

12-270. Probation success incentive payments and grants; baseline calculations; annual reports; definitions

A. The administrative office of the courts, in consultation with each county's adult probation department, shall calculate a county probation success incentive payment for each county for the most recently completed fiscal year. Each county's probation success incentive payment equals the number of probationers successfully prevented from entering prison, compared to the county-specific historical baselines calculated in subsection G, paragraph 1 of this section multiplied by fifty percent of the marginal cost of incarceration as required by subsection F of this section. The administrative office of the courts shall calculate a statewide probation success incentive grant payment that equals the number of probationers successfully prevented from entering prison statewide, compared to the statewide historical baseline calculated in subsection G, paragraph 1 of this section multiplied by twenty-five percent of the marginal cost of incarceration as required by subsection F of this section. Subject to legislative appropriation, the administrative office of the courts shall proportionately allocate the county probation success incentive payments to each county based on the specific calculations made pursuant to subsection G of this section. Subject to legislative appropriation, the administrative office of the courts shall deposit the statewide probation success incentive grant payment in a subaccount established by the administrative office of the courts for the purpose of recidivism reduction and improving probation services.

B. Each county shall use its probation success incentive payment and any monies received from a statewide probation success incentive grant to improve supervision and rehabilitative services for probationers, including any of the following:

1. Implementing and expanding evidence-based practices for risk and needs assessments for individualized programming.
2. Implementing and expanding intermediate sanctions, including mandatory community restitution, home detention, day reporting, restorative justice programs and work furlough programs.
3. Expanding the availability of evidence-based practices for rehabilitation programs, including drug and alcohol treatment, mental health treatment, anger management, cognitive behavior programs and job training and employment services.
4. Recognizing and rewarding probation officers in adult probation departments whose work has advanced the implementation of evidence-based practices or who have contributed to the probation department's recidivism reduction efforts.
5. Paying for continuing education and training that focuses on evidence-based practices for probation officers or probation staff, or both.
6. Evaluating the effectiveness of rehabilitation and supervision programs and ensuring program fidelity.

C. The administrative office of the courts shall allocate county probation success incentive payments to each county for distribution to the county's adult probation department to implement the programs prescribed in subsection B of this section. A board that includes the chief probation officer from each county shall determine the distribution of statewide probation success incentive grant monies. A county's chief probation officer must be recused in a vote that may award a grant to the chief probation officer's probation department. The county and statewide probation success incentive payments allocated pursuant to this section shall be used to supplement, not supplant, any other state or county appropriation for the adult probation department.

D. For any county or statewide probation success incentive payments allocated or grants awarded to a county, the county shall distribute the allocated monies to its adult probation department, which must use the monies for improving probation services and recidivism reduction funding activities prescribed in subsection B of this section. In the county's discretion, the county may retain up to fifteen percent of the allocated monies for administrative and data collection purposes.

E. In any fiscal year in which a county receives incentive payments or grants, the monies shall be made available to the county's adult probation department to implement probation programming within sixty days after the allocation of those monies. The county adult probation department shall maintain a complete and accurate accounting of all monies received pursuant to this section.

F. At the end of each fiscal year, the director of the state department of corrections shall calculate the marginal cost of incarceration for that fiscal year and provide that information to the administrative office of the courts. The calculation shall take into consideration factors such as the average length of stay in prison and variable corrections costs, including health care services, food and clothing.

G. At the end of each fiscal year, the administrative office of the courts shall gather data on, calculate and report the following for each fiscal year:

1. The probation failure rate for this state and each county. To make this calculation, the baseline probation failure rate equals the average number of adult probationers who failed to successfully complete a term of probation during fiscal years 2007-2008, 2014-2015 and 2018-2019, as a percentage of the average number of probationers who successfully completed a term of probation during that same time period. When calculating probation failure, if a person on probation spends fewer than fourteen days in detention, that person's detention is not a probation failure. For the purposes of calculating the probation failure rate and the baseline probation failure rate, the number of adult probationers who failed to successfully complete a term of probation includes the following:

(a) A probationer whose probation was revoked for a new crime or technical violation.

(b) A probationer whose whereabouts are unknown and for whom an arrest warrant was issued during the fiscal year.

(c) A probationer whose probation is terminated on serving a sentence in a county jail in lieu of probation revocation for a new crime or technical violation.

2. An estimate of the number of adult probationers this state and each county successfully prevented from failing probation. This estimate is calculated based on the reduction in the probation failure rate as calculated annually pursuant to the baseline probation failure rate calculated pursuant to paragraph 1 of this subsection. In making this estimate, the administrative office of the courts, in consultation with the adult probation department, shall adjust the calculations to account for changes in the adult probation caseload in the most recent completed fiscal year as compared to the adult probation population during fiscal years 2007-2008, 2014-2015 and 2018-2019.

3. The current total population of probationers for the last three years per county as of the date of the required report.

H. If data of sufficient quality and of the types required by this section are not available, the administrative office of the courts shall use the best available data to estimate probation success rates using a methodology that is as consistent with that described in this section as is reasonably possible.

I. The administrative office of the courts shall include an estimate of the total monies to be held and administered in the following fiscal year as part of the judiciary's proposed budget.

J. Each county board of supervisors shall periodically provide oversight regarding the allocation of incentive payment grants to the specific departments that are tasked with administering the probation programming to ensure that disbursed monies are appropriately used as specified in subsection B of this section.

K. Each adult probation department shall define and track specific outcome-based measures, including all of the following:

1. The percentage of probationers who are supervised in accordance with evidence-based practices.

2. The specific supervision policies, procedures, programs and practices that were eliminated.
3. The percentage of probationers who successfully complete the period of supervision.
4. The number of probation absconders who are located each year and the disposition of these cases.
5. The amount of monies received by each adult probation department.

L. On or before December 31, 2022 and annually thereafter, each adult probation department that receives incentive payments or grants pursuant to this section shall submit a written report to the administrative office of the courts and the county board of supervisors that accounts for incentive payments received and grants awarded and that evaluates the effectiveness of the program.

M. On or before July 1, 2023 and annually thereafter, the administrative office of the courts shall submit to the governor, the speaker of the house of representatives, the president of the senate and the joint legislative budget committee a comprehensive report on the implementation of this section. The report must include all of the following information:

1. The effectiveness of programs based on the reports of performance-based outcome measures required in subsection K of this section.
2. The percentage of adult probationers whose supervision was revoked for the year that the report is being made.
3. The percentage of probationers who were convicted of criminal offenses during the probationer's term of supervision for the year that the report is being made.
4. The impact of the incentive payments allocated pursuant to this section to enhance public safety by:
 - (a) Reducing the percentage and the number of probationers whose supervision was revoked for the year the report is being made for violations or new convictions.
 - (b) Reducing the number of probationers who return to prison or jail or who abscond from probation for the year that the report is being made.
5. Any recommendations regarding resource allocations or additional collaboration with other state, regional, federal or local entities for improvements made pursuant to this section.
6. The number of probationers whose supervision was revoked solely for a violation of the terms of probation and the number of probationers whose supervision was revoked because of the commission of a new offense.

N. For the purposes of this section:

1. "Baseline probation failure rate" means the average of the probation failure rates for fiscal years 2007-2008, 2014-2015 and 2018-2019. Each fiscal year's failure rate is the quotient of the number of persons on probation who failed to successfully complete the person's term of probation that is divided by the total number of persons on probation and that is calculated on a statewide basis and for each county.
2. "Evidence-based practices" means supervision policies, procedures, programs and practices demonstrated by scientific research to reduce recidivism among persons on probation.
3. "Marginal cost of incarceration" means the sum of all short-term variable costs associated with incarcerating a person in a state department of corrections facility and includes only those correctional costs that marginally change in proportion to the inmate population of a facility.

4. "Probation programming" means all programs established pursuant to title 13, chapter 9 and consists of a system of probation supervision services dedicated to all of the following goals:

- (a) Enhancing public safety through managing and reducing offender risk while a probationer is under supervision and on reentry from prison into the community.
- (b) Providing a range of supervision tools, sanctions and services that are applied to probationers based on a risk or needs assessment, or both, to reduce criminal conduct and promote individualized behavioral change that results in reducing recidivism and promoting successful reintegration into the community.
- (c) Maximizing offender restitution, reconciliation and restorative services to crime victims, when applicable.
- (d) Holding probationers accountable for successful compliance with applicable court orders and conditions of probation.
- (e) Improving public safety outcomes for a person who is placed on probation after an offense, as measured by the person's successful completion of probation and commensurate reduction in the rate of probationers returning to prison as a result of a revocation or conviction of a new offense.