

The prison population in South Dakota reached an all-time high in 2012 and was expected to increase by 25 percent over the following decade.¹ To manage this projected growth, South Dakota leaders anticipated needing to build and operate two additional prisons, which would cost the state an estimated \$224 million over 10 years.²

In response to this concern, Governor Dennis Daugaard, Chief Justice Gilbertson, and a bipartisan group of legislative leaders created the South Dakota Criminal Justice Initiative Work Group (Work Group) as part of the Justice Reinvestment Initiative (JRI) with assistance from the Crime and Justice Institute. Supported by The Pew Charitable Trusts and the Bureau of Justice Assistance, a component of the Department of Justice's Office of Justice Programs, the Work Group was charged with issuing policy recommendations to improve public safety by investing in strategies proven to reduce recidivism, hold individuals accountable by strengthening community supervision, and reduce corrections spending and focus prison space on people charged with violent, serious, and repeat offenses.³ The Work Group analyzed South Dakota's system and released a final report detailing its findings and recommendations in November 2012.⁴

The Public Safety Improvement Act (SB 70) included the Work Group recommendations and was signed into law in February 2013.⁵

After enacting SB 70, South Dakota took steps to slow the growth of its prison population, resulting in the delay of new construction.⁶ The state also created opportunities to improve community supervision, including allowing people to earn early discharge and expanding community treatment options.^{7,8}

South Dakota's JRI goals included:

1. Hold people more accountable by strengthening community supervision.
2. Reduce corrections spending and focus prison space on those who commit violent offenses and those who chronically offend.
3. Improve public safety by investing in programs, practices, and policies that have been proven to reduce recidivism.⁹

To date, South Dakota has achieved the following:

- SB 70 helped reduce South Dakota's projected prison population, saving taxpayers over \$28 million in operating and capital costs by the end of 2018. This population reduction also delayed the need for South Dakota to build two new correctional facilities.¹⁰
- Through SB 70's earned discharge credits, people compliant with the terms of their probation or parole supervision collectively earned 7,547 years off supervision time between FY14 and FY18.¹¹
- In 2014, the state invested \$3.2 million to expand and provide substance use and cognitive behavioral treatment programs for people on probation and parole. This investment continued in subsequent years.¹²

1. Hold people more accountable by strengthening community supervision.

South Dakota's Criminal Justice Initiative Work Group identified that more people were failing on supervision, parole revocations were increasing, and a high number of people were entering prison for probation failures.^{13,14} The Work Group's findings made clear the need for supervision improvements and resulted in the adoption of policies to expand treatment and implement practices to make supervision officers' interactions with clients more effective.¹⁵

SB 70 required the Supreme Court to establish rules to allow people on probation to be awarded earned discharge credits to incentivize compliance with conditions of supervision. Similarly, SB 70 established earned discharge for people on parole.¹⁶



Between FY14 and FY18, people on probation and parole earned a combined **7,547 years** of early discharge time for supervision compliance.¹⁹

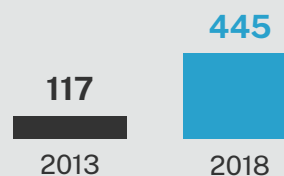
SB 70 required use of evidence-based practices by probation and parole staff, including use of graduated responses.¹⁷



In 2014, parole agents and probation staff began Effective Practices in Community Supervision training. The state also implemented training standards for parole agents in desistance and core correctional practices, and training for court services officers in motivational interviewing and the use of risk assessments.²⁰

Through SB 70, South Dakota enhanced and expanded alternative courts.¹⁸

Increase in the Number of People Served by Drug and DUI Courts²¹



2. Reduce corrections spending and focus prison space on those who commit violent offenses and those who chronically offend.

The 2012 analysis from the South Dakota Criminal Justice Initiative Work Group demonstrated that, due to the increase in the prison population, the state would have needed to construct two new prisons at a cost of \$224 million in capital and operating costs over the following decade.²² **The Work Group found that the majority of people admitted to prison were there for a nonviolent offense, with individuals convicted of drug possession being the most common offense within this group.**²³ SB 70 aimed to slow the projected prison growth with more effective community-based interventions for people with nonviolent convictions while focusing prison beds on those with violent offenses.²⁴



Between 2013 and 2018, South Dakota averted **\$28 million** in additional costs **by lowering the total number of prison days served.**³²

In 2012, the state was on track to need two additional prisons at a cost of \$224 million over the next ten years.²⁵

2022 Average Daily Prison Population^{33,34}



**These numbers may have been impacted by COVID-19.*

In 2012, more than 80 percent of people newly admitted to prison were convicted of nonviolent offenses.²⁶ In addition, more than 30 percent of the prison population was there for drug and alcohol-related offenses.²⁷ SB 70 increased the penalties for selling and manufacturing drugs and decreased the penalties for possessing or using drugs.²⁸ It also decreased the penalties for 3rd degree burglary (of an unoccupied structure) and grand theft of less than \$5,000.²⁹

Between 2013 and 2018, the percentage of new court commitments for nonviolent crime remained fairly steady (80 percent and 82 percent respectively).³⁵ This occurred despite increasing concerns about methamphetamine: the number of people seeking treatment for methamphetamine-related substance use grew during that same timeframe.

83% of court admissions for controlled substances in 2019 involved methamphetamine^{36,37}

SB 70 established **presumptive probation** for nonviolent Class 5 and 6 felonies, unless the court found that aggravating circumstances increased the level of risk to the public. The use of aggravating circumstances to deviate from presumptive probation decreased over time.³⁰

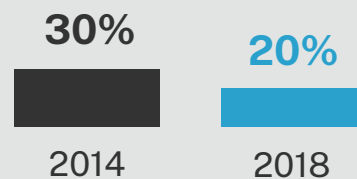


Presumptive Probation:

This policy establishes probation supervision as the appropriate punishment unless a judge finds and states on the record that there are circumstances that indicate the person poses a significant risk to the public.³¹



Decrease in Judges Deviation from Presumptive Probation^{38,39}



3. Improve public safety by investing in programs, practices, and policies that have been proven to reduce recidivism.

The Public Safety Improvement Act established an oversight council to monitor and report performance and outcomes related to the policies set forth in the act.⁴⁰ SB 70 required the establishment of an oversight council to monitor and evaluate implementation of reforms for five years.⁴¹ The oversight council released annual reports from 2014 to 2018.⁴²

The state appropriated funds to decrease recidivism through treatment and intervention programs for those on community supervision.⁴³ The programs included Cognitive Behavioral Intervention for Substance Abuse (CBISA) and Moral Reconciliation Therapy (MRT).⁴⁴



There was **\$3.2 million** appropriated in 2014 to expand substance use, mental health, and cognitive-based treatment services for people on probation and parole populations. Similar appropriations made in subsequent years for continued provision of these services.⁴⁸

In 2018 the state completion rate for substance use treatment was higher than the national average.



State



National Average

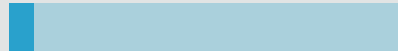
In 2018, people who completed CBISA and MRT had **low recidivism rates**.⁴⁵

10%



CBISA

4%



MRT

SB 70 required the state attorney general to oversee the establishment and coordination of a statewide automated victim information and notification (SAVIN) system to increase victim safety.⁴⁶



The state appropriated **\$800,000** for development of SAVIN.⁴⁹

SB 70 established a reinvestment fund and required the Department of Corrections to administer the fund to offset county jail costs to house people who violated felony probation.⁴⁷



South Dakota invested **\$1,000,000** to offset the cost of county jails housing individuals on felony probation holds, assisting 35 counties in 2014 alone.^{50,51}

Additional Accomplishments and Information Related to Reforms

- SB 70 created an alternative supervision option, HOPE Probation, for those who use drugs and alcohol, with the goal of holding people accountable while keeping them in the community.^{52,53} The number of people participating in HOPE Probation increased from 9 in FY14 to 132 in FY18.⁵⁴
- The incarceration rate dropped from 416 per 100,000 residents in 2012 to 362 per 100,000 in 2020.^{55,56}
- SB 70 authorized the Department of Corrections, in cooperation with the Department of Tribal Relations, to develop a tribal parole pilot program to supervise people on parole living in tribal communities.⁵⁷ In 2012, 44 percent of those returning to prison for a parole violation identified as Native American, although they comprised 24 percent of the overall parole population.⁵⁸ In FY13, the state appropriated \$250,000 to implement the tribal parole pilot program.⁵⁹ Through a collaboration with the Sisseton-Wahpeton Oyate tribe, the program authorized the appointment of a tribal member parole agent and the adoption of a team approach supported by culturally-informed practices.⁶⁰ After the program achieved success in its first two years with increases in successful parole completion and declining rates of absconding, the state and the Sisseton-Wahpeton Oyate signed an agreement to make the pilot permanent.⁶¹
- The legislature appropriated funds in 2022 for the first steps toward constructing a women's prison and created an incarceration construction fund to be used for capital construction or improvement of prisons and jails. In 2023, HB 1017 was signed into law authorizing the Department of Corrections to purchase property and contract for planning and site preparation to construct a new prison. Twenty-five million dollars from the general fund and \$27 million from the incarceration construction fund was appropriated for these purposes.⁶²



The Justice Reinvestment Initiative (JRI) is a data-driven process funded through a public-private partnership between the Bureau of Justice Assistance (BJA), a component of the Department of Justice's Office of Justice Programs, and The Pew Charitable Trusts. JRI aims to improve public safety by helping states make their justice systems more fair, effective, and efficient as they direct resources to address the complex factors that drive crime and recidivism.



The Crime and Justice Institute (CJI) has more than a decade of experience as a JRI technical assistance provider, supporting states through assessing strengths and needs, conducting data analysis, facilitating policy development, and assisting with implementation.

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Endnotes

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