

# 2023 Public Safety Agenda for Newly Elected State Legislators



## INTRODUCTION

State legislators play a major role in protecting our communities through public safety legislation. In this last election, we saw voters overwhelmingly support candidates who support safe and smart criminal justice reform efforts. To help assist newly elected legislators in their public safety agendas this year—or to help seasoned legislators to strengthen their bipartisan criminal justice work—we have provided information on key public safety legislation found to be successful in other states and explain why that legislation should matter in all states. These legislative actions generally foster bipartisan support because they focus on smart criminal justice system changes that are fiscally responsible, uphold fundamental rights and maintain public safety.

## AGENDA ITEMS

### RAISE THE FLOOR: Raising the age of the prosecution of children

- ❓ **Why:** Over the last several years, a growing body of [research](#) has shed light on adolescent brain development and how it affects criminal behavior. Research has also highlighted how the arrest and prosecution of young children causes [trauma](#) and can increase the chance of criminality in the future. Increasing the age of prosecution of children brings statutes up to date with science and creates a more effective response.
- ✔ **Benefit:** By raising the age of prosecution of children, parents and communities can provide an [age-appropriate response](#) to delinquent behavior, thereby eliminating the stigmas and collateral consequences of a child in the justice system.
- 📌 **Take note:** Without a juvenile justice system to intervene when a child commits a delinquent act, legislation must identify other resources to fill that gap. Further, victims' rights—such as notification, engagement and access to funding—should be codified.
- 🌟 **Where states stand:** Currently, [many states](#) do not have a minimum age for the prosecution of children. Other states have a very low age set. Following science, a recent trend has started to raise the age to 13 (states such as [Utah](#) and [Delaware](#) are examples).

## BAIL SYSTEM CHANGES:

Moving away from reliance on a cash bail system

- ? **Why:** Under a [cash bail system](#), which requires defendants to pay money to be released pending trial, low-level, low-risk offenders may be using up government resources because they cannot procure even low bail amounts to be released. Meanwhile, the court may release violent and high-risk offenders when they have access to personal or family funds to pay high bail amounts. Pretrial detention should be based solely on an individual's willingness to show up for court and whether they are a risk to society, not their ability to pay. Changes to our system are necessary to increase public safety and address fairness.
- ✓ **Benefit:** Even one night in jail can jeopardize a person's employment, housing or custody of their children. These significant consequences to individuals who are to be presumed innocent before trial can result in a [higher likelihood](#) of future criminality by the individual. Increasing the use of pretrial release for low-level offenders while strengthening options for addressing public safety with high-risk offenders creates a more just and protective system.
- 👤 **Take note:** The ability to assess [dangerousness](#) accurately and impose preventive detention is necessary to continue to uphold public safety under a nonmonetary bail system. Further, [safety tools](#) such as pretrial risk assessments, pretrial services and electronic monitoring are key.
- 📍 **Where states stand:** While no state has implemented a completely nonmonetary bail system, [Illinois](#) passed legislation—which was supposed to be implemented this year—that would make it the first state to eliminate cash bail completely. However, other locations, such as [New Jersey](#) and [Washington, D.C.](#), have effectively created a noncash bail system for most crimes. Unfortunately, even though New Jersey's new system has already shown promising results—including lower jail populations and declining crime rates—there are efforts to [roll back](#) their bail laws.

## CLEAN SLATE:

Automatically sealing certain convictions to give offenders a second chance in society

- ? **Why:** [Individuals](#) with a criminal record, even those with minor offenses only, often struggle to find a job, obtain housing or access funds to get an education. The majority of employers, landlords and colleges use background checks to screen applicants, which exacerbates this issue. The harm isn't only to the individual; some estimates show that excluding this population from the employee market costs the U.S. economy [\\$87 billion annually](#).
- ✓ **Benefit:** Record sealing can significantly [increase](#) employment opportunities and an individual's economic situation. Further [research](#) shows that helping formerly incarcerated individuals gain meaningful employment is one of the best ways to reduce recidivism.
- 👤 **Take note:** To [mitigate](#) public safety concerns, legislation should contain exclusionary criteria making certain high-risk offenses ineligible for sealing, such as sex or terrorist-related offenses. Similarly, records should remain available to conduct background checks related to employment with law enforcement, firearms dealings, government positions requiring national security or other high-risk, public-trust positions.
- 📍 **Where states stand:** In [2022](#), Oklahoma, California and Colorado passed clean slate laws, joining seven other states. In [2023](#), states such as [Missouri](#), have already filed legislation for similar laws, and several other states, such as [Texas](#) and [North Carolina](#), have formalized efforts to move clean slate legislation forward in [2023](#).

FOR  
ADDITIONAL  
SUPPORT

— If you need help with additional research around these issues, taking the next step to push forward legislation or any related matters, please reach out.

Lisel Petis is a former prosecutor and victim advocate and is a resident senior fellow for Criminal Justice and Civil Liberties at the R Street Institute. Petis can be reached at [lpetis@rstreet.org](mailto:lpetis@rstreet.org).