



## Peach State Justice: Successes of Smart on Crime Policies in Georgia

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### Summary

*“For violent and repeat offenders, we will make you pay for your crimes. For other offenders who want to change their lives, we will provide the opportunity to do so with Day Reporting Centers, Drug, DUI and Mental Health Courts and expanded probation and treatment options. As a State, we cannot afford to have so many of our citizens waste their lives because of addictions. It is draining our State Treasury and depleting our workforce.” – Gov. Nathan Deal, January 2011*

Gov. Nathan Deal surprised many state legislators from both parties when he dedicated part of his first inaugural address to the topic of criminal justice reform.<sup>1</sup> As a member of the U.S. House of Representatives between 1993 and 2010, Deal was not known for having a passion for the subject. Realizing that Georgia spent a large portion of the state’s budget on corrections to house a prison population expected to continue to rise, he decided to take a different a different approach to crime and recidivism reduction.

The problem was clear. Georgia’s prison population had grown exponentially between 1982 and 2002, from 13,884 prisoners to more than 46,500.<sup>2</sup> By 2011, the state’s prison population had grown to almost 56,000, and it was projected to grow by another 8 percent by the end of 2017. Overincarceration, the problem that plagued Georgia is a problem faced by many states across the country, and by the federal prison system as well.

Today, the best way to address overincarceration issues, like those Georgia was experiencing, has been proven in the states time and time again – adopting “smart on crime” approaches to criminal justice. There is no denying the successes of the path that Georgia and Gov. Deal have forged in comprehensive and relentless reforms implemented over the past seven years.

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<sup>1</sup> Office of Governor Nathan Deal, “Inaugural Address of Governor Nathan Deal,” January 10, 2011 <https://gov.georgia.gov/press-releases/2011-01-10/inaugural-address-governor-nathan-deal>

<sup>2</sup> Nancy G. LaVigne and Cynthia A. Mamalian, *Prisoner Reentry in Georgia*, Urban Institute, November 2004 <https://www.urban.org/sites/default/files/publication/58231/411170-Prisoner-Reentry-in-Georgia.PDF>

Outlined in the following chart are the legislative and executive actions taken in Georgia to reform, comprehensively and specifically, the criminal justice system in the state. These actions are expounded upon in the remainder of this document.

Georgia Criminal Justice Reform: 2011-2017		
Bill/Action	Date	Area of Reform
HB 265 <sup>3</sup>	April 2011	Created the Special Council on Criminal Justice Reform for Georgians
HB 1176 <sup>4</sup>	May 2012	<i>Comprehensive, Phase One:</i> Created accountability courts, diversion programs, front-end risk assessments, and lowered certain felony thresholds
HB 349 <sup>5</sup>	April 2013	<i>Comprehensive, Phase Two:</i> Created Georgia Council on Criminal Justice Reform, safety valve for low-level nonviolent drug offenders
Executive Order <sup>6</sup>	June 2013	<i>Reentry:</i> Gov. Deal signed an executive order creating the Governor's Office of Transition, Support, and Reentry (GOTSR)
HB 242 <sup>7</sup>	May 2013	<i>Juvenile Justice:</i> Created juvenile courts and risk and needs assessment, reduced felony commitments to secure detention, and grew evidence-based community programs
SB 365 <sup>8</sup>	April 2014	<i>Comprehensive, Phase Three:</i> Created post-incarceration programming for reentry, including the Program Treatment Completion Certificate
SB 320 <sup>9</sup>	April 2014	<i>Sentencing:</i> Created dedicated veterans court divisions as alternative with an established program to allow reduced or modified sentences for veterans
SB 100 <sup>10</sup>	April 2015	<i>Reentry:</i> Removed punishments suspending or revoking driver's licenses for offenses not related to traffic safety to aid employment and lower recidivism
HB 233 <sup>11</sup>	May 2015	<i>Civil Asset Forfeiture:</i> Standardized procedures and reporting requirements and expedited the process by which innocent owners can contest seizures
HB 310 <sup>12</sup>	May 2015	<i>Reentry:</i> Reformed the probation and parole system by creating the Department of Community Supervision, the Board of Community Supervision, and the GOTSR
Executive Order <sup>13</sup>	February 2015	<i>Reentry:</i> "Banned the box" on employee applications for government entities in Georgia, to prohibit the use of a criminal record as an automatic bar to employment
HB 328 <sup>14</sup>	May 2015	<i>Reentry:</i> Increased consumer protections for employer use of criminal history records, reformed parole, and created the Council of Accountability Court Judges
SB 367 <sup>15</sup>	April 2016	<i>Comprehensive, Final Report:</i> Reforms following the Criminal Justice Reform Council's final report, to implement its remaining recommendations
SB 175 <sup>16</sup>	April 2017	<i>Juvenile Justice:</i> Reformed juvenile court proceedings as they pertain to children who are in need of services, delinquent, or are determined to be incompetent
SB 174 <sup>17</sup>	May 2017	<i>Reentry:</i> Standardized supervision practices across courts, and amended certain areas of parole and probation procedure

<sup>3</sup> HB 265, 151st Georgia General Assembly (2011) <http://www.legis.ga.gov/Legislation/en-US/display/20112012/HB/265>  
<sup>4</sup> HB 1176, 151st Georgia General Assembly (2012) <http://www.legis.ga.gov/Legislation/en-US/display/20112012/HB/1176>  
<sup>5</sup> HB 349, 152nd Georgia General Assembly (2013) <http://www.legis.ga.gov/Legislation/en-US/display/20132014/HB/349>  
<sup>6</sup> The Office of Governor Nathan Deal, Executive Order, June 24, 2013 [https://gov.georgia.gov/sites/gov.georgia.gov/files/related\\_files/document/06.24.13.01.pdf](https://gov.georgia.gov/sites/gov.georgia.gov/files/related_files/document/06.24.13.01.pdf)  
<sup>7</sup> HB 242, 152nd Georgia General Assembly (2013) <http://www.legis.ga.gov/Legislation/en-US/display/20132014/HB/242>  
<sup>8</sup> SB 365, 152nd Georgia General Assembly (2014) <http://www.legis.ga.gov/Legislation/en-US/display/20132014/SB/365>  
<sup>9</sup> SB 320, 152nd Georgia General Assembly (2014) [https://gov.georgia.gov/sites/gov.georgia.gov/files/related\\_files/document/sb%20320.pdf](https://gov.georgia.gov/sites/gov.georgia.gov/files/related_files/document/sb%20320.pdf)  
<sup>10</sup> SB 100, 153rd Georgia General Assembly (2015) <http://www.legis.ga.gov/Legislation/en-US/display/20152016/SB/100>  
<sup>11</sup> HB 233, 153rd Georgia General Assembly (2015) <http://www.legis.ga.gov/Legislation/en-US/display/20152016/HB/233>  
<sup>12</sup> HB 310, 153rd Georgia General Assembly (2015) <http://www.legis.ga.gov/Legislation/en-US/display/20152016/HB/310>  
<sup>13</sup> The Office of Governor Nathan Deal, Executive Order, February 23, 2015 [https://gov.georgia.gov/sites/gov.georgia.gov/files/related\\_files/document/02.23.15.03.pdf](https://gov.georgia.gov/sites/gov.georgia.gov/files/related_files/document/02.23.15.03.pdf)  
<sup>14</sup> HB 328, 153rd Georgia General Assembly (2015) <http://www.legis.ga.gov/legislation/en-US/Display/20152016/HB/328>  
<sup>15</sup> SB 367, 153rd Georgia General Assembly, (2016) <http://www.legis.ga.gov/Legislation/en-US/display/20152016/SB/367>  
<sup>16</sup> SB 175, 154th Georgia General Assembly, (2017) <http://www.legis.ga.gov/legislation/en-US/Display/20172018/SB/175>  
<sup>17</sup> SB 174, 154th Georgia General Assembly, (2017) <http://www.legis.ga.gov/legislation/en-US/Display/20172018/SB/174>

SB 176 <sup>18</sup>	May 2017	<i>Reentry</i> : Further amended policies regarding driver's licenses in accordance with Georgia Council on Criminal Justice Reform's recommendations
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## Beginnings of the Initiative: 2011

The first major step in Georgia's effort to tackle the shortcomings of its criminal justice system came in 2011 with the creation of the Special Council on Criminal Justice Reform for Georgians<sup>19</sup> by the Georgia General Assembly.<sup>20</sup> The council was tasked with studying the state's criminal justice system and making recommendations for legislation.

The Special Council on Criminal Justice Reform for Georgians' first report<sup>21</sup> explained the dire situation that taxpayers and the state's criminal justice system faced if the legislature took no action to address the problem:

Georgia has one of the highest proportions of adult residents under correctional control. At year end 2007, 1 in 70 adults was behind bars in Georgia, compared to the national incarceration rate of 1 in 100 adults, and Georgia had the fourth highest incarceration rate in the country.

This size and growth has come at a substantial cost to Georgia's taxpayers. Today, corrections costs the state more than \$1 billion per year, up from \$492 million in FY 1990.

Yet despite this growth in prison population and spending, Georgia taxpayers haven't received a better return on their corrections dollars. The recidivism rate—the proportion of inmates who are reconvicted within three years of release—has remained unchanged, hovering just shy of 30 percent throughout the past decade.

If current policies remain in place, analysis indicates that Georgia's prison population will rise by an additional 8 percent to reach nearly 60,000 inmates by 2016. With the state's existing prison facilities filled to 107 percent of their capacity,<sup>10</sup> continued inmate growth creates the likelihood of new and substantial taxpayer burdens. Absent policy reform, the state faces the need to spend an additional \$264 million over the next five years in order to expand capacity to meet the projected increase in population.

<sup>18</sup> SB 176, 154th Georgia General Assembly, (2017) <http://www.legis.ga.gov/legislation/en-US/Display/20172018/SB/176>

<sup>19</sup> HB 265, 151st Georgia General Assembly (2011) <http://www.legis.ga.gov/Legislation/en-US/display/20112012/HB/265>

<sup>20</sup> The sponsor of the bill that created the council, state Rep. Jay Neal (R-LaFayette), would later serve as executive director of the Governor's Office of Transition, Support and Re-entry and director of the Criminal Justice Coordinating Council. Neal was also a member of the Charles Colson Task Force for Federal Corrections Reform.

<sup>21</sup> Special Council on Criminal Justice Reform for Georgians, Report of the Special Council on Criminal Justice Reform for Georgians, November 2011 <http://www.legis.ga.gov/Documents/GACouncilReport-FINALDRAFT.pdf>

The Special Council on Criminal Justice Reform for Georgians made several policy recommendations to reform the state's criminal justice system. These recommendations included the creation of accountability courts, raising the felony thresholds for theft and forgery, enacting a safety valve exception for mandatory minimum sentences for drug offenders, and a front-end risk assessment pilot program for nonviolent and property offenders.<sup>22</sup>

In his 2012 State of the State address,<sup>23</sup> Gov. Deal recognized the work of the Special Council on Criminal Justice Reform for Georgians and again emphasized his plans to address the issue in the legislative session. "We must shut the revolving door!" Gov. Deal told state lawmakers. "This is something we can do and with your help we will!"

### **Major Reforms: 2012-2014**

The Georgia General Assembly unanimously passed legislation<sup>24</sup> in early 2012 adopting most of the council's recommendations. HB 1176, the first major legislative phase of Gov. Deal's criminal justice reform initiative, created accountability courts, diversion programs as an alternative to incarceration, front-end risk assessments to determine an offender's likelihood of recidivism, and raised the felony threshold for theft to \$1,500.

HB 1176 was projected to save roughly 5,000 prison beds, avoiding the projected 8 percent increase in Georgia's prison population, and save \$264 million over five years.<sup>25</sup> \$17 million in savings from the legislation was redirected into efforts to reduce reoffending and shut the revolving door, as Gov. Deal promised.

Following the successes of HB 1176, Gov. Deal extended the term of the Special Council and expanded its reach to include work in the juvenile justice system. Gov. Deal laid the groundwork for juvenile justice reform in his 2013 State of the State address.<sup>26</sup> Many of the council's findings in this area were expressed legislatively in HB 242,<sup>27</sup> which was adopted unanimously by the General Assembly and signed by Gov. Deal on May 2, 2013.

Georgia's juvenile justice system was both fiscally unsustainable and yielded poor results. Youth facilities were spending roughly \$90,000 per bed and had a recidivism rate of 65 percent.<sup>28</sup>

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<sup>22</sup> *Ibid.*

<sup>23</sup> The Office of Governor Nathan Deal, "Gov. Deal's State of the State Address: Charting the course to prosperity," January 10, 2012, <https://gov.georgia.gov/press-releases/2012-01-10/gov-deals-state-state-address-charting-course-prosperity>

<sup>24</sup> HB 1176, 151st Georgia General Assembly (2012) <http://www.legis.ga.gov/Legislation/en-US/display/20112012/HB/1176>

<sup>25</sup> The Pew Center on the States, *2012 Georgia Public Safety Reform*, July 2012 [http://www.pewtrusts.org/~media/legacy/uploadedfiles/pcs\\_assets/2012/pewgeorgiasafetyreformpdf.pdf](http://www.pewtrusts.org/~media/legacy/uploadedfiles/pcs_assets/2012/pewgeorgiasafetyreformpdf.pdf)

<sup>26</sup> The Office of Governor Nathan Deal, Deal: Focus on foundations that strengthen Georgia, January 17, 2013 <https://gov.georgia.gov/press-releases/2013-01-17/deal-focus-foundations-strengthen-georgia>

<sup>27</sup> HB 242, 152nd Georgia General Assembly (2013) <http://www.legis.ga.gov/Legislation/en-US/display/20132014/HB/242>

<sup>28</sup> The Pew Charitable Trusts, *Georgia's 2013 Juvenile Justice Reform*, July 10, 2013 <http://www.pewtrusts.org/en/research-and-analysis/reports/0001/01/01/georgias-2013-juvenile-justice-reform>

Comprehensive reforms to the juvenile justice system in the legislation were implemented beginning in January 2014. HB 242 carried out the new mandate created for juvenile courts and Georgia's Department of Juvenile Justice (DJJ), "to preserve and strengthen family relationships in order to allow each child to live in safety and security."<sup>29</sup> The reforms in HB 242 focused on improving risk and needs assessment, reducing felony commitments to secure detention, and growing evidence-based community programs instead of relying on out-of-home placements.

The impact of HB 242 could be seen even within the first year of implementation. In its efforts to increase community programs, for instance, the reforms have far surpassed expectations. Its goal was to reduce felony commitments and placements in short-term programs by 15 percent, but in the first nine months, it had reduced this number by 62 percent.<sup>30</sup>

Funding for its voluntary grant program serves 60 counties, and 70 percent of at-risk youth in the state. By 2015, HB 242 had brought the number of youth awaiting placement down 42 percent since its passage.<sup>31</sup> This has reduced overcrowding and wasteful spending, and ultimately allowed the Georgia DJJ to take two detention centers off line entirely.

Within the same timeframe as HB 242 was transforming the juvenile justice system in Georgia, HB 349, the second major legislative phase of Gov. Deal's criminal justice reform initiative, worked to improve the justice system as a whole.<sup>32</sup> With a focus on improving public safety while at the same time saving taxpayer dollars, HB 349 incorporated the safety valve exception to mandatory minimum sentences for low-level, nonviolent drug offenders. This was one of the original recommendations made Special Council on Criminal Justice Reform for Georgians.

The inclusion of the safety valve in HB 349 won praise from Families Against Mandatory Minimums (FAMM),<sup>33</sup> which has, along with the American Legislative Exchange Council (ALEC), advocated for safety valves at the state level.<sup>34</sup>

Additionally, HB 349 statutorily created the Georgia Council on Criminal Justice Reform to accomplish its focuses, by promoting successful offender reentry and reducing recidivism. It was also designed to ensure that savings from justice reforms are reinvested in evidence-based and community-centered programs, instead of wasted on overincarceration, as is often the case.

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<sup>29</sup> Georgia Council on Criminal Justice Reform, *Report of the Georgia Council on Criminal Justice Reform*, February 2015 [https://dcs.georgia.gov/sites/dcs.georgia.gov/files/related\\_files/site\\_page/2014-2015-GA-Council-on-Criminal-Justice-Reform.pdf](https://dcs.georgia.gov/sites/dcs.georgia.gov/files/related_files/site_page/2014-2015-GA-Council-on-Criminal-Justice-Reform.pdf)

<sup>30</sup> *Ibid.*

<sup>31</sup> *Ibid.*

<sup>32</sup> HB 349, 152nd Georgia General Assembly (2013) <http://www.legis.ga.gov/Legislation/en-US/display/20132014/HB/349>

<sup>33</sup> Families Against Mandatory Minimums, "New GA Safety Valve Continues Common Sense Trend," April 25, 2013 <http://fam.org/new-ga-safety-valve-continues-common-sense-trend/>

<sup>34</sup> Gregory Newburn, Mandatory Minimum Sentencing Reform Saves States Money and Reduces Crime Rates, American Legislative Exchange Council, March 2016 <https://www.alec.org/publication/mm-sentencing-reform/>

In June 2013, Gov. Deal signed an executive order creating the Governor's Office of Transition, Support and Reentry.<sup>35</sup> The agency was tasked with developing and implementing a comprehensive reentry plan for offenders, including forging alliances with the state's business community to help identify employment opportunities for those transitioning back to society.

The goals of Gov. Deal's criminal justice reform initiative were to reduce recidivism and to ensure that the limited prison space was reserved for violent and career offenders.

His reform initiatives have resulted in rapid strides to accomplish these goals. Georgia has had a 10 percent reduction in recidivism rates between 2007 releases and 2010 releases, in the three years following release.<sup>36</sup> Additionally, the proportion of violent and sex offenders in prison increasing from 58 percent in January 2009 to 68 percent in October 2014.<sup>37</sup>

The third major legislative phase of Gov. Deal's criminal justice reform initiative, SB 365, was signed into law in April 2014, and became effective July of the same year.<sup>38</sup> SB 365 focused on reforming post-incarceration programs to aid reentry, as suggested by the Georgia Council on Criminal Justice Reform.<sup>39</sup>

Gov. Deal lauded the reforms of SB 365, saying that "[t]he incentives and re-entry programs included in this legislation are cost-effective strategies that will increase the number of former offenders returning to the workforce and supporting their families."<sup>40</sup>

The advent of the Program Treatment Completion Certificate is among the provisions of SB 365 that successfully removed barriers to employment, housing, and education for former offenders.<sup>41</sup> As possession of this certificate gives an employer or landlord a presumption of due care in hiring or leasing to a certificate holder, former offenders who hold one have earned the advantages in reentry. Since SB 365 was implemented until February 2017, the Department of Corrections has issued approximately 5,000 certificates through the program.<sup>42</sup>

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<sup>35</sup> The Office of Governor Nathan Deal, Executive Order, June 24, 2013

[https://gov.georgia.gov/sites/gov.georgia.gov/files/related\\_files/document/06.24.13.01.pdf](https://gov.georgia.gov/sites/gov.georgia.gov/files/related_files/document/06.24.13.01.pdf)

<sup>36</sup> The National Reentry Resource Center, "Reducing Recidivism," June 2014

[https://dcs.georgia.gov/sites/dcs.georgia.gov/files/related\\_files/site\\_page/CSG-ReducingRecidivism.pdf](https://dcs.georgia.gov/sites/dcs.georgia.gov/files/related_files/site_page/CSG-ReducingRecidivism.pdf)

<sup>37</sup> Georgia Council on Criminal Justice Reform, *Report of the Georgia Council on Criminal Justice Reform*, February 2015

[https://dcs.georgia.gov/sites/dcs.georgia.gov/files/related\\_files/site\\_page/2014-2015-GA-Council-on-Criminal-Justice-Reform.pdf](https://dcs.georgia.gov/sites/dcs.georgia.gov/files/related_files/site_page/2014-2015-GA-Council-on-Criminal-Justice-Reform.pdf)

<sup>38</sup> SB 365, 152nd Georgia General Assembly (2014) <http://www.legis.ga.gov/Legislation/en-US/display/20132014/SB/365>

<sup>39</sup> Georgia Department of Corrections, "2016 Sentencing Legislation Fact Sheet"

<http://www.dcor.state.ga.us/sites/default/files/Sentencing%20Legislation.pdf>

<sup>40</sup> Office of Governor Nathan Deal, "Governor signs third leg of criminal justice reform," April 13, 2014

<https://gov.georgia.gov/press-releases/2014-04-13/governor-signs-third-leg-criminal-justice-reform>

<sup>41</sup> *Ibid.*

<sup>42</sup> Georgia Council on Criminal Justice Reform, *Report of the Georgia Council on Criminal Justice Reform*, February 2017

[https://dcs.georgia.gov/sites/dcs.georgia.gov/files/related\\_files/site\\_page/Report%20of%20the%20Georgia%20Council%20on%20Criminal%20Justice%20Reform%202017.pdf](https://dcs.georgia.gov/sites/dcs.georgia.gov/files/related_files/site_page/Report%20of%20the%20Georgia%20Council%20on%20Criminal%20Justice%20Reform%202017.pdf)

## Continuing Changes: 2014-Present

Changes to criminal justice legislation prior to 2014 have the most recorded success in the yearly reports by the Georgia Council on Criminal Justice Reform. Nearly seven years after the initial landmark legislation, HB 1176, that set Georgia on its path to successful criminal justice reform, improvements in the system are backed up by concrete numbers.

It takes years for the implemented reforms to show themselves in studies, but each piece of legislation passed in Georgia's effort has proven to show its successes after these years go by. Newer legislation largely has yet to see substantial changes in statistics, but represent continued promise going forward in their evidence-based goals and preliminary statistics in the immediate years following their implementation.

These pieces of legislation include more tailored reforms, not as comprehensive as the reforms included in HB 1176, HB 349, and SB 365, but no less significant. Over half a dozen of these specific reform bills have come through the General Assembly, been signed by Gov. Deal, and been implemented in Georgia since 2014.

Signed into law in April 2014, SB 320 created dedicated veterans court divisions as an alternative justice system for veterans who have incurred impairments that might otherwise draw him or her into the criminal justice system.

SB 320 allowed “[a]ny court that has jurisdiction over criminal case [to] establish a veterans court division to provide an alternative to the traditional judicial system for disposition of cases in which the defendant is a veteran.”<sup>43</sup> As a part of this, participants in the division may complete an established program that, when completed, allows the sentence for the offense to be reduced or modified.

A year later, in April 2015, SB 100 became law, and addressed reentry issues for former offenders regarding driver's license suspensions.<sup>44</sup> While it is necessary to suspend licenses for offenses directly related to traffic safety, it is illogical and counterproductive to do so for offenses that are not.

One of the largest barriers faced by former offenders after release from prison is finding employment that allows them to support their lives and families. A study by the Urban Institute Justice Policy Center found that probability of reincarceration within twelve months of release for unemployed former offenders is nearly twice that of those

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<sup>43</sup> SB 320, 152nd Georgia General Assembly (2014)  
[https://gov.georgia.gov/sites/gov.georgia.gov/files/related\\_files/document/sb%20320.pdf](https://gov.georgia.gov/sites/gov.georgia.gov/files/related_files/document/sb%20320.pdf)

<sup>44</sup> SB 100, 153rd Georgia General Assembly (2015) <http://www.legis.ga.gov/Legislation/en-US/display/20152016/SB/100>

employed making between \$7 and \$10 an hour (23 versus 12 percent), and nearly thrice that making over \$10 an hour (23 versus 8 percent).<sup>45</sup>

Not having the ability to drive oneself to a job severely hurts one's chances of becoming employed, thus severely raising one's chances of reincarceration. To alleviate this barrier, removing license punishments for offenses that do not involve traffic safety avoids unnecessary reincarcerations that drain taxpayer dollars.

One month after signing SB 100, Gov. Deal signed HB 310,<sup>46</sup> aimed at reforming the probation system in Georgia. It created multiple entities to more effectively run the probation and parole systems, including the Department of Community Supervision, the Board of Community Supervision, and the Governor's Office of Transition, Support, and Reentry.

Just as they sound, these entities were tasked with ensuring that the probation and parole systems are coordinated properly, and effectively reduce recidivism rates. The legislation did so by imposing new transparency requirements on probation companies, limiting fees in pay only cases and requiring willful failure to pay to jail someone for not making payments, as well as allowing judges to put misdemeanor probation cases on hold if someone stops reporting.<sup>47</sup>

Also signed in May 2015 was HB 328,<sup>48</sup> which included other recommendations from the Council on Criminal Justice Reform, such as heightened consumer protections in the use of criminal history reports for employment screening, and further parole reform for nonviolent offenders.<sup>49</sup> The legislation also created the Council of Accountability Court Judges, which helped to coordinate the procedures and efforts of accountability courts across the state.<sup>50</sup>

At the outset of 2016, Gov. Deal said in a press release that the "passing [of] legislation to implement the recommendations of the Council in prior years...ha[s] seen a substantial drop in our prison population," and the state's efforts in "converting inmates

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<sup>45</sup> Christy Vishner, et al., "Employment After Prison: A Longitudinal Study of Releasees in Three States," Urban Institute Justice Policy Center October 2008 <https://www.urban.org/sites/default/files/publication/32106/411778-Employment-after-Prison-A-Longitudinal-Study-of-Releasees-in-Three-States.PDF>

<sup>46</sup> HB 310, 153rd Georgia General Assembly (2015) <http://www.legis.ga.gov/Legislation/en-US/display/20152016/HB/310>

<sup>47</sup> Carrie Teegardin, "Overhaul of Georgia's probation system gains final passage," Atlanta Journal Constitution, March 27, 2015 <http://www.ajc.com/news/state--regional-govt--politics/overhaul-georgia-probation-system-gains-final-passage/0t1dOehxsfHKT1eyG5s9ZL/>

<sup>48</sup> HB 328, 153rd Georgia General Assembly (2015) <http://www.legis.ga.gov/legislation/en-US/Display/20152016/HB/328>

<sup>49</sup> Carrie Teegardin, "Overhaul of Georgia's probation system gains final passage," Atlanta Journal Constitution, March 27, 2015 <http://www.ajc.com/news/state--regional-govt--politics/overhaul-georgia-probation-system-gains-final-passage/0t1dOehxsfHKT1eyG5s9ZL/>

<sup>50</sup> Georgia Council on Criminal Justice Reform, *Report of the Georgia Council on Criminal Justice Reform*, February 2017 [https://dcs.georgia.gov/sites/dcs.georgia.gov/files/related\\_files/site\\_page/Report%20of%20the%20Georgia%20Council%20on%20Criminal%20Justice%20Reform%202017.pdf](https://dcs.georgia.gov/sites/dcs.georgia.gov/files/related_files/site_page/Report%20of%20the%20Georgia%20Council%20on%20Criminal%20Justice%20Reform%202017.pdf)

into taxpayers, and...educating and giving paroled inmates marketable skills...will begin to reduce our rates of recidivism, which will in turn make our state safer.”<sup>51</sup>

He also noted that “Georgia is recognized as the leading state for meaningful criminal justice reform,” and asked the General Assembly to continue to move “more recommendations from the Council this year” on criminal justice through the legislature and into law.

The most notable bill of that nature was SB 367, which marked a return to the comprehensive nature of criminal justice legislation that Georgia championed in the first years of its initiative.<sup>52</sup> SB 367 implemented the remaining recommendations of the Georgia Council on Criminal Justice Reform. Among its provisions were extensions of the ban the box protections in Gov. Deal’s 2015 executive order discussed in the following section, retroactivity of driver’s license reforms, and incentives for hiring former offenders, all largely aiding the reentry effort.

Most recently, Gov. Deal has shown no signs of slowing down his work on criminal justice reform. Three pieces of legislation in 2017 alone have continued this effort – SB 174, SB 175, and SB 176.

A return to juvenile justice reform efforts is represented in SB 175, signed into law in April. This legislation made changes to juvenile court proceedings as they pertain to children who are in need of services or are delinquent, and altered protocol for addressing children who are determined to be incompetent. These reforms are important in ensuring that reforms made are equitable to everyone, based on their individual needs.

The other two of these three bills deal with reentry, with SB 174 standardizing practices in supervision for parole and probation across courts, and amending procedure for parole and probation, and SB 176 further reforming policies regarding driver’s licenses in accordance with suggestions from the Georgia Council on Criminal Justice Reform. Both of these bills were signed into law in May.

The effects of these more recent bills, dating back to 2014, have yet to be expressed in data and analyzed by the Council. Undoubtedly, however, the reforms suggested by the Council that have been implemented in these issue-specific bills of recent years will see similar success to that seen by the comprehensive reforms that the Council suggested and that were implemented between 2011 and 2014.

## **Ban the Box**

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<sup>51</sup> The Office of Governor Nathan Deal, “Deal: ‘Ocean of Opportunity’ lies ahead for Georgia’s Ship of State,” January 13, 2016 <https://gov.georgia.gov/press-releases/2016-01-13/deal-%E2%80%99ocean-opportunity-lies-ahead-georgia%E2%80%99s-ship-state>

<sup>52</sup> SB 367, 153rd Georgia General Assembly (2016) <http://www.legis.ga.gov/Legislation/en-US/display/20152016/SB/367>

A standalone, noteworthy reform implemented in Georgia in 2015 that has gained significant support in recent years is what is known as “banning the box” on employment applications. What this means in practice is disallowing employers – in the public sector, the private sector, or both – from asking about an applicant’s criminal history in the initial phase of the hiring process.

According to a National Employment Law Project publication,<sup>53</sup> a conviction record reduces the likelihood of a job callback or offer by nearly 50 percent. This hardly gives former offenders a fair shot at making their case for employment. Banning the box does not prevent employers from conducting background checks after a conditional offer is made, and making decisions based on criminal history records then.

In Georgia’s case, Gov. Deal’s executive order<sup>54</sup> banning the box in February 2015 did so for government entities only, not imposing such regulations on the private sector, and excluded sensitive positions for which a criminal history record should be an immediate disqualification.

Gov. Deal’s decision to ban the box followed the recommendation from the Georgia Council in their January 2014 report.<sup>55</sup> This recommendation and subsequent executive order was in line with past statements made by the governor, who addressed the Atlanta Press Club in April 2013, saying “If [former offenders] can find employment, if they can find a place to live, I believe many of them will work hard to earn their place in society.”<sup>56</sup>

Banning the box for government entities is within the appropriate scope of a state government. It also creates a fairer standard by which to judge applicants across the board, without entirely writing someone off without even giving the applicant opportunity to make his or her case. Georgia, by banning the box, is leading by example to encourage private businesses, other states, and hopefully the federal government as well, to do the same.

## **Civil Asset Forfeiture**

In addition to reforms to the criminal justice system in terms of sentencing, programming in prisons, corrections, and reentry, another key aspect of justice reform is the practice of civil asset forfeiture, specifically eliminating wrongful seizure of citizens’ property by the government. As with other areas of criminal justice, Georgia has been active in addressing this crucial issue.

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<sup>53</sup> “Research Supports Fair-Chance Policies,” National Law Employment Project, Retrieved November 9, 2017 <http://www.nelp.org/content/uploads/Fair-Chance-Ban-the-Box-Research.pdf>

<sup>54</sup> The State of Georgia, Executive Order, February 23, 2015 [https://gov.georgia.gov/sites/gov.georgia.gov/files/related\\_files/document/02.23.15.03.pdf](https://gov.georgia.gov/sites/gov.georgia.gov/files/related_files/document/02.23.15.03.pdf)

<sup>55</sup> Georgia Council on Criminal Justice Reform, *Report of the Georgia Council on Criminal Justice Reform*, January 2014 [https://dcs.georgia.gov/sites/dcs.georgia.gov/files/related\\_files/site\\_page/2013-GA-Council-on-Criminal-Justice-Reform.pdf](https://dcs.georgia.gov/sites/dcs.georgia.gov/files/related_files/site_page/2013-GA-Council-on-Criminal-Justice-Reform.pdf)

<sup>56</sup> *Ibid.*

In its 2013 report, the Georgia Council on Criminal Justice Reform recommended that the Georgia General Assembly address the state's civil asset forfeiture law. Civil asset forfeiture is the process by which law enforcement can seize cash or property believed to be connected to criminal activity. The person from whom assets are seized doesn't need to be arrested, let alone tried or convicted of a crime, for law enforcement to take permanent possession of assets.

Abuse of the practice has been the subject of numerous stories in the media over the past several years. Thankfully, several states have addressed the issue by increasing the evidentiary standard the government must prove to subject seized assets to forfeiture,<sup>57</sup> either to "clear and convincing," or by creating a conviction requirement. Some states have even closed the "federal loophole" that had allowed state and local law enforcement to circumvent protective state forfeiture law to use federal forfeiture law, which has been abused.<sup>58</sup>

Georgia's civil asset forfeiture law has received low marks from the Institute for Justice.<sup>59</sup> The libertarian public interest law firm, which grades states' forfeiture laws, explained:

Under Georgia law, which earns a grade of D-, the government need only prove by a preponderance of the evidence that seized property is connected to a crime or that there is no other likely source for the property other than criminal activity. Property owners who file an innocent owner claim bear the burden of proving that they neither knew about nor consented to any illegal uses of their property. Worse, joint owners of vehicles are not even permitted to bring innocent owner claims in Georgia. State law provides no way for them to petition for their vehicle or to get a share of it back. And Georgia law provides a strong incentive to seize: Up to 100 percent of forfeiture proceeds go to law enforcement.

Historically, Georgia has had very little oversight of forfeiture activity. Although state law required agencies to report forfeiture proceeds and expenditures, reports provided online by the Carl Vinson Institute for Government at the University of Georgia were unusable. Too few agencies reported, and the reports on file were inconsistent. A 2015 law will require all law enforcement agencies to use standardized forfeiture reports when filing reports with the Vinson Institute. It remains to be seen whether this reform will improve forfeiture transparency in the Peach State.

Previous attempts to address the issue were met with opposition from law enforcement interest groups, including the Georgia Sheriffs' Association.<sup>60</sup> As originally introduced by

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<sup>57</sup> Institute for Justice, "Civil Forfeiture Reforms on the State Level," Retrieved November 14, 2017 <http://ij.org/activism/legislation/civil-forfeiture-legislative-highlights/>

<sup>58</sup> Michael Sallah, Robert O'Harrow Jr., Steven Rich, and Gabe Silverman, "Stop and seize," The Washington Post, September 4, 2014 <http://www.washingtonpost.com/sf/investigative/2014/09/06/stop-and-seize/>

<sup>59</sup> Institute for Justice, *Policing for Profit: The Abuse of Civil Asset Forfeiture*, November 2015 <http://ij.org/pfp-state-pages/pfp-Georgia/>

state House Judiciary Committee Chairman Wendell Willard (R-Sandy Springs) in January 2013, HB 1<sup>61</sup> would have increased the evidentiary standard to clear and convincing, but opposition buried the issue.

The evidentiary standard needed in Georgia to subject seized assets to forfeiture is tantamount to a coin flip to decide whether or not the seized property or cash is connected to illicit activity. Unfortunately, the Georgia Council on Criminal Justice Reform failed to address the evidentiary standard in its 2013 report.

Instead, the council recommended that the Georgia General Assembly standardize procedures and reporting requirements and expedite the process by which innocent owners can contest seizures. These recommendations were eventually adopted by the legislature through HB 233.<sup>62</sup> Still, HB 233 has improved forfeiture-related transparency,<sup>63</sup> but it still left much to be desired.

There is active legislation<sup>64</sup> in the Georgia General Assembly, introduced by state Rep. Scot Turner (R-Holly Springs), that would require a criminal conviction before a forfeiture proceeding can move forward. State Rep. Turner introduced similar legislation in the previous session. FreedomWorks Foundation testified on the merits of increasing the evidentiary standard in Georgia's forfeiture law.<sup>65</sup>

## Conclusion

As is evident from the plethora of legislation and executive initiatives in the past seven years, Georgia, led by Governor Nathan Deal, has shown no fear in implementing evidence-based, smart on crime policies. Detailed analysis of legislation in years past has proven the effectiveness of these policies, and continue to project the future effectiveness of more recent legislation as well.

Georgia should be and is held up as an example of the future of justice reform in the states and at the federal level. If others follow suit, the successes that Georgia experienced simultaneously in public safety and in taxpayer savings can be experienced by other states and by the entire country as well. The answer is simple – smart on crime, commonsense criminal justice reform.

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<sup>60</sup> John K. Ross, "Toothless Asset Forfeiture Bill Draws Fire From Georgia Sheriffs," Reason, February 21, 2013 <http://reason.com/blog/2013/02/21/toothless-asset-forfeiture-reform-bill-d>

<sup>61</sup> HB 1, 152nd Georgia General Assembly (2013) <http://www.legis.ga.gov/Legislation/20132014/127989.pdf>

<sup>62</sup> HB 233, 153rd Georgia General Assembly (2015) <http://www.legis.ga.gov/Legislation/en-US/display/20152016/HB/233>

<sup>63</sup> Angela C. Erickson, Jennifer McDonald and Mindy Menjou, *Forfeiture Transparency & Accountability State-by-State and Federal Report Cards*, January 2017 <http://ij.org/report/forfeiture-transparency-accountability>

<sup>64</sup> HB 505, 154th Georgia General Assembly (2017) <http://www.legis.ga.gov/Legislation/en-US/display/20172018/HB/505>

<sup>65</sup> Jason Pye, "Principles for Protecting Private Property in the Peach State," February 25, 2016 <http://www.freedomworks.org/content/principles-protecting-private-property-peach-state>

## **About the Authors**

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