

DECEMBER 2020

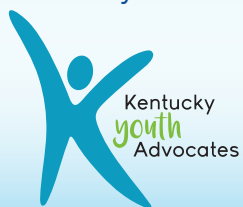


# BLUEPRINT *for* KENTUCKY'S CHILDREN

## ISSUE BRIEF SERIES

*The Blueprint for Kentucky's Children is a coalition of non-profit, public, and private organizations that stands on three pillars: thriving communities launch strong families, strong families launch successful kids, and successful kids launch a prosperous future for Kentucky. As the commonwealth works to overcome the impacts of the COVID-19 pandemic and address systemic racism, the Blueprint speaks with a common voice to create brighter futures for all Kentucky kids and their families.*

For more information, contact:  
Cortney Downs



[cdowns@kyyouth.org](mailto:cdowns@kyyouth.org)

To learn more about the Blueprint for Kentucky's Children and current legislative priorities, visit [kyyouth.org/blueprintky](http://kyyouth.org/blueprintky)

## Data Trends and Policy Recommendations to Address the Impact of Maternal Incarceration on Kentucky's Children

Children thrive when they have stability and healthy relationships with the caring adults in their lives. Yet for too many children throughout Kentucky, the disruption of having a parent incarcerated creates challenges that impact every aspect of their well-being. Kentucky's persistently high rate of children impacted by parental incarceration urges close scrutiny of current policies and practices to identify ways to reduce the impact and restore opportunity for all Kentucky children to thrive.

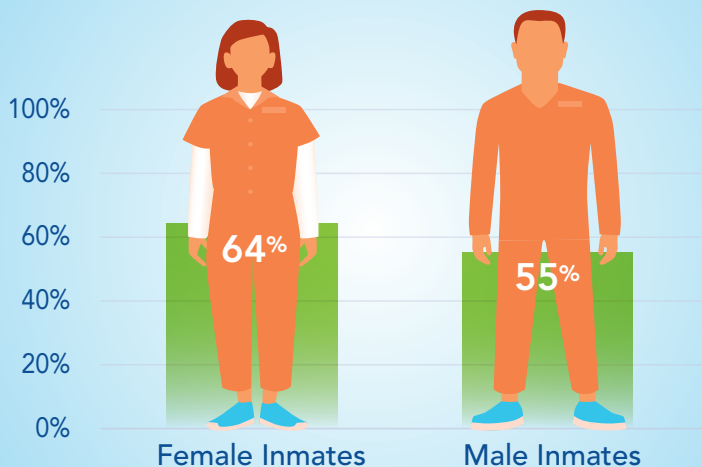
In Kentucky, an estimated 12 percent of children have experienced having a parent incarcerated. Kentucky ranks 3rd highest in the nation, and Kentucky's rate is substantially higher than the rate for the United States as a whole, 7 percent.<sup>1</sup>

Kentucky data on adults in state custody show that in December 2019 more than

half (56 percent) were parents, and more than 29,000 children had a parent in state custody at that time. While fewer women are incarcerated than men, the number of women incarcerated has grown at an alarming pace in Kentucky in recent decades. Among those in state custody at Kentucky prisons and jails, women are more likely to be parents, at 64 percent, compared to 55 percent of men.<sup>2</sup>

**"While fewer women are incarcerated than men, the number of women incarcerated has grown at an alarming pace in Kentucky in recent decades."**

### Kentuckians in State Custody Who are Parents, December 2019



Source: Kentucky Department of Corrections.



## DATA TRENDS AND POLICY RECOMMENDATIONS TO ADDRESS THE IMPACT OF MATERNAL INCARCERATION ON KENTUCKY'S CHILDREN

Several factors drive differences in how Kentucky children experience parental incarceration. For children of color, long-standing structural racism in criminal justice policies and practices have resulted in higher rates of incarceration of people of color, especially Black men. In rural areas, the rates of women incarcerated and parents incarcerated outpace the more urban parts of the state. No matter the causes, Kentucky children will fare better if parents can be held accountable with community-based support rather than incarceration and if children receive help navigating the challenge of having a parent incarcerated.

**"Parental incarceration not only impacts the adults who are incarcerated but can also harm children in the long-term if their needs are not appropriately addressed..."**

### Impacts of Parental Incarceration

#### *Disruption and Trauma for Kids*

Parental incarceration not only impacts the adults who are incarcerated but can also harm children in the long-term if their needs are not appropriately addressed as they are suddenly separated from their parent. Children often experience adverse outcomes related to academics, behavior, and physical and mental health; this includes acting out, earning low grades in school, and being more likely to be diagnosed with chronic diseases such as asthma, among other outcomes.<sup>3</sup> For children, the experience can be traumatizing. Beyond the trauma of the physical absence of the parent, watching the police come to their home or seeing their parent appear in court can also be traumatizing.<sup>4</sup> Parental incarceration is an adverse childhood experience (ACE); the accumulation of ACEs makes children more likely to experience negative outcomes in the short- and long-term such as increased rates of chronic health conditions, disability, and early death.<sup>5</sup>

**"When mothers are incarcerated, children are more likely to experience instability."**

The impacts of parental incarceration can vary depending on whether the mother or father is incarcerated. Some of the common impacts of paternal incarceration include increased risk of homelessness, behavioral issues in children, and children repeating grades in school.<sup>6</sup> When mothers are incarcerated, children are more likely to experience instability.<sup>7</sup> Prior to incarceration, children are more likely to have lived with their mother and often experience new living arrangements such as with family, friends, or foster care.<sup>8</sup> Ultimately, the impacts of parental incarceration are especially disruptive when a mother is incarcerated.<sup>9</sup>

**"Even a relatively brief period of incarceration can result in loss of a job."**

#### *Instability for families*

Having a parent or caregiver incarcerated can create family instability and result in extreme financial hardships, especially if the incarcerated parent was the primary income earner for the family.<sup>10</sup> Even a relatively brief period of incarceration can result in loss of a job. Research suggests that financial hardships are exacerbated for many families, as court fees and fines, prison and jail phone calls, and restitution add up, leaving many families with an additional financial burden.<sup>11</sup>

Parental incarceration can also adversely impact family health outcomes, demonstrating that the effects are not purely financial. Research has found that factors such as stress and economic strains impact the health of family members of those incarcerated.<sup>12</sup> Even if an incarcerated parent has a paid job in prison, wages are minimal (less than the minimum wage), so debts

continue to accumulate and parents do not have a way to pay off financial burdens such as child support payments.<sup>13</sup> When parents re-enter their communities, high debts and the inability to pay them back impacts parents' ability to contribute financially.<sup>14</sup> In fact, research shows that reducing child support obligations while a person is incarcerated actually increases the likelihood of consistent payments after incarceration.<sup>15</sup>

**"In Kentucky, 9 percent of youth removed from their home were removed due to a parent being incarcerated"**

Parental incarceration also contributes to families being separated. In Kentucky, 9 percent of youth removed from their home were removed due to a parent being incarcerated, compared to 7 percent nationally, demonstrating the interconnectedness of the criminal justice and child welfare systems.<sup>16</sup> Additionally, youths in foster and kinship care may not receive the needed support to maintain relationships, when appropriate, with their incarcerated parents, as caregivers may be hesitant to encourage, or not know best how to support, parent-child relationships during incarceration.<sup>17</sup>

#### *Increased Community Needs*

When parents are incarcerated, the impact reaches the broader community as well. Family members left behind often struggle more to meet basic needs, which can mean relying on community supports. Even after release, many people struggle to transition back to working and providing for their family. Often, financial burdens, such as court fines, fees, or unpaid child support, can take up much of any earned income, leaving families to continue to rely on community support to cover basic needs such as food and housing. If the custodial parent is incarcerated but could otherwise still provide appropriate and safe care for the child, there is additional strain on the already overwhelmed child welfare system to find a relative or foster care placement.

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**“...addressing the root cause of substance use disorder, especially with substance use treatment that involves the family, would support a person’s ability to find a job and contribute to the community upon release.”**

Higher rates of incarceration overall impact people’s ability to keep jobs and find employment after release, impacting a community’s workforce. In Kentucky, communities of color in cities, as well as some rural communities, show higher rates of incarceration than the state overall. Supporting the use of community-based alternatives that address the root causes of incarceration would result in better community outcomes and a stronger workforce. For example, addressing the root cause of substance use disorder, especially with substance use treatment that involves the family, would support a person’s ability to find a job and contribute to the community upon release. Concentrated incarceration also damages social ties in a community and can, in turn, impact the overall health of the community.<sup>18</sup> An analysis of county-level incarceration rates and health found that high incarceration rates were associated with higher rates of poor health and shorter life expectancy.<sup>19</sup>

### Minimizing the Impact

A first step to minimize the impact of parental incarceration on children is to reserve the use of incarceration for cases where the defendant poses a risk of not returning to court or a risk to public safety. Increasing the use of diversion to community-based treatment for substance use disorder and serious mental health concerns would also minimize impacts for children, families, and communities.<sup>20</sup> Several taskforces in Kentucky have studied the issue of incarceration and identified situations and circumstances where – while maintaining public safety – incarceration can be reduced. With stronger alternatives to incarceration, people could access the

supports they need, such as substance use treatment, while keeping the family together. As an example, Tennessee recently passed a law requiring consideration of community-based alternatives during sentencing when the defendant is a primary caregiver and the offense was non-violent.

**“Children continue to feel love and affection for their parents, and the separation due to incarceration presents a strain.”**

When a parent has been incarcerated, research notes many benefits of supporting healthy relationships between them and their children. Children continue to feel love and affection for their parents, and the separation due to incarceration presents a strain.<sup>21</sup> Supporting visitation can mitigate the negative impacts. When conducted well – in a child-friendly setting, with support preparing for the visit, and allowing physical contact – visitation brings benefits for children and their parents. Children who preserve parental relationships experience decreased levels of anxiety and feelings of abandonment compared to kids unable to maintain a relationship. Children who report a healthy relationship with an incarcerated parent also report improved overall well-being and improved behavior in school. For incarcerated parents, those who maintain

positive and healthy relationships with their children during incarceration have a stronger bond after they return home.<sup>22</sup>

Supporting children in strengthening and maintaining their relationship with their incarcerated parent also benefits the broader community. Incarcerated parents who have contact with family members are less likely to recidivate after release, meaning they are re-arrested and re-incarcerated at lower rates, which is positive for reducing crime.<sup>23</sup> Even during the period of incarceration, family visitation and other interaction has been shown to reduce rule breaking and violent behavior, which makes the jail or prison safer for employees.<sup>24</sup>

### A look at Kentucky data

Data gathered from the Kentucky Department of Corrections and other sources reveal trends in Kentucky’s incarceration rates, including trends that increase the likelihood of children being impacted by incarceration.

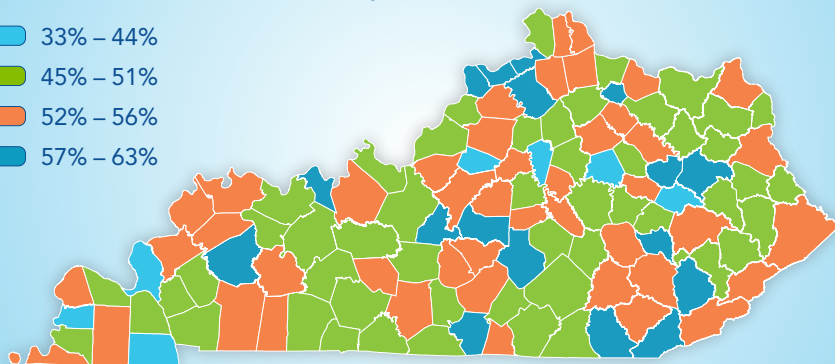
#### Children in all Kentucky counties impacted

Data by county of conviction show that in nearly all counties at least 45 percent of incarcerated people in state custody have children. While the data show some groupings of counties with higher rates, all parts of the state have children impacted by parental incarceration.

**In every Kentucky county, at least a third of people incarcerated in state custody have children, December 2017-2019**

*Percent of those in state custody with children*

- 33% – 44%
- 45% – 51%
- 52% – 56%
- 57% – 63%



Source: Kentucky Department of Corrections.  
Data note: Map reflects county of conviction.





## DATA TRENDS AND POLICY RECOMMENDATIONS TO ADDRESS THE IMPACT OF MATERNAL INCARCERATION ON KENTUCKY'S CHILDREN

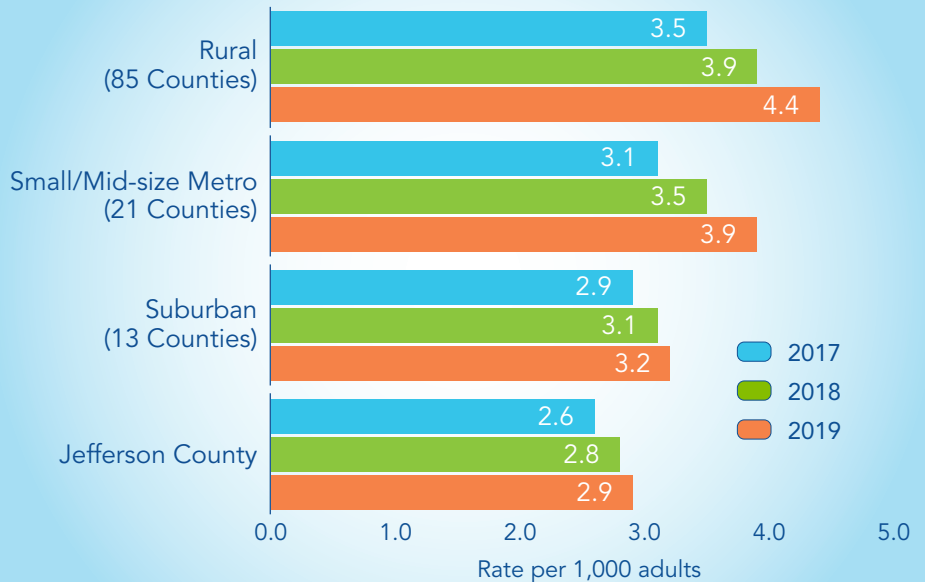
### Trends in Counties

Rates of people with children who are incarcerated in state custody have grown slightly in recent years across counties of all population sizes.

Rates of women incarcerated show different trends. While rates have slowed slightly in Jefferson County and suburban counties, rural communities have seen greater increases and have the highest rates of women incarcerated. Though trends in incarceration differ between urban and rural communities, perceptions among community members are more consistent – a majority of people, including those in rural communities, do not believe building jails and prisons reduces crime and prioritize investments in jobs, schools and substance use treatment over building incarceration facilities.<sup>25</sup>



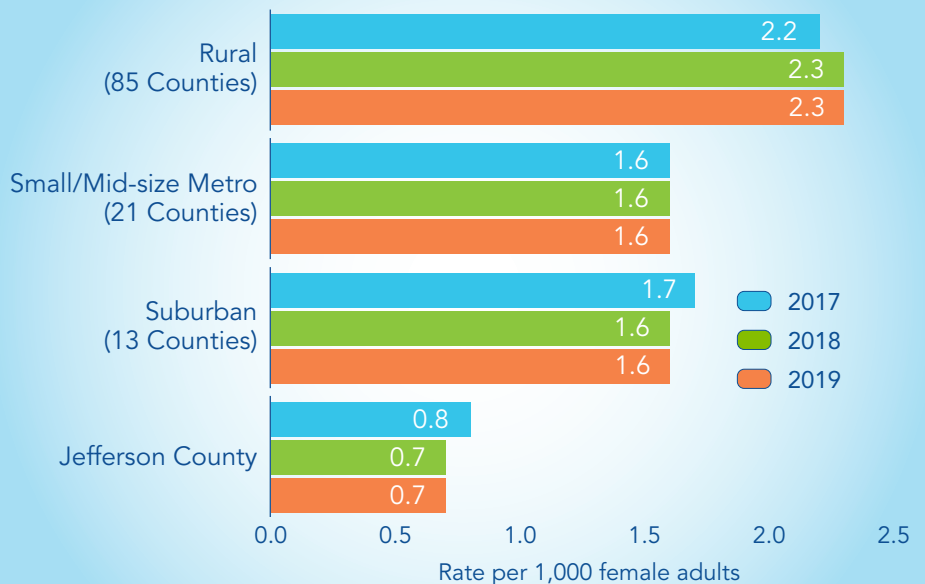
Rates of incarceration of people with children have increased in recent years, with the largest increases in rural and small/mid-size counties, December 2017-2019



**Source:** Kentucky Department of Corrections and population data from the U.S. Census Bureau, in collaboration with the National Center for Health Statistics, Bridged-Race Population Estimates.

**Data note:** Data reflects point-in-time data from December of each year.

Rates of incarceration of women are highest in rural counties and lowest in Jefferson County, December 2017-2019



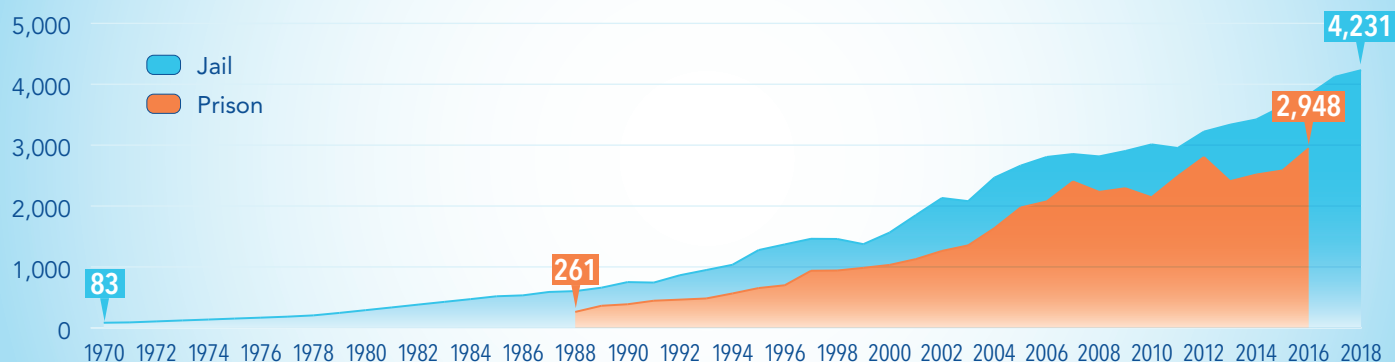
**Source:** Kentucky Department of Corrections and population data from the U.S. Census Bureau, in collaboration with the National Center for Health Statistics, Bridged-Race Population Estimates.

**Data note:** Data reflects point-in-time data from December of each year.

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The number of women incarcerated in Kentucky's jails and prisons has grown dramatically in recent decades, 1970-2018



Source: Vera Institute of Justice, Incarceration Trends project.

## Rates growing for women

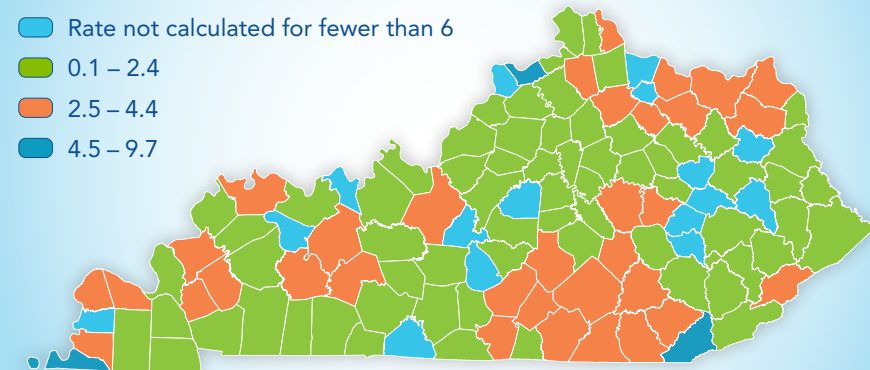
One of the most prominent trends in Kentucky data is the substantial increase in the number of women who are incarcerated in the state. From 1985 to 2018, the percent of women incarcerated in Kentucky jails jumped 717 percent, outpacing the national increase of 503 percent. Women incarcerated in prison also jumped nationally and to a greater extent in Kentucky. Nationally, the number of women in prison increased 380 percent, while during a similar timeframe (1988 to 2016) in Kentucky, the number increased by over 1,000 percent.

As with incarceration overall, the incarceration of women is occurring throughout the Commonwealth, though 16 counties had too few instances to calculate a rate. Three counties – Bell, Carroll, and Fulton – had the highest rates of women incarcerated per 1,000 adult females in the county. Of note, the five Kentucky counties with the largest populations were among those with the lowest rates.

Where people are incarcerated – in state prison or in a county jail – impacts access to substance use treatment and other programming, with state prisons generally offering more options to support a person's rehabilitation. On the other hand, people housed in county jails are more likely to be closer to family, reducing travel time for visitation. Some people in state custody, such as those with Class D felonies, can be held in county jails.<sup>26</sup> In December 2019, 45 percent of women and 47 percent of men incarcerated in county jails were being held in state custody.

The rates of women incarcerated by county vary greatly across the state, average of December 2017-2019

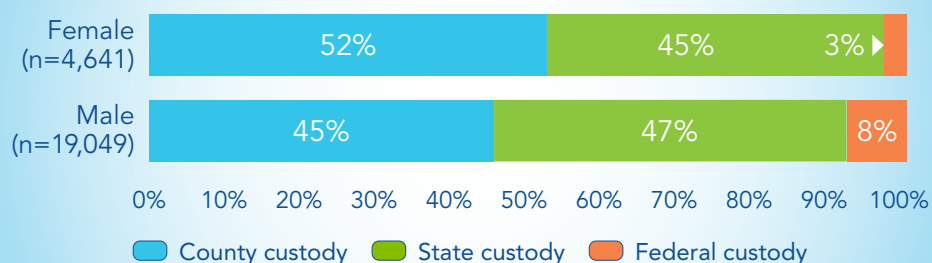
Rate per 1,000 adult females



Source: Kentucky Department of Corrections.

Data note: Map reflects county of conviction, based on December point-in-time data.

Nearly half of women and men held in county jails are in state custody, December 2019



Source: Vera Institute of Justice, Incarceration Trends project.



## DATA TRENDS AND POLICY RECOMMENDATIONS TO ADDRESS THE IMPACT OF MATERNAL INCARCERATION ON KENTUCKY'S CHILDREN

### Data by Race

Communities of color have historically experienced discriminatory policies in criminal justice, which have had a pronounced impact on Black men. Some current policies and practices perpetuate disparities, such as a higher likelihood of arrest for drug crimes than White people who use drugs at a similar rate, more intense policing in high-poverty neighborhoods, as well as often unconscious bias in arrest, pretrial detention, charging, and sentencing.<sup>27</sup> Such practices have contributed to Black males being extremely overrepresented in the incarcerated population and, therefore, among parents incarcerated. Among females, White women represent a larger proportion of the incarcerated population and those who are mothers than their representation in the Kentucky population of adults.

### Data by Charge Type

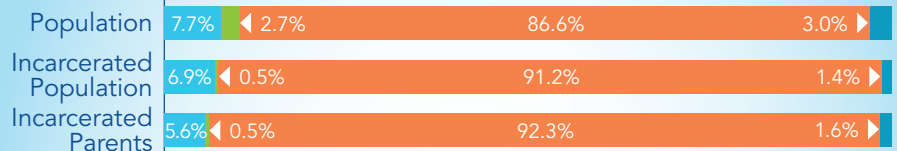
Women who are state inmates are more likely than men to be incarcerated for a drug crime. Additionally, many other crimes, such as property offenses, often stem from underlying substance use issues. In recognition of the importance of helping mothers deliver healthy babies and address substance use issues, Kentucky passed a law in 2018 that allows women who are pregnant to be released from jail to attend an inpatient residential substance use treatment program. A number of community-based programs offer residential substance use treatment for mothers that allow them to attend with their children.

Beyond drug offenses, the data show that the majority of people held in state custody, especially women, are held for non-violent, non-sexual offenses.

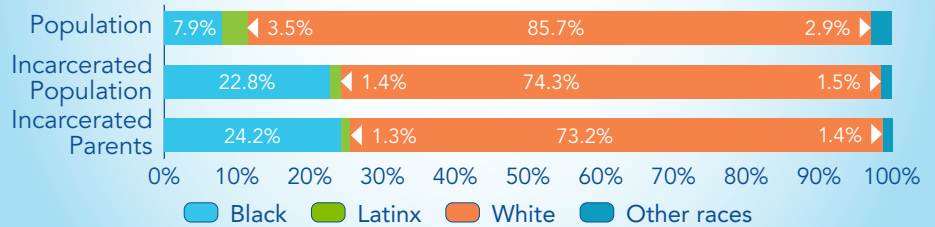
Data on the primary offense for which a person is incarcerated also reveal variations based on county population size. Rural and suburban counties had the highest percentages of incarcerated people whose primary offense was a drug offense, approaching 1 in 5 people. Rates were lowest in Jefferson County at 4 percent of all people incarcerated.

Black men are overrepresented in the incarcerated population, and therefore, in the population of incarcerated fathers, December 2019

#### Female Population



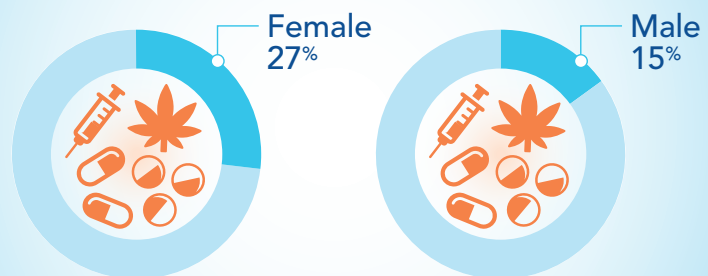
#### Male Population



**Sources:** Population data from Annual County Resident Population Estimates by Age, Sex, Race, and Hispanic Origin: April 1, 2010 to July 1, 2019, Population Division, U.S. Census Bureau. Incarceration data from Kentucky Department of Corrections, December 2019.

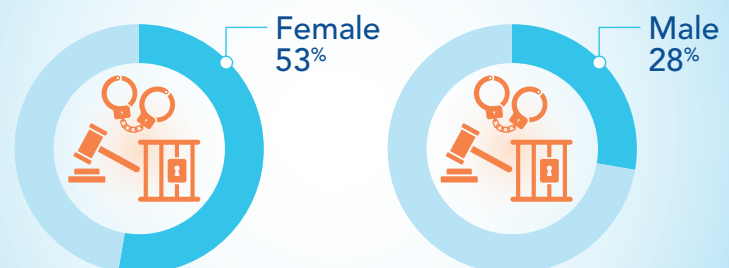
**Data note:** Cases with unknown race or no answer for race or number of dependents are excluded.

Women are more likely than men to be incarcerated for a drug offense as their most serious offense, December 2019



**Source:** Kentucky Department of Corrections.

More than half of women in state custody are there for a Class D non-violent, non-sexual offense, December 2019



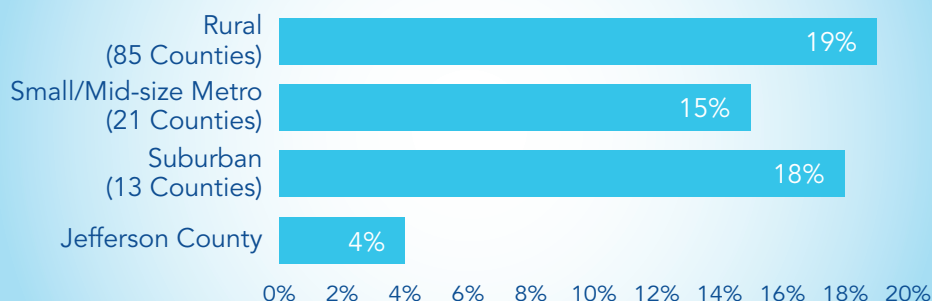
**Source:** Kentucky Department of Corrections.



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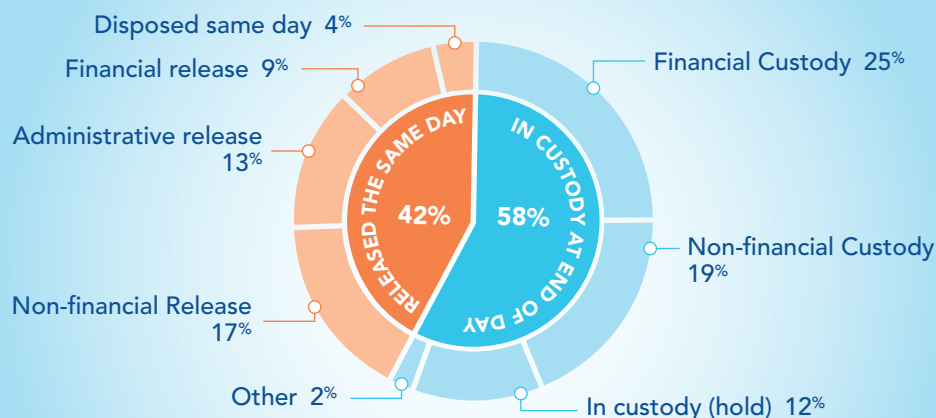


Rural and suburban counties had the highest percentages of people incarcerated for a drug offense as their primary offense, December 2019



Source: Kentucky Department of Corrections and population data from the U.S. Census Bureau, in collaboration with the National Center for Health Statistics, Bridged-Race Population Estimates.

More than half of all people booked into jail remained there at the end of the day, primarily due to financial custody, January 2020



Source: Vera Institute, data from the Pretrial Release Information Management (PRIM) system, average of daily data for January 2020.

Data note: Data reflects the number of people booked into pretrial custody from 6pm the day prior through 5:59pm of the date reported. "In custody at end of day" reflects the subset of people who were not released in the PRIM system by 3:30am – they may or may not still be in custody. "Released the same day" reflects people who were released in the PRIM system by 3:30am. In cases where the Pretrial Officer does not update the system by the deadline, releases may be under-counted. The "Other" category includes No Judicial Presentation and Release Not Offered.

### Data on pre-trial release or custody

Many people are taken into custody and booked into jail upon arrest, before a determination has been made about whether or not they committed the offense(s) for which they were charged. At that point, people can be granted Administrative Release by pretrial services (if they are not found to be high-risk for failing to appear or rearrest), or can be released by a judge on their own recognizance or with certain

conditions of release. For people who have committed less serious offenses and do not pose a public safety risk, options such as administrative release allow parents to continue to work and remain in the home to care for their children. Despite protections in the Kentucky constitution against excessive bail, people frequently remain in jail because they cannot afford even a relatively small amount of bail (see financial custody in graph).<sup>28</sup> Limiting the use of monetary bail would avoid lengthier incarceration simply because someone cannot afford bail.

## Recommendations

Too many Kentucky children are negatively impacted by parental incarceration in Kentucky. They need a system of justice that holds parents accountable without incarceration when that can be done safely. When a parent is incarcerated, our justice system can better serve children by supporting healthy relationships between children and their parents.

### Support healthy relationships between children and incarcerated parents

Family- and kid-friendly visitation policies are essential for children and parents to maintain and develop healthy parent-child relationships. Supporting these visits with preparation and information, as well as changes to make the physical space appropriate for children can yield benefits for all parties. This means that visits should be conducted in environments that are comfortable for children and promote their emotional well-being, as entering a facility and being subjected to searches can be traumatizing for children. During visits, parents and children should be able to connect emotionally, engage in physical contact, and be given some privacy. Additionally, information on the importance and benefits, including the short- and long-term outcomes, of maintaining/strengthening parent-child bonds should be given to the child's caregivers to promote visitation and contact. Offering programs in prisons and jails that teach parents communication skills and strategies would not only strengthen parent/child relationships but also reduce recidivism, which benefits the child and the community.<sup>29</sup>

### Utilize community-based treatment for substance use issues

For parents with substance use issues and drug-related convictions, community-based treatment options should be utilized when possible to keep parents out of jail/prison, allow parents to remain present in their children's lives, maintain employment, and remain in their communities where their substance use can be best addressed.



## DATA TRENDS AND POLICY RECOMMENDATIONS TO ADDRESS THE IMPACT OF MATERNAL INCARCERATION ON KENTUCKY'S CHILDREN

### Factor in custodial parent status to decisions on release when public safety is not a factor

Decisions about incarceration – during the pre-trial process and at sentencing – should take into account parental status, such as whether the parent is a primary caregiver or the parent of young children, if public safety is not a concern. Tennessee recently passed a law that says sentencing decisions should consider community-based alternatives for nonviolent offenses when the person is a child's primary caregiver. Alternative community-based sanctions that can be used instead of incarceration include required participation in a substance use treatment program, parenting skills training, counseling to address trauma from abuse, or other training or counseling.

### Focus incarceration on those who pose a risk or a threat to public safety

The COVID-19 pandemic has highlighted the importance of reserving incarceration for those who pose a flight risk or safety risk, since incarcerated people have become sick or even died due to being in close quarters. The steps Kentucky has taken have maintained public safety while releasing people who did not pose a risk. Further opportunities to reduce holding people who do not pose a safety risk include updating Kentucky's outdated dollar amount for what constitutes felony theft. Additionally, Kentucky should ensure bail amounts reflect ability to pay and seriousness of risk.

### Minimize financial barriers upon release so parents can support children

People leaving incarceration face challenges to rebuilding their lives. Leaving prison with significant debt, from fines, fees, restitution, and court costs, forces some parents to choose between covering basic needs for their children like paying rent, or risk going back to jail due to missed payments. Kentucky should take proactive steps to modify child support orders to match ability to pay during incarceration,

since it increases the likelihood of consistent payments after release. Establishing solutions for paying other money owed, such as payment plans and delayed due dates, would allow parents to use income they begin earning to better provide for their children. Additionally, time during

incarceration can be utilized to address untreated addiction and mental health issues, better preparing people for finding employment after release. Parents making an effort to contribute to their community should be supported in their ability to rehabilitate and take care of their children. ■

## Data notes

Data on incarceration provided by the Kentucky Department of Corrections includes all people who are being held in state custody and housed in prisons, local jails, or halfway houses.

Graphs that depict counties by rural/urban status combines categories from the *National Center for Health Statistics Urban-Rural Classification Scheme for Counties* into the four categories shown. **Suburban counties** include: Boone, Bracken, Bullitt, Campbell, Gallatin, Grant, Henry, Kenton, Oldham, Pendleton, Shelby, Spencer, and Trimble. **Small/mid-size metro counties** include: Allen, Bourbon, Boyd, Butler, Christian, Clark, Daviess, Edmonson, Fayette, Greenup, Hancock, Hardin, Henderson, Jessamine, Larue, McLean, Meade, Scott, Trigg, Warren, and Woodford. Excluding Jefferson County, the remaining counties are included as **rural counties**.

## Endnotes

- 1 KIDS COUNT Data Center. *Children who had a parent who was ever incarcerated*. 2017-2018 data.
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- 20 Ibid.
- 21 Dunlea, J., Wolle, R., and Heiphetz, L. (2020). "Enduring Positivity: Children of Incarcerated Parents Report More Positive than Negative Emotions Thinking about Close Others." *Journal of Cognition and Development*, vol. 21, no. 4.
- 22 Cramer, L., Goff, M., Peterson, B., and Sandstrom, H. (2017). Parent-child visiting practices in prisons and jails. *Washington, DC: Urban Institute*.
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