

# 2012 Georgia Public Safety Reform

## Legislation to Reduce Recidivism and Cut Corrections Costs

### Highlights

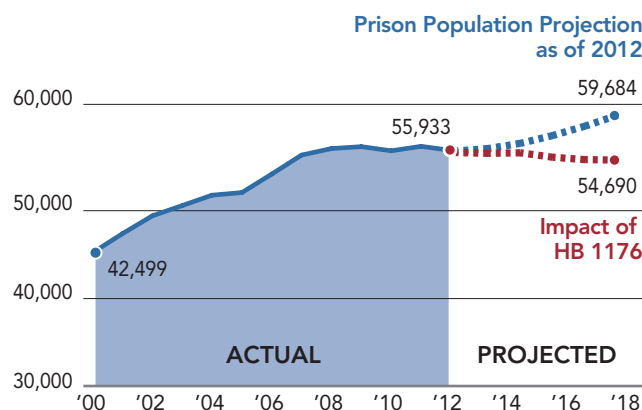
**Problem:** Since 1990, Georgia's prison population more than doubled to nearly 56,000 inmates. Today, the state spends more than \$1 billion annually on corrections. Despite this growth, the proportion of inmates who were reconvicted of a felony within three years of release remained at nearly 30 percent during the past decade. If current policies had remained, the population was projected to grow 8 percent over five years at a cost of \$264 million.

**Findings:** An extensive review of data by the Special Council on Criminal Justice Reform for Georgians (Council) revealed that drug and property offenders accounted for almost 60 percent of prison admissions. Judges had few viable sentencing options other than prison, and probation and parole agencies lacked the authority and resources to effectively supervise offenders in the community.

**Reforms:** With technical assistance from the Pew Center on the States and its partners, the Council issued recommendations to improve public safety by focusing prison space on serious offenders, strengthening probation and alternative sentencing options, relieving

### The Impact of Public Safety Reform

HB 1176 is projected to reduce the prison population by nearly 5,000 beds over the next five years, saving taxpayers at least \$264 million.<sup>1</sup>



local jail overcrowding, and improving performance measurement. HB 1176, based on the Council's proposals, passed both chambers of the General Assembly unanimously and was signed by Governor Nathan Deal in May 2012.

**Impact:** HB 1176 is projected to avert all the anticipated growth in prison population and costs over the next five years, saving at least \$264 million. Through accompanying budget initiatives, the state redirected more than \$17 million of the savings into efforts to reduce reoffending. Governor Deal signed an Executive Order to continue the Council to monitor and expand on the reforms.

## Background

Between 1990 and 2011, the prison population in Georgia more than doubled to nearly 56,000 inmates.<sup>2</sup> Since 2000, the inmate population grew 35 percent.<sup>3</sup> Recent data show that one in 70 Georgia adults was behind bars (in state, local, or federal facilities), compared with the national incarceration rate of one in 100 adults, giving Georgia the fourth highest incarceration rate in the country.<sup>4</sup>

This scale of correctional control and growth came at a substantial cost to Georgia's taxpayers. Today, the state spends more than \$1 billion annually on corrections,<sup>5</sup> up from \$492 million in

fiscal year 1990.<sup>6</sup> With more than \$100 million in costs outside the Department of Corrections budget, including capital expenditures and retiree health care contributions, the total cost of the Georgia prison system in fiscal year 2010 was \$1.13 billion.<sup>7</sup>

Yet, despite this growth in population and spending, Georgia taxpayers have not received a sufficient public safety return on their corrections dollars: The proportion of inmates who are reconvicted of a felony within three years of release has remained unchanged at nearly 30 percent throughout the past decade.<sup>8</sup>

If current policies had remained in place, analysis at the time indicated that Georgia's prison population would rise by another 8 percent to reach nearly 60,000 inmates within five years.<sup>9</sup> With the state's existing prison facilities filled to 107 percent of capacity,<sup>10</sup> continued inmate growth would have created substantial taxpayer burdens. Absent policy reform, the state faced the need to spend an additional \$264 million to expand capacity.<sup>11</sup>

### Special Council on Criminal Justice Reform for Georgians

Seeking to protect public safety while controlling the growth of prison costs, the 2011 Georgia General Assembly passed HB 265 to establish the bipartisan, inter-branch Special Council on Criminal

“ We studied this important issue for a year, met with all the stakeholders, weighed the pros and cons, and delivered a product that passed with total support from both sides of the aisle. That's amazing, particularly on an issue that's so often at the center of partisan divides.”

— Gov. Nathan Deal

Justice Reform for Georgians (Council). The legislation also created a Special Joint Committee on Georgia Criminal Justice Reform (Joint Committee), comprised of members from both legislative chambers, to consider the recommendations of the Council in the 2012 legislative session.

Beginning in the summer of 2011, the Council members (see sidebar on page five) began a detailed analysis of Georgia's sentencing and corrections data to identify the factors driving the state's prison growth. They also audited state policies and practices and solicited input from a wide range of stakeholders, including prosecutors, sheriffs, crime victim advocates, and county officials. The Council used that information to develop research-based, fiscally sound policy options to protect public safety, hold offenders accountable, and control corrections costs.

The Council received technical assistance from the Public Safety Performance Project of the Pew Center on the States. Pew and its partners, the Crime and Justice Institute and Applied Research Services, Inc., helped the Council analyze current sentencing and corrections policies and generate data-driven policy options.

## Key Findings

The Council determined that the state's prison growth was not explained by an increase in crime. Despite some year-to-year fluctuations, violent and property crime rates have declined in Georgia as they have in most states. In the past decade, violent and property crime rates have fallen 20 and 21 percent, respectively.<sup>12</sup> Despite a resident population that has grown significantly, the total number of violent crimes reported to police in 2009 is the same as it was in 1999.<sup>13</sup>

The Council's extensive data analysis revealed that Georgia's inmate population growth was due in large part to policy decisions about who is being sent to prison and for how long. The Council identified several specific challenges, including:

### **High Number of Lower-Risk Offenders**

**in Prison:** The data showed that drug and property offenders represented almost 60 percent of all prison admissions,<sup>14</sup> and the average length of stay behind bars for drug and property crimes had more than tripled between 1990 and 2010.<sup>15</sup>

Importantly, many of these offenders were identified as lower risk to reoffend. In 2010, Georgia courts sent more than 5,000 lower-risk drug and property offenders to prison who had never been to prison before, accounting for 25 percent of all admissions that year.<sup>16</sup> Looking more

“ There’s plenty of evidence that the way we have addressed these types of offenders in the past has not been effective.”

— Rep. Jay Neal, R-Lafayette

closely at drug admissions, more than 3,200 offenders were admitted to prison in 2010 on a drug possession conviction (as opposed to a sales or trafficking conviction), and two-thirds of these inmates were assessed as lower risk to reoffend.<sup>17</sup>

**Insufficient Supervision Resources:** The Council also identified several challenges to the state’s ability to effectively supervise offenders in the community and provide interventions to reduce the likelihood of reoffending. Georgia’s probation and parole agencies operate some effective programs using evidence-based tools to identify and supervise higher-risk offenders, but the Council’s analysis showed that these options were limited and that supervision agencies did not have the resources required to supervise all offenders effectively.

**Lack of Options:** The Council found that evidence-based services and programs, especially substance abuse and mental health, were either insufficient or unavailable in many areas of the state. For example, the state’s existing drug courts covered less than 50 percent of Georgia’s counties.<sup>18</sup> Judges and prosecutors alike indicated that

expansion of these and other programs, such as Day Reporting Centers, would help them divert greater numbers of lower-risk offenders from prison and achieve better public safety outcomes at a lower cost.

**Local Jail Backlog:** Local jails in Georgia routinely hold inmates awaiting transfer to state facilities, including newly sentenced offenders and those waiting for a bed at a specific facility. The state had more than 800 inmates housed in county jails awaiting beds at Probation Detention Centers (PDC) and approximately 750 inmates in jails awaiting beds at Residential Substance Abuse Treatment (RSAT) programs.<sup>19</sup> This backlog has been a constant source of tension between state and local governments due to the costs of housing offenders awaiting a transfer.

**Outcome Measurement:** Most performance measures at the Georgia Department of Corrections track processes such as case flow (e.g., new cases received, cases discharged, cases remaining), activity counts (e.g., number of office or field contacts completed, number of drug tests administered), or point-in-time snapshots (e.g., average caseload size, types of cases supervised). Such measures provide information about the agency workload but fail to address the results achieved by the agency. A comprehensive performance measurement system also tracks and reports on key outcome measures such as recidivism, employment, substance use, and payment of victim restitution.

## The Council Report

Council members acknowledged the role that increased incarceration played in helping reduce crime, but saw its mission as finding the best way to deploy state resources to produce steeper drops in crime and recidivism. Based on the data analysis and the assessment of the correctional system, in November 2011 the Council issued a report detailing a broad spectrum of proposals designed to improve public safety, hold offenders accountable, and control corrections costs.<sup>20</sup>

The policy options in the report focused on concentrating prison space on violent and career criminals and more effectively punishing low-level drug users and property offenders through alternatives. Where fiscal savings were achieved, the

Council recommended that a portion should be reinvested into those options proven to reduce recidivism and improve public safety. These included expanding the availability of drug and other accountability courts and strengthening community supervision. The Council also proposed investing in effective information and performance measurement systems.

This report was forwarded to the governor, lieutenant governor, speaker of the House of Representatives, and chief justice of the Supreme Court for full consideration by the Joint Committee. At the request of Governor Deal, the policy options in the Council report were translated into legislation and introduced as House Bill 1176 by Representative Rich Golick, co-chair of the Joint Committee.

### SPECIAL COUNCIL ON CRIMINAL JUSTICE REFORM FOR GEORGIANS

#### Gubernatorial Appointees

**Hon. Todd Markle**  
(Chair and designee of the Governor)  
Superior Court Judge,  
Atlanta Judicial Circuit

**Linda Evans**  
Member, Judicial Qualifications  
Commission

**David McDade**  
District Attorney,  
Douglas County

**Ken Shigley**  
President,  
Georgia State Bar

#### Senate Appointees

**Sen. John Crosby**  
District 13, Tifton

**Sen. Bill Hamrick**  
District 30, Carrollton

**Sen. Ronald Ramsey**  
District 43, Decatur

#### House Appointees

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District 83, Decatur

**Rep. Jay Powell**  
District 171, Camilla

**Rep. Willie Talton**  
District 145, Warner Robins

#### Judicial Branch Appointees

**Hon. Carol Hunstein**  
Chief Justice, Supreme Court  
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**Hon. Michael P. Boggs**  
Superior Court Judge,  
Waycross Judicial Circuit

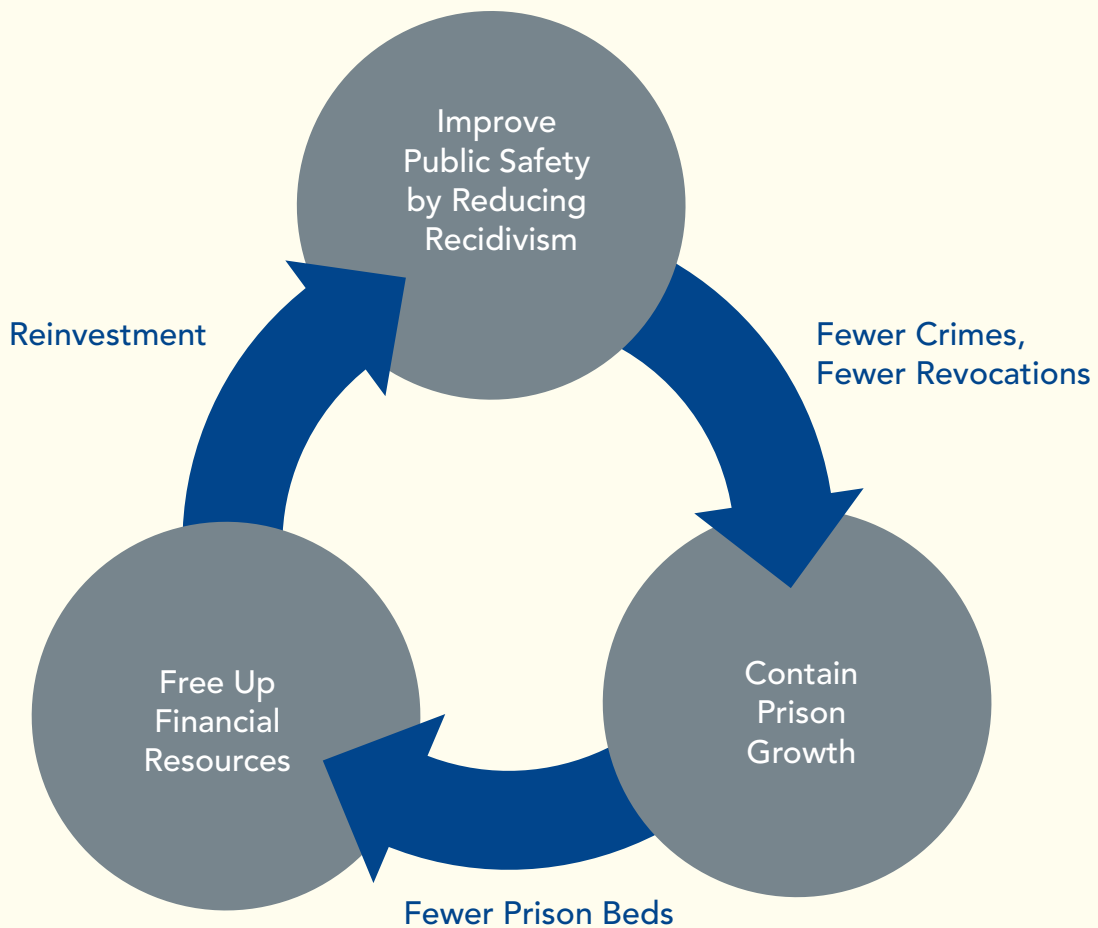
**Hon. Ural Glanville**  
Superior Court Judge,  
Atlanta Judicial Circuit

## Legislative Reform Package

The Georgia General Assembly unanimously passed HB 1176, with votes of 162-0 in the House and 51-0 in the Senate.<sup>21</sup> The law is expected to avert the projected 8 percent increase in the prison population and the associated cumulative cost of \$264 million. Through accompanying budget initiatives, the

General Assembly also reinvested more than \$17 million of the prison savings into measures designed to reduce reoffending. In addition, Governor Deal signed an Executive Order to reassemble the Council in order to make recommendations on additional areas of improvement to the criminal justice system to protect public safety by reducing recidivism.

## How the Public Safety Reform Works



## 1. Focuses Prison Space on Serious Offenders

The law reflects a consensus that serious offenders deserve long prison sentences but that many nonviolent offenders can be sentenced to shorter periods of incarceration or effectively supervised in the community. This tiered approach is cost effective and helps ensure that prison beds are available for more serious offenders.

- **Creates degrees of burglary based on the seriousness of the offense.** Increases penalties for serious burglaries and establishes a graduated scale of penalties so that burglary of a residence is punished more severely than burglary of a non-residence.

- **Creates degrees of forgery based on the seriousness of the offense.** Increases penalties for serious forgeries and establishes a graduated scale of penalties based on the type of forgery.
- **Creates levels of theft based on the seriousness of the theft.** Raises the felony theft threshold from \$500, which was set in 1982, to \$1,500, and creates a graduated scale of penalties for felony theft based on the value of the stolen items. Raises the penalty for the most serious theft (above \$25,000) and increases the felony shoplifting threshold from \$300 to \$500.
- **Revises penalties for simple possession of drugs.** Creates degrees of drug possession based on the weight of drugs and establishes a graduated scale of penalties, with higher penalties for third and subsequent convictions. Also restricts drug possession offenses from applying to the recidivist statute.
- **Reinvests \$175,000 to develop a front-end risk assessment tool.** Provides funding to create a new tool to assist judges at sentencing in identifying lower-risk, nonviolent offenders who could be safely diverted from prison.

“ HB 1176 outlines much-needed reforms that will improve public safety, lower recidivism rates, and bring real costs savings to Georgia taxpayers.”

— Sen. Bill Hamrick, R-Carrollton

## 2. Reduces Recidivism by Strengthening Probation and Alternative Sentencing Options

The new law expands cost-effective sentencing options for the courts and improves the state's ability to reduce recidivism.

- Allows the courts to order electronic monitoring with all offenders.
- Allows probation to impose graduated sanctions that swiftly and certainly respond to offender violations.

“ [I]n addressing the root problem, we're going to keep people from committing other crimes and reunite them with their families and make them taxpayers, not tax burdens.”

— Chief Justice Carol Hunstein

- Requires the Board of Corrections to ensure the use of evidence-based practices, including a risk and needs assessment tool, to guide decisions relating to the management and treatment of inmates and probationers.
- Requires the Administrative Office of the Courts to establish policies and practices for drug and mental health court divisions, such as the use of tools that identify higher-risk offenders and develop supervision plans that reduce recidivism.
- Creates a certification and review process for drug and mental health court divisions and restricts state funds to certified programs.
- Reinvests \$11.6 million of averted prison spending into accountability courts that focus on drug offenders and those with mental illness.
- Reinvests \$5.7 million of prison savings into new Residential Substance Abuse Treatment (RSAT) programs to reduce recidivism among inmates with drug and alcohol addictions.



### 3. Relieves Local Jail Crowding

The new law relieves crowding in local jails by reducing the number of state-responsible inmates awaiting transfer to state facilities.

- Streamlines the transfer of information and inmates from the counties to the state. Requires sentencing “packets” to be submitted electronically to the state Department of Corrections from counties to reduce the time spent in jail awaiting transfer to prison.
- Ensures the effective use of Probation Detention Centers (PDC) by capping sentences to PDCs at 180 days, thereby reducing time spent in jail by those awaiting transfer to a PDC.

### 4. Improves Performance Measurement

To help state policy makers and corrections officials assess and manage the overall performance of the system, the new law creates a results-oriented reporting and accountability system.

- Requires the Department of Corrections to collect, analyze, and report on the performance outcomes related to the treatment programs for inmates and probationers, including the impact on recidivism.

The full text of the legislation is online at:  
[http://www.pewstates.org/uploadedFiles/PCS\\_Assets/2012/Georgia\\_Bill\\_HB\\_1176.pdf](http://www.pewstates.org/uploadedFiles/PCS_Assets/2012/Georgia_Bill_HB_1176.pdf).

And the council's full report on the legislation and budget initiatives can be read here:  
<http://www.legis.ga.gov/Documents/GACouncilReport-FINALDRAFT.pdf>.

# Endnotes

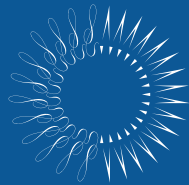
- 1 Georgia Department of Corrections (historical data); Applied Research Services, Inc. (projection and impacts of HB 1176).
- 2 Data from the Georgia Department of Corrections, Weekly Reports. (1990-2011). Includes prison inmates plus the jail backlog.
- 3 Ibid.
- 4 Pew Center on the States, *One in 31: The Long Reach of American Corrections* (Washington, DC: The Pew Charitable Trusts, March 2009).
- 5 State of Georgia's Budget in Brief FY 2011 and FY 2012. <http://www.pewstates.org/research/reports/one-in-31-85899371887>.
- 6 Georgia Department of Corrections, "Budget in Brief," (1990). In inflation-adjusted terms, the 1990 figure is \$854 million.
- 7 Vera Institute of Justice, "The Price of Prisons: What Incarceration Costs Taxpayers," (January 2012).
- 8 Data from the Georgia Department of Corrections.
- 9 Analysis conducted by Applied Research Services.
- 10 Data from the Georgia Department of Corrections as of July 1, 2011.
- 11 Governor's Office of Planning and Budget, State of Georgia.
- 12 Crimes Reported to Police, "Georgia UCR, 1999-2009." In comparison, the national declines for violent and property crimes during the same period were 18 and 19 percent. [http://www2.fbi.gov/ucr/cius2009/data/table\\_01.html](http://www2.fbi.gov/ucr/cius2009/data/table_01.html).
- 13 Data from U.S. Census Bureau and Crimes Reported to Police, "Georgia UCR, 1999-2009."
- 14 Data from the Georgia Department of Corrections.
- 15 Ibid. Analysis conducted by Applied Research Services. Average time served grew from 0.6 years in 1990 to 2.0 years in 2010.
- 16 Analysis conducted by Applied Research Services.
- 17 Ibid.
- 18 Georgia Adult Felony Drug Courts, "Summary of Performance Measures," January 2010-January 2011.
- 19 Georgia Department of Corrections.
- 20 The Report of the Special Council on Criminal Justice Reform for Georgians is available at <http://www.legis.ga.gov/Documents/GACouncilReport-FINALDRAFT.pdf>.
- 21 The full text of the legislation is online at: [http://www.pewstates.org/uploadedFiles/PCS\\_Assets/2012/Georgia\\_Bill\\_HB\\_1176.pdf](http://www.pewstates.org/uploadedFiles/PCS_Assets/2012/Georgia_Bill_HB_1176.pdf).

Suggested Citation: Pew Center on the States, 2012 Georgia Public Safety Reform (Washington, DC: The Pew Charitable Trusts, July 2012).

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Launched in 2006, the Public Safety Performance Project seeks to help states advance fiscally sound, data-driven policies and practices in sentencing and corrections that protect public safety, hold offenders accountable, and control corrections costs.

The Pew Center on the States is a division of The Pew Charitable Trusts that identifies and advances effective solutions to critical issues facing states. Pew is a nonprofit organization that applies a rigorous, analytical approach to improve public policy, inform the public, and stimulate civic life. More information is available at [www.pewstates.org](http://www.pewstates.org).



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