



Mississippi's 2014 Corrections and Criminal Justice Reform

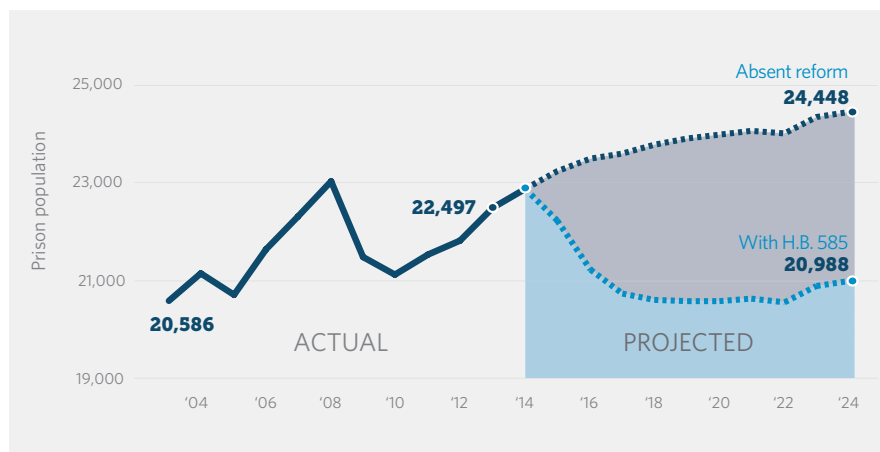
Legislation to Improve Public Safety, Ensure Certainty in Sentencing, and Control Corrections Costs

Overview

In 2014, Mississippi enacted sentencing and corrections reforms that place it at the forefront of states employing research-driven criminal justice policies to produce a greater public safety return on corrections spending. The Corrections and Criminal Justice Task Force, a bipartisan, interbranch group of state and local officials, developed the reform package, H.B. 585, and The Pew Charitable Trusts provided intensive technical assistance.

Figure 1

Reforms Projected to Avert Prison Growth, Save \$266 Million
Mississippi's historical prison population and projections, 2003-24



Source: Mississippi Department of Corrections

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Highlights

Problem

Between 1983 and 2013, Mississippi's prison population grew by 300 percent to more than 22,400 inmates. Data show that in 2012—the latest year for which figures are available—Mississippi had the second-highest imprisonment rate in the country. Without a change in policy, the state projected that the incarcerated population would grow by 1,951 inmates at a cost of \$266 million over 10 years.

Findings

An extensive review of data by the task force revealed that nonviolent offenders and those revoked for probation or parole violations accounted for a large and growing share of Mississippi's prison population. In addition, a 28 percent increase in sentence lengths from 2002 to 2012, though partially offset by expanded early release options, lead to longer average prison stays. Finally, courts had few alternatives at their disposal for lower-level nonviolent offenders.

Reforms

The task force developed 19 policy recommendations aimed at refocusing prison space on violent and career criminals, strengthening community supervision, and ensuring certainty and clarity in sentencing. These recommendations were codified in H.B. 585, which passed with large bipartisan majorities in both legislative chambers and was signed into law by Governor Phil Bryant on March 31, 2014.

Impact

The criminal justice reform legislation is expected to avert all of Mississippi's projected prison growth over the coming decade, saving taxpayers at least \$266 million through 2024, while safely reducing the inmate population below current levels. The legislation also will restore certainty and clarity to Mississippi's sentencing system and allow corrections dollars to be redirected into community supervision and programs proved to reduce recidivism.



We cannot continue down the path we are on. By enacting these policies we will improve public safety by keeping violent and career criminals behind bars, putting the appropriate resources into alternatives for nonviolent offenders, and ensuring our citizens get the best results for their tax dollars."

Governor Phil Bryant, Jan. 24, 2013

Background

Over the past 30 years, Mississippi's prison population more than quadrupled, reaching more than 22,400 inmates in 2013. Data also show that in 2012, the state had the second-highest imprisonment rate in the country, trailing only Louisiana.¹

Prison growth created significant costs for taxpayers. In fiscal year 2013, the Department of Corrections spent \$360 million, an increase of more than 350 percent from 30 years earlier.²

Despite the rising cost of incarceration, Mississippi taxpayers had not received a commensurate public safety benefit: Nearly 1 in 3 nonviolent offenders released from state prison returns within three years.³

The growing financial burden also sparked convoluted and ineffective efforts to rein in spending. Seeking to slow escalating prison costs over the past decade, the Legislature passed a patchwork of inmate release measures. These policies had a limited effect on population growth because judges, unable to predict how long an offender would spend behind bars, responded by handing down longer sentences.

Mississippi's prison population was projected to grow by another 1,951 inmates over 10 years, reaching nearly 24,500 inmates by 2024.⁴ State officials estimated that such an increase would cost taxpayers an additional \$266 million, including the expense of reopening a previously closed facility.

The Corrections and Criminal Justice Task Force

Seeking new ways to control corrections costs, ensure certainty in sentencing, and protect public safety, the Mississippi Legislature, with gubernatorial support, established the bipartisan, interbranch Corrections and Criminal Justice Task Force in 2013.

Chaired by Commissioner of Corrections Christopher Epps, the task force included legislators, judges, prosecutors, law enforcement officials, defense attorneys, civil rights advocates, a county supervisor, and other criminal justice stakeholders. (See page 11 for a full list of members.)

In the summer of 2013, the task force began a detailed analysis of Mississippi's sentencing and corrections data to identify factors contributing to prison population growth. Over the next seven months, it also studied evidence-based criminal justice programs, policies, and practices in other states. Members used that research to produce a set of policy recommendations to help Mississippi improve public safety and hold offenders accountable while reducing spending.⁵

This project was supplemented by extensive stakeholder outreach, including a roundtable of victim advocates and a public safety summit, convened by Governor Bryant in November 2013, that brought together a diverse group of legislators and public safety professionals.

The Pew Charitable Trusts and its partner, the Crime and Justice Institute at Community Resources for Justice, provided technical assistance to the task force by analyzing Mississippi's sentencing and corrections data and systems, helping develop policy options, and educating the public and policymakers about the recommendations. This assistance was provided as part of the Justice Reinvestment Initiative, a public-private partnership between Pew and the U.S. Department of Justice's Bureau of Justice Assistance.

Key findings

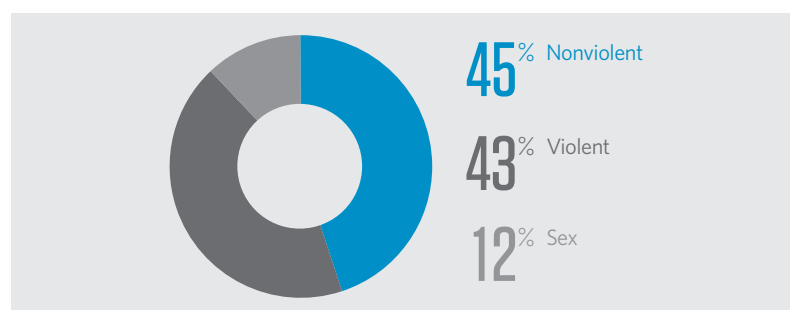
After this comprehensive, data-driven process, the task force identified five factors driving the prison population growth in Mississippi:

Large number of nonviolent offenders in prison. State data revealed that nonviolent offenders were a significant factor in Mississippi's corrections growth, accounting for more than two-thirds of the increase in prison admissions between 2002 and 2012. Analysis of all offenders entering Mississippi prisons in fiscal 2012 found that nearly three out of four were sentenced for a nonviolent crime.

These nonviolent offenders also were remaining in prison longer: Nonviolent offenders released in fiscal 2012, excluding those returned to prison after a revocation of supervision, stayed behind bars an average of 10.5 percent longer than similar inmates released 10 years earlier. The task force found that increases in both admissions and length of stay for such offenders meant that nearly half of all state prisoners were incarcerated for a nonviolent crime.

Figure 2

Nonviolent Offenders Make Up 45% of Prisoners Mississippi prison population by offense type, 2012



Source: Mississippi Department of Corrections
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More inmates admitted for revocations of supervision than for new criminal convictions. The analysis also showed that from fiscal 2002 to fiscal 2012, the number of offenders entering prison because of a revocation of parole or probation climbed 84 percent. In fiscal 2012, such admissions exceeded those for new sentences, and the vast majority of probation revocations—75 percent—resulted not from new criminal activity but from failure to comply with the terms of supervision, such as missing meetings with a supervision officer or failing drug tests. Such incidents are known as technical violations.

Uncertainty in sentencing contributing to increased time behind bars. State data showed that the time inmates spend in prison grew significantly over the past decade. Discussions with criminal justice stakeholders revealed that uncertainty about how much of an offender's sentence would be served behind bars drove much of the increase and led to a dramatic lengthening of sentences (28 percent) between fiscal 2002 and 2012.

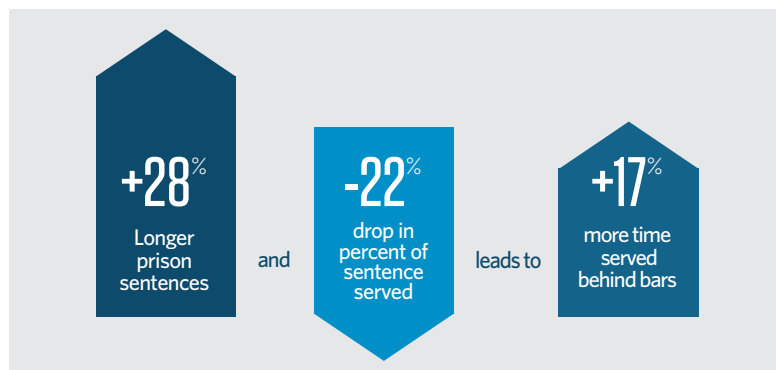
Earned time and early release policies implemented during that same 10-year period resulted in a 22 percent decline in the percentage of sentence served, but the decrease did not offset the growth in sentence lengths: Offenders served a smaller percentage of much longer sentences, ultimately leading to more time in prison. For offenders sentenced for a new criminal conviction, time served in prison jumped 17 percent.

Few sentencing alternatives. The task force found that half of all felony offenders in Mississippi were being sentenced to prison. Discussions with judges, prosecutors, and other criminal justice professionals revealed that

Figure 3

Growth in Time Served Driven by Longer Sentences

Percent change in length of prison sentences, percent of sentence served, and time served, 2002-12



Source: Mississippi Department of Corrections

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many of these offenders would have been sentenced to probation or other alternatives in the community if those options were available. The task force concluded that by expanding proven alternatives to prison, including drug courts and the state's Intensive Supervision Program, Mississippi could divert more lower-level offenders from prison and achieve better public safety outcomes at less cost.

Insufficient supervision resources. Although 64 percent (nearly 40,000) of Mississippi offenders were on probation, parole, or house arrest instead of prison, only 7 percent of the total corrections budget (\$26 million) was directed to their supervision.

The task force found that this spending imbalance deprived supervision agencies of resources needed to operate effectively, such as designated funding for alcohol, drug, and mental health treatment in the community.

Figure 4

Prisons Receive More Than 90% of Mississippi Corrections Dollars

Prison and supervision as share of correctional population and budget, 2012



Source: Mississippi Department of Corrections

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What the task force saw in our state's data is that taxpayers across the state have not been getting a good return on our public safety investment. We have been paying more and more to imprison low-level, nonviolent offenders for longer and longer periods of time, only to see many of them repeat crimes upon release."

Andy Gipson, chairman of the House Judiciary B Committee and H.B. 585 sponsor, Feb.19, 2014

Legislative reform package

With an aim of crafting a policy package that would ensure certainty in sentencing and control corrections costs while protecting and improving public safety, the task force forwarded its findings and 19 policy recommendations to the Mississippi Legislature in December 2013. At the request of legislative leadership, the recommendations were drafted into legislation and introduced as H.B. 585.

The Legislature overwhelmingly passed H.B. 585 with a 105-13 vote in the House and a unanimous vote in the Senate, and Governor Bryant signed it into law on March 31, 2014.

The reforms are expected to avert all of the anticipated prison growth over the next 10 years, saving Mississippi taxpayers \$266 million in operating costs while safely reducing the prison population below current levels. The law also allows the reallocation of Department of Corrections appropriations from prisons to community corrections programs proved to reduce recidivism, including an increase in funding for alcohol and drug treatment, enhanced reentry services for offenders transitioning out of prison and into the community, and investment in evidence-based practices.

The law is structured around six primary goals, each with specific underlying mandates and directives:

Ensure certainty and clarity in sentencing

The law:

- **Establishes a time-served baseline to reduce uncertainty about early releases.**
 - Implements "true minimums" to ensure that nonviolent and violent offenders serve at least 25 and 50 percent of their court-ordered sentences, respectively.
 - Eliminates the Department of Corrections' ability to release offenders early to house arrest.
 - Creates a uniform definition of violence for the purposes of pretrial diversion programs, minimum percentage of sentence served, and parole eligibility.
- **Enhances victim notification.**
 - Standardizes the victim notification system, ensuring that all victims receive at least 15 days' notice prior to an offender's release.

- **Improves parole release processes.**
 - Mandates that the Department of Corrections create case plans for all parole-eligible offenders at admission to ensure needed treatment and services are completed before parole review.
 - Restricts parole hearings to cases in which offenders have failed to comply with their case plans or victims or local law enforcement officials have requested hearings, creating a more predictable rate for paroles granted.



Prisons are necessary for serious and violent offenders, but the research tells us that they are not the best option for every offender."

William L. Waller Jr., chief justice of the Mississippi Supreme Court, March 31, 2014

Increase access to proven prison alternatives, including specialty courts

The law:

- **Expands judicial discretion in imposing alternative sentences proved to reduce recidivism.**
 - Allows judges to order probation and the Intensive Supervision Program for offenders with previous felony convictions and to order non-adjudicated probation for all drug offenders except traffickers.
 - Permits judges to order drug court for offenders convicted of a commercial drug offense, excluding trafficking, or for driving under the influence.
- **Diversifies and strengthens specialty courts.**
 - Authorizes the creation of specialty Veterans' Courts to better address the specific treatment needs of military veterans.
 - Reinvests \$10.85 million of averted prison spending—through accompanying budget legislation—into accountability courts that focus on adult and youth drug offenders.
- **Ensures that specialty courts are following best practices.**
 - Creates statewide standards for drug courts based on the National Association of Drug Court Professionals' 10 key components.
 - Requires the Administrative Office of Courts to establish a certification and review process for drug courts, including a mandate to collect and publish key performance measures.



Through this legislation we are reducing the rising costs of incarceration to the tune of \$266 million while at the same time directing the state's resources into programs such as drug courts that are proven to reduce recidivism and strengthen families."

Brice Wiggins, member of the Senate Corrections and Judiciary B committees and H.B. 585 sponsor, March 17, 2014

Focus prison beds on violent and career offenders

The law:

- **Revises drug statutes to distinguish between drug users and career criminals.**
 - Modifies penalties for simple possession of drugs.
 - Creates a tiered controlled substance statute to differentiate between higher- and lower-level commercial drug offenders (those convicted of drug crimes other than possession and trafficking).
 - Enables prosecutors to effectively punish drug traffickers with a simplified statute based on the weight of the drugs seized, and gives judges the option to use a safety valve sentence in lieu of a mandatory minimum when the trafficking penalties are not in the interest of public safety.
 - Expands eligibility for earned time to offenders sentenced for possession with intent to distribute.
- **Modernizes property statutes and creates degrees of property crimes reflecting the seriousness of the offense.**
 - Raises the felony theft threshold from \$500 to \$1,000.
 - Institutes presumptive probation for most property crimes under \$1,000, establishing probation supervision as the appropriate punishment unless a court declares the offender a risk to the public.
 - Establishes a graduated scale of penalties for property felonies based on the value of the stolen items.
 - Creates a criminal enterprise law to deter organized retail theft.
- **Expands parole eligibility to certain classes of nonviolent offenders.**
 - Expands parole eligibility to include nonviolent offenders who were previously ineligible because of sentencing enhancements, such as selling drugs near a school.
 - Allows nonviolent offenders who are otherwise ineligible for parole to petition the sentencing court for eligibility after serving 25 percent of their sentence.
 - Implements a geriatric parole provision, which initiates parole hearings for nonviolent offenders who are 60 years or older and have served at least 10 years in prison.



Using data and research to develop a comprehensive package of policies was the right approach. Mississippi is joining the growing number of states leading the way towards evidence based, data-driven, fiscally sound criminal justice systems."

Lieutenant Governor Tate Reeves, Dec. 17, 2013



At a time when so much focus is on the nasty partisanship of government, it is nice to see bipartisanship succeed—especially with legislation as politically charged as corrections.”

The Clarion-Ledger editorial board, March 18, 2014

Strengthen supervision and intervention

The law:

- **Expands the Department of Corrections’ use of evidence-based practices.**
 - Establishes a graduated sanctions grid, including mandatory treatment and short jail stays, and requires its use in determining responses to noncriminal supervision violations.
 - Requires risk and needs assessment for all parole-eligible inmates at intake and uses the results to determine appropriate program and service plans.
- **Focuses supervision on high-risk offenders by establishing earned discharge credits for those who comply with the terms of their probation and parole.**
 - Allows probationers and parolees to earn time off of their supervision sentences by complying with their court-ordered conditions.
- **Employs targeted and proportional penalties for technical revocations of community supervision.**
 - Caps incarceration at 90 days for the first technical revocation and 120 days for the second.
 - Creates specialized Technical Violator Centers for offenders whose community supervision has been revoked for technical violations.

Support and safeguard local jurisdictions

The law:

- **Ensures that state inmates do not overburden localities.**
 - Reduces jail overcrowding by requiring that probationers and parolees awaiting hearings for technical violations be held in jail for no more than 21 days.
 - Mandates that the Department of Corrections reimburse counties for holding probationers and parolees awaiting revocation hearings for technical violations.
- **Implements comprehensive reentry planning for all offenders returning to the community.**
 - Ensures that all offenders leaving prison are better prepared to return to the community and remain crime-free, including a mandate that the Department of Corrections provides all offenders with state identification cards so they have the documentation required to apply for jobs, housing, driver’s licenses, and other key pathways to success.



“This year’s legislation takes a more sweeping approach that’s not soft on crime, but smart on it.”

The Greenwood Commonwealth editorial board, March 21, 2014



As a member of the task force that issued recommendations for reform, I can attest that these reforms address many longstanding issues. They help keep our communities safe while taking steps to prevent low-level offenders from returning to prison."

Jody Owens II, managing attorney, Southern Poverty Law Center of Mississippi, March 31, 2014

Ensure the quality and sustainability of reforms

The law:

- **Creates a formal oversight panel and review process.**
 - Charges a bipartisan, interbranch oversight council with monitoring and evaluating implementation of the reforms.
 - Requires the Department of Corrections, the Mississippi Parole Board, and the Administrative Office of the Courts to collect key outcome measures and provide annual reports to the oversight council.
- **Provides enhanced training for parole board members and community supervision officers on evidence-based practices.**
 - Requires annual training for board members and probation and parole officers, including instruction on criminal risk factors and how best to identify and respond to them.
- **Ensures that policymakers are aware of the fiscal impact of future corrections proposals.**
 - Requires 10-year fiscal impact statements to accompany future sentencing and corrections legislation.



H.B. 585 is the single largest improvement to Mississippi's criminal justice system in a generation. The recommendations made by the task force are truly transformative and bode well for the future of Mississippi."

House Speaker Philip Gunn, March 31, 2014

Broad Support

The following groups endorsed H.B. 585:

- | | |
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| • Mississippi Bar Association | • Christian Action Coalition |
| • Southern Poverty Law Center of Mississippi | • American Civil Liberties Union of Mississippi |
| • Mississippi Economic Council | • Mississippi Center for Public Policy |

Members of the Corrections and Criminal Justice Task Force

Commissioner Christopher B. Epps (Chair), Department of Corrections

Senator Willie Simmons, State Senate, District 13

Senator Sampson Jackson II, State Senate, District 32

Senator Hob Bryan, State Senate, District 7

Representative Andy Gipson, House of Representatives, District 77

Representative Tommy Taylor, House of Representatives, District 28

Judge Larry E. Roberts, Court of Appeals

Judge Vernon R. Cotten, 8th Circuit Court

Judge Jimmy Morton, Hinds County Justice Court

Judge Steve S. Ratcliff III, Madison County Court

Richard “Ricky” Smith Jr., District Attorney, 9th Circuit Court

Ronnie L. Harper, District Attorney, 6th Circuit Court

Jamie McBride, Assistant District Attorney, 7th Circuit Court

Onetta S. Whitley, Deputy Attorney General, Attorney General’s Office

Gregory Weber, Attorney, Public Defender, Madison County

André de Gruy, Director, Capital Defense Council

Lance Humphreys, Sheriff, Yalobusha County

William “Bill” F. Lauderdale Jr., County Supervisor, Warren County

Jody Owens II, Managing Attorney, Southern Poverty Law Center

Vicki Gilliam, Attorney, Mississippi Association for Justice

Ken Winter, Executive Director, Mississippi Association of Chiefs of Police

The full text of the legislation is available online at <http://billstatus.ls.state.ms.us/documents/2014/pdf/HB/0500-0599/HB0585SG.pdf>.

The full task force report is available online at http://www.legislature.ms.gov/Documents/MSTaskForce_FinalReport.pdf.

Endnotes

- 1 Unless otherwise noted, the analyses in this report were conducted by Pew for the Corrections and Criminal Justice Task Force using data provided by the Mississippi Department of Corrections and the Department of Justice, Bureau of Justice Statistics, Prisoner Series.
- 2 Mississippi Department of Corrections Annual Reports, 1983 and 2013. Adjusted to 2013 dollars, the 1983 figure is \$78 million. PDFs of the reports are available at http://www.mdoc.state.ms.us/Annual_report.htm.
- 3 The offense categories used for this analysis are based on the National Crime Information Center offense codes produced by the Federal Bureau of Investigation.
- 4 Mississippi Department of Corrections July 2013 10-year adult prison population projection.
- 5 Mississippi Corrections and Criminal Justice Task Force “Final Report” (2013): 3, http://www.legislature.ms.gov/Documents/MSTaskForce_FinalReport.pdf.

For further information, please visit:
pewtrusts.org/publicsafety

Contact: Lesa Rair, communications officer
Email: lrair@pewtrusts.org
Project website: pewtrusts.org/publicsafety

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