



Criminal Justice Reform

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Following the passage of House Bill 265 during the 2011 Legislative Session, the Special Council on Criminal Justice Reform for Georgians (Council) met to analyze Georgia sentencing and corrections data and develop policy options aimed at the following:

- Addressing the growth of the state's prison population, containing corrections costs, and increasing efficiencies and effectiveness that result in better offender management;
- Improving public safety by reinvesting a portion of the savings into strategies that reduce crime and recidivism; and
- Holding offenders accountable by strengthening community-based supervision, sanctions, and services.¹

With technical assistance from the Public Safety Performance Project of the Pew Center on the States (Pew), the Council recommended policy options in the areas of sentencing and prison admissions; prison length-of-stay and parole; and community supervision in its November 2011 Report of the Special Council on Criminal Justice Reform for Georgians (Report). These recommendations were made with the Council's knowledge of an anticipated \$264 million increase in costs to the state over a five-year period, which is required to expand capacity to meet the projected increase in the criminal justice population.²

Pew's help and assistance in Georgia came after its work with criminal justice reform in other southeastern states, including Kentucky, Arkansas, Texas, and South Carolina. Those states' reforms focused on containing corrections costs and improving public safety, similar to the goals in Georgia. While the Pew recommendations and reforms in other states have been received positively, the stakeholders and policymakers in Georgia sought to ensure that the reforms made in Georgia were the best fit for Georgians. Through the Council's vetting, along with the Special Joint Committee on Georgia Criminal Justice Reform's work on the legislation, the changes made by House Bill 1176 reflect Georgia's specific needs. Specifically, the legislation strengthens accountability courts in the state, focuses prison beds on serious offenders by raising the felony theft threshold, and seeks to protect Georgia's children by changing child abuse reporting and sex abuse laws.

¹ Letter to the U.S. Department of Justice and the Pew Center on the States, dated May 27, 2011.

² Report of the Special Council on Criminal Justice Reform for Georgians, page 2, dated November 2011.

Accountability Courts

During his inaugural address, Governor Nathan Deal voiced his support for drug, DUI, and mental health courts, which are commonly referred to as accountability courts. This push for accountability courts comes at a time when drug-related incidents comprise up to 85 percent of some superior court dockets, according to committee testimony by Judge Michael Boggs. By allowing for the expansion of accountability courts, the system can more effectively address people who will most likely succeed in the program and reduce this number.

House Bill 1176 allows for innovation in accountability courts while also requiring compliance and oversight. The Judicial Council of Georgia will develop policies for the drug and mental health court divisions, which must be incorporated into the divisions' work plans. Included in these work plans, at a minimum, must be a risk and needs assessment to reduce recidivism and focus on moderate- and high-risk offenders. The Georgia Department of Corrections currently uses a risk and needs assessment for its incoming population, and these assessments gauge the predictability of the offender's chance of re-offending. The Judicial Council will also update its standards to incorporate and reflect research from the drug court and mental health court fields, providing for continuing improvement and preventing stymied progress in the fields.

According to a 2010 Georgia audit of adult-felony drug courts, more opportunities exist to expand the use of drug courts, and the legislative changes may help realize these opportunities.³ The audit found recidivism rates for drug court participants to be 22 percent lower than a similar group of offenders sentenced to state prison. The chart below illustrates the recidivism rates found by the September 2010 state audit:

Sentencing Option	Two-Year Recidivism Rate	Average daily cost
Drug Court	7.07%	\$13.54
State Prison	29.10%	\$49.06
Probation	14.49%	\$1.23
Probation Detention Centers	18.36%	\$48.21
Probation Substance Abuse Center	22.07%	\$67.58

Drug courts provide a low-cost sentencing alternative, saving the state money, while also producing more favorable recidivism rates than traditional sentencing options. As of May 14, 2012, there were a number of accountability courts, including drug and mental health courts, in Georgia. These accountability courts are typically run by a judge who volunteers to create and run such a court, and a separate docket will be solely comprised of those types of cases.

Type of Accountability Court	Number Operating in Georgia⁴
Adult Felony Drug Courts	32
Misdemeanor Drug Courts	1
Hybrid Felony Drug and DUI Courts	1
DUI Courts	18
Family Dependency Treatment Courts	10
Juvenile Drug Courts	12
Hybrid Felony Drug/Mental Health Courts	2

³ Judicial Branch Adult-Felony Drug Courts, Georgia Department of Audits and Accounts Performance Audit Operations, found at <http://www.audits.ga.gov/rsaAudits/viewMain.aud> (last visited June 20, 2012).

⁴ Note that some accountability courts have start dates in the future and may not be operating on this date.

Juvenile Mental Health Courts	3
Adult Felony Mental Health Courts	13
Adult Misdemeanor Mental Health Courts	8
Veterans Courts	5

Shifting Focus to Serious Offenders

One of the major portions of House Bill 1176 focused on shifting expensive prison beds to serious offenders by increasing the felony threshold for theft offenses. Many property offenders are identified as lower-risk to re-offend, but are incarcerated in state prison and drain the state's resources. The Council recommended an increase in the felony threshold for theft offenses be increased as one method of reducing projected prison growth.

The felony theft threshold in Georgia was last changed in 1982; adjusted for inflation, the felony standard in Georgia had decreased by more than 50 percent since then. Comparatively, South Carolina recently raised its felony theft threshold to \$2,000; Texas to \$1,500; and North Carolina to \$1,000. The changes made by House Bill 1176 to the theft thresholds not only raise the felony limits, but also provide judges with discretion to treat some thefts as misdemeanors. The legislation raises the felony theft threshold amount from \$500 to \$1,500 and also creates a graduated scale of penalties for felony theft based on the value of the stolen items. The penalty for the most serious theft, exceeding \$25,000, was raised as well.

Protecting Georgia's Children

According to the Child Welfare League of America, 20,567 Georgia children were victims of abuse or neglect in 2010, a rate of 8 per 1,000 children. Of these children, 64.0 percent were neglected, 13.9 percent were physically abused, and 5.1 percent were sexually abused.⁵ These statistics, coupled with the Penn State scandal involving child abuse by an individual in a position of power, explain the legislation's implementation of more stringent measures against child abuse.

In instances where an individual commits a sex crime against a child who is under the age of 16, the victim is now allowed to report the crime any time after the incident, and prosecution of those crimes may commence at any time.

The law also strengthens the mandatory reporting requirements of child abuse. Before House Bill 1176 becomes effective on July 1, 2012, the following persons, who have reasonable cause to believe that a child has been abused, are required to report that abuse:

- Physicians licensed to practice medicine, interns, or residents;
- Hospital or medical personnel;
- Dentists;
- Licensed psychologists and persons participating in internships to obtain licensing;
- Podiatrists;
- Registered professional nurses or licensed practical nurses;
- Professional counselors, social workers, or marriage and family therapists;
- School teachers;
- School administrators;
- School guidance counselors, visiting teachers, school social workers, or school

⁵ Georgia's Children 2012, Child Welfare League of America, found at <http://www.cwla.org/advocacy/statefactsheets/2012/georgia.pdf> (last visited June 22, 2012).

- psychologists;
- Child welfare agency personnel;
- Child-counseling personnel;
- Child service organization personnel; and
- Law enforcement personnel.

Under House Bill 1176, nurses aides are added to the above list of mandatory reporters, as are reproductive health care facilities and pregnancy resource center personnel and volunteers. The reporting requirements were changed as well. Both employees and volunteers at hospitals, schools, social agencies, or similar facilities who are required to report because of their status as a mandatory reporter, as listed above, must report child abuse upon reasonable cause to believe that such abuse has occurred.

Under the final language of House Bill 1176, the mandatory reporting requirements are extended, so as to protect more children, but are still limited to those groups of people who may interact with children on a daily basis due to their profession or volunteerism with one of the above mandatory reporting groups. These amped-up reporting requirements represent just one of the ways House Bill 1176 will increase public safety, especially for Georgia's children.

Conclusion

The changes made by House Bill 1176 are projected to slow the anticipated growth in prison population and costs during the next five years, saving taxpayers approximately \$264 million. The savings realized will be available to be reinvested into improving the criminal justice system.

Governor Nathan Deal signed an Executive Order extending the Council's term to make recommendations that "address the many facets of the criminal justice system in order to ensure public safety is maximized and incarceration is efficient."⁶ In May, the Atlanta Journal Constitution spoke with the governor about the issues the Council would be tackling after reconvening. The Council is expected to address the decriminalization of some state traffic offenses and the implementation of "safety valves" for some mandatory minimum sentences.⁷ These issues were addressed in the Council's Report, but were not included in the reform legislation.

On June 21, 2012, Governor Deal announced that he will be asking state lawmakers to approve an expansion of education programs in state prisons next session. With one out of every 13 Georgia citizens either in jail, in prison, on probation, or parole, the Council will be looking at Governor Deal's proposed expansion in an effort to produce policy that will reduce this statistic.⁸

In other words, House Bill 1176 represents just the first step in improving Georgia's criminal justice system.

⁶ Executive Order Reassembling the Special Council on Criminal Justice Reform, signed May 24, 2012; available at http://gov.georgia.gov/vgn/images/portal/cit_1210/42/0/18549517305_24_12_02.pdf (last visited June 22, 2012).

⁷ Aaron Gould Sheinin & Bill Rankin, *Governor to Sign Sweeping Justice Reform Bill*, ATL. J. CONST., May 1, 2012.

⁸ Jim Galloway, *A Small Jolt: Gov. Nathan Deal Announces New Prison Education System*; ATL. J. CONST., June 22, 2012.