



Keeping Kids and Parents Together

A Healthier Approach to Sentencing
in Tennessee



February 2018
humanimpact.org

Executive Summary

It carries on throughout their life that their mother or father had to go away for a while. If there was an alternative to incarceration in place it would keep the family bond instead of the family being destroyed from separation.

– Lisa, formerly incarcerated mother

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 Tennessee House Bill 0825 and Senate Bill 0919. If passed, these bills 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 Latino/a 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 Tennessee, about 19,198 children are separated from a parent due to incarceration.

Reducing the harm from incarcerating parents is doable in Tennessee.

In 2016, about 3,733 parents who are currently incarcerated would have been eligible for this alternative sentencing in Tennessee — potentially keeping them together with their kids while still being held accountable for their actions.

In Tennessee, about 1 of every 10 children has had an incarcerated parent.

Mothers and grandmothers bear the burden at home.

When a father is incarcerated, his children’s mother remains as the primary caregiver 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.

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 or near 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. These community-based alternatives do not have to be residential, but they do have to be funded external to the criminal legal system. This report highlights Tennessee 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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Suggested Citation

Human Impact Partners and Free Hearts. February 2018. Keeping Kids and Parents Together: A Healthier Approach to Sentencing in Tennessee. Oakland, CA.

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Acknowledgments

With support from: Healthy and Free Tennessee
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The work in this report was made possible by the generous funding of the Kresge Foundation.

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Introduction

You lock me up, you lock my child up, you cause dysfunction in the family, you cause so much dysfunction. This [incarcerating parents] leads to dysfunction in [my child's] future, and then you got what you want. They want to deprive us, that's how I feel.

– Aniya, who was separated from two children while 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 Tennessee House Bill 0825 and Senate Bill 0919. If passed, these bills would expand the ability to set community-based sentences rather than prison- or jail-based sentences for people who are parents. In 2016, about 3,733 parents who are currently incarcerated would have been eligible for this alternative sentencing in Tennessee — potentially keeping them together with their kids while still being held accountable for their actions.^{a 2 3 4 5}

What are Tennessee House Bill 0825 and Senate Bill 0910?

Tennessee House Bill 0825 and Senate Bill 0910 would expand the ability to use community-based alternatives to sentence parents and other primary caregivers of dependent children, so they can care for their families while being accountable for the consequences of their conviction.⁷

The bill defines “primary caregivers” 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 caregivers who face “non-violent” convictions such as drug and property offenses.

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

What are community-based sentencing alternatives?

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

► Treatment

- Drug and alcohol treatment
- Physical and sexual abuse counseling
- Family and individual counseling
- Behavioral Health Intervention

^a Tennessee has about 3,700 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.

► 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. These are shaped by environmental, economic, and social policies, which can either help build healthier communities or harm them.^{6,7}

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.⁸ The policies leading to mass incarceration have profoundly affected health and impact large proportions of people of color contributing to racial health inequities. In Tennessee, the health of Black, Brown, and low-income rural White communities are all disproportionately impacted by incarceration.⁹

About This Report

This report represents a partnership between Free Hearts and Human Impact Partners (HIP). Free Hearts is an organization lead by formerly incarcerated women that provides support, education, and advocacy for families impacted by incarceration, with the ultimate goals of keeping families together. 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 interviews with 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 caregiver: 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.

Highlighting alternatives to incarceration

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

Who is Affected by Incarceration in Tennessee?

There are approximately 3,733 parents currently incarcerated in state prisons and county jails in Tennessee who would have been eligible for community-based alternatives had they been sentenced under this law.^b

It's important to note that the relatively low number of people potentially impacted makes this bill manageable. Tennessee's nonprofit infrastructure may help set the stage for the state to lead the way in implementing this humane and common-sense policy. According to the National Center for Charitable Statistics, there were about 28,000 nonprofits registered in Tennessee in 2013. About 3,000 of them are "safety net" organizations providing housing, health and human services, and crisis intervention.¹⁰

Scope of Parents and Children Affected by Incarceration in Tennessee

Tennessee incarcerates thousands of parents

Approximately 80% of incarcerated women are mothers,¹¹ and are the primary caregivers of children prior to their arrest.¹² Incarcerated mothers have an average of 2.4 dependent children each.¹³ Some women are pregnant when incarcerated — a survey of jailed and imprisoned mothers found that 9% of respondents gave birth while incarcerated.¹⁴

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 2% of incarcerated fathers are single fathers living alone with their child.¹⁵

1 out of 10 kids in Tennessee has had an incarcerated parent

Across Tennessee, about 19,198 children have a parent in prison or jail.^c A 2016 study by The Annie E. Casey Foundation, found that 10% of children and teens, or 144,000 youth, living in Tennessee had ever experienced having a parent in prison or jail at some time in their young lives. Tennessee has the third highest prevalence rate of incarcerated parents, along with five other states.¹⁶

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

Tennessee is starting to make smart choices on incarceration policies.

In 2016 the Tennessee legislature voted to defeat a law that jailed pregnant women and new mothers that used drugs during pregnancy. This vote reflects a thoughtful consideration of the role of health in legislative decision-making and is step forward for respecting basic human rights.¹²

Black children are nine times more likely and Latino/a 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 Tennessee, 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 caregivers. This estimate is somewhat conservative; comprehensive jail data from across the state in Tennessee was not publicly available

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

House Bill 0825 and Senate Bill 0910 in the context of historical criminal legal system policies

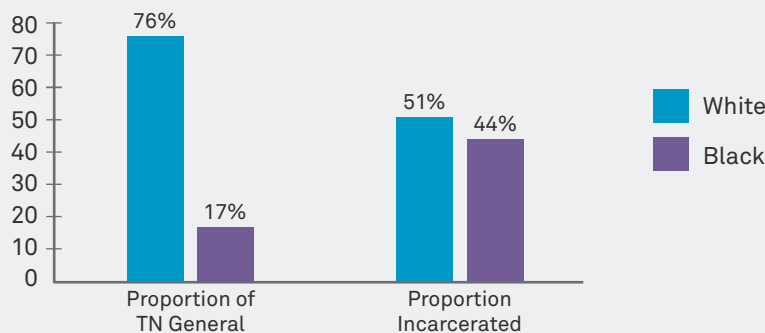
There are myriad policies and practices that have converged to create the criminal legal system that operates today, which incarcerates many Volunteer State residents — particularly people of color and those living in poverty. Many of those currently caught up in the criminal legal system are there due to well-known public policies:¹⁷

- 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.¹⁸

Tennessee disproportionately punishes parents of color and those who are poor

If you’re Black or Latino/a you are more likely to be criminalized and subsequently incarcerated. Figure 1 shows disproportionate incarceration rates in Tennessee.

Figure 1. Incarceration Rates in Tennessee



Source: Tennessee Profile. 2010. Prison Policy Initiative.

The majority of incarcerated women live in poverty, are single, have lower rates of educational attainment, and are disproportionately people of color.¹³

The incarceration of women in Tennessee has increased

While incarceration in Tennessee has increased by 7% over the past 7 years, women are being incarcerated at a higher rate than men.³ According to the Tennessee Department of Correction, from 2010 to 2016, female admissions to jails increased by 37%,³ while female incarceration in prisons increased by 31%.¹⁹ The increases in prison and jail admissions of women is disheartening because women are, in the majority, primary caregivers of their children.²⁰

Mothers and grandmothers bear the burden when a parent is incarcerated

When fathers are locked up, their children's mothers remain as primary caregivers 90% of the time.¹⁵ In this situation, kids often get to stay in their own home with a parent who was already taking care of them — only 2% of incarcerated fathers were single fathers living alone with their child.¹⁵ As primary caregivers, 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

My children were with my sister and their granny, and it was very traumatic being with your mom all these years and they had to go live with someone else. Very, very emotional strain on everyone – and financially as well.

– Aniya, who was separated from two children while incarcerated

Children of incarcerated mothers are more likely to be displaced from their homes and placed with a non-parent guardian.¹³ Mothers report that when they are incarcerated, 51% of the time grandmothers care for children.¹¹ On the low side, 17%²¹ of children live with their fathers, with other reports showing as much as 28%.¹¹ Other relatives and family friends take this role 20% and 4% of the time, respectively. In 11% of cases, children go to a foster home or agency.¹¹

The Role of Trauma and Other Health Issues

There is a long and complicated history that the United States has perpetuated to create our current criminal legal system. That history includes hundreds of years of outright and institutional racism, judgment and oppression of those in poverty, and reduction in equitable resources to ensure success and health for all people. Overlaid with this is the decades-long use of policing, sentencing, and incarceration as a tool to suppress Black communities and other people of color, leading to laws that criminalize some of the health issues identified below.¹⁷

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 caregivers 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.²² 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.”²³

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.^{24 25} 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.²¹ 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.²⁶

The criminalization of substance use disorder leads to incarceration

Substance use disorder is common among people housed in Tennessee prisons and jails. About 48% of people incarcerated in Tennessee have an identified, untreated substance abuse disorder.²⁷ Additionally, about 70% of females in state prisons have a substance abuse disorder or mental health issue.²⁸

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. The majority (60%) of women in state prisons have a history of drug dependence.¹¹ In a sample of almost 500 women in jails across the country, 82% had experienced drug or alcohol abuse or dependence.⁵

In Tennessee, one outcome of the opioid epidemic has been an increase of criminalization of women for the illness of addiction, and longer periods of incarceration due to a lack of funding for treatment services for women, especially pregnant women and children.²⁹ While judges and health officials call for more treatment facilities as alternatives to incarceration, Governor Haslam’s recent budget proposal includes adding hundreds of prison beds for treatment.³⁰ Focusing funding on incarceration instead of community treatment facilities further entrenches the criminalization of the illness of addiction and the social and economic divide between those who can afford to access treatment external to incarceration and those who cannot.

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 According to the Treatment Advocacy Center, “[t]he three largest state prisons—at Henning, Tiptonville, and Wartburg—each holds more seriously mentally ill prisoners than the largest state psychiatric hospital.”³²

While 12% of women in jails have severe psychiatric disorders, fewer than 25% of them receive mental health services.¹¹ In Tennessee, 29% of incarcerated persons have mental health issues, yet only 2.5% receive mental health treatment.²⁷ 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.^{31 33}

The Unmet Mental Health Need in Tennessee

In 2013, the Treatment Advocacy Center, a national nonprofit research organization, gave Tennessee a “C” grade for how well the state does at diverting people with severe mental illness from the criminal legal system. A more recent study noted that there has been a 9% reduction in the availability of public psychiatric beds between 2010 to 2016, and subsequently it is 3 times more likely that a person would be jailed rather than hospitalized for symptoms and behaviors associated with untreated severe mental illness.^{34 32}

The Role of Disinvestment in Education, Employment, and Housing

The greatest dangers to our communities are 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. Nationally, about 21% of adults read below a 5th grade level.³⁵ Just under half (44%) of women in state prisons have neither graduated from high school nor received a GED.¹¹ In spite of this, only half of women’s jails and prisons offer post-secondary education.¹¹ Educational attainment directly impacts people’s earnings potential. One year of education, for example, leads to roughly an 8% increase in earnings.^{36 37} Educational attainment is associated with a lower likelihood of being incarcerated.³⁸

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.¹¹ Finding employment can be even more challenging after being released from prison due to having a prior felony conviction — thus, people formerly in prison are at a high risk of economic insecurity.³⁹

Housing

A minimum wage earner in Tennessee would have to work 69 hours each week to afford a modest 1-bedroom rental (at Fair Market Rent). In Nashville, the most expensive area to live in Tennessee, homelessness rose by nearly 10% in between 2015 and 2016.⁴⁰ Based on the Point in Time Count in Tennessee, about 2607 persons in families experienced homelessness on a single night in 2015.⁴¹

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

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

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

Neglect by institutions

People who 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 House Bill 0825 and Senate Bill 0919 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.

For a child, your parents are the first example you get. And they are the reason why your relationship with other people can be weak or strong. If there's an alternative solution that keeps the family together and still helps that person become better, then you should want to take it. It's not just about the person, it's the whole system. They're raising somebody.

– Ashley, whose father was incarcerated for 10 years

Infants who spend quality time with their parents form stronger, more secure, and long-lasting attachments.^{44 45} In turn, parental attachment impacts every aspect of childhood development.⁴⁶ 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.^{46 15}

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.⁴⁶ 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.⁴⁶

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

- ▶ Secure attachment⁴⁷
- ▶ Lower levels of anxiety and depression⁴⁸
- ▶ A higher likelihood of maintaining custody of children following release⁴⁹
- ▶ Families are more bonded after the mother's release⁴

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 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

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.¹³ After completing community-based programs, parents have successfully reduced substance use disorder, improved parenting skills, and reduced recidivism. These benefits also extend to entire families. If our corrections system truly seeks to correct behaviors and rehabilitate people while holding them accountable for the consequences of their conviction, the most evidence-based method of achieving this is to allow people to serve time in their communities.

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

Current or prior substance use disorder is a common though not universal issue for people in prison.^{11 49} However, drug treatment services during incarceration are severely deficient and do not match the needs of people incarcerated.^{11 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 15} 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

PATHways Beyond Birth

PATHways Beyond Birth is a nurse-driven 2-year program in Lexington, Kentucky for women who are pregnant and opioid-addicted or have other substance use disorders. It is housed in a University of Kentucky Healthcare clinic.

Women start with PATHways when they are pregnant and stay in the program for two years after giving birth (PATHways Beyond Birth). Women receive prenatal medical visits and treatment for opioid disorders. They receive training on maternal-fetal bonding, swaddling, breastfeeding, smoking cessation, infant withdrawal, and other motherhood skills. They also participate in weekly group sessions offering therapy, parenting education, and peer support, which are led by a nurse navigator.

PATHways is based on the latest science on opioid addiction and mother-infant bonding. Moms receive medication-assisted therapy with buprenorphine, which helps opioid withdrawal, reduces cravings, and helps people with severe addictions live a normal life. Medication-assisted therapy is an evidence-based harm reduction treatment that is important for pregnant women, as quitting suddenly can cause fetal distress and is a high risk for relapse for the moms. Another tenant of PATHways is allowing moms to cuddle with their infants after birth, with regular visits from doctors and nurses. In comparison, most babies born to drug dependent moms are taken away for observation of withdrawal. However, 97% of PATHways babies who stay in rooms with their mothers do not need treatment for withdrawal. Additionally, this practice shortens hospital stays, requires less morphine for babies which suggests any withdrawal is less severe.

More than three-quarters of pregnant women in PATHways are not using illicit drugs by the time they give birth. In studies, women in the PATHways program who attended more prenatal sessions had a greater likelihood of being drug free; for every one session increase in attendance, a mom was 15% less likely to relapse.

Importantly, PATHways Beyond Birth supports women who after delivering are at high risk of relapse, non-treatment of infectious diseases, and not following up on certain well-baby care. Ninety-seven percent of Beyond Birth participants have received long-acting birth control, 80% of women are parenting or working to restore parenting, and nearly all are monitoring or treating their hepatitis infections.^{54 55}

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.^{56 57}

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.^{15 58 46 59 13 60} As noted below, 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.”

What I remember most was being taken away from the only person I had to call my own, the only person I had to give me any amount of push in life.

– Aniya, who was separated from two children while incarcerated

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 caregivers 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.^{61 62}

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.⁶³ According to a presentation by the Dyer County Sheriff’s Office, one day in a Dyer County jail costs the county \$49, on average.⁶⁴ 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.⁶⁵ The average cost to house someone in Tennessee Department of Correction prisons is approximately \$6000 higher, at \$28,039 for one year.⁶⁶

Another fiscal benefit to keeping more parents in their communities, as long as they are still able to be safe and loving caregivers, 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 county jails 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 to meet children's needs — from poor nutritional quality of food for the children, limited access to medical care, to disturbing racial inequalities with better-funded programs.⁶⁷ In a similar vein, in 2015, an incarcerated woman at the Tennessee Prison for Women was accused of faking labor pains before giving birth inside a cell without a qualified OB-GYN. Her infant son spent 5 days in intensive care due to a severe infection likely contracted from the non-sterile conditions of the cell.⁶⁸ Additionally, the Tennessee Department of Correction is currently involved in a class action lawsuit due to a failure to provide treatment to incarcerated persons diagnosed with hepatitis C. According to an investigation from *The Tennessean*, only 0.2% of incarcerated persons with hepatitis C received treatment.⁶⁹

Highlighting Alternatives to Incarceration

Renewal House

Founded in 1996, Renewal House is the only Middle Tennessee agency offering a long-term family residential recovery program that makes it possible for pregnant and parenting women to live with their children while in treatment. The family residential program integrates addiction treatment, mental health services, parenting, vocational and life skills education for the mothers and early intervention and prevention services for the children. Over the years, Renewal House has expanded its services to provide a licensed, gender-specific, intensive outpatient treatment program accessible to low-income women and affordable rental housing in a drug-free environment for women with at least six months in recovery and their children.

In 2013, Renewal House undertook an eight-month impact study to assess long-term client outcomes following treatment. Researchers used standardized assessments to measure client strengths and needs in the areas of substance abuse, physical health, mental health, employment, legal system involvement, and family/social status. A total of 100 former clients completed the study. The analysis provided strong evidence that after receiving treatment at Renewal House clients experienced increases in their personal strengths, decreases in need, and improvements in life functioning.

Renewal House Chief Executive Officer Pamela Sessions stated, "It's exciting that we can keep families together. We see women every day who won't come into treatment because they can't keep their children with them. If possible, it's better to have moms and their children together. Having run foster care programs for 12 years prior to leading Renewal House, I say this with confidence."⁷⁰

Find out more about Renewal House at <http://renewalhouse.org>

Incarcerating Parents is Harmful

The ...feeling like you lost a part of one of your major organs in your body. Feeling like you lost somebody that you love so much, and you don't know when you will see them again. And you can't control when you will see them. All the stuff builds up and causes stress.

– Aniya, who was separated from two children while incarcerated

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.⁷¹ Having an incarcerated parent is classified as an ACE.⁷²

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

Most children of incarcerated mothers experience at least one change in caregiver while their mother is incarcerated. Two thirds of these children have at least one change in caregiver, and 1 in 10 children have two or more changes in caregiver.^{13 15} Separation from siblings is also traumatic.¹³

If children are separated from their primary caregivers 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.¹⁵

I remember her just not being there at all, and feeling like, where is my mother? Why is she not here? Does she want to go to jail? Does she not love me? It just made me question myself.

– Brittany, whose mother was incarcerated

Parental incarceration can lead to physical health problems for kids

Having an incarcerated parent is associated with physical health problems such as migraines, asthma, high cholesterol,^{73 74} HIV and AIDS,⁷⁴ and rating one's own health status as fair or poor.⁷⁴ Recent evidence suggests that ACEs cause immediate physical consequences such as chromosome damage and changes to the developing brain,⁷⁵ 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,^{26 28} and unfortunately, incarcerated parents then pass an ACE onto their children.^{42 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.^{76 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 problems¹³ such as depression,^{73 74 60} anxiety,⁷⁴ emotional withdrawal,⁶⁰ posttraumatic stress disorder (PTSD),⁷⁴ and feelings of guilt,¹³ embarrassment, and shame.^{60 15} Sometimes children feel so much shame about their incarcerated parent that they socially isolate themselves from friends.¹³ Self-esteem issues are common as well.^{73 60} Young children of incarcerated mothers may be slower than others to develop autonomy, independence, and a confident self-concept.¹³

Children tend to be traumatized by separation, and separation from an incarcerated parent can lead to abandonment issues⁶⁰ as well as an insecure attachment to the parent, which can put children at risk for developmental delays⁶⁰ and other mental health issues.⁴⁶ 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 caregivers as well.^{13 60}

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.^{13 73} ACEs are associated with unhealthy behaviors such as smoking, drinking heavily,⁷⁵ substance use disorder,²⁴ and sexually risky behaviors.^{24 75} ACEs increase the risk for depression, suicide, incarceration, poor educational and employment outcomes,⁷⁶ poverty,⁷⁶ and involvement in violence.^{24 75} These behaviors in turn can lead to higher chances for youth to be involved in the criminal legal system themselves.

She don't want to listen to anything that I say or try to tell her not to do or give her advice. She's always angry, she's a very angry child. And yeah, I think that [my incarceration] has a lot to do with that.

– Desiree, formerly incarcerated woman with a daughter

Highlighting Alternatives to Incarceration

Free Hearts

Free Hearts offers two evidence-based programs that could serve as an alternative to incarceration for primary caregivers: Parenting Inside Out and Moving On.

Parenting Inside Out (PIO) is a cognitive-behavioral parenting skills training program designed for people who are justice-involved through a six-year collaboration of scientists, policymakers, practitioners, and people who have been incarcerated. The curriculum includes communication, cooperation, problem-solving, monitoring, positive reinforcement, and non-violent discipline techniques. PIO promotes healthy child adjustment, prevents child problem behaviors, builds resilience in kids, and helps parents refine social skills and citizenship behaviors.

Parenting classes are the top prerequisite for families to reunite. In Nashville, there are few options; most are hard to reach and charge a fee. Free Hearts is centrally located, offers the course free of charge, and importantly the teacher is formerly incarcerated herself. Dawn Harrington, Executive Director of Free Hearts, states that while women are mandated to take this course, participants report that they learned a lot, and at home their children and families get something out of the skills, too; they have learned to listen and communicate and find different ways to relate to each other.

A National Institutes of Mental Health-funded evaluation found that at one year after release, PIO participants, when compared to a control group experienced reductions in self-reported criminal behavior (95% reduction), self-reported substance abuse (66% reduction), and rearrest (women had a 48% reduction; men had a 26% reduction). PIO is included on the Substance Abuse and Mental Health Services Administration's (SAMHSA) National Registry of Evidence-Based Programs and Practices.

Free Hearts evaluated their program and found that PIO participants had a 0% recidivism rate one-year post-incarceration, a 28% decrease in parenting stress, and up to a 25% increase in tangible social support. They also improved in problem solving, parenting, managing emotions, and in their relationships.

Moving On is a program for at-risk women, designed as an alternative to criminal activity by helping them identify and mobilize personal and community resources. Moving On is made up of six modules that include communications skills, healthy relationships, expressing emotions, and making connections and staying healthy.

Orbis Partners designed the Moving On curriculum to be gender-responsive, and was based on theory and research with women. Relational theory, motivational interviewing, and cognitive behavioral intervention influenced the curriculum.

Free Hearts' evaluation showed that Moving On participants had a 0% recidivism rate one year post-incarceration, which was 53% less than the population average of 47% recidivism. Participants also had a 23% decrease in PTSD symptoms and up to a 23% increase in social support.^{77 78 79}

Kids' behaviors impact school success

These issues can play out in school where students can display issues such as absenteeism, truancy, drop out,^{13 73} suspension, and expulsion.⁸⁰ 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.¹³ A different study found a 34% dropout rate for children of incarcerated parents compared to a 10% rate for their peers.¹³

Parental incarceration can lead to kids being placed in foster care

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

Children of incarcerated parents in foster care as well as those who are cared for by relatives face economic disadvantages, stigma, disruption of parent-child attachments, and unstable living arrangements.¹² In addition, once children are in foster care they have a reduced ability for visitation and risk of loss of maternal custody.⁸¹

In general, foster care is associated with a higher risk for mental health and behavioral problems⁸² which may result from disruptions in attachment relationships.⁸³ As adults, former foster youth have a higher risk of multiple chronic health conditions⁸⁴ such as hypertension, smoking, and asthma, as well as increased self-reported fair or poor general health and lack of insurance.⁸⁴ In a study examining health outcomes in young adults who were in foster care as youth, all of these conditions were found to be worse for former foster youth even as compared to adults who were economically insecure as youth but not in foster care.⁸⁴

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

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

Highlighting Alternatives to Incarceration

CEASE Domestic Violence and Sexual Assault

CEASE serves survivors of domestic violence and sexual assault in six counties in Central Tennessee (Claiborne, Grainger, Hamblen, Hancock, Hawkins, and Union Counties).

CEASE provides a full range of services. They have: a 24 hour crisis hotline for people experiencing domestic violence or sexual assault; two domestic violence shelters; counseling and support services; healthy relationships workshops; court advocacy; Sexual Assault Response Team services that respond to the hospital, provides counseling, and advocates for survivors; and a rapid rehousing program.

The shelters in Hamblen and the other in Claiborne counties have a total of 26 beds. CEASE recently expanded, opening offices in all 6 counties where people can access services, which has drastically increased the need for their services. For example, one rural county that had 16 people in one year on average saw an increase to 58 people in two months simply because the CEASE staff is now present in an office in the county. The shelters provide food, transportation, counseling, and anything that survivors need for 45 days, which can be extended if needed.

The CEASE Safe At Home program helps people with rapid rehousing if they are fleeing domestic violence, knowing that 92% of homeless women have experienced domestic assault in their lives, and 46% of people experiencing domestic violence stay because they have nowhere to go. Safe At Home helps women find housing by providing the first two months of rent and utilities, and the first three months of childcare.

Outreach Supervisor Sara Seale states that a large proportion of the people that CEASE serves are justice-involved; some because of domestic violence-related situations, some because they are drug-dependent, or other reasons.^{87 88}

Visit the CEASE website at <http://ceaseabuse.sitey.me>

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.⁷³ 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.¹³

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.⁴ Eighty-five percent of all arrests of mothers who have children in foster care occurred after placement of the child rather than prior.⁴

Most mothers and fathers in state and federal prisons are held over 100 miles from their homes.¹¹ Because there are fewer prisons for women, women are often placed even farther from their families than men.⁸¹ This distance, combined with the financial cost of visits for their children's foster or relative caregivers, hinder visits.^{81 89} In some cases, relative or foster caregivers for an incarcerated parent's children may also be unwilling to keep in touch with an incarcerated parent.⁸¹ As a result, the majority of parents in prison are not able to see their children frequently, if at all.⁸¹ Over half of incarcerated mothers have never had a visit from their children, and approximately one-third of mothers in prison have never even spoken with her children by phone while incarcerated.¹¹

Incarcerated fathers do not fare any better: one survey found that a third of incarcerated fathers had not seen their children since entering prison, and more than half had not seen their children in the prior six months.⁸⁹

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.⁹⁰

He would come to visit and they took the privilege of us touching away. He saw my face and his face lit up and he took off running towards me. If you touch, they cut the visit because they think you're smuggling drugs through your child. They stopped him, and his face just dropped. He was sad the entire visit and I just cried because I couldn't touch my baby

– Aniya, who was separated from two children while incarcerated

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.^{60 91}

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.⁸⁹ As a result, women in prison are five times more likely than men to report having children removed from their immediate families and placed in a foster home or other agency.¹¹ One review study found that parental rights were terminated in over 90% of cases in which the mother was incarcerated and 100% of cases in which both parents were incarcerated.¹²

Families and Communities Suffer When Parents Are Incarcerated

As discussed previously, grandmothers are the most common caregivers for children of incarcerated mothers, followed by other relatives.^{11 12} These family members who are willing to step in to raise these children help provide stable environments and continuity of family relationships that the children need. However, this responsibility can also cause financial hardships for the relative caregivers.¹³

This burden compounds existing financial burdens that the family is likely already facing because the parent is no longer earning wages at her or his job. When fathers are incarcerated, a family's income drops by an average of 22%.⁸⁰ When incarceration or other disruptions compromise a family's economic security, their housing security also suffers,⁹² 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.¹⁰ In addition, incarceration significantly reduces future opportunities for employment and income potential, thereby making it hard for these communities to recover.⁹³

Highlighting Alternatives to Incarceration

RISE (Responsibility. Initiative. Solution. Empowerment) is a Memphis-based nonprofit that empowers people to become self-sufficient by building and sustaining human and financial assets. They work to transform the financial well-being of low-income working people through four programs: Save Up, Common Cents, Goal Card, and Silver Neighbors. RISE has been helping people for 17 years.

Save Up is a 6-month program to help people save for purchasing assets and for the future. Save Up teaches budget creation, establishes a bank account, and helps get participants started on savings habits. Through establishing a savings account that requires monthly deposits with matching by RISE, participants have saved an average of \$3,086 in six months. Evaluations find that after the program, 92% still follow a budget, 92% have health insurance for all family members, 83% consider themselves in a better financial position and 83% continue to save money. Save Up also partners with other agencies to offer homebuyer workshops and microenterprise trainings.

Goal Card teaches public school students in grades 5 – 12 in zip codes 38126 and 38114 how to set and achieve academic, financial and life goals. Goal Card provides structured academic mentoring, support from adult volunteers, and students earn points for achievement which are redeemable for school supplies, gift cards, and small electronic items. Students can choose to bank points for bigger rewards. Goal Card students have a 90% graduation rate, outperform their peers in elementary and middle school, and all graduating seniors have gone on to enroll in post-secondary institutions.

Common Cents is a workplace financial education program that teaches banking, budgeting, debt management, spending strategies, and retirement planning. Classes are available to groups, nonprofits, businesses, and church groups. Employers who provide their hourly workers this financial literacy can increase productivity and decrease absenteeism.

Silver Neighbors is a program where trained volunteers go to senior centers, churches, and housing developments to educate seniors about scams, fraud, Medicare, life insurance products, budgeting, and benefits.

The 2015-2016 RISE Annual Report notes that people have saved up and purchased or improved homes, computers, vehicles, and others have used their savings to begin micro-enterprises or pay for tuition.^{94 95 96}

Visit the RISE website at <http://risememphis.org>

House Bill 0825 and Senate Bill 0919 Are a Healthier Approach to Sentencing Parents in Tennessee

Tennessee 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, Tennessee 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 House Bill 825 and Senate Bill 919 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 Caregivers 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. Tennessee 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, county jails, and Probation researchers to monitor and evaluate process and outcomes of implementation of this policy beyond the usual recidivism data points.
- ▶ **Involve those who have been directly impacted by parental incarceration in implementation and evaluation decisions.** Involving parents who have experienced incarceration and kids who have experienced a close family member incarcerated can ensure programming considers the needs of those most impacted.
- ▶ **Identify funding for implementation of the Primary Caregivers law and the programs that it allows.** While sentencing primary caregivers 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 caregivers.
- ▶ **Allocate programming resources to community-based alternatives instead of growing the criminal legal system.** As this report identifies, there are model programs in Tennessee that could serve as alternative sentencing options. Rather than operating programs through the Department of Corrections our county jails, 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 make them more likely to be successful.

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