitation.

- **We support the careful consideration of the recommendations of the Ohio Criminal Justice Recodification Committee and particularly the following concepts in their report:**
 - Include reducing recidivism and rehabilitating the offender in the purpose of criminal sentencing. [substantially accomplished by S.B. 66, effective 10/28/18]
 - Require indeterminate sentences for offenders sent to prison.
 - Encourage treatment, rather than incarceration, for low-level drug offenders.
 - Eliminate residency restrictions for sex offenders that do not enhance public safety and give judges some discretion to remove registration requirements after a period of time.
- **We support criminal justice drug reform which includes the following principles:**
 - Recognize that drug addiction is a disease.
 - Ensure that treatment, instead of incarceration, is the primary purpose around any sentencing considerations for personal drug abuse.
 - Differentiate between petty trafficking and aggravated trafficking to clarify which situations treatment constitutes the primary need.
 - Set presumptive sanctions, rather than mandatory terms, to support judicial discretion.
 - Reduce the life-long collateral sanctions that may result from a drug abuse conviction.
 - Support earned credit for positive program participation while incarcerated.
- **We support legislation to encourage the uniform collection and sharing of meaningful data regarding community corrections.** Currently, there is no centralized repository for basic information, such as how many adult or juvenile offenders are involved in the court system, on probation, or reoffend. Without good data, it is difficult for policymakers to fairly evaluate and improve community corrections practices.
- **We support the use of school safety funding in ways that do not lead to increasing student involvement in the court system.** This includes the use of threat assessment protocols as recommended by the FBI, use of school climate grants as approved in HB 318, and improving student access to staff trained to work with students, such as counselors, nurses, psychologists, and social workers. The National Council of Juvenile and Family Court Judges have recognized that students who become court involved through a school referral are less likely to remain engaged in school or become productive citizens as adults.
- **We stand with local and national experts in supporting the utilization of validated risk and needs assessment at all levels of the criminal justice system, including pretrial.** Despite our diverse representation, we share many common beliefs. At the forefront of these is our strong support of evidence-based practices throughout the criminal justice system. Evidence based practices have routinely proven

effective in promoting public safety and reducing recidivism. At the foundation of evidence-based practices is the utilization of actuarial risk assessments to help inform bail, sentencing and supervision decisions.

Assessments are a tool utilized at all levels of the criminal justice system to enhance the goal of reliable, objective decision-making. While risk and needs assessments do not predict with perfect accuracy, they provide guidance toward the most accurate and equitable decisions available for safely managing justice-involved individuals.

- **We support avoiding altogether or stringently limiting collateral sanctions to lessen barriers for reintegration.** This includes the reform and repeal of laws and regulations that impose restrictions or limitations on rights, services, benefits, or opportunities beyond those imposed by the courts unless absolutely necessary for public safety. Specifically, we encourage the immediate review and reform or repeal of collateral sanctions that impact a justice-involved person's ability to obtain housing, employment, professional licensure, business licensure, voting, education, loans, and public assistance of any kind.
- **We support intentional anti-racist interventions, remediations, and policies focused on the elimination of racism and racial inequity across Ohio's criminal justice system.** We specifically acknowledge that racism is a root cause of poverty, chronic illness, fractured families, and damaged communities. Furthermore, racism is a public health crisis that causes people to be overincarcerated and underserved. We further support the systemic study of and commitment to the elimination of racial disparities, the prioritization of racial equity, and the acknowledgement that communities of color have borne the burdens of inequitable social, environmental, economic, and criminal justice policies practices and investments which have caused deep disparities, harm, and mistrust. We encourage executive, legislative, and judicial leaders across Ohio to commit to the uncomfortable and often painful process of dismantling systemic injustice across the justice continuum.

We support Bail Reform focused on providing equal access to pre-trial non-detention alternatives for crimes that do not demean the seriousness of the offense or places a victim or the community in danger. We further believe that the judiciary should be given the discretion to make this decision that is applied to all Ohio citizens equally. Research shows that individuals incarcerated at the pretrial stage are not denied bail due to being a flight risk or a danger to the public; instead, the most common reason an individual remains incarcerated at pretrial is simply that he or she could not muster the financial resources needed to secure his or her freedom. Additionally, recent court decisions have ruled that the incarceration of individuals who cannot afford money bail without meaningful consideration of other alternatives is a violation of due process and equal protection. Lastly, research has shown that individuals incarcerated at pretrial are more likely to plead guilty, be convicted of a felony, receive longer sentences, get less attractive plea bargain offers, and become "reentry" clients because of their pretrial detention, regardless of charge or criminal history¹

¹ Bureau of Justice Statistics, Jail Inmates at Midyear 2014 (June 2015). <https://www.bjs.gov/content/pub/pdf/jim14.pdf>.
Stevenson, Megan and Mayson, Sandra G., *Bail Reform: New Directions for Pretrial Detention and Release* (2017).
Faculty Scholarship. 1745. http://scholarship.law.upenn.edu/faculty_scholarship1745 (Last visited September 5, 2018).

¹ Reaves, Brian A., U.S. Dep't of Justice, *Felony Defendants in Large Urban Counties*, 2009, at 15 (2013).

¹ Lowenkamp, Christopher T., et al., *Investigating the Impact of Pretrial Detention on Sentencing Outcomes* (2013); Phillips, Mary T., N.Y. City Criminal Justice Agency, *A Decade of Bail Research in New York City*, 115-17 (2012).

- **We support a daring reimagination of how prison and jail beds should be used in the future, and taking the lessons learned in the face of the COVID pandemic.** This includes working in earnest, via policy and legislation, to reduce jail and prison populations with changes to cite-and-release rather than arrest, reform of the money bail system and an increased reliance on recognizance bonds and pre-trial supervision, rethinking non-violent failure to appear warrants, implementation of innovative alternatives to incarceration for technical and minor violations of probation and parole, reimagining accelerated time credit or “good time” for participation in programming and maintaining proper behavior, and reevaluation of compassionate release and the effectiveness of incarcerating individuals over the age of 65 or with severe and debilitating health conditions.
- **We support the enhanced use of technology** and making permanent the standard use of telemedicine for service provision for physical, mental, and behavioral healthcare across all areas to ensure equal access to healthcare.
- **We support that the Ohio Legislature recognize the need for and passes a law to allow for the Ohio Department of Youth Services (ODYS) to pay for services for children who age out of ODYS residential or non-residential parole after the age of 21 for a period of time needed to support successful reentry.** The problem today is if a youth ages out of the Ohio Department of Youth Services custody, the youth is not supported with paid for reentry services that could include housing assistance, workforce development training or other reentry programmatic services.