



UNIVERSITY OF
GEORGIA

Carl Vinson
Institute of Government

**Georgia Criminal
Justice Data
Landscape Report**
Criminal Justice Reform

September 2021

Adult Criminal Justice Reform

The Georgia General Assembly has passed several important pieces of criminal justice legislation over the past 30 years: Senate Bill (SB) 440 in 1994, SB 441 in 1995, House Bill (HB) 1176 in 2012, HB 349 in 2013, SB 365 in 2014, HB 310 in 2015, and SB 174 in 2017. The last five were significant pieces of criminal justice reform legislation passed during Governor Nathan Deal's eight years in office and for which Georgia has become known.

SB 440,¹ known as the Juvenile Justice Reform Act of 1994, gave rise to the so-called Seven Deadly Sins crimes in Georgia: murder, rape, armed robbery with a firearm, aggravated child molestation, aggravated sodomy, aggravated sexual battery, and voluntary manslaughter. SB 440 transferred jurisdiction over youth aged 13 or older charged with any of the Seven Deadly Sins to superior (adult) court, and youth convicted of one of these crimes would serve their sentence in a Georgia Department of Corrections (GDC), or adult, prison, rather than in a Department of Juvenile Justice (DJJ) facility. (Superior courts now have discretion over whether they will hear these cases.) SB 440 also extended sentences for certain felonies and allowed a youth who is convicted of one of the Seven Deadly Sins to be sentenced to life without the possibility of parole under certain circumstances. The law was intended to punish rather than rehabilitate youth in an attempt to curb increasing youth crime during the late 1980s and early 1990s.

SB 441,² known as the Mandatory Minimums of 1995, is also known as the "two strikes" law: any person convicted of two of the Seven Deadly Sins must be sentenced to life without the possibility of parole. The law also required that people, including youth, convicted of any of the Seven Deadly Sins serve a minimum of 10 years for the first offense. If any person's sentence for committing one of the Seven Deadly Sins is longer than 10 years, they are not eligible for parole and must serve their entire sentence. Predating SB 440 and SB 441 is Georgia's "three strikes" law: if a person is convicted of three felonies and then convicted of a fourth felony, that person must be sentenced to and serve the maximum sentence for that fourth crime and is not eligible for parole.³

Beginning in 2011, Governor Nathan Deal began efforts to reform the criminal justice system. That year, [HB 265](#) established the Special Council on Criminal Justice Reform for Georgians to study "Georgia's criminal justice and correctional system ... to enhance public safety, reduce victimization, hold offenders more accountable, enhance probation and parole supervision, and better manage a growing prison population through increasing public safety, improving rehabilitation, and lowering state expense."⁴

The Special Council released several findings, including the following:⁵

- Georgia’s prison population numbered more than 52,000 at the end of 2010, more than twice the number it was in 1990.⁶
- In 2007, one in every 70 adults in Georgia was incarcerated, the fourth highest rate in the country. (The national average was one in 100 adults.)
- GDC’s annual budget was over \$1 billion, more than double the budget in 1990.
- The recidivism rate in Georgia had not changed in a decade, remaining at nearly 30%.^a
- The average probation sentence in Georgia was nearly seven years, while the national average was just over three years.

An analysis showed that if current policies remained in place, the prison population would increase an additional 8% by 2016, requiring two additional prisons at a cost of \$264 million.⁷ All this came as the state struggled to recover from the Great Recession, which hit Georgia particularly hard and whose recovery was one of the slowest in the nation.

The Special Council made 14 recommendations in its 2011 report to ensure access to effective community-based sanctions, improve community supervision, ensure effective use of resources, improve government performance, and ensure long-term success.⁸ Many of these recommendations were implemented in [HB 1176](#), passed in 2012, the first of Governor Deal’s major criminal justice reform legislation. Among the many provisions of HB 1176, it did the following:

- Raised the threshold for felony theft from \$500 to \$1,500.
- Created degrees of severity for crimes such as burglary, forgery, and theft.
- Provided for alternatives to incarceration for low-risk, nonviolent offenders who committed drug or property offenses.
- Allowed GDC to impose graduated sanctions on people on probation in response to probation violations.^b
- Allowed courts to order electronic monitoring for all offenders.
- Provided a \$10 million investment in the accountability courts.

^a O.C.G.A. §42-2-11: “‘Recidivism’ means returning to prison or jail within three years of being placed on probation or being discharged or released from a department [of Corrections] or jail facility.”

^b The Department of Community Supervision was not created until 2015. In 2012, when HB 1176 passed, people on probation were supervised by GDC.

One year later, in 2013, the General Assembly passed the second of Governor Deal’s criminal justice legislative reforms, [HB 349](#). This bill did the following:⁹

- Created the 15-member Georgia Council on Criminal Justice Reform to lead Georgia’s criminal justice reform efforts by reviewing the adult and juvenile justice systems every two years.
- Created a higher education grant for those who complete their GED while incarcerated, which must be used within two years of release.
- Allowed judges discretion in imposing mandatory minimum sentences in some drug-related cases and Seven Deadly Sins cases.
- Created a definition of “unsupervised probation”^c to mean a period of probation that follows active probation.
- Allowed judges to restore a suspended driver’s license for limited use by drug and mental health accountability court participants to allow them to attend their court-ordered program.

The third major piece of criminal justice reform legislation, [SB 365](#), passed in 2014. It focused on reentry reforms for returning citizens that had been suggested by the Georgia Council on Criminal Justice Reform. The legislation did the following:

- Created a Program and Treatment Completion Certificate to document the programming and work experience a person received while incarcerated in prison. This certificate also provides liability protection to employers who hire returning citizens to whom a certificate was issued.
- Required the Board of Corrections to develop programs to assist returning citizens with reentry. These programs could include educational and vocational programs, social and behavioral programs, substance abuse counseling, mentoring, financial planning, physical and mental health programs, and others.

[HB 310](#), passed in 2015, created the Department of Community Supervision (DCS), the agency that would be responsible for supervising all people on felony probation, transferring supervision responsibility from three different agencies (the State Board of Pardons and Parole, GDC, and DJJ).

^c During unsupervised probation, the person on probation must still comply with all probation conditions originally imposed by the court, but the reporting requirements are reduced and the probation supervisor does not actively supervise the person on probation.

One of Governor Deal’s criminal justice reform initiatives expanded access to crisis intervention team (CIT) training for all law enforcement officers in Georgia. Beginning in 2017, the Georgia Public Safety Training Center, the state’s centralized public safety training complex, began offering CIT training. Since then, approximately 1,300 students have taken the CIT course at the center. The number of officers who have taken a CIT course is higher since this number does not count the officers who were trained before 2017 nor the officers who have received training at other sites.¹⁰ Prior to 2017, the Georgia Bureau of Investigation administered the CIT course, and about 9,500 officers had taken it.¹¹

Fifty law enforcement agencies in Georgia have also signed on to the One Mind Campaign, an effort of the International Association of Chiefs of Police to improve police response to and interactions with persons with a mental health issue.

The final piece of criminal justice reform legislation was [SB 174](#) in 2017. It focused on reducing the length of probation sentences and caseload sizes per officer, enhancing the community supervision model, and improving the cost-effectiveness of responses to supervision. The following are among the key provisions of the bill:¹²

- Created a Program and Treatment Completion Certificate for people on probation, similar to the one created in SB 365 for people incarcerated in prison. The bill allows the DCS to partner with educational organizations to “provide probationers with such education and employment skills most likely to encourage gainful employment and discourage return to criminal activity.”
- After serving no more than two years under active supervision, people on probation may transition to unsupervised status.
- Introduced a behavioral incentive date (BID), or probation termination. For those eligible for a BID, the court must include a termination date at sentencing no more than three years from the sentencing date. A person convicted of a felony offense and sentenced to straight probation who has no prior felony convictions is eligible for a BID

under three conditions: no arrest other than a nonserious traffic offense,^d compliance with all supervision conditions, and paid all restitution owed.

- Requires a court to “waive, modify, or convert” fines, fees, or other restitution owed as a condition of probation if the court determines that the defendant is indigent or is unable to pay.
- Requires DCS to submit a petition to the court to terminate a person’s probation after three years if they are on probation for a qualified offense and have met the following conditions: have not been arrested for anything other than a nonserious traffic offense, have not had their probation revoked at any point, and have paid all restitution owed. This provision was retroactive and applies to any person with a probation sentence of three years or more.

^d A nonserious traffic offense means any traffic offense that violates Georgia’s Uniform Rules of the Road specified in law or that is not considered a serious traffic offense, as specified in law (O.C.G.A. §35-3-37). Examples of serious traffic offenses are reckless driving, driving under the influence, vehicular homicide, and fleeing a police officer.

Juvenile Justice Reform

For 20 years, SB 440—the Juvenile Justice Reform Act of 1994—defined how Georgia treated youth in the criminal justice system. It gave rise to the Seven Deadly Sins crimes and required youth age 13 and older charged with any of the Seven Deadly Sins to be charged and tried as adults. While this provision remains in place, superior (adult) courts retain the discretion to send the case back to the juvenile courts for prosecution.

Georgia’s Definition of a Child

Georgia’s Department of Juvenile Justice (DJJ) serves youth up to the age of 21. DJJ currently uses two different definitions of a child:

- A person “under the age of 17 years^e when alleged to have committed a delinquent act”
 - “[A person] under the age of 21 years who committed an act of delinquency before reaching the age of 17 years and who has been placed under the supervision of the court or on probation to the court for the purpose of enforcing orders of the court.”¹³
-

A variety of bills over the subsequent 20 years changed some provisions in SB 440, but it was not until 2013 and the passage of HB 242, also known as the Juvenile Justice Reform Act, that judges were given more discretion in sentencing by offering more treatment and counseling options and by emphasizing community-based programs rather than mandatory minimums and secure confinement.

As with adult criminal justice reform, the Special Council on Criminal Justice Reform had pointed out the need for juvenile justice reform: “Nearly two-thirds of [DJJ’s] budget is used to operate out-of-home facilities, which can cost more than \$90,000 per bed per year. Despite these expenditures, more than half of the youth in the juvenile justice system are re-adjudicated

^e HB 272 was introduced during the 2021 General Assembly session. The bill would change the jurisdiction of juvenile courts to include children under the age of 18 years. As of March 31, 2021, the bill had passed out of the House and been read into the Senate. Because Georgia operates on a biennial basis, bills introduced during the first year of the biennium but that do not pass both houses may still move forward during the second year of the biennium.

delinquent^f or convicted of a criminal offense within three years of release, a rate that has held steady since 2003.”¹⁴

Among its many provisions, HB 242 did the following:¹⁵

- Focused the use of regional youth detention centers (RYDCs) and youth development campuses (YDCs) on higher-level offenders. RYDCs and YDCs^g are more costly than in-home placements. More effective, less costly alternatives should be available for lower-risk, lower-need offenders.
- Allowed lower-risk, lower-need youth to be placed on administrative caseloads, an alternative, less intensive form of supervision.
- Eliminated mandatory minimums for Class A and Class B felonies^h to allow judges more discretion in sentencing. It retained the maximum of 60 months of confinement for Class A felonies but reduced the maximum confinement for Class B felonies to 18 months.
- Prohibited out-of-home placementsⁱ for status offenses.^j It allowed such placements if the youth had a history of four prior adjudications, including one felony.
- Focused resources on evidence-based practices to reduce recidivism.
- Required the use of assessment instruments before detaining a youth in a secure facility.

^f Adjudication means a final decision by the court. Delinquent in the juvenile justice system means the same thing as guilty in the adult criminal justice system.

^g An RYDC, or regional youth detention center, is a secure, short-term facility for youth awaiting trial or waiting to enter a community program or a youth development campus (YDC), which is a secure, long-term facility for youth who have been committed to the custody of DJJ.

^h Class A and Class B felonies are felonious acts committed by a youth 13 years of age or older that, if committed by an adult, would be a felony offense. Class A felonies include the Seven Deadly Sins as well as a variety of other offenses, such as home invasion, arson, or participating in criminal gang activity, among others. Class B felonies include some of the same crimes as Class A felonies but with a lesser degree tied to them. Other Class B felonies include such crimes as racketeering and smash-and-grab burglary. (O.C.G.A. § 15-11-2)

ⁱ An out-of-home placement means placement in an RYDC or YDC.

^j Status offenses are not crimes but are prohibited by law due to a youth’s status as a minor. Common status offenses include skipping school (truancy), violating curfew, and running away. (“What are status offenses and why do they matter?” 2019, April 6. Annie E. Casey Foundation. Retrieved from aecf.org/blog/what-are-status-offenses-and-why-do-they-matter)

While SB 365, which was passed in 2014, focused on adult reentry reforms, it also made additional changes to the juvenile justice codes. Notably, it required that when a youth has been found delinquent, the court must determine if it is in the youth’s best interests to remain in the home and to make “reasonable efforts” to prevent removing a youth from their home.

End Notes

¹ Fact Sheet: Sentencing Legislation. 2019. Georgia Department of Corrections. Retrieved from dcor.state.ga.us/sites/default/files/Sentencing%20Legislation.pdf

² Ibid.

³ O.C.G.A. §17-10-7(c).

⁴ HB 265/AP, 2011-12 Regular Session. Retrieved from legis.ga.gov/legislation/32806

⁵ Georgia Council on Criminal Justice Reform. 2011, November. *Report of the Special Council on Criminal Justice Reform for Georgians*. Retrieved from dcs.georgia.gov/important-links/georgia-council-criminal-justice-reform

⁶ Georgia Department of Corrections. n.d. "Year-end counts of inmates of the Georgia prison system, 1925 to present." Retrieved from dcor.state.ga.us/sites/all/themes/gdc/pdf/1925pop.pdf

⁷ Georgia Council on Criminal Justice Reform. 2011, November. *Report of the Special Council on Criminal Justice Reform for Georgians*. Retrieved from dcs.georgia.gov/important-links/georgia-council-criminal-justice-reform

⁸ Ibid.

⁹ Fact Sheet: Sentencing Legislation (2019). Georgia Department of Corrections. Retrieved from dcor.state.ga.us/sites/default/files/Sentencing%20Legislation.pdf

¹⁰ Personal communication from Georgia Peace Officers Standards and Training Council.

¹¹ Governor Deal's Remarks at a Law Enforcement Event. Retrieved from 2drbqn37bylzbjbt93fd7n71-wpengine.netdna-ssl.com/wp-content/uploads/sites/21/2016/09/Text-of-Law-Enforcement-Event-Remarks-FINAL.pdf

¹² Georgia Department of Community Supervision. n.d. *Senate Bill 174: Georgia 3-year review: 2020*. Retrieved from dcs.georgia.gov/strategic-planning-research/statistics-research-1/interactive-dashboards/research-reports

¹³ O.C.G.A. §15-11-2.

¹⁴ Georgia Council on Criminal Justice Reform, 2012 December. *Report of the Special Council on Juvenile Justice Reform for Georgians*. Retrieved from dcs.georgia.gov/important-links/georgia-council-criminal-justice-reform

¹⁵ "Georgia's 2013 Juvenile Justice Reform: New Policies to Reduce Secure Confinement, Costs, and Recidivism. The Pew Charitable Trusts. Retrieved from pewtrusts.org/-/media/legacy/uploadedfiles/pes/content-level_pages/reports/georgia20201320juvenile20justice20reform20summary20briefjuly2013pdf.pdf