

# Arizona in Crisis: A Criminal Justice System Falling Behind the Rest of the Nation

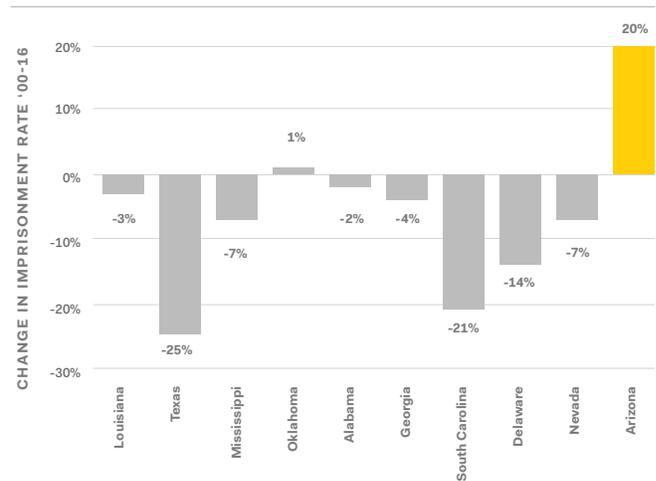
Arizona is a national outlier for its large prison population and high corrections spending. The state has the fifth highest imprisonment rate in the country, meaning it keeps more of its people in prison than almost any other state.<sup>1</sup> Even as the national conversation on criminal justice has shifted, and as most states have embraced reform, Arizona has stayed stubbornly backward. In the past decade, while Arizona has doubled-down on failed “tough on crime” policies, most states have enacted reforms and 32 states have simultaneously reduced crime and imprisonment.<sup>2</sup>

Even among other states with large per capita prison populations, Arizona stands out. Since 2000, Arizona’s imprisonment rate has grown by 20 percent, 20 times more than any of the other top 10 imprisoning states of 2000.<sup>3</sup> While most of the top 10 states in 2000 have lowered their imprisonment rate — some by more than 20 percent — Arizona continues to imprison more and more people at great cost to taxpayers, families, and communities.<sup>4</sup>

In fact, most of the states with the highest imprisonment rates have taken important steps to reduce their prison populations in recent years. Texas, which has had the largest decrease in imprisonment in the country since 2000, passed legislation in 2007 to increase the number of people sent to community alternatives instead of prison. Since then, the state has reduced recidivism and saved over \$3 billion in projected prison spending.<sup>5</sup> South Carolina passed the Crime Reduction and Sentencing Reform Act in 2010, which reduced prison sentences for many offenses and expanded alternatives to prison, leading to the closure of six prisons and nearly a half a billion dollars in savings.<sup>6</sup> In 2014 Mississippi followed suit with House Bill 585. HB 585 was a package of reforms that drove a 10 percent decline in imprisonment due to shorter prison sentences and higher parole grant rates.<sup>7</sup> Louisiana recently passed a package of bills that are expected to reduce the state’s prison population by 10 percent over the following decade and save taxpayers \$262 million in prison spending.<sup>8</sup> In addition to reducing their prison populations and the harms of incarceration, these states have seen crime drop since enacting reform (excluding Louisiana, for which there is not sufficient data post-reform available yet).<sup>9</sup>

As the majority of states — even other high imprisoning states — have moved forward, Arizona is becoming increasingly isolated in its commitment to the failed policies of the past. Today, with a prison population of over 42,000 people at a cost of over \$1 billion to taxpayers, Arizona is facing an imprisonment crisis.<sup>10</sup>

Figure 1  
ARIZONA'S INCREASE IN IMPRISONMENT IS AN OUTLIER, EVEN AMONG THE HIGHEST INCARCERATING STATES  
Top 10 Highest Incarcerating States in 2000



Source: Bureau of Justice Statistics, National Prisoners Statistics series

1 National Prisoners Statistics series, Bureau of Justice Statistics, <https://www.bjs.gov/index.cfm?ty=dcdetail&iid=269>.

2 “Arizona’s Imprisonment Crisis: The High Price of Prison Growth,” FWD.us, September, 2018, <https://www.fwd.us/news/arizona-imprisonment-crisis-part-1/>.

3 National Prisoners Statistics series, Bureau of Justice Statistics.

4 Ibid.

5 “Public Safety in Texas,” Pew Charitable Trusts, August, 2015, <https://www.pewtrusts.org/en/research-and-analysis/fact-sheets/2013/01/14/public-safety-in-texas>.

6 “Data Trends: South Carolina Criminal Justice Reform,” Pew Charitable Trusts, September, 2017, <https://www.pewtrusts.org/-/media/data-visualizations/infographics/2017/data-trends-south-carolina-criminal-justice-reform.pdf>.

7 “Mississippi’s 2014 Corrections and Criminal Justice Reform,” Pew Charitable Trusts, May, 2014, <https://www.pewtrusts.org/en/research-and-analysis/articles/2018/05/14/mississippi-enacts-round-2-of-criminal-justice-reform>.

8 “Louisiana’s 2017 Criminal Justice Reforms,” The Pew Charitable Trusts, March, 2018, [https://www.pewtrusts.org/-/media/assets/2018/03/pspp\\_louisianas\\_2017\\_criminal\\_justice\\_reforms.pdf](https://www.pewtrusts.org/-/media/assets/2018/03/pspp_louisianas_2017_criminal_justice_reforms.pdf).

9 Uniform Crime reporting program, Federal Bureau of Investigation, <https://ucr.fbi.gov>.

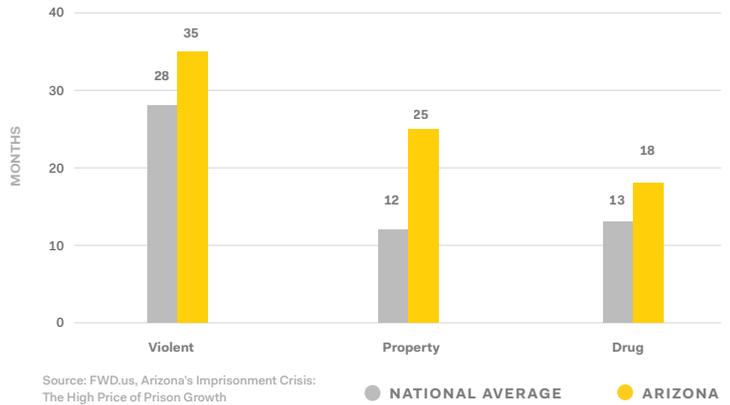
10 “Corrections at a Glance April 2019,” Arizona Department of Corrections, April, 2019, <https://corrections.az.gov/sites/default/files/REPORTS>

[CAG/2019/cagapr19-update.pdf](https://www.fwd.us/news/arizona-imprisonment-crisis-part-1/); “FY 2019 Baseline Book - Department of Corrections,” Arizona Department of Corrections, <https://www.azleg.gov/jlbc/19baseline/adc.pdf>.

## Why Arizona’s prison population is so big

Arizona's large prison population is not due to changing demographics or crime trends, but policy choices that send more people to prison and keep them there for longer. Since 2000, the number of people admitted to prison for non-violent crimes grew by 80 percent, and the number of people sent to prison on their first felony conviction tripled. The sharpest growth has been in the least serious offenses, and prison sentences for simple drug possession are now far and away the leading category of prison admissions. In addition, Arizona is now one of only three states that does not allow people to earn more than 15 percent off their prison sentence. As a result, people spend far longer in prison in Arizona compared to other states. For drug offenses, people in prison in Arizona spend almost 40 percent longer behind bars compared to the national average. For property offenses, it's more than twice as long.<sup>11</sup>

Figure 2  
**PEOPLE STAY IN PRISON IN ARIZONA SIGNIFICANTLY LONGER THAN IN OTHER STATES, PARTICULARLY FOR PROPERTY CRIMES**  
 Median Length of Stay, Arizona New Court Commitments, FY 2017 vs National Average



## Another missed opportunity for reform in 2019

Seventeen bills were introduced in the 2019 session that would have safely reduced Arizona’s bloated prison population — but only two modest policies made it to Governor Doug Ducey’s desk, one of which was vetoed (Senate Bill 1334). Most of these bipartisan bills, including legislation to increase judicial discretion in sentencing and reduce sentences for possessing small amounts of marijuana, failed to even receive an initial hearing. One proposed piece of legislation, House Bill 2270, would have allowed people in prison to earn their way home sooner by following the rules and participating in treatment and programming. HB 2270 was projected to reduce the prison population by 8,300 beds — or 19 percent — by 2028 and would have moved Arizona out of the top 10 imprisoning states if it had passed.<sup>12</sup>

The bill that Governor Ducey vetoed, Senate Bill 1334, was a modest measure limiting the ability of prosecutors to charge people with a “repetitive” enhancement if they have never before been convicted of a crime. The legislation passed unanimously out of the House and by a vote of 27-3 in the Senate.

## Only one modest bill became law

BILL <sup>13</sup>	SUMMARY	RESULT	BILL SPONSOR
SB 1310	This bill will allow people convicted of drug possession crimes to earn their way home from prison a few months earlier for participating in treatment, and providing data reporting requirements.	Passed the House unanimously and Senate (28-2); Governor signed	Sen. Eddie Farnsworth (R)

<sup>11</sup> “Arizona’s Imprisonment Crisis: The High Price of Prison Growth,” FWD.us, September, 2018.

<sup>12</sup> “HB 2270 Will Move Arizona Out of the Top 10 Imprisoning States,” Fwd.us, February, 2019, <https://www.fwd.us/news/new-analysis-finds-that-hb-2270-will-move-arizona-out-of-the-top-10-imprisoning-states/>”

<sup>13</sup> The bills enumerated here are those amending sentencing laws that would have had an impact on the size of Arizona’s prison population. There were a number of other pieces of legislation aimed at improving supervision practices and lifting the burden of a felony conviction once a person has served their sentence. One of these bills — HB 2660 — which expanded state employment and occupational licensing eligibility to persons previously convicted of a felony, did pass and was signed into law by Governor Ducey. The following other bills died: HB 2613, HB 2362, HB 2379, and SB 1437. In addition to these bills, HB 2602, a technical provision to change the presumption of sentencing from running sentences consecutively to running them concurrently, was signed into law by Governor Ducey. Additional information on these bills and all bills listed in the table can be found at <https://www.azleg.gov/>.

## And many failed

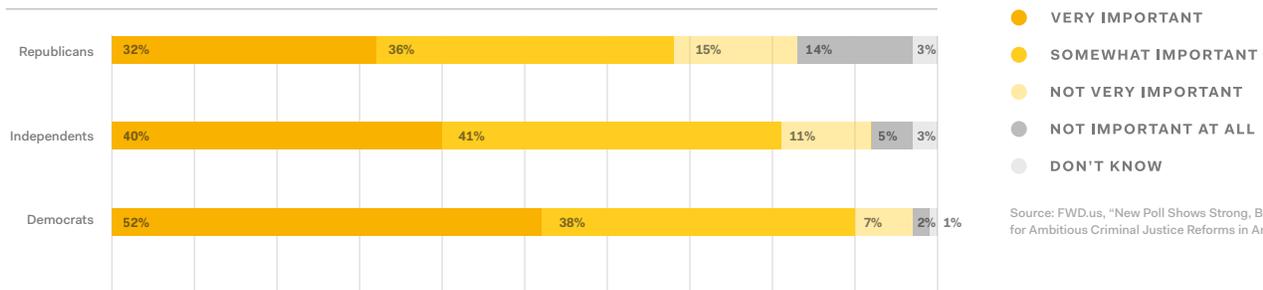
BILL <sup>13</sup>	SUMMARY	RESULT	BILL SPONSOR
SB 1334	This bill would have limited the ability of prosecutors to sentence people to longer prison terms under the “repetitive” enhancement statute if they do not have a prior felony conviction.	Dead, passed the House unanimously and Senate (27-3); Governor vetoed	Sen. J.D. Mesnard (R)
HB 2149	Would have clarified the definition of cannabis and removed it from the list of narcotic drugs (similar, but not identical, bills).	Dead, passed out of House Public Safety Committee by a vote of 5 to 2, failed to receive a hearing in House Rules Committee	Rep. Tony Rivero (R)
HB 2554		Dead, failed to receive an initial hearing in House Judiciary	Rep. Pamela Powers Hannley (D)
HB 2207	Would have raised the felony theft threshold (the dollar amount at which prosecutors can seek a felony conviction for most property crimes).	Dead, failed to receive an initial hearing in House Judiciary	Rep. Diego Rodriguez (D)
HB 2213	Would have allowed judges to strike one or more prior felonies from being used to enhance a sentence.	Dead, failed to receive an initial hearing in House Judiciary	Rep. Diego Rodriguez (D)
HB 2245	Would have allowed judges to sentence below mandatory minimums in certain cases (similar, but not identical bills).	Dead, failed to receive an initial hearing in House Judiciary	Rep. Tony Rivero (R)
HB 2400		Dead, failed to receive an initial hearing in House Judiciary	Rep. Kirsten Engel (D)
HB 2270	Would have allowed some people to earn their way home from prison sooner for following the rules and participating in treatment (HB 2270 would have provided substantial relief; HB 2661 would have provided limited relief).	Dead, failed to receive an initial hearing in House Judiciary	Rep. Walt Blackman (R)
HB 2661		Dead, failed to receive an initial hearing in House Judiciary	Rep. John Allen (R)
HB 2361	Would have ensured that people cannot be sentenced with a “repetitive” enhancement if they have never before been convicted of a crime.	Passed off the House Floor with a vote of 57-2, failed to receive an initial hearing in Senate Judiciary, became a “striker” for unrelated legislation	Rep. Ben Toma (R)
HB 2402	Would have reduced penalties for some drug possession offenses.	Dead, failed to receive an initial hearing in House Judiciary	Rep. Kirsten Engel (D)
SB 1379		Dead, failed to receive an initial hearing in Senate Judiciary	Sen. Tony Navarrete (D)
HB 2404	Would have reduced penalties for possession of small amounts of marijuana (similar, but not identical, bills).	Dead, failed to receive an initial hearing in House Judiciary	Rep. Kevin Payne (R)
HB 2555		Dead, failed to receive an initial hearing in House Judiciary	Rep. Pamela Powers Hannley (D)
SB 1372		Dead, failed to receive an initial hearing in House Judiciary	Sen. Tony Navarrete (D)
HB 2424	Would have ensured that people on class 6 felony probation are treated as misdemeanants until they fail to follow the rules, not treated as felons until they succeed.	Dead, passed off the House floor with a vote of 60-0, failed to receive a hearing in Senate Judiciary	Rep. Jeff Weninger (R)

## Voters support ambitious reforms to reduce imprisonment

The lack of progress at the state legislature is not due to a lack of public support: Arizona voters across the political spectrum support bold criminal justice reforms. A recent poll of registered voters conducted by Public Opinion Strategies, found that four out of five voters believe it is important to “reduce the number of people in jail or prison.”<sup>14</sup> Support for reform cuts across political party affiliations and every demographic group, including victims of crime, want policymakers to take decisive action. Among the policies with strong bipartisan support are expanding earned time credits, reclassifying drug possession from a felony to a misdemeanor, and limiting revocations for technical violations of supervision, all of which have the potential to dramatically reduce the state prison population.

Figure 3

HOW IMPORTANT IS IT TO REDUCE THE NUMBER OF PEOPLE WHO ARE IN JAIL OR PRISON HERE IN ARIZONA?



Source: FWD.us, “New Poll Shows Strong, Bipartisan Support for Ambitious Criminal Justice Reforms in Arizona”

## Conclusion

While the majority of states, including other high imprisoning states, have enacted criminal justice reforms to safely reduce imprisonment rates, Arizona is falling behind. The growth in the prison population is the result of policy choices, and without legislative reform, Arizona will continue to be out of step with other states that are moving in the right direction. Unfortunately, another legislative session just ended without meaningful reform. If Arizona hopes to shed its title as a leading incarcerator, policymakers must act with urgency and not allow another year to pass without action.

<sup>14</sup> “New Poll Shows Strong, Bipartisan Support for Ambitious Criminal Justice Reforms in Arizona,” Fwd.us, February 2019, <https://36shgf3jsufe2xojr925ehv6-wpengine.netdna-ssl.com/wp-content/uploads/2019/02/az-poll-memo.pdf>.