

Justice Reinvestment in Alabama's Counties

August 2015

Faced with the most crowded prison system in the nation and overwhelmed probation and parole systems, in 2014 state leaders in Alabama pursued justice reinvestment, a data-driven approach to improve public safety, reduce corrections and related criminal justice spending, and reinvest savings in strategies that can decrease crime and reduce recidivism. In partnership with The Pew Charitable Trusts and the U.S. Department of Justice's Bureau of Justice Assistance (BJA), the Council of State Governments (CSG) Justice Center identified key challenges in the state's criminal justice system, and with extensive analyses assisted policymakers in developing a framework designed to reduce prison overcrowding and strengthen community-based supervision to improve public safety.

In May 2015, Senate Bill 67 (SB 67) was passed with overwhelming bi-partisan support. The Criminal Justice Implementation and Oversight Council, established by Governor Bentley's Executive Order 8 and composed of state leaders from all three branches, will engage county leaders throughout the implementation process to help plan for development of policies and strategies to fulfill the objectives of SB 67, and to also address operational challenges and monitor the impact of policy changes on the local level. The Oversight Council will be working with criminal justice and county stakeholders to conduct trainings on SB 67 throughout the state and will offer an opportunity to local jurisdictions to participate in a pilot program tracking and measuring the local impact of intermediate sanctions.

Highlights of Senate Bill 67

Sentencing. Modifies sentencing laws to divert low-level offenders away from prison and into community corrections, and to ensure that anyone serving a term in prison receives a period of supervision upon release.

- Creates a new Class D felony category for the lowest-level property and drug offenses, and requires sentences to Community Corrections Programs (CCPs).
- Reclassifies third-degree burglary as a nonviolent offense if an individual enters an uninhabited, non-domicile building and no person is encountered while the crime is being committed.
- Requires people convicted of a Class C offense to serve split sentences when sentenced to prison, which set a fixed term of incarceration without good time and guarantees a period of supervision upon release.
- Mandates that people serving a straight sentence to prison receive a period of supervision upon release.

Supervision. Strengthens community-based supervision to reduce recidivism and hold offenders accountable.

- Standardizes use of risk and needs assessments to target intensive supervision resources for people who are most likely to reoffend and mandates all staff to be trained in the use of evidence-based supervision practices.
- Reinvests funds to hire additional Probation and Parole Officers (POs), increase the capacity of CCPs, and expand community-based behavioral health treatment programs that have proven to help reduce recidivism.
- Requires the Alabama Board of Pardons and Paroles (ABPP) to establish policy setting forth and clarifying use of intermediate sanctions to respond to technical violations of supervision with the appropriate level of severity, including short jail stays.

Frequently Asked Questions about the Impact of Justice Reinvestment in Alabama Counties

Sentencing

Q: Will the Class D felony classification changes result in a lot more individuals being sentenced to jail?

A: No. Those impacted by this are currently going to prison, which means they aren't eligible for jail under the presumptive sentencing guidelines, and this will not change under SB 67. Instead, it requires those convicted of a Class D felony to be sentenced to a CCP when falling in the "prison" range of the guidelines, or in the event that a CCP isn't available, intensive probation.

Q: Will individuals convicted of third-degree burglary be eligible for a jail sentence?

A: As a Class C offense, individuals convicted of the nonviolent version of third-degree burglary will be subject to the presumptive sentencing guidelines, which means the primary impact on these individuals will be that their prison sentence lengths will now have to comport with those guidelines. Historically, less than 5 percent of individuals convicted of felonies in Alabama have been sentenced to jail, and this is not expected to change with SB 67.

Supervision

Q: Will the short jail stay sanction allow a PO to send a probation or parole violator to jail over and over again?

A: No. Short jail sanctions of 2-3 days will be limited to a maximum of six days per month during three separate months for a maximum of 18 total days. POs must follow ABPP policy for determining whether a short stay is an appropriate response and must receive approval from their supervisor before imposing a short jail sanction.

Q: How will jail administrators be able to protect against probation and parole violators overwhelming bed capacity?

A: SB 67 stipulates a number of safeguards to enable jail administrators to manage capacity. Sheriffs may refuse to admit a parole or probation violator or release an individual currently in custody if he/she has a serious mental condition, if admittance will create a security risk, or if the jail is at or near capacity. Sheriffs and staff are immune from liability for exercising this discretion. Furthermore, hearings for technical violators must take place within 20 business days, and, if the hearing results in the violator receiving a prison-bound sanction, there are additional time constraints that the courts and ABPP must adhere to in providing the necessary documentation to the Alabama Department of Corrections (ADOC) in order to minimize the burden on jail space.

Q: What's happening in other states that have adopted custodial sanctions for parole and probation violators?

A: Other states that have adopted swift and sure policies have seen benefits to different areas of their criminal justice systems, such as declines in arrests, time spent in jail, and prison population. For example, an evaluation of Georgia's Probation Options Management Act, which imposes short sanctions on troublesome probationers, found that the average number of days offenders spent in jail decreased from 31 to 8 days.¹ While program models differ across states, they share the core concept of correcting behavior through swift and sure responses with the goal of reducing recidivism and keeping communities safe.

¹Source: *An Evaluation of Georgia's Probation Options Management Act*, Applied Research Services, October 2007

Q: How will individuals receiving a prison-bound sanction be transported to an ADOC facility, and who will foot the bill?

A: SB 67 stipulates that the ADOC develop and implement a streamlined process, in collaboration with the ACCA and Sheriff's Association, to transport and receive parolees/probationers into its custody efficiently and minimize administrative delays. The process must include the most cost-effective method to process sanctioned probation/parole violators for the maximum 45 day confinement period. ADOC must also reimburse counties the state mileage rate for probation or parole violators transported to or from an ADOC facility by the county.

Q: What if a county's jail does not have the space to accommodate more CCP placements?

A: CCPs are not required to include a residential component. Additional CCP slots can be created through the expansion of non-residential supervision programs. Through SB 67, ADOC will provide additional training and capacity building to help communities develop non-custodial community corrections programs that incorporate evidence-based supervision practices and referrals to treatment to hold offenders accountable and reduce recidivism.

Other

Q: How will counties benefit from the reinvestments being made through SB 67?

A: Counties will see an increase in resources provided via the ABPP and the ADOC to hire additional probation/parole officers and expand community-based behavioral health programs, and increase the capacity of CCPs. Annual reinvestments of \$14 million for each of the next five fiscal years has been proposed to fund community-based treatment and community corrections programs across the state. The hiring of additional probation and parole officers will provide expanded supervision capacity in the community and more individuals will be able to access treatment services. In addition, performance-based funding will allow the ADOC to foster the development of effective corrections programming and assist CCPs in adopting evidence-based practices that lead to improved outcomes for offenders.

Q: What is the state doing to help counties adapt to the changes and gather their input?

A: The Criminal Justice Implementation and Oversight Council established a Local Engagement and Implementation Sub-Committee, which will include representation from the ACCA, Alabama Sheriff's Association, CCP Directors, and other county representatives. The sub-committee will work with county leaders to gather input and expertise, provide training and education on SB 67, address any capacity or resource challenges as they arise, and ensure transparency and accountability throughout the implementation process.

Q: What happens if funding for SB 67 does not get included in the state budget during the special legislative session?

A: While the budget appropriation may still be undetermined at this time, a clause was included in the bill to prevent it from becoming an unfunded mandate by requiring that it only becomes effective if the Director of Finance certifies that specific funding to implement the act has been appropriated. Significant resources have been proposed by Governor Bentley and legislative leaders to overhaul the prison system to reduce overcrowding, prevent federal intervention, and improve public safety.

For more info on Alabama's Justice Reinvestment Initiative, visit www.csgjusticecenter.org/jr/al.