

NEBRASKA JUDICIAL BRANCH

# Tangible Incentives Pilot

## An Initial Report



Legislative Bill 50

LB50, § 14(4)

May, 2024





## **Tangible Incentives Pilot Problem-Solving Courts**

**May 24, 2024**

This report was completed in compliance with Legislative Bill 50, LB50, § 14(4).

### **Acknowledgments**

This report was produced by the Adult Probation Services Division and Research and Data (R&D) teams in the Operations Division of the Administrative Office of the Courts and Probation (AOCP). These teams work with the AOCP and its stakeholders to provide relevant and valuable data for evidence-based decisions. This project was led by Amber Pace, Probation Programs and Services Specialist. The report is a collaborative effort based on the input and analysis of the following individuals:

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## Introduction

This report has been prepared in accordance with Legislative Bill 50 (LB50), enacted by the 108th Legislature of the State of Nebraska (First Session) on June 1, 2023, and subsequently approved by the Governor on June 6, 2023, the implementation of this bill has been temporarily enjoined as of October 2, 2023, pending the resolution of ongoing litigation.

The pilot program established under this legislation includes an incentive fund of \$38,650. This fund is designated for acquiring gift cards, vouchers, and other tangible incentives to encourage probationers' continued success and reduce recidivism rates.

## Overview

### Context

Management team members participated in a co-creation workgroup supported by staff members from the Administrative Office of Courts and Probation (AOCP) to establish goals, processes, and district staff training to ensure tangible incentives were delivered equitably, effectively, and according to protocol. Through the co-creation process, readiness was conducted with district staff members, local members of the judiciary, and other key invested or interested parties. This helped increase awareness of the pilot program in District 12 as well as support and buy-in from stakeholders.

District 12 Probation was chosen for the tangible incentive pilot site due to its low use of incentives calculated, low incentives to sanctions ratio (1.33), higher numbers of sanctions, including custodial sanctions, and opportunities to increase early and successful releases from probation. Specific comparisons with other districts occurred, but the decision was made without specific reference to many districts and was mitigated by the willingness of District 12 to participate. The District 12 management team supported using tangible incentives to produce better outcomes and generate improved behaviors in probationers.

Formal processes and tracking tools were established to ensure accountability and fiscal responsibility at all levels. This encompasses the AOCP, PSC Team, and the Probation Officers who issue incentives or sanctions. The process includes obtaining the signature of the justice-involved individual receiving the incentive, thereby ensuring transparency and responsibility.

### Methods

All District 12 staff members received formal training by Amber Pace (the Probation Programs and Services Specialist on this project) on these materials to understand the purpose and process and ensure consistent messaging from probation staff to our justice-involved individuals, key stakeholders, and other public members who may be interested in the pilot program.

Tangible incentives were first purchased by the Probation Administration for District 12 Probation in September 2023, with the first incentive being issued to an individual on probation later that month. Per:

(3) The pilot program shall establish an incentive fund to be used for the purchase of gift cards, vouchers, and other tangible rewards for probationers who are succeeding at probation, in order to encourage continued success and reduce recidivism. The incentives shall be awarded at the discretion of probation officers, subject to policies and guidelines of the office. (LB50, § 14(3), pg. 10 in original slip text<sup>1</sup>).

Initially, tangible incentives valued at \$1,640 were purchased for the district. As of May 1, 2023, the district had \$220 worth of tangible incentives remaining.

## Participants

The workgroup identified the target population as adult individuals on probation who were assessed as high-risk for recidivism using the Level of Service/Case Management Inventory (LS/CMI) (Jimenez et al. 2018) -- our validated assessment tools. This population includes individuals involved in Problem-Solving Courts (PSC) and other special populations who demonstrate observable progress, exhibit positive behavioral changes, and/or complete conditions of their probation orders. To facilitate this process, a tangible incentives matrix was developed to assist officers in making behavior-based decisions and to guide the appropriate level of tangible incentives to be issued.

## Results/Discussion

Arithmetic and calculating incentives-to-sanction ratios were the primary analytic methods, as further, more complex analyses and testing were prohibited by the abrupt interruption of the pilot project (per litigation as noted elsewhere). It was calculated by dividing the total incentives by the number of sanctions for probationers during the comparison period (10/1/22 – 9/30/23) by the pilot period (10/1/23 – current). The quotient was the ratio of incentives to sanctions. Specifically, for the Scotts Bluff County Adult Drug Court, the ratio was 0.26. However, during the incentives and training pilot program, this ratio improved to 0.93, indicating nearly equivalent numbers of sanctions and incentives—93 incentives for every 100 sanctions, compared to the previous 26 incentives for every 100 sanctions in the comparison group. It should be noted that there were no participants in the Scotts Bluff County DUI court during the comparison period.

Improved ratios of incentives-to-sanction were observed between the comparison period (10/1/22 – 9/30/23) and the pilot time period (10/1/23 – current) when examining probationers across all classification levels. The incentives-to-sanctions ratios were calculated and tabulated for probationers both before and during the pilot program. These results are presented in Table 1 below.

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<sup>1</sup> <https://nebraskalegislature.gov/laws/statutes.php?statute=29-2245>

**Table 1***Incentives and Sanctions for Probationers*

Classification Group	Comparison Group Participants	Pilot Group Participants	Comparison Group Incentives/Sanctions	Pilot Group Incentives/Sanctions
ADMIN	40	27	0.73	3.00
CBI	78	111	0.92	0.95
CBR	65	46	0.60	1.39
PRS	18	14	0.64	2.00
REFRAM.	8	4	0.00	1.25
SSAS	5	4	4.40	2.67
TIP	1	0	2.00	N/A
Total	215	206	1.33	1.88

Of note is that the ratio of incentive-to-sanctions increased from 1.33 to 1.88 over all the classification groups before and after the pilot tangible incentive program was implemented. This indicated a more significant proportion of incentives to sanctions in the pilot group. That is, the pilot group showed a proportionally greater use of incentives.

Table 2 below shows the number of specific incentives provided to either probationers in the comparison or pilot groups.

**Table 2***Incentives for Probationers*

Incentive Type	Comparison Group Participants	Pilot Group Participants	Comparison Group Incentives	Pilot Group Incentives
Early Discharge	67	64	83	76
Reduction in programming	61	1	62	1
Reduction in programming	N/A	65	N/A	70
Return of Privileges	3	2	3	2
Tangible/Monetary	14	85	34	113
Verbal or Written praise	183	174	585	487
Totals	328	391	767	749

Interestingly, nearly all incentives (of all types) increased (except for the return of privileges). Tangible/monetary incentives also improved more than any category other than verbal or written praise (which could have been tied to tangible/monetary incentives; disentangling the complex relationships between incentives and instances of behaviors is beyond the scope of this report).

Lastly, Table 3 shows the number of custodial sanctions for probationers in the comparison or pilot groups. Unlike in incentives, there were fewer shifts in total custodial sanctions.

**Table 3**

*Custodial Sanctions for Probationers*

Classification Group	Comparison Group Participants	Pilot Group Participants	Comparison Group Custodial Sanctions	Pilot Group Custodial Sanctions
ADMIN	6	7	10	9
CBI	8	8	16	10
CBR	3	N/A	3	N/A
PRS	6	4	6	4
REFRAME	1	2	1	2
SSAS	2	1	2	1
Totals	26	22	38	26

In Table 3, there were nevertheless shifts in custodial sanctions in the ADMIN and CBI risk categories.

### Considerations

In October 2023, the Attorney General's Office filed a legal challenge to strike down portions of LB50. As a result of this challenge, the tangible incentives pilot program was temporarily suspended. Nevertheless, the efforts of District 12 in this area did not come to a complete halt. Given that tangible incentives had already been purchased before the legal challenge, it was determined that these previously acquired incentives could continue to be used despite no additional incentives purchased.

Due to the limited duration of the pilot program, the population size of District 12, and the quantity of tangible incentives purchased, it was not possible to fully analyze other, possible outcomes: the impact of tangible incentives on recidivism, the number of early releases, the reduction in the number of individuals in abscond status, increased program completion rates, and enhanced compliance with substance use testing.

## Conclusions

As a result of this decision, the district resolved to continue awarding tangible incentives to individuals assessed as the highest risk of reoffending, focusing on recognizing more significant achievements. Consequently, there were shifts in incentives-to-sanction ratios and the raw numbers of incentives and custodial sanctions issued. This will involve purchasing and providing additional tangible incentives, enhancing, or further defining the changes between the nonpilot and pilot groups. At this time, however, it cannot be linked to a more extensive pilot study, stronger inferences vis-a-vis, more robust methodological treatment and treatment group conceptualization, or complex analytics.

Methodologically, demographic information will be employed to ensure the comparability of groups, potentially through propensity score analysis, although this will be determined later. Other methodological approaches remain viable but are also contingent upon the outcome data available; for instance, regression discontinuity designs may apply to recidivism analysis. Analytically, statistical testing will be utilized, incorporating techniques such as Analysis of Variance (ANOVA) and Multivariate Analysis of Variance (MANOVA), both with and without clustering or covariates. These methods are particularly relevant to recidivism, which has not been addressed in this preliminary pilot study, as well as to specific incentives and their differential effects, potentially analyzed through logistic regressions.

Lastly, the pilot study will be more targeted at affecting probation policies and specific returns on investment. Future work will encompass refined methodological approaches to research design and analytic methods, as well as a reconceptualization of results within the policy framework and actionable recommendations. This comprehensive approach aims to enhance the utility of the findings in shaping effective probation practices.

## References

Jimenez, Alisha Caldwell, R. Hazel Delgado, Trace C. Vardsveen, and Richard L. Wiener. 2018. "Validation and Application of the LS/CMI in Nebraska Probation." *Criminal Justice and Behavior* 45 (6): 863–84.



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