

Alabama's Justice Reinvestment Approach

Reducing Prison Overcrowding and Strengthening Community-Based Supervision

MAY 2015

Overview

Alabama's correctional system is in crisis. The state has the most crowded prison system in the nation, and two-thirds of the nearly 80,000 people convicted of felonies who are currently under correctional control in Alabama are supervised in the state's overwhelmed probation and parole systems, where caseloads average close to 200 cases per officer.¹ Due to the state's severe level of prison overcrowding, Alabama policymakers must act immediately or face the prospect of federal courts intervening and potentially compelling the state to either release thousands of people from prison or spend hundreds of millions of dollars to increase capacity.

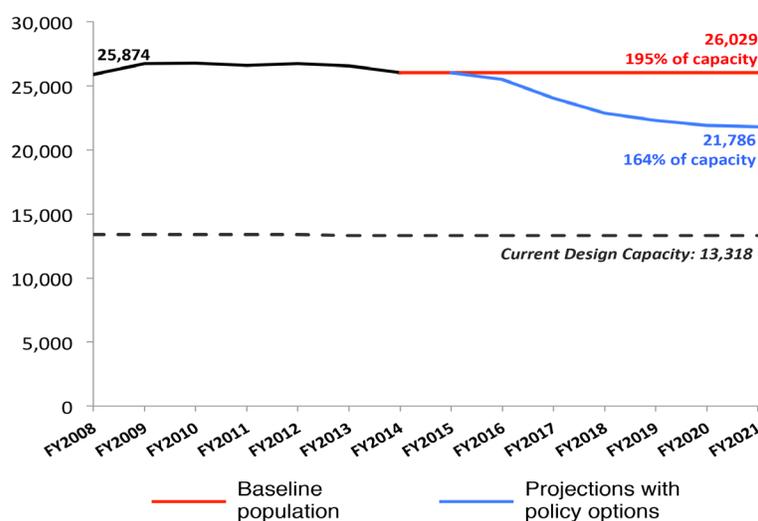
To address these challenges, Alabama policymakers from across the political spectrum enacted Senate Bill (SB) 67 in May 2015 to strengthen community-based supervision and treatment, prioritize prison space for violent and

dangerous offenders, and ensure supervision for everyone upon release from prison. The law implements policy changes developed through "justice reinvestment," a data-driven approach designed to reduce corrections spending and reinvest in strategies that reduce recidivism and increase public safety. SB 67 is projected to reduce Alabama's prison population by 16 percent—or 4,243 people*—and increase the number of people who are supervised upon release from prison. [See Figure 1]

The state received intensive technical assistance from the Council of State Governments (CSG) Justice Center, in partnership with The Pew Charitable Trusts and the U.S. Department of Justice's Bureau of Justice Assistance (BJA), to analyze Alabama's criminal justice system. With continued support, Alabama leaders are now working to implement the legislation and track the impact of these new policies.

*These figures have been updated as of August 2015.

FIGURE 1. PROJECTED IMPACT OF SB 67 ON ALABAMA'S PRISON POPULATION²



<p>\$380M averted construction and operations costs by FY2021</p>
<p>4,243 fewer people in prison</p>
<p>\$152M recommended reinvestment in supervision, treatment and support for victims (FY2016–FY2021)</p>
<p>3,000 more people supervised upon release from prison</p>

SUMMARY

Summary of the Justice Reinvestment Process

CHALLENGE

Alabama policymakers have long wrestled with how to address prison overcrowding. Since 2006, state leaders have engaged organizations outside the state to provide advice on its criminal justice system.³ During this period, the legislature approved changes to state law, including establishing probation revocation caps and presumptive sentencing guidelines that help divert from prison people who are convicted of low-level offenses. These efforts have helped reduce the number of prison admissions, yet the decline in prison admissions has not eased prison overcrowding, as an increase in the number of people being revoked to prison from supervision and a decline in the number of people released from prison have offset any impact the reduced admissions would have had on the prison population.

State leaders often cite the recent experience of California, whose prison system in 2011 was also nearing 200 percent of capacity when the U.S. Supreme Court ordered the state to immediately reduce its prison population to 137.5 percent of capacity.⁴ For Alabama—whose prison system is currently operating at 195 percent of capacity—to relieve its prison overcrowding to 137.5 percent of capacity solely by adding space and not making changes to existing policies and practices, the state would need to spend roughly \$420 million in construction and \$93 million in annual operating costs.⁵

FINDINGS

In February 2014, the state legislature passed Senate Joint Resolution 20 to create the bipartisan, interbranch Prison Reform Task Force to study Alabama’s criminal justice system.⁶ The task force identified the following challenges: people being supervised in the community who are at a high risk of reoffending do not receive sufficient supervision and treatment; the majority of prison admissions to Alabama’s overcrowded prisons are people whose supervision has been revoked and people convicted of lower-level property and drug offenses;



“This legislation represents a unified effort by all three branches of government to make the criminal justice system more efficient.”

— GOVERNOR ROBERT BENTLEY

and a large number of people released from prison receive no supervision in the community, despite their high likelihood of reoffending. To address these challenges, the task force recommended the justice reinvestment policy framework be translated into legislation.

SOLUTIONS

Sponsored by Senator Cam Ward (R–District 14) and Representative Mike Jones (R–District 92), SB 67 codifies the justice reinvestment policy framework developed by the task force.⁷ This legislation includes policies to strengthen community-based supervision, prioritize prison space for violent and dangerous offenders, ensure supervision for everyone upon release from prison, and expand electronic victim notification. SB 67 received significant bipartisan support from the Alabama State Legislature, with votes of 100-5 in the House and 27-0 in the Senate. SB 67 was signed into law by Governor Robert Bentley on May 18, 2015.

The Prison Reform Task Force also recommended that the state invest \$26 million in FY2016 and more than \$25 million annually for FY2017 through FY2021 for new probation and parole officer positions, mental health and substance use treatment for people on community supervision, information technology upgrades, performance measurement, and expansion of victim notification. The state legislature is now considering the FY2016 funding recommendations as part of the state budget negotiations.



“This is a historic occasion for the State of Alabama. I believe we are leading the way nationally in showing the political courage to fix a badly broken system.”

— SENATOR CAM WARD

Summary of SB 67 Policies

Strengthen community-based supervision to reduce recidivism.

- Standardize the use of risk and needs assessments to target supervision resources for people who are most likely to reoffend, and reduce probation and parole officers' caseloads by prioritizing intense supervision for people more likely to reoffend and providing limited supervision for people less likely to reoffend.
- Establish intermediate sanctions to respond to technical violations of probation and parole, and allow for short jail stays prior to revocation in the range of possible sanctions.
- Improve the quality of Community Corrections Programs (CCPs) by creating a new funding standard for CCPs that sets appropriation levels based on the degree of implementation of evidence-based practices.
- Allow people on supervision who have lost their driver's licenses as a result of their convictions to apply for a driver's license with limited driving privileges.

Prioritize prison space for violent and dangerous offenders.

Divert people convicted of low-level property and drug offenses away from prison

- Create a new Class D felony category for the lowest-level property and drug offenses, and require sentences to CCPs instead of prison.
- Modify the classification of third-degree burglary to a nonviolent offense if an individual enters an uninhabited, non-domicile building and no person is encountered while the crime is being committed.
- Respond to serious technical probation and parole violations with 45-day periods of incarceration followed by continued supervision.⁸

Improve efficiency and transparency of the parole decision-making process

- Require the parole board to create structured parole guidelines, based on current research and best practices, to ensure consistency

in the factors the parole board considers when determining if a person is ready for parole. Mandate that the parole board record and share reasons for parole denial with the person who was denied parole, the victims, and the Department of Corrections (DOC).

Ensure supervision for everyone upon release from prison, and expand victim notification.

- Require people convicted of a Class C offense—which includes property, drug, and person offenses—to serve split sentences, which provide a fixed term of incarceration and guarantee a period of supervision after release from prison or jail.⁹
- Require that people serving a straight prison sentence receive a period of supervision upon release.¹⁰
- Complete the development of the electronic victim notification system, and expand victim notification regarding releases from prison.

Looking Ahead

Although the scope of SB 67 is extensive and the projected impact is substantial, even with the successful implementation of this legislation, Alabama's prison population is projected to continue to far exceed its capacity. Additional policy changes and/or increasing prison capacity will be necessary to further reduce overcrowding.

Implementing SB 67 will require continued bipartisan, interbranch support. The probation and parole supervision divisions of the Alabama Board of Pardons and Paroles (BPP) will standardize the use of risk and needs assessments to target supervision resources and transition probationers and

parolees to lower levels of supervision before discharging them, when appropriate. The BPP's three-member parole board will establish review processes for imposing jail and

“These reforms show Alabama taking a bold first move toward reducing reoffending, breaking the revolving door that keeps our prisons at crisis overcrowding.”

— SENATOR VIVIAN FIGURES



prison sanctions for parolees who violate the conditions of their release, and the Alabama Unified Judicial System will establish suggested court processes for imposing jail and prison sanctions for probationers who violate the conditions of their supervision. The parole board will also establish structured parole release decision-making guidelines informed by best practices. The DOC will create performance-based requirements to measure program outcomes, including recidivism reduction, for the CCPs it oversees. The Alabama Sentencing Commission will make necessary adjustments to the state's sentencing guidelines to account for the new Class D felony offenses.

The CSG Justice Center will continue to work with officials from across Alabama's criminal justice system to assist in implementing the new policies and tracking their outcomes. The state has the opportunity to request funding from BJA to support additional capacity-building efforts, such as workforce training, enhancing data collection and performance measurement, and efforts to ensure quality implementation of evidence-based practices.

Sustainability Policies

The Prison Reform Task Force recommended state-funded appropriations to establish model practices for, and oversee evaluations of, supervision and treatment programs; to train probation and parole officers; and to invest in critical information technology upgrades. The task force identified additional policies to assess, track, and ensure the sustainability of the recidivism-reduction strategies outlined in the justice reinvestment policy framework. SB 67 directs a standing legislative oversight committee to:

- Evaluate reentry barriers for people with mental disorders and the state's restitution imposition and collection practices.
- Assess operational capacity of the state's existing prison facilities.

Endnotes

1. CSG Justice Center analysis of Alabama Department of Corrections' (DOC) June 2014 snapshot of felony prison population data and Alabama Board of Pardons and Paroles FY2009–FY2014 probation and parole population data and parole entries data.
2. CSG Justice Center projected impact analysis based on FY2008–FY2014 DOC custody prison population and felony sentencing data. The baseline population projection assumes a continuation of no growth or a decline in the prison population. DOC's capacity (currently operating at 195 percent) is calculated using the custody population. This population is comprised of individuals housed in facilities owned and operated by DOC, in addition to those housed in DOC contract facilities and special program facilities.
3. Public Safety Performance Project, "Work in the States: Alabama" (Washington, DC: Pew Center on the States, 2007), pewtrusts.org/~media/legacy/uploadedfiles/pcs_assets/2008/January2008Alabama.pdf; Vera Institute of Justice, Cooperative Community Alternative Sentencing Project: Common Themes, 2010, sentencingcommission.alacourt.gov/CCASP/CCASP_CommonThemes_3.17.08.pdf.
4. *Brown v. Plata*, 131 S. Ct. 1910 (2011).
5. The Alabama Legislative Fiscal Office estimates \$102 million in construction costs for a 1,500-bed facility; annual DOC operating costs are projected using the current DOC inmate operating cost of \$42.54 per day. DOC, "Annual Report Fiscal Year 2013" (Montgomery: DOC, 2013).
6. Senate Joint Resolution 20, (Alabama 2014) legiscan.com/AL/text/SJR20/id/955472.
7. The CSG Justice Center, "Justice Reinvestment in Alabama: Analysis and Policy Framework." The full report is available at csjusticecenter.org/jr/al/.
8. A range of sanctions to respond to probation and parole violations is available to judges and the parole board. It is their discretion to determine what sanction an individual will receive.
9. A split sentence is a sentence that includes a period of incarceration in jail or prison followed by probation supervision. The judge retains jurisdiction on the case until it is closed.
10. A straight sentence is a sentence in which a judge sets a period of incarceration in jail or prison. The parole board has discretion to release the individual to parole supervision before the end of his or her sentence.



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The CSG Justice Center is a national nonprofit organization that serves policymakers at the local, state, and federal levels from all branches of government. The CSG Justice Center's work in justice reinvestment is done in partnership with The Pew Charitable Trusts and the U.S. Department of Justice's Bureau of Justice Assistance. These efforts have provided data-driven analyses and policy options to policymakers in 21 states. For additional information about Justice Reinvestment in Alabama, please visit csjusticecenter.org/jr.