



Innovation:

SB 1154: Omnibus Crime Reduction and Sentencing Reform Act of 2010

Background: From 1983 to 2008, the prison population nearly tripled in South Carolina and spending on prisons increased by over 500 percent to \$394 million.¹ The parole grant rate had plummeted from 63 percent in 1980 to only 10 percent in 2008.² On top of this, the recidivism rates also began to climb in the early 2000's, causing major prison overcrowding. In 2008, the legislature established the Sentencing Reform Commission to assess sentencing and parole policies and practices and come up with effective solutions to reducing the prison population, lowering recidivism rates and improving public safety. Working with the Pew Center on the States and other organizations, the Commission was able to make recommendations to the legislature that resulted in the passage of Senate Bill 1154, the Omnibus Crime Reduction and Sentencing Reform Act in 2010.³

These reforms could result in a total savings of \$241 million within the next five years.

How it works: This reform plan addressed some key issues in South Carolina criminal justice reform.⁴

- **Sentencing:** Changed sentencing structures for a number of violent and nonviolent offenses. Controlled substance offenses were restructured to remove disparities in sentencing between similar

crimes and to allow probation and other alternatives for first- and second-time non-trafficking drug law violations.

- **Parole release policies:** Increases the educational requirements of the Director of the Board of Parole and Pardons and requires annual training for all board members. In addition, in order to make more effective release decisions, the parole board is required to adopt risk and needs assessment tools. The law allows people in prison who are terminally ill to petition for parole. Finally, the law requires that people who have been convicted of nonviolent offenses who have served at least 2 years of their sentence be released to mandatory supervision 180 days before their release date.
- **Parole and probation supervision:** The law establishes good time credits for people on probation and requires probation officers to utilize validated risk assessments to determine the most effective supervision model. This can include administrative supervision for people who are considered the lowest risk. In addition, probation officers are given the opportunity to give administrative sanctions to people who violate probation rather than revocation.
- **Reentry:** The South Carolina Department of Motor Vehicles agreed to work with the Department of Corrections to give people returning to the community valid photo identification cards.
- **Oversight:** The state legislature now requires ongoing oversight in the form of annual reporting of expenditures and

progress and established the Sentencing Reform Oversight Committee to handle this reporting and policy adjustments that may follow. In addition, a fiscal impact statement is now required of any legislation that would seek to introduce a new criminal penalty or alter former criminal penalties.

Results:

- According to the Pew Center on the States, South Carolina's sentencing reforms will "save the state up to \$175 million in construction costs and avoid more than \$66 million in operating costs over the next five years."⁵ Pew also predicts a total savings of \$241 million within the next five years.
- Prison population predictions for South Carolina prisons in 2009 saw an increase of 3,200 inmates by 2014 to 27,903. As a result of the Sentencing Reform Act of 2010, the new population predictions put growth at only 1,505 inmates predicting a total population of 26,117 in 2014, saving the state the cost of building and operating 1,786 additional beds in the next five years.⁶

Challenges: The Act also enhanced penalties for a number of offenses by adding 24 crimes to the list of violent offenses and authorized life without parole sentences for people convicted of serious offenses, including drug trafficking and for people who committed two or more previous "serious offenses."⁷ These changes could lead to longer prison sentences for people convicted of certain offenses and have a long-term impact on prison populations.

In addition, the Act requires people convicted of drug law violations to pay a "controlled substance offense assessment." The funds from this fee will be put into drug treatment courts.⁸ While people who are considered indigent do not have to pay

these fees, they are still a burden to people who are convicted of drug offenses who are already facing challenges with being involved in the justice system. In addition, the allocation of funds into drug courts rather than community-based treatment options that can help people before they get involved in the justice system may not be as effective or cost-effective as the latter option.

Finally, advocates report that implementation of the Act and a change in the overall "tough on crime" attitude in the legislature continues to be a challenge, as well as the reallocation of funds to more effective public safety strategies. While everyone seems to be interested in reducing the prison population, issues surrounding local detention and the use of private prisons continue to be a challenge in the state.

Policy Implications: Improving access to probation and parole while also improving these services can have a greater and more positive impact than one reform alone. These changes should result in fewer people returning to prison and more people having successful lives.

A number of states and the federal government have recently changed their sentencing structures to reduce disparities in drug laws.

- In 2010 the federal government, like South Carolina, reduced the sentencing disparity of crack and powdered cocaine offenses from 100 to 1 to 18 to 1.
- In 2000, Washington State enacted a sentence reform act that greatly reduced their costs and removed irresponsible sentencing to greatly improve the system.⁹ Currently, Georgia¹⁰ and Indiana¹¹ have legislation regarding sentencing reform being discussed and Colorado¹² is also beginning discussion on the topic.

For more information on SB1154, please visit:

www.pewcenteronthestates.org/uploadedFiles/PSPP_South_Carolina_brief.pdf?n=5221

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- ¹ Pew Center on the States, *One in 31: The Long Reach of American Corrections* (Washington, DC: The Pew Charitable Trusts, March 2009)
www.pewcenteronthestates.org/uploadedFiles/PSPP_1in31_report_FINAL_WEB_3-26-09.pdf
- ² See Pew Center on the States, *South Carolina's Public Safety Reform: Legislation Enacts Research-based Strategies to Cut Prison Growth and Costs* (Washington, DC: Pew Center on the States, June 2010).
www.pewcenteronthestates.org/uploadedFiles/PSPP_South_Carolina_brief.pdf?n=5221
- ³ Pew Center on the States, June 2010.
- ⁴ Pew Center on the States, June 2010.
- ⁵ Pew Center on the States, June 2010.
- ⁶ Pew Center on the States, June 2010.
- ⁷ Nicole D. Porter, *The State of Sentencing 2010: Developments in Policy and Practice* (Washington, DC: The Sentencing Project, 2010)
<http://sentencingproject.org/doc/publications/publications/Final%20State%20of%20the%20Sentencing%202010.pdf>
- ⁸ Pew Center on the States, June 2010.
- ⁹ *The Sentencing Reform Act at Century's End: An Assessment of Adult Felony Sentencing Practices in the State of Washington* (Olympia, WA, Sentencing Guidelines Commission, 2000).
- ¹⁰ "House panel set to consider sentencing reform," *The Associated Press*, February 23, 2011.
- ¹¹ Associated Press, "Ind. Senate committee passes a bill that will reduce punishments for non-violent offenders," *The Chicago Tribune*, February 15, 2011.
www.chicagotribune.com/news/local/sns-ap-in--xgr--crowdedprisons,0,5057087.story
- ¹² Mike Krause, "Sentencing Reform in the 2011 Colorado General Assembly," *The Huffington Post*, January 11, 2011.
www.huffingtonpost.com/mike-krause/sentencing-reform-in-the-_b_807006.html