

SENATE BILL 802

By Yager

AN ACT to amend Tennessee Code Annotated, Title 4;  
Title 8, Chapter 4, Part 1; Title 16, Chapter 22;  
Title 16, Chapter 3; Title 39; Title 40 and Title 41,  
relative to alternatives to incarceration.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act is known and may be cited as the "Tennessee Rebound Act."

SECTION 2. Tennessee Code Annotated, Title 40, Chapter 28, is amended by adding the following as a new part:

**40-28-701.** As used in this part, unless the context otherwise requires:

(1) "Baseline parole failure rate per district" means the average number of adult parolees returning to prison during calendar years 2022–2024, inclusive, as a percentage of the average adult parolee population during the same period per district, including those parolees returning to prison for a revocation of parole, parolees returning to prison for a conviction of a new offense, and parolees returning to prison for conviction of a new offense who simultaneously have their parole term terminated;

(2) "Baseline probation failure rate per district" means the average number of adult probationers returning to prison during calendar years 2022–2024, inclusive, as a percentage of the average adult probation population during the same period per district, including those probationers returning to prison for a revocation of probation, probationers returning to prison for a conviction of a new offense, and probationers returning to prison for conviction of a new offense who simultaneously have their probation term terminated;

(3) "Comparative performance data" means an estimate of the number of adult probationers and parolees, if any, each district successfully prevented from returning to

prison, calculated based on the reduction in the district's parole and probation failure rates, adjusted for changes in each district's adult probation and parole caseload in the most recent completed calendar year as compared to the district's adult probation and parole population during the calendar years 2022–2024, inclusive;

(4) "District" means a probation and parole district of the department of correction;

(5) "Evidence-based practices" means supervision policies, procedures, technology, programs, and practices demonstrated by scientific research to reduce recidivism among persons under probation, parole, or post-release supervision;

(6) "Marginal cost of incarceration" means the sum of all short-term variable costs associated with incarcerating a person in a Tennessee state facility that marginally change in proportion to the inmate population of a facility;

(7) "Returning to prison" means a fourteen-day or greater period of time spent detained;

(8) "Statewide baseline parole failure rate" means the average number of adult parolees returning to prison during calendar years 2022–2024, inclusive, as a percentage of the average adult parolee population during the same period, including those parolees returning to prison for a revocation of parole, parolees returning to prison for a conviction of a new offense, and parolees returning to prison for conviction of a new offense who simultaneously have their parole term terminated; and

(9) "Statewide baseline probation failure rate" means the average number of adult probationers returning to prison during calendar years 2022–2024, inclusive, as a percentage of the average adult probation population during the same period, including those probationers returning to prison for a revocation of probation, probationers

returning to prison for a conviction of a new offense, and probationers returning to prison for conviction of a new offense who simultaneously have their probation term terminated.

**40-28-702.** Allocation of funds.

(a) It is the intent of the general assembly that:

(1) All amounts allocated for purposes of implementing this part are to be appropriated to the department of correction, division of probation and parole field services, and the office of reentry services to administer for implementation of programs, as specified in this part;

(2) Funds must be transferred from the general fund to the department of correction, who, after making appropriate calculations pursuant to § 40-28-706(g), shall disburse funding to eligible districts and the office of reentry services for their use as follows:

(A) Fifty percent (50%) to the department of correction, office of reentry services, to be used for evidence-based practices and for use in fulfilling the reporting requirements required under this part;

(B) Twenty-five percent (25%) to the department of correction, division of probation and parole field services, to be used for evidence-based practices; and

(C) Twenty-five percent (25%) to the department of correction, division of probation and parole field services, to be used for bonuses for all officers within a given district that receives incentive funding;

(3) In any fiscal year in which a district receives money to be expended for the implementation of this part, the funds must be made available to the department of correction, within thirty (30) days of the deposit of those moneys, for the implementation of programs authorized by this part;

(4) The department of finance and administration, office of criminal justice programs, shall provide oversight periodically regarding the monetary allocation to the specific divisions tasked with administering funds to ensure that disbursed funds are being appropriately used as specified in this part; and

(5) Funds allocated pursuant to this part must be used to improve supervision, rehabilitative, and reentry services, which may include, but are not limited to, the following:

(A) Implementing and expanding evidence-based risk and needs assessments for individualized programming;

(B) Implementing and expanding graduated sanctions;

(C) Expanding the availability of evidence-based practices, including, but not limited to, drug and alcohol treatment, mental health treatment, anger management, cognitive behavior programs, and job training and employment services;

(D) Hiring additional officers, associates, or other personnel to supervise, oversee, and implement evidence-based practices;

(E) Giving bonuses to officers in districts that are awarded funds under this part; and

(F) Evaluating the effectiveness of evidence-based practices and ensuring program fidelity.

(b) The department of correction shall maintain a complete and accurate accounting of any and all funds received and disbursed pursuant to this part.

(c) The implementation of this section is subject to funding in the general appropriations act.

**40-28-703.** Outcome-based measures.

(a) The department of correction, division of probation and parole field services, shall define and track specific outcome-based measures.

(b) The outcome-based measures must include, but not be limited to, the following:

(1) The percentage of persons on probation and parole who are being supervised in accordance with evidence-based practices;

(2) The supervision policies, procedures, programs, and practices that are eliminated; and

(3) The percentage of persons on probation and parole who successfully complete the period of supervision.

(c) Funds received by the department of correction, division of probation and parole field services, must be accounted for in an annual written report to the chairs of the judiciary committees of the house of representatives and the senate.

(d) The department of correction shall evaluate the effectiveness of the program.

**40-28-704. Data collection requirements.**

(a) After the conclusion of each calendar year beginning January 1, 2022, the department of correction, division of probation and parole field services, shall gather data to calculate the following:

(1) The probation failure rate per district;

(2) The statewide probation failure rate;

(3) The parole failure rate per district;

(4) The statewide parole failure rate; and

(5) The current total population of probationers and parolees per district as of the date of the required report.

(b) After the conclusion of the calendar year beginning January 1, 2025, the department of correction, division of probation and parole field services, shall gather data to calculate the following:

- (1) The baseline probation failure rate per district;
- (2) The baseline statewide probation failure rate;
- (3) The baseline parole failure rate per district; and
- (4) The baseline statewide parole failure rate per district.

(c) After the conclusion of each calendar year beginning January 1, 2025, the department of correction, division of probation and parole field services, shall gather data to calculate the following for that calendar year:

- (1) Comparative performance data;
- (2) The historical failure rate for the last three (3) years per district; and
- (3) The statewide historical failure rate for the last three (3) years.

(d) If data of sufficient quality and of the types required for the implementation of this part are not available, then the department of correction shall use the best available data to estimate probation and parole failure reduction rates utilizing a methodology that is as consistent with that described in this part as is reasonably possible.

**40-28-705.** Marginal cost of incarceration.

(a) After the conclusion of each calendar year beginning January 1, 2022, the department of correction shall calculate the marginal cost of incarceration for prison for that calendar year.

(b) The calculation described in subsection (a) must take into consideration factors, including, but not limited to, the average length of stay in prison for persons returning to prison from probation or parole and variable corrections costs, such as healthcare services, food, and clothing.

(c) If a person on parole or probation spends less than fourteen (14) days in detention, that person's detention will not apply to calculations outlined within this part.

**40-28-706. Reinvestment payments.**

(a) It is the intent of the general assembly that:

(1) Beginning January 1, 2026, the department of finance and administration, office of criminal justice programs, in consultation with the department of correction, shall calculate a reinvestment payment for the department of correction and a probation and parole failure reduction incentive payment for each district that has successfully improved outcomes based on comparative performance data for the most recently completed calendar year;

(2) The total reinvestment payment to the department of correction must equal the total number of probationers and parolees successfully prevented from returning to prison compared to the statewide baseline probation and parole failure rates multiplied by twenty-five percent (25%) of the marginal cost of incarceration for a person returning to prison;

(3) The funds must be directed primarily to the department of correction, office of reentry services, but may also be used, to the extent necessary, to fulfill reporting requirements pursuant to § 40-28-707;

(4) The total reinvestment payment amount must be deposited into a special account in the general fund and then allocated to the department of correction;

(5) Each district eligible for incentive funding, based on positive comparative performance data, must be included in the incentive funding calculation described in subdivision (a)(6). Any district that does not have

positive comparative performance data is excluded from the incentive funding calculation;

(6) The incentive payment for each eligible district is equal to the number of probationers and parolees successfully prevented from returning to prison in that district compared to the district-specific historical baselines, multiplied by twenty-five percent (25%) of the marginal cost of incarceration for a person returning to prison;

(7) The calculation described in subdivision (a)(6) must be done for each district, and then added together. The total incentive funding amount is to be deposited into a special account in the general fund and then allocated to the department of correction; and

(8) The department of correction, division of probation and parole field services, shall proportionately disburse the district incentive funds as probation and parole failure reduction incentive payments to each eligible district based on the calculation in subdivision (a)(6).

(b) The implementation of this section is subject to funding in the general appropriations act.

**40-28-707. Reporting.**

(a) Commencing no later than eighteen (18) months following the initial receipt of funding pursuant to this part, and annually thereafter, the department of correction shall submit to the governor, the chair of the judiciary committee of the senate, and the chair of the criminal justice committee of the house of representatives a comprehensive report on the implementation of this part.

(b) The report must include, but is not limited to, the following information:



(1) The percentage of adult probationers and parolees whose supervision was revoked for the year on which the report is being made;

(2) The percentage of probationers and parolees who were convicted of offenses during their term of supervision for the year on which the report is being made;

(3) The number of probationers and parolees whose supervision was revoked solely for a violation of the terms of probation or parole, and the number of probationers and parolees whose supervision was revoked because of the commission of a new offense;

(4) The effectiveness of programs based on the reports of outcome-based measures pursuant to § 40-28-703;

(5) The impact of the funds appropriated pursuant to this part; and

(6) Any recommendations regarding resource allocations or additional collaboration with other state, regional, federal, or local entities for improvements to this part.

**40-28-708. Appropriations.**

It is the intent of the general assembly that:

(1) The total funds earned as a result of improved outcomes in the department of correction each year be included and reflected in the budget the following year; and

(2) Funds allocated pursuant to this part be used to supplement, not supplant, any other state or district appropriation for the supervisory probation or parole agent or the probation or parole department.

SECTION 3. This act is not an appropriation of funds, and funds shall not be obligated or expended pursuant to this act unless the funds are specifically appropriated by the general appropriations act.

SECTION 4. The headings to sections in this act are for reference purposes only and do not constitute a part of the law enacted by this act. However, The Tennessee Code Commission is requested to include the headings in any compilation or publication containing this act.

SECTION 5. This act takes effect upon becoming a law, the public welfare requiring it.