



State budget crises push sentencing reforms

By Greg Bluestein

ATLANTA — As costs to house state inmates have soared in recent years, many conservatives are reconsidering a tough — on — crime era that has led to stiffer sentences, overcrowded prisons and bloated corrections budgets.

Ongoing budget deficits and steep drops in tax revenue in most states are forcing the issue, with law — and — order Republican governors and state legislators beginning to overhaul years of policies that were designed to lock up more criminals and put them away for longer periods of time.

“There has been a dramatic shift in the political landscape on this issue in the last few years,” said Adam Gelb, director of the Public Safety Performance Project of the Pew Center on the States. “Conservatives have led the charge for more prisons and tougher sentencing, but now they realize they need to be just as tough on criminal justice spending.”

Most of the proposals circulating in at least 22 state Capitols would not affect current state prisoners, but only future offenders.

Republican governors and lawmakers pushed for many of the policies that put low — level drug offenders and nonviolent felons behind bars and extended sentences for many convicted criminals. But with the GOP in control of more financially strapped state governments, a growing number of Republican elected officials favor a review of the sentencing laws that contributed to a fourfold increase in prison costs over two decades.

The total cost of incarcerating state inmates swelled

from \$12 billion in 1988 to more than \$50 billion. Newly elected Republican governors in Florida and Georgia are among those pushing sentencing reforms. Brent Steele, a Republican state senator in Indiana, concedes that lawmakers share the blame for driving up state prison costs in recent years. High — profile crimes prompt lawmakers and governors to adopt ever — tougher criminal sentencing, such as three — strikes laws that impose minimum mandatory sentences for those convicted of a third felony, no matter the offense.

“But with that eventually comes the time when we run out of prison space,” said Steele, who is sponsoring a criminal justice overhaul in his state, prompted by budget concerns. “So what do you do? You concentrate on incarcerating those we’re afraid of and not those we’re just mad at.”

Fall election gains put Republicans in control of 25 state legislatures and 29 governor’s offices, and many have pledged not to raise taxes even as they face budget shortfalls. Reforming laws to send fewer low — level offenders to state prison or reduce their sentences is a more politically palatable way to save money than cutting spending for schools or health care programs.

“Conservatives are about limited government, lower taxes and personal responsibility. And the reforms that we advocate advance those principles,” said Marc Levin of the Center for Effective Justice at the Texas Public Policy Foundation. “We’re not saying conservatives were wrong 30 years ago. But the pendulum swung too far.”



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The proposals vary by state, but the hallmarks include ways to reduce sentences for lower — level offenders, direct some offenders to alternative sentencing programs, give judges more sentencing discretion and smooth the transition for released prisoners. In many states, the Republican measures parallel Democratic efforts that stalled long ago.

The push to reform sentencing laws has forged uneasy alliances between law — and — order politicians and activists who have long argued that many laws went too far.

“Everyone is looking at the bottom line — where can we cut?” said Angelyn Frazer, state legislative affairs director for the National Association of Criminal Defense Lawyers. “And if they can cut to make sure that some people can come home earlier and they don’t have to serve these long, draconian sentences, that’s great.”

Congress also is wrestling with criminal justice reform. U.S. Sen. Jim Webb, a Virginia Democrat, has proposed creating a panel to review the federal system. A similar proposal passed the House last year but never reached a vote in the Senate.

Backers of the state measures almost always refer to Texas, which began implementing sentencing changes six years ago. Faced with the prospect of housing 17,000 more inmates by 2012, the state poured money into drug treatment, while putting more drug abusers and petty thieves on probation.

The overhaul slowed the growth of the state’s incarceration rate and led to a 12.8 percent drop in the state’s serious crime rate since 2003, according to a January 2010 state report. The state also saved more than \$2 billion it would have spent on building new prisons to house the inmates, advocates say.

In Florida, lawmakers are considering a similar overhaul to help close a \$3.6 billion shortfall. The state’s new governor, Republican Rick Scott, campaigned on a promise to cut prison spending by \$1 billion and has since proposed more money to fight drug and alcohol abuse.

Georgia’s newly elected Republican governor, Nathan Deal, didn’t talk much about the state’s high incarceration rates during his 2010 campaign, but he turned sentencing reform into one of his major platforms once he took office.

Leaders from all three branches of Georgia state government — and both political parties — appeared together to back a study of reforms that would provide alternative sentences for nonviolent offenders and reduce prison costs. Legislation to create a commission that would rewrite the state’s sentencing laws is moving through the statehouse.

“For those who would say this is somehow being soft on crime, I say it is exercising sensible and responsible leadership,” said House Speaker David Ralston, a Republican.

In Kentucky, lawmakers from both parties are touting a new law that would bolster treatment programs and offer alternative sentences to keep more nonviolent criminals from prisons. After the state’s Republican — led Senate and Democratic — controlled House passed the legislation, Democratic Gov. Steve Beshear signed it into law in early March, saying it enables the “state to continue to be tough on crime but at the same time to be smarter about it.”

California runs the nation’s largest state prison system, with 152,000 inmates, and is under a federal court order to reduce its inmate population as a way to improve medical treatment. It primarily



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has done so by shipping more than 10,000 inmates to prisons out of state.

A law that took effect last year makes some money — saving changes. It allows those convicted of less — serious offenses to go unsupervised after their release and increases early release credits for inmates in county jails and state prisons. Last week, lawmakers sent newly elected Gov. Jerry Brown a bill, at his request, that would shift tens of thousands of lower — level offenders to counties' jurisdiction, a move designed to save the state money.

A sentencing commission proposed by former Gov. Arnold Schwarzenegger died in the Legislature in 2009.

While most states are examining sentencing reforms that would target only future convicts, Oklahoma and Texas are examining changes that would release some inmates early to save money. In Oklahoma, some offenders could be eligible for electronic — monitoring. Texas, facing a \$15 billion budget deficit, is considering whether to transition some elderly prisoners to nursing homes, house arrest or hospices.

Many prosecutors are skeptical of changes to criminal — sentencing guidelines, saying tough policies have led to reduced crime.

Jim Reams, a prosecutor in New Hampshire's Rockingham County, said an early release program in that state has been a disaster because probation and parole officers are overwhelmed by the number of newly released prisoners flooding the system.

“The budget crises are being converted into a public safety crisis,” said Reams, who is president of the National District Attorneys Association. He worries that releasing more prisoners might have negative consequences.

Crime rates have fallen in nearly every state, he said, because of the push toward tougher penalties.

“And now it's being punished for its success,” he said. “And we're probably going to see crime rates go back up again.”

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