

## **Supporting Families, Reducing Incarceration: A Guide to Oregon's Family Sentencing Alternative Pilot (FSAP) Program**

Each year, U.S. prisons and jails admit approximately 58,000 pregnant people in facilities lacking adequate reproductive and pregnancy care.<sup>1</sup> As a result, one in 10 pregnant people admitted to prisons across the country does not receive critical medical exams, and only half of incarcerated pregnant people receive adequate prenatal care.<sup>2</sup> This frequently leads to transfers to community-based providers and medical facilities for labor and delivery, often using handcuffs, leg irons, and waist chains, creating unsafe and traumatic experiences.<sup>3</sup> After childbirth, most incarcerated people have just 24 hours with their infant before returning to prison, often resulting in the infant entering foster care or being placed with relatives.<sup>4</sup>

Incarceration deeply affects parents and their families. Nearly half of people in state and federal prisons are parents, with 47 percent of men and 58 percent of women having at least one minor child.<sup>5</sup> This separation disrupts family bonds and often leads to children being placed in foster care or other unstable living situations.<sup>6</sup> Community-based alternatives to incarceration (ATI) programs like Oregon's Family Sentencing Alternative Pilot (FSAP) program can help keep families together, reduce harm, and improve outcomes for both parents and children, breaking cycles of trauma and promoting long-term family stability.

### **What is Oregon's FSAP program?**

FSAP helps keep Oregon families together by diverting eligible caretakers from incarceration into community-based programs focused on supervision, treatment, and family-centered support. Established in 2015 through House Bill 3503, FSAP is a partnership between the Oregon Department of Corrections (DOC) and the Oregon Department of Human Services (ODHS). It currently operates in five counties.<sup>7</sup>

FSAP allows pregnant people and the custodial parents and legal guardians of minors the opportunity to serve their sentences in the community instead of behind bars. In addition to supervision by Community Corrections, participants may be required to meet additional program conditions, such as vocational training, parenting skills classes, substance use treatment, mental health support, and life skills courses.<sup>8</sup> A 2021 study by the Oregon Criminal Justice Commission found that FSAP is effective in reducing recidivism and helps lower state spending on incarceration and foster care.<sup>9</sup>

The program has been praised by organizations across the political spectrum, including Right on Crime, the ACLU of Oregon, Ecumenical Ministries of Oregon, and Forward Together.<sup>10</sup>

### **What impact does incarcerating caregivers have on families?**

The consequences of incarcerating caregivers and pregnant people are devastating and widely felt by parents and children. In the United States, more than 2.7 million children have a parent who is incarcerated.<sup>11</sup> Having a parent behind bars often means losing crucial financial and emotional support.<sup>12</sup> Nearly two-thirds of families with an incarcerated family member struggle to cover basic living expenses.<sup>13</sup> In fact, the Public Health Association considers having an incarcerated parent an adverse childhood experience (ACE), meaning that it can impact the development of children and lead to long-term negative effects on health and wellbeing.<sup>14</sup> Incarceration can be cyclical, undermining community safety and stability: a report found that 32 percent of incarcerated parents had an incarcerated parent of their own.<sup>15</sup> For caregivers, separation can also be psychologically traumatizing.<sup>16</sup>

## What are the benefits of alternatives to incarceration for pregnant people and caregivers?

Research shows that formerly incarcerated people with strong family connections are less likely to re-offend and have better mental health.<sup>17</sup> Programs like Oregon's FSAP help reduce recidivism and by keeping families together, increase the likelihood of a stable, supportive environment for children.<sup>18</sup>

Advocates and policymakers are increasingly recognizing the benefits of community-based sentences over incarceration. ATI programs including FSAP reduce recidivism, lower costs, promote public safety, and mitigate the collateral consequences of incarceration.<sup>19</sup> Research shows that participation in diversion programs can reduce the likelihood of future convictions by 48 percent within 10 years and improve employment outcomes by 53 percent during the same period, helping keep people and communities safer.<sup>20</sup>

## What are the key elements of an effective ATI?

ATI programs reduce contact with the criminal legal system by redirecting eligible people from arrest, prosecution, and/or incarceration. While FSAP takes place at sentencing, ATIs can take place at various stages of the criminal justice process. They are designed to build safety by addressing issues that drive incarceration like housing insecurity, unemployment, substance use disorder, and mental health needs.<sup>21</sup>

The Family-Based Justice Center supports states, communities, local courts, governments, and federally recognized tribes in developing family-based ATI programs.<sup>22</sup> It has played a key role in developing best practices and model programs for jurisdictions interested in implementing initiatives to support caregivers and their families. As outlined by the Center, key elements of successful diversion programs for caregivers and families include:

1. **Centered on families:** Programs must address the needs of entire families, not just individuals. Definitions of "caregiver" should be inclusive of parents, noncustodial parents (a parent who does not have primary physical custody of their child), grandparents, siblings, and extended-family members.
2. **Fairness:** Programs must offer fair treatment, open eligibility criteria, and chances for support at every step of the criminal justice process. Data collection should measure community demographics to ensure inclusiveness.
3. **Healing:** Services should include parenting classes, mental health support, tutoring, and extracurricular activities. Programs should be "trauma-informed, gender-responsive, and culturally appropriate."
4. **Collaboration:** Programs should involve a wide range of stakeholders, including justice system partners like departments of corrections, prosecutors, and probation officers; community organizations; and formerly incarcerated people.
5. **Commitment:** Stakeholders must commit to continuous improvement, addressing biases, and ensuring that programs stabilize and strengthen families without causing harm.<sup>23</sup>

## What are some examples of family-based ATI programs?

Some examples of such programs include:

- **Colorado (2023):** "Rebuttable presumption" legislation prioritizes alternatives for pregnant or postpartum defendants. Under this legislation, if the court pursues detention or incarceration, it must justify the decision on record.<sup>24</sup>
- **Minnesota (2021):** The Healthy Start Act allows for the conditional release of pregnant or recently postpartum incarcerated people for rehabilitation efforts.<sup>25</sup>
- **Washington (2010):** The Family and Offender Sentencing Alternative (FOSA) program, in place across several counties, "allows judges to waive a sentence for eligible persons and impose 12 months of community supervision along with conditions for treatment and programming."<sup>26</sup>
- **County level programs:** Various counties across the United States are tackling diversion at the local level, including initiatives like ReMerge in Oklahoma County and the Maternal Health Program in Los Angeles County.<sup>27</sup>

## What does Oregon House Bill 2555 do?

After nearly a decade of operation, FSAP is still classified as a pilot program, and individual counties must opt in to participate. Recognizing the success of this pilot, the new bill would enable more people to access FSAP, make FSAP a permanent program, and expand eligibility criteria.<sup>28</sup> This new piece of legislation builds on lessons learned from the pilot and aims to address challenges such as low enrollment, underrepresentation of people of color, limited father participation, and limited availability in select counties.

## How much more cost-effective is FSAP than incarceration?

Diversion programs like FSAP are significantly more cost-effective than incarceration. In Oregon, supervising one person costs DOC just \$14 per day, compared to \$174 for incarceration.<sup>29</sup> Beyond these immediate savings, diversion programs also reduce long-term costs by lowering recidivism rates; decreasing long-term justice system expenses like law enforcement, court operations, and supervision costs; and supporting rehabilitation.<sup>30</sup>

## How does FSAP impact cost savings related to foster care?

In Oregon, nearly 80 percent of incarcerated women are mothers, and while state-specific data is unavailable, national figures show that up to 10 percent of incarcerated mothers have children placed in foster care.<sup>31</sup> FSAP substantially reduces foster care costs in Oregon. Children of FSAP participants spend an average of two years in foster care, compared to three years for children of incarcerated parents statewide.<sup>32</sup>

## How does FSAP help with Oregon's initiative to improve maternal and childhood outcomes?

In Oregon, an estimated 70,000 children have at least one incarcerated parent, with the impacts of incarceration disproportionately affecting children of color and those in poverty.<sup>33</sup>

In 2023, Oregon invested \$1 million in the Oregon Perinatal Collaborative (OPC).<sup>34</sup> The OPC focuses on creating a safer and healthier environment for pregnant and postpartum people and their babies, with an emphasis on improving health equity for Black and Indigenous people, who are at greater risk of preventable illnesses, injuries, and deaths.<sup>35</sup> FSAP supports these efforts by allowing pregnant people to remain at home, ensuring a healthy pregnancy and a strong start for their babies.

## Endnotes

- <sup>1</sup> Leah Wang, *Unsupportive Environments and Limited Policies: Pregnancy, Postpartum, and Birth During Incarceration* (Northampton, MA: Prison Policy Initiative, 2021), [https://www.prisonpolicy.org/blog/2021/08/19/pregnancy\\_studies](https://www.prisonpolicy.org/blog/2021/08/19/pregnancy_studies).
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- <sup>3</sup> As of 2022, 39 states have passed anti-shackling laws banning the use of restraints during labor and delivery, and some during other points of pregnancy and postpartum. However, these laws have exceptions for “legitimate” security concerns, and implementation of these laws varies. See Camille Kramer, Karena Thomas, Ankita Patil, Crystal M. Hayes, and Carolyn B. Sufrin, “Shackling and Pregnancy Care Policies in US Prisons and Jails,” *Maternal and Child Health Journal* 27, no. 1 (2023): 186–96, <https://doi.org/10.1007/s10995-022-03526-y>.
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- <sup>8</sup> *Ibid.*, 3.
- <sup>9</sup> *Ibid.*, 5-6.
- <sup>10</sup> Ross Jackson and Nikki Pressley, *Caregiver Mitigation and Diversion Programs: A Family-Centered Alternative to Incarceration* (Austin, TX: Right on Crime, 2024), 3, [https://rightoncrime.com/wp-content/uploads/2024/08/2024-08-ROC-Caregiver-Mitigation-Diversion-Programs-JacksonPressley\\_FINAL.pdf](https://rightoncrime.com/wp-content/uploads/2024/08/2024-08-ROC-Caregiver-Mitigation-Diversion-Programs-JacksonPressley_FINAL.pdf); Kimberly McCullough, *Testimony of Kimberly McCullough, Policy Director, In Support of HB 3078* (Portland, OR: American Civil Liberties Union of Oregon, 2017), [https://www.aclu-or.org/sites/default/files/field\\_documents/041217\\_hb\\_3078\\_aclu\\_or.pdf](https://www.aclu-or.org/sites/default/files/field_documents/041217_hb_3078_aclu_or.pdf); Britt Conroy, *Statement in Support for HB 3078, the Safety and Savings Act* (Portland, OR: Ecumenical Ministries of Oregon, 2017), <https://olis.oregonlegislature.gov/liz/2017R1/Downloads/CommitteeMeetingDocument/130879>; and Partnership for Safety and Justice, *We Support HB 3503: Strong Families, Safe Communities* (Portland, OR: Partnership for Safety and Justice, 2015), <https://olis.oregonlegislature.gov/liz/2015R1/Downloads/CommitteeMeetingDocument/78552>.
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- <sup>27</sup> ReMerge, "About Us," accessed February 11, 2025, <https://www.remergeok.org/about-us>; and Los Angeles County Health Services, Office of Diversion and Reentry, "Maternal Health," accessed February 11, 2025, <https://dhs.lacounty.gov/office-of-diversion-and-reentry/our-services/office-of-diversion-and-reentry/maternal-health-2>.

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