

# Florida Criminal Justice Reform

## Florida's need to act

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- ✓ Florida has the **third largest prison population** in the country with nearly 100,000 inmates incarcerated. Florida's incarceration rate (the number of people it sends to prison per 100,000 residents) is **21% higher** than the national average.
- ✓ Despite a significant reduction in the number of people it sends to prison Florida's prison population has **remained static** for several years and will start growing again in 2021.
- ✓ Florida's elderly prison population is growing rapidly, rising 65% over the last decade. This population is **expected to grow to 27,719 by 2023**, to comprise nearly 29% of the entire prison population. These individuals have significant medical needs and thus are costly to the state's prison system. In FY 2015, the Department spent over **\$366 million on health care for inmates**.
- ✓ Florida currently spends **\$2.3 billion annually** on corrections, an increase of \$100 million since 2014.

## Sentence increases and long lengths of stay are driving Florida's prison population

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CJI conducted a comprehensive analysis of the state's sentencing and corrections data and found:

- Average **sentence lengths** (up 22%) and **lengths of stay** (up 18%) have increased for all offense types.
- The use of **mandatory minimum sentences** and **sentencing enhancements** has increased 19% since 2007, significantly extending the amount of time an offender remains in prison.
  - **Drug and property offenders** are the most impacted by mandatory minimums and enhancement statutes.
- The requirement that no offender can be released prior to serving **85%** of their sentence is a disincentive to program and treatment participation in prison and compounds the prison population problem.
- **63%** of admissions in 2016 were for **nonviolent offenses**.
  - **Half of new court commitments in 2016** had no current or prior history of violent crime.

## What the research shows

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In its analysis, CJI consulted a breadth of research studies that examined efficient and effective methods of incarceration:

- A growing consensus among researchers suggests that **sending offenders to prison may lead to more crime** when they get out rather than less.
- Following similar offenders and subjecting them to different forms of incarceration, rigorous studies have found **no significant effect**, positive or negative, **of longer prison terms** on recidivism rates.
- Drug treatment programs in the community have been shown **to reduce crime more** than drug treatment programs administered in prison.
- Age is one of the most significant predictors of criminality, with criminal or delinquent activity peaking in late adolescence and **decreasing as a person ages**.

## A comprehensive solution

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- **Reclassify felony drug possession as a misdemeanor offense:** In 2016, there were nearly 2,000 new court commitments for drug possession, who served an average sentence of close to 2 years.
  - *States have made drug possession a misdemeanor offense: TN, UT, IA, OK, and WV.*
- **Increase the felony theft threshold:** At \$300, Florida has one of the lowest felony thresholds in the country. In 2016, nearly 1,000 offenders were admitted to prison with a sentence of more than 2 years for felony theft.
  - *States have increased their theft threshold: TX to \$2,500; GA to \$1,500; AL to \$1,500.*
- **Narrow drug-free zone enhancements:** Florida's drug-free zones are much broader than in other states impacting far more people, especially in urban centers, than originally targeted. Sentences are significantly increased when conduct occurs within 1,000 feet of these zones.

- *States have narrowed their zones (IN), required intent (SC), or eliminated those areas not sufficiently focused on protecting children (UT).*
- **Expand access to alternatives to incarceration:** Two-thirds of prison admissions in 2016 were for a nonviolent offense and 48% of new court commitments had no current or prior violent conviction on their record.
  - *Many states have established diversion programs and presumptive probation for certain low-level offenders.*
- **Revise the Criminal Punishment Code (CPC):** Sentence lengths have increased 22% since 2007 for all offense types with new commitments serving an average of 42.8 months.
  - *States have revised sentencing guidelines in response to increasing lengths of stay, especially for nonviolent offenses: UT, MN, and NC.*
- **Reduce impact of mandatory minimum sentences:** Florida has 108 mandatory minimum offenses, 47 of which are for drug offenses. These inmates serve an average of 149.5 months.
  - *States have eliminated their mandatory minimums for nonviolent offenses or provided judicial discretion when the severity of the mandatory sentence exceeds the seriousness of the offense: MI, NY, OR, and UT.*
- **Reserve 85% for violent offenses:** Florida is one of the few states that requires **all offenders** to serve 85% of their sentence.
  - *States have modified their Truth in Sentencing laws to apply only to violent offenses that cause bodily harm: NJ, OK, KY, TN, and others.*
- **Implement a release option for long-term, geriatric inmates:** The elderly inmate population grew 65% over the last decade and serves, on average, 10 years more than the under-50 population.
  - *States have created release options for elderly inmates who have served a portion of their sentence and meet other eligibility requirements: LA, VA, OK, KY, and others.*
- **Revise habitual offender statutes to focus the most severe punishments on violent offenders:** Florida has five habitual offender statutes which can enhance a person's sentence up to life in prison.
  - *States have modified their habitual offender statutes with shorter look back periods and distinguish between repeat violent and repeat nonviolent offenses: DE and LA.*
- **Expand the availability of prison credit options to incentivize inmates to participate in programming from the start of their prison sentence:** Florida excludes several types of offenders from eligibility for gain time and prohibits gain time from reducing below 85% or any mandatory portion of an inmate's sentence.
  - *States and the federal government allow all types of offenders to be eligible for gain time, but place limitations based on offense type or disciplinary record: LA, MS, and SD.*
- **Expand the current conditional medical release option for inmates physically incapable of posing a danger:** Florida requires seriously ill inmates to have a terminal illness. As a result only 17 inmates were released in 2016.
  - *States and the federal government determine eligibility for medical release based on the person's threat to reoffend rather than whether they are close to death: TX and MS.*
- **Establish policies and practices proven to reduce recidivism:** Florida has significantly reduced the number of supervision revocations admitted to prison, however, nearly 3,000 CPC scoresheets were filed in 2016 for a technical violation. Current FDC practices designed to interrupt negative behavior in the community before it becomes more serious should be expanded and standardized throughout the state.
- **Establish the use of earned credits for those under community supervision:** Research has found that offenders' behavior is more effectively changed when rewards are used to encourage compliant behavior rather than solely focusing on catching negative behavior.
  - *States have created earned compliance credits incentivizing good behavior on supervision: SD, MS, and KY.*
- **Establish an oversight council to monitor reforms:** An oversight body is essential to ensure the tracking and evaluation of any systemic effort to change the criminal justice system.
  - *States have benefitted from establishing a council to monitor reforms: GA, MS, and SC.*