

APRIL 11, 2024

Overview of Selected Sentencing Changes and Avoided State Costs

PRESENTED TO:

Senate Budget and Fiscal Review Subcommittee No. 5
On Corrections, Public Safety, Judiciary, Labor and
Transportation
Hon. Aisha Wahab, Chair



LEGISLATIVE ANALYST'S OFFICE

Overview of Handout

At the request of staff, we have created this handout, which provides an overview of:

- Selected sentencing changes enacted in 2012 or later that impact the size of the state correctional (prison and parole) population.
- The decline in the state correctional population since 2012.
- Reduced and avoided costs that have resulted from the population decline.
- State savings attributable to Proposition 47 (2014), which reduced punishment for some theft and drug possession crimes.
- Trends in the county correctional population since 2012.



Selected Sentencing Changes Since 2012

Proposition 36 (2012): Changes to “Three Strikes” Law

- Eliminated life sentences for certain people with two or more prior serious or violent felony convictions whose most recent offenses are nonserious, nonviolent felonies.
- Allowed people who were serving these sentences at the time to apply for reduced sentences.

Proposition 47 (2014): Sentencing for Nonserious, Nonviolent Felons

- Reduced penalties for certain people convicted of nonserious and nonviolent property and drug crimes from felonies to misdemeanors.
- Allowed certain people who had been previously convicted of such crimes to apply for reduced sentences.

Youth Offender and Elderly Parole Processes

- Beginning with Chapter 312 of 2013 (SB 260, Hancock), various law changes have expanded eligibility for release consideration for people with long sentences. Currently, people sentenced to prison who committed their offense while under the age of 26 are generally considered for release through the Youth Offender Parole Process after serving 15, 20, or 25 years, depending on their sentence. In addition, people aged 50 or older who have served 20 or more years in prison are generally eligible for release consideration through the Elderly Parole Process.

Various Court-Ordered Population Reduction Measures (2014)

- Increased the rate at which some people in prison earn time off of their prison terms for maintaining good behavior and created a release consideration process for certain people convicted of nonviolent crimes and sentenced under the three strikes law.



Selected Sentencing Changes Since 2012

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Proposition 57 (2016): Parole Consideration, Credits, and Juveniles Charged as Adults

- Increased The California Department of Corrections and Rehabilitation’s (CDCR’s) authority to reduce people’s prison terms (such as for maintaining good behavior and completing rehabilitation programs) and made all people not convicted of violent crimes eligible for release consideration after completing the term for their primary offense.

Expanded Authority for Courts to Resentence People

- Various recent law changes have expanded opportunities for people to be resentenced based on post-conviction factors (such as disciplinary records) and changes in sentencing law that occurred after their conviction. For example, Chapter 1001 of 2018 (AB 2942, Ting) authorized district attorneys to recommend people to the courts for resentencing.

Various Modifications to Sentencing Enhancements

- People convicted of felonies may be required to serve additional time in jail or prison due to circumstances surrounding their crime (such as if they used a firearm) or their criminal history. This additional time is known as an “enhancement.”
- Various recent sentencing changes, such as the following, have reduced enhancements that people receive:
 - Chapter 682 of 2017 (SB 620, Bradford) allowed judges to choose not to impose certain enhancements in cases where a firearm is used in the commission of a crime.
 - Chapter 590 of 2019 (SB 136, Wiener) generally eliminated a one-year enhancement for people who have previously served a prison or jail term for a felony.
 - Chapter 699 of 2021 (AB 333, Kamlager) narrowed the application of enhancements that can be added to sentences for people who commit crimes for the benefit of a gang.



Selected Sentencing Changes Since 2012

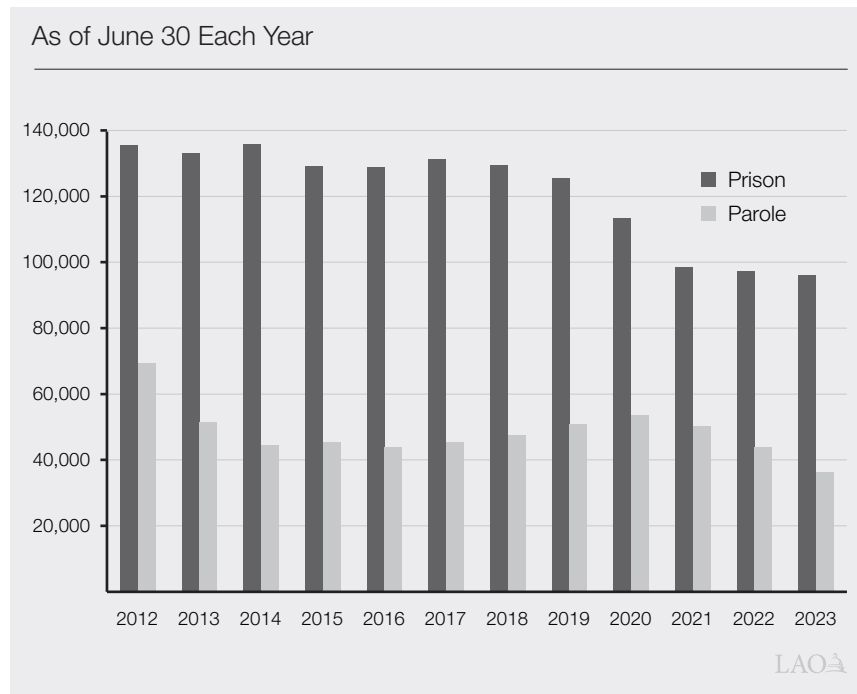
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Reduced Parole Terms

- Chapter 29 of 2020 (SB 118, Committee on Budget and Fiscal Review) established an opportunity for people to earn early discharge from parole for good behavior after one year and maximum parole terms of two or three years for most people on parole. (Previously, parole terms were generally set at three or more years.)



State Correctional Populations Have Generally Declined



- Between 2012 and 2023, the prison population declined by about 39,300 (29 percent) and the parole population declined by about 33,200 (48 percent).
- The largest prison population decline during this period occurred between 2019 and 2021, largely driven by actions the state took to temporarily reduce the prison population in response to the COVID-19 pandemic. This included suspending intake from county jail and releasing certain people from prison up to 180 or 365 days early. These changes are no longer in effect. However, the prison population remained low largely due to the long-term impacts of sentencing changes.
- The largest parole population decline during this period occurred between 2012 and 2014. This was largely driven by the 2011 realignment, which shifted responsibility for supervising people released from prison after serving terms for nonserious, nonviolent felonies from state parole to county probation departments.



Population Decline Has Reduced Certain CDCR Costs

The decline in the correctional population and associated adjustments to prison capacity have allowed for certain reductions in CDCR costs, most notably the following:

- ***Elimination of Contractor-Operated Prison Capacity.*** In 2012-13, CDCR spent about \$260 million to house about 10,000 people in contractor-operated prisons. Spending on contractor-operated prison capacity grew to about \$350 million in 2014-15 before eventually declining to zero by 2022-23.
- ***Reduced Population of State-Operated Prisons and Camps.*** As the number of people housed in state-operated facilities declines, the state currently saves roughly \$15,000 per year related to things like food and certain elements of medical treatment. The number of people housed in state-operated facilities declined by about 33,100—from 125,100 on June 30, 2012 to 92,000 on March 27, 2024. We estimate that this allows CDCR to spend about \$500 million less annually than it otherwise would if the population has remained at 2012 levels.
- ***Deactivation of State-Operated Prison and Camp Capacity.*** CDCR has deactivated (1) two state-owned prisons, (2) eight yards at various state-owned prisons, (3) a leased prison operated by CDCR staff, and (4) eight conservation camps—which house people who carry out fire suppression work. In addition, the department plans to deactivate Chuckawalla Valley State Prison in Blythe by March 2025. These deactivations are estimated to result in ongoing reductions to CDCR General Fund spending totaling about \$770 million annually by 2025-26.
- ***Reduction in Parole Population.*** Each person on parole costs the state about \$11,000 annually to supervise. Accordingly, we estimate the 33,200-person decline in the parole population allows CDCR to spend over \$350 million less than it otherwise would had the population remained at 2012 levels.



Population Decline Has Allowed State to Avoid Higher Costs

The population decline has also allowed CDCR to avoid certain costs. While the exact amount of these costs would depend on various unknown factors, such as decisions that the state would have made absent the population decline, they generally fall into the following categories:

- **Prison Infrastructure Repair Costs.** Deactivation of state-owned facilities allows the state to avoid funding infrastructure repairs that would otherwise have been needed to continue operating these facilities. For example, the state was able to avoid a water-treatment project—estimated in 2018 to cost \$32 million—that would have been necessary to comply with drinking water standards at one of the deactivated state-owned prisons.
- **Spending on Additional Prison Capacity.** If the prison population remained at or grew beyond its 2012 level, the state would have needed to expand prison capacity—such as through additional contracted capacity or by building and staffing new state-owned facilities. This is because the state was and continues to be subject to a court ordered-limit on prison overcrowding.
- **Other Cost Growth.** As discussed above, the population decline has reduced the overall scale of CDCR operations. This means that various drivers of cost growth—such as employee compensation increases—are smaller than they otherwise would be. For example, because it has deactivated three state-operated prisons, annual growth in employee compensation costs (such as for salary increases) only occurs for staff of 33 rather than 35 prisons.

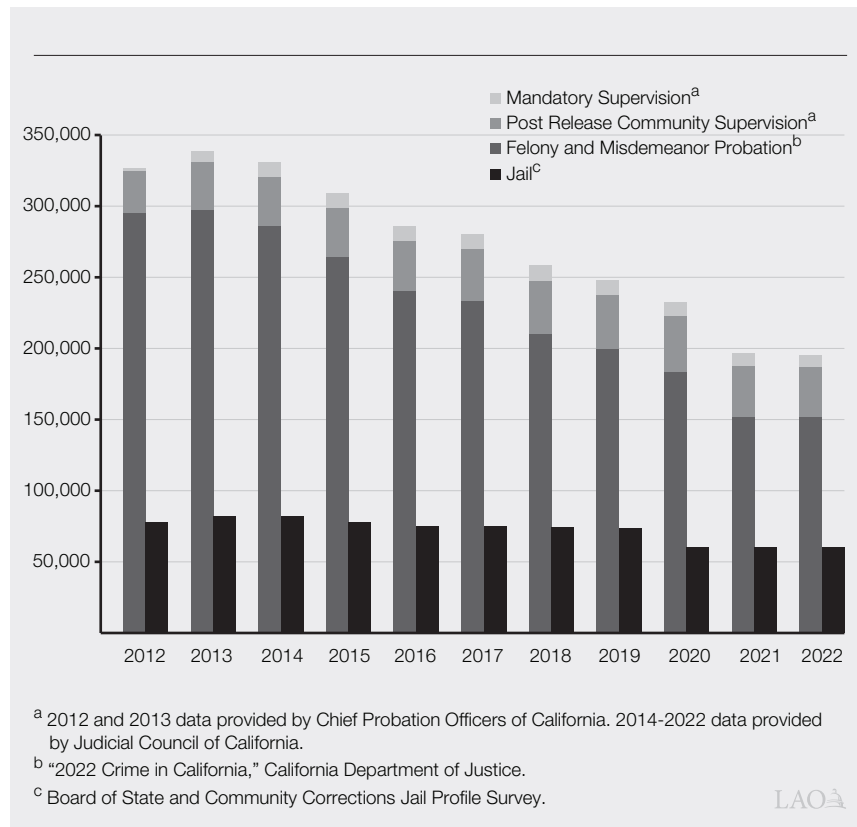


State Savings Attributed to Proposition 47

- **Measure Requires Annual State Savings Be Deposited Into Special Fund.** Proposition 47 requires that the savings to the state from the measure, as estimated by the Department of Finance, be annually transferred from the General Fund into a state fund created by the measure—the Safe Neighborhoods and Schools Fund (SNSF). In 2023-24, this transfer was \$113 million. In total, \$721 million has been transferred between 2016-17 and 2023-24. These savings are primarily associated with the reduction in the state prison population resulting from the measure, currently estimated to be around 4,000 people.
- **Funds Are Continuously Appropriated to Designated Purposes.** Proposition 47 and subsequently enacted statute requires that the funds deposited in the SNSF be annually allocated as follows:
 - **65 percent to the Board of State and Community Corrections** for competitive grants to public agencies to support various recidivism reduction programs, including housing-related assistance, job skill training, and case management services. At least 50 percent of the award made to grantees is passed through to community-based service providers.
 - **25 percent to the California Department of Education** for grants to support truancy and dropout prevention programs, including activities that advance social-emotional learning.
 - **10 percent to the Victim Compensation Board** for grants to trauma recovery centers, which are programs that directly assist victims in coping with a traumatic event (such as by providing mental health care and substance use treatment).



County Correctional Populations Have Generally Declined



- While the focus of this handout is on the effect of sentencing changes on the state correctional population, many recent sentencing changes also impact the county correctional population.
- These changes can have mixed effects on the size of the county correctional population. For example, Proposition 47 reduced, on net, county populations by reducing the amount of time people serve at the county level for property and drug crimes. However, Proposition 57, by causing people to be released earlier from prison, temporarily increased county correctional populations because some of these people were supervised on Post Release Community Supervision by county probation officers following their release.
- On net, the total county correctional population declined by nearly 150,000 people (37 percent) from 404,000 in 2012 to 255,000 in 2022. We note that trends may vary for individual counties.

