

Georgia's Justice Reinvestment Approach: Strengthening Probation and Increasing Public Safety



JULY 2017

Overview

Since 2012 Georgia has adopted innovative policy reforms to improve the state's criminal justice system by diverting some people from prison while still holding them accountable, focusing prison space on people convicted of the most serious and violent offenses, and expanding accountability courts.¹ Georgia experienced a 6-percent decrease in the prison population between 2012 and 2015, which averted about \$264 million in corrections costs and allowed the state to reinvest more than \$56 million in strategies to reduce recidivism and sustain improvements in areas such as accountability courts, vocational and on-the-job training programs, the Georgia Prisoner Reentry Initiative, and Residential Substance Abuse Treatment (RSAT) facilities and programs.² Despite these improvements to Georgia's criminal justice system, however, the state has the highest probation rate in the country, with 1 in 17 adults on probation, and the eighth-highest prison incarceration rate.

To address these issues, Georgia policymakers from across the political spectrum enacted Senate Bill (SB) 174, which reduces lengthy probation terms and probation officer caseloads and improves responses to supervision violations. Signed by Governor Nathan Deal on May 9, 2017, the law was the result of a data-driven justice reinvestment approach designed to further reduce corrections spending by strengthening probation, reducing recidivism, and increasing public safety. SB 174 is expected to reduce the projected felony probation population by more than 44,000 people between FY2018 and FY2022, partly due to a shift of almost 30,000 people who are currently actively supervised to unsupervised status between FY2018 and FY2022. [See Figure 1] SB 174 is also projected to reduce the actively supervised felony probation population by 38 percent. [See Figure 2]

FIGURE 1. PROJECTED IMPACT OF JUSTICE REINVESTMENT POLICIES ON GEORGIA'S FELONY PROBATION POPULATION

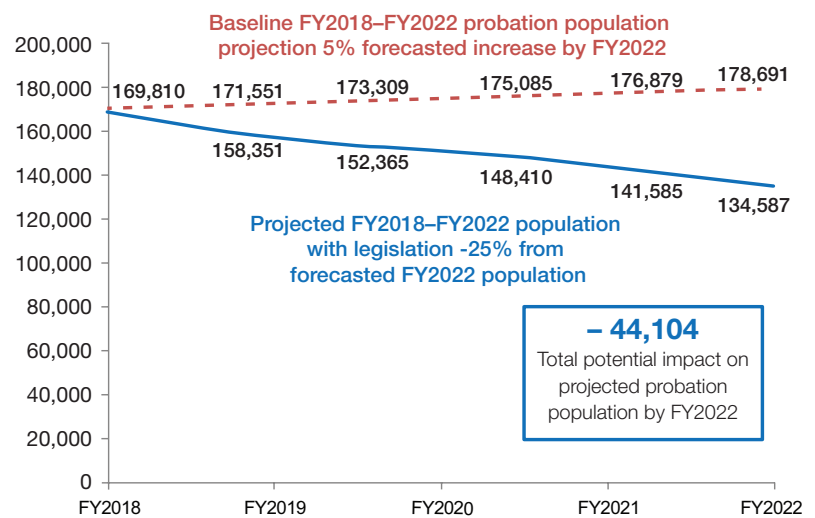
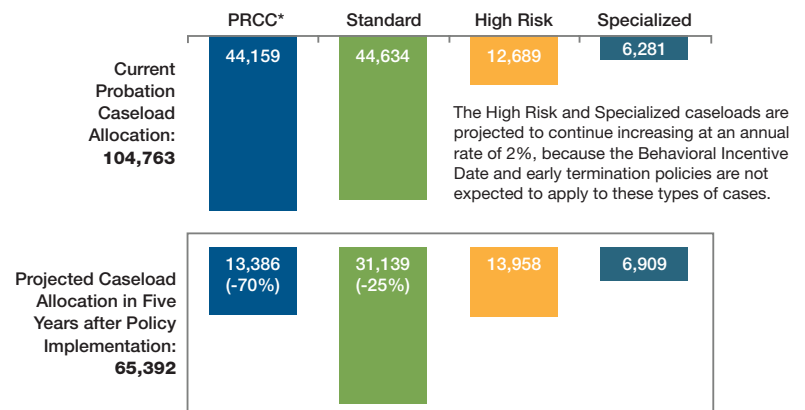


FIGURE 2. PROJECTED IMPACT OF JUSTICE REINVESTMENT POLICIES ON GEORGIA'S FELONY PROBATION CASELOAD ALLOCATION



Overall, the policy changes will reduce the actively supervised population by 38%
* Probation Reporting Contact Center

Summary of the Justice Reinvestment Process

CHALLENGES

Georgia has the highest probation rate in the country, with 6,161 adults on probation per 100,000 residents—which amounts to 1 in 17 adults in the state—compared to the national average of 1,568 adults on probation per 100,000 residents.³ The state also has the eighth-highest prison incarceration rate in the country, with 686 adults incarcerated per 100,000 residents, compared to 612 adults incarcerated per 100,000 residents nationally.⁴ Additionally, the decline in Georgia’s prison population began to slow in 2014 and is now projected to increase by 2 percent by 2020 and result in spending increases to accommodate this growth.⁵

FINDINGS

In May 2016, Governor Deal, Lieutenant Governor Casey Cagle, and House Speaker David Ralston requested assistance from the Justice Reinvestment Initiative, a partnership between the U.S. Department of Justice’s Bureau of Justice Assistance (BJA) and The Pew Charitable Trusts (Pew). BJA and Pew approved the request and asked The Council of State Governments (CSG) Justice Center to assist the Georgia Council on Criminal Justice Reform (Council) in addressing challenges within the state’s criminal justice system. The Council subsequently established subcommittees composed of members from all three branches of government and state and local criminal justice stakeholders to analyze felony sentencing trends and the effectiveness of probation and develop recommendations. Under the direction of the Council, CSG Justice Center staff conducted a comprehensive analysis of extensive data collected from various state agencies. Several key findings emerged as a result of this analysis:

- People sentenced to prison for most felony property and drug offenses are reconvicted at twice the rate of people sentenced to probation instead.
- There are more people on probation in Georgia than in any other state in the country due to widespread use of probation sentences for misdemeanor offenses, as well as lengthy felony probation sentences that are used in lieu of and in addition to prison sentences.⁶

- Roughly 50,000 people in Georgia have been on supervision for more than two years even though their risk of recidivism drops by half after their first year on supervision.⁷ These people continue to be actively supervised by probation officers because of outstanding fines and fees, thereby creating large caseloads for officers.⁸
- In FY2015, about two-thirds of people admitted to prison had violated conditions of their supervision or committed a new crime while on probation or parole.⁹ Georgia funds Day Reporting Centers (DRCs), RSAT programs, and Probation Detention Centers, among other options, all of which can be used to respond to violation behavior in lieu of revocation to prison. These responses could be better utilized to ensure adequate prison space for people who commit new crimes or do not respond to other sanctions.

SOLUTIONS

Sponsored by Senators John Kennedy, Butch Miller, P. K. Martin, Larry Walker, David Shafer, and Mike Dugan, SB 174 codifies the justice reinvestment policy framework developed by the Council. This legislation includes policies to reduce lengthy probation terms and large probation caseloads, improve the effectiveness and cost-effectiveness of responses to probation and parole violations, and improve the handling of legal financial obligations for people on felony probation. SB 174 passed unanimously in both the Georgia House and Senate.

PROJECTED RESULTS OF SB 174



“The comprehensive and thoughtful approach to criminal justice reform in Georgia demonstrated what can be done when partisanship is replaced with a data-driven, collaborative process. These reforms have resulted in policies that will ensure that resources are concentrated on people on probation who are at the highest risk of reoffending and that we employ strategies shown to improve public safety outcomes for people on community supervision.”

— HON. MICHAEL P. BOGGS, JUSTICE, GEORGIA SUPREME COURT AND COUNCIL CO-CHAIR

Summary of SB 174 Policies

As an incentive for good behavior, limit felony probation terms for people who comply with the conditions of their supervision.

- Upon the first felony conviction, direct probation sentences would include a Behavioral Incentive Date (BID) not to exceed three years. If the probationer has not been arrested for anything other than a nonserious traffic offense, has been compliant with the conditions of his or her probation, and has paid all restitution owed by the incentive date, the Department of Community Supervision (DCS) is required to file a petition to the court to terminate his or her probation.
- Require DCS to file a petition to the court for early termination of probation sentences if, after serving three years on probation, the person has not been arrested for anything other than a nonserious traffic offense, has not had his or her probation revoked during that time, and has paid all restitution.

Reduce the number of people on active supervision so that resources can be focused on people at the beginning of their supervision terms to reduce recidivism.

- Permit DCS to exercise discretion when deciding whether to move a person on probation to unsupervised status after two years, provided that any restitution ordered has been paid in full and regardless of whether other fines or fees are outstanding. Supervision resources will then be shifted to focus on people during the initial part of their supervision terms, when they are most likely to reoffend.

Improve the cost-effectiveness of responses to probation and parole violations.

- To eliminate costly, duplicative supervision conditions, require people on parole who received split sentences¹⁰ to follow probation conditions set by the judge in addition to any parole conditions set by the parole board. Enable officers to use responses to violations for people on parole similar to those they are allowed to use for people on probation.

Improve the handling of legal financial obligations for people on felony probation, evaluate programming, and validate risk assessment instruments.

- Expand the conditions that allow a person to be classified as indigent; establish a rebuttable presumption of indigence; and require judges to waive legal financial

obligations such as fines, fees, and surcharges or convert them into community service hours for felony sentences if a person is found to be indigent or otherwise has a significant financial hardship.

- Evaluate the quality of programming in probation detention centers, RSAT programs, Integrated Treatment Facilities, DRCs, and DRC Lites at least once every five years.
- Require that risk assessment instruments used within the Georgia Department of Corrections (GDC) and DCS be revalidated at least once every five years.

LOOKING AHEAD

SB 174 is projected to reduce the forecasted felony probation population by more than 44,000 people by FY2022. Approximately 66 percent of the projected impact is due to the policy on petitions for early termination and 34 percent is due to the BID policy. SB 174 is also projected to reduce the actively supervised felony probation population by 38 percent. As a result, about 140 probation officers who supervise people at a low risk of reoffending could be reassigned to caseloads that include people at a high risk of reoffending, thereby averting costs that would otherwise be required to hire more probation officers in order to bring caseloads down the same amount without implementing SB 174's reforms.

With reduced caseloads, probation officers will be able to effectively use evidence-based supervision strategies that have been proven to reduce recidivism. Studies show that a more proactive supervision approach—as compared to a traditional, reactive supervision approach—that targets people who are most likely to reoffend, coupled with treatment when appropriate or necessary, can reduce recidivism by 20 to 30 percent.¹¹

Implementing SB 174 will require continued bipartisan, interbranch support to ensure its projected impact on the probation population is realized. The CSG Justice Center will continue to work with Georgia policymakers, courts, and agencies for a period of 12 to 24 months to help ensure that related programs and system investments achieve their projected outcomes and are implemented using the latest research-based, data-driven strategies. The state is eligible to request funding from BJA to support additional capacity-building efforts such as information technology upgrades, training, and ongoing quality assurance efforts.

Endnotes

1. In 2012, Georgia enacted HB 1176, which included, among other policy reforms, new sentencing policies to prioritize a greater share of prison beds for people convicted of serious and violent crimes, as well as the expansion of accountability courts. In 2013, Georgia enacted HB 242, which focused on juvenile justice reforms to divert more youth who commit low-level offenses to evidence-based community programs. In 2014, the state created the Georgia Prisoner Reentry Initiative to help people transition into the community after release from prison. In 2015, Georgia enacted HB 310, which established the Department of Community Supervision and merged probation and parole into one state agency to improve efficiency, as well as required that all Georgians who qualify for a second chance under the First Offender Act be informed of their eligibility. In April 2016, Governor Deal signed into law SB 367, which includes, among other policy reforms, new sentencing policies to allow some people serving drug-related mandatory minimum sentences to be eligible for parole.
2. Georgia Council on Criminal Justice Reform (Council), *Report of the Georgia Council on Criminal Justice Reform* (Atlanta: Council, November 2016); Georgia Department of Corrections (GDC), FY2012 Annual Report (Atlanta: GDC, 2013); GDC, FY2015 Annual Report (Atlanta: GDC, 2016).
3. Aielle Kaeble, Laura Maruschak, and Thomas Bonczar, *Probation and Parole in the United States, 2014* (Washington, DC: Bureau of Justice Statistics, November 2015).
4. E. Ann Carson, *Prisoners in 2014* (Washington, DC: Bureau of Justice Statistics, September 2015).
5. Email correspondence between CSG Justice Center and Applied Research Services, Inc., March 2016.
6. Georgia's misdemeanor probation rate is counted by cases and not people.
7. 2016 CSG Justice Center analysis of probation and inmate research files.
8. 2016 CSG Justice Center analysis of probation data.
9. 2016 CSG Justice Center analysis of Prison Admissions and Probation Terminations data.
10. For people with split sentences, their probation terms follow a period of incarceration. If they are released from prison on parole, they serve parole sentences in addition to their probation terms.
11. Donald Arthur Andrews and James Bonta, *The Psychology of Criminal Conduct* (Cincinnati: Anderson, 2010); Lee, S., Aos, S., Drake, E., Pennucci, A., Miller, M., & Anderson, L., *Return on Investment: Evidence-based Options to Improve Statewide Outcomes* (Document No. 12-04-1201, Olympia: Washington State Institute for Public Policy, April 2012).



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