



# E-Bulletin

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## *Sentencing and Corrections Policy Updates*



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## Front Page

### *2012 Enactments Focus on Supervision, Penalties*

#### *Significant new sentencing and corrections legislation reported in NCSL database*

State legislatures continue to have sentencing and corrections laws high on their agenda. As of Sep. 2012, there have been 164 significant enactments from 41 states, the District of Columbia and Puerto Rico dealing with issues related to sentencing, alternatives to incarceration, probation and parole supervision, prison policy and programming, reentry programming, release and discharge procedure, and oversight of criminal justice agencies.

There have been 50 laws enacted this year related to community supervision. Many of these laws created or expanded the use of risk assessments and other evidence-based practices for supervision of probation and parole offenders. Eight states adopted progressive sanctions for probationers or parolees who violate supervision rules.

Of note, the number of sentencing and criminal penalties bills (33) more than doubled this year, up from 15 in 2011 and nine in 2010. These laws amended penalties and quantity thresholds for drug crimes; relaxed mandatory prison sentences; and created degrees of penalties for monetary crimes such as theft and burglary, with penalties increasing as the value increases.

Correctional facility administration also was a popular topic. Laws included inmate medical cost-saving measures, restricting the use of restraints on pregnant inmates and evidence-based inmate programs.

At least six states—[Delaware](#), [Georgia](#), [Hawaii](#), [Missouri](#), [Oklahoma](#) and [Pennsylvania](#)—adopted significant sentencing and corrections reforms. Continue reading to learn about the notable work done in Georgia.

## State in Focus

### *Georgia Public Safety Reform*

#### *New legislation addresses high recidivism rates and decreases corrections spending*

In 2011 the Georgia General Assembly created the Special Council on Criminal Justice Reform for Georgians ([HB 265](#)) to perform an extensive review of the state's sentencing and corrections practices. Based on the Council's recommendations, [HB 1176](#) was signed into law this year and is expected to create at least \$264 million in savings, with \$17 million already budgeted ([HB 742](#), 2012) for programs that reduce recidivism.

The NCSL [Sentencing and Corrections Legislation](#) database provides detailed summaries on enacted legislation. Legislators, legislative staff and others interested in state policy can filter search results by state, topic, year, primary sponsor or keyword. The database contains enactments from 2010–2012, and 50–states charts are available for laws in [2009](#), and [2008 and 2007](#).

The Council conducted an in-depth [review](#) of the state's sentencing and corrections data and found that Georgia's prison population had more than doubled over the past two decades, corrections spending had risen to over \$1 billion, and the prison population was expected to rise another 8 percent by 2016.

The Council identified several challenges, including a high percentage of admissions of drug and property offenders. The resulting legislation expands community options for nonviolent offenders while reserving prison space for violent offenders. It also creates ranges of penalties for burglary and simple drug possession, allowing for increased penalties for more serious offenses. Graduated sanctions are authorized alternatives to revocation of probation after a rule violation.

To address the nearly 30 percent recidivism rate, the act requires the Judicial Council and the Board of Corrections to ensure the use of evidence-based practices to improve offender supervision. Performance outcome data will be collected and analyzed to determine the effectiveness of treatment programs.

The accompanying budget reserves \$175,000 to develop a risk assessment tool for judges to identify offenders who can safely be diverted from prison. Residential programs are slated to receive \$5.7 million in reinvested funds and \$11.6 million are going to accountability courts.

## Issue in Focus

### Time Served: High Cost, Low Return of Longer Prison Terms

*Rethinking long sentences for non-violent offenders*

Prisoners released in 2009 served an average of almost three years longer in custody, or 36 percent, than offenders released in 1990, according to a [new report](#) of the [Public Safety Performance Project](#) of the Pew [Center on the States](#). In 2009 alone, the longer sentences cost states more than \$10 billion, and more than half of the offenders released that year had served terms for non-violent offenses.

The report, "Time Served, the High Cost, Low Return of Longer Prison Terms," found time served for drug offenses and violent offenses grew at nearly the same pace from 1990 to 2009. Drug offenders served 36 percent longer in 2009 than those released in 1990; violent offenders served 37

percent longer; and time served by inmates convicted of property crimes increased by 24 percent. The study found that nearly all states increased lengths of stay over the two decades covered. The change varied widely, however, among the 35 reporting states.

The Pew report includes findings from a companion analysis of the public safety impact of longer prison terms. Researchers studied data about nonviolent offenders released in 2004 in Florida, Maryland and Michigan. The research revealed many of those offenders could have served terms from three months to two years shorter with little or no public safety impact.

The report authors note the role of the federal Violent Crime Control and Law Enforcement Act of 1994 in encouraging and providing grants for truth in sentencing policies that prompted longer lengths of stay and prison expansion.

The Georgia Council received technical assistance from the [Public Safety Performance Project](#) of the [Pew Center on the States](#) in cooperation with the [Justice Reinvestment Initiative](#) of the [Bureau of Justice Assistance](#), [Office of Justice Programs](#), and [U.S. Department of Justice](#).

Learn more about the work in Georgia from Pew's [2012 Georgia Public Safety Reform](#) report.

To learn more about the policies mentioned, see NCSL's [Principles of Effective Sentencing and Corrections Policy](#) report and related resources.

*"The report found that from 2006 to 2010, most states had an increase in populations and costs of both their prison and community corrections systems."*

Since then, state legislatures have reclaimed authority for sentencing policy.

The report outlined steps states have taken in more recent years to reverse the trend of longer time served without compromising public safety, including:

- Reclassifying offenses, particularly through modifications in theft and drug possession thresholds. At least seven states— Alabama, Arkansas, California, Delaware, Montana, South Carolina and Washington— have enacted related policies.
- Amending mandatory minimum sentencing laws. States including Delaware, Indiana, Michigan, Minnesota and New York have reduced time served with such reforms.
- Using risk-based sentencing to identify offenders likely to succeed with an alternative sentence. This popular approach is being deployed in a growing number of states, including Arizona,

Colorado, Kentucky, Ohio, Tennessee and Virginia.

- Expanding opportunities for inmates to earn time off of their sentence by completing rehabilitative programs. States including Colorado, Kansas, South Carolina and Pennsylvania have put such policies in place.
- Reducing the percentage of sentences that must be served before parole eligibility. Georgia and Mississippi are examples of states that have enacted related reforms.

The report authors say that criminologists and policymakers increasingly agree states have reached a "tipping point" with incarceration, where additional imprisonment will have little, if any, effect on crime. Meanwhile, legislatures are looking to improved supervision strategies and other policy approaches that help break the cycle of recidivism and make communities safer.

## Fiscal Front

### Realigning Justice Resources

*A new report from the Vera Institute of Justice looks at corrections population and spending shifts*

There is no clear relationship between changes to correctional populations and spending shifts between prisons and community corrections, according to a [new report](#) "Realigning Justice Resources: A Review of Population and Spending Shifts in Prison and Community Corrections" by the [Vera Institute of Justice](#).

The report found that from 2006 to 2010, most states had an increase in population and cost of both their prison and

community corrections systems. When looking just at the years 2009 and 2010, however, nearly half of states had decreases in prison populations, community populations or both. Spending also decreased in a majority of states. The report noted that several states successfully implemented policies that curb both the prison population and spending. The findings are based on survey responses from 36 states.

Policymakers and corrections administrators surveyed for the study said population and cost changes were brought about by:

- **Implementing new policies.** One year after adoption of the South Carolina Omnibus Crime Reduction and Sentencing Reform Act of 2010 ([SB 1154](#)), the state prison population dropped nearly 3 percent and the corrections budget also has declined.
- **Increasing prison capacity.** In recent years, Pennsylvania built new corrections facilities in order to bring back inmates who were housed in other states and to replace older facilities. Spending increased by 20 percent during this time.
- **Expanding community supervision.** In 2010, Colorado expanded community supervision for low-

level drug offenders ([HB 1352](#)) and parolees who break the rules ([HB 1360](#)). The laws provided increased funding for community-based treatment and reentry services. A \$740,000 federal grant under the [Second Chance Act](#) also boosted funding to community corrections.

The authors noted a few other factors. Two-thirds of states experienced reduced community corrections budgets because of staffing cuts, hiring freezes, salary reductions, or furloughs to reduced community corrections budgets. Public sentiment led to increased prison populations in three states, and in three states costs associated with public labor agreements increased prison costs.

## Recent Report

### Performance Incentive Funding

The new report, [Incentivizing Better Outcomes in the Community](#) by the [Vera Institute of Justice](#), examines performance incentive funding (PIF) policies. Adopted by at least eight states since 2008, PIF provides financial incentives to localities that produce better outcomes for probationers and parolees. Vera also compiled [PIF resources by state](#).

## Mark Your Calendar



NCSL's Fall Forum of the Standing Committees will be held in Washington, D.C., Dec. 5 – 7, 2012, at the Hilton Washington, 1919 Connecticut Ave, NW. The Forum will focus on how to best address challenging federal relations and state policy issues in the biennium ahead. View the [Law and Criminal Justice Committee agenda](#) and [register online](#)!

**NOTE:** Links to external websites and reports are for information purposes only and do not indicate NCSL's endorsement of the content on those sites.

This newsletter is prepared under a partnership project of NCSL's Criminal Justice Program in Denver, Colorado and the Public Safety Performance Project of the Pew Center on the States, based in Washington, D.C. The NCSL project is designed to help states tap the best research and information available to put a fiscal lens to sentencing and corrections policy options and reforms.