



Criminal Justice Reclassification Coordination Council

INTERIM STUDY

10/5/21

SB1098

- ▶ Pursuant to SB1098, the Council has 22 members
- ▶ Attorney General
- ▶ District Attorneys
- ▶ Chiefs of Police



SB1098

- ▶ Pursuant to SB1098, the Council was tasked with the following duties:

- ▶ Reviewing potential recommendations



What we did... Mission and Goals

- **Mission**: To create an effective and efficient criminal justice system that balances the need for rehabilitation with public safety and justice for victims.
- Most important goals of the criminal justice system are:
 - Public Safety
 - Accountability
 - Justice for victims and society
 - Meaningful rehabilitation and treatment to address recidivism
 - Effective use of Taxpayer dollars

What we wanted to look at

- **Important Factors to consider for creating a better criminal justice system:**
 - More resources in the entire system (pre-incarceration to post-incarceration)
 - Shared data for accountability
 - Timely intervention
 - Certainty in sentencing

How to get there

- Created 4 committees:
 - OK Laws, Other States, Federal Guidelines, Other Approp. Changes
- Held extensive meetings with presentations
- Compiled large amount of research
- Each sector asked to present their needs and suggestions

Areas of Improvement

- **Data Collection**
 - Uniform Case Management System
 - Statewide Interface/Data Exchange systems
 - Include Information From the Courts
 - Statewide Warrant Search System

Areas of Improvement

- **Mental Health**

- Criminal justice system is saturated with inmates having mental health and addiction issues
- Presented a \$90 million package for diversion and investment
- ACES affect everything!
 - States with high incarceration rates had high ACES, high poverty, lower-ranked education systems, and low scores for overall health
 - 7 of the 10 states with the highest incarceration rates, had significantly higher rates than the national average for the percentage of children aged 0-17 with two or more ACES
 - All 10 states with the highest incarceration rates were ranked in the bottom half for public education when considering performance, funding, safety, and class size

Areas of Improvement

- **Mental Health (con't)**
 - DOC and counties are not financially equipped to meet the mental health and addiction needs of inmates
 - Suggestions:
 - Earlier diversion programs that would help people exit earlier or avoid the system entirely

Areas of Improvement

- **Domestic Violence**

- 3 main recommendations:
 - Increasing sentencing for domestic violence by strangulation
 - Making domestic violence a violent crime under 57 O.S. Sec. 571
 - Requestion data from the DAC on offenders to study DV and aid prevention

Areas of Improvement

- **Categorization and Reclassification**
 - Studied reclassification efforts from several states including Arkansas, Colorado, Indiana, Kansas, Louisiana, and Utah
 - Looked at specific sentence types, sentencing ranges, enhancements, fines, and parole credits
 - Major concern: the lack of data showing measurable success as a result of reclassification in these states

The Reclassification n

Reviewed all felonies listed in the Oklahoma statutes

Classified each crime into one of 14 different categories

Categories start from the most serious to lesser crimes

<u>CLASS</u>	<u>NEW RANGE OF PUNISHMENT</u>	<u>MUST SERVE</u>	<u>1 PRIOR FELONY CONVICTION</u>	<u>2 OR MORE PRIORS</u>	<u>(Sample Crimes)</u>
Y	NOT LESS THAN 30, LWOP, DEATH	85%	40+ years	LIFE	First Degree Murder
A1	10 TO 45 YEARS	75%	20 + YEARS	85%	Second Degree Murder, Sex. Abuse of a Child
A2	5 TO 40 YEARS	75%	10 + YEARS	85%	Human Trafficking, Manslaughter
A3	2 TO 40 YEARS	75%	5 + YEARS	85%	ABDW, Drive-by Shooting, Domestic A&B with DW

<u>CLASS</u>	<u>NEW RANGE OF PUNISHMENT</u>	<u>MUST SERVE</u>	<u>1 PRIOR FELONY CONVICTION</u>	<u>2 OR MORE PRIORS</u>	<u>(Sample Crimes)</u>
B1	3 TO 20 YEARS	50%	5 TO 40 YEARS	65%	Acc. To Murder II, Forc. Sodomy, Child Prostitution, Racketeering
B2	2 TO 20 YEARS	45%	3 TO 30 YEARS	60%	Kidnapping, Child Trafficking, 2 nd Deg. Rape, Agg. Drug Trafficking
B3	1 TO 15 YEARS	45%	3 TO 25 YEARS	55%	Agg. DUI, Dist. Of CDS, Embezzlement
B4	1 TO 10 YEARS	40%	3 TO 20 YEARS	50%	Dom. A&B w/DW, Child Porn., Manuf. CDS
B5	1 TO 5 YEARS	40%	2 TO 10 YEARS	50%	Stalking, Fail. To Comply w/Sex Offender laws, A&B

<u>CLASS</u>	<u>NEW RANGE OF PUNISHMENT</u>	<u>MUST SERVE</u>	<u>1 PRIOR FELONY CONVICTION</u>	<u>2 OR MORE PRIORS</u>	<u>(Sample Crimes)</u>
C1	0 TO 10 YEARS	30%	2 TO 20 YEARS	50%	Assist felon escape, 3 rd degree Arson, Dist. Of CDS to a minor
C2	0 TO 7 YEARS	25%	2 TO 15 YEARS	40%	Gambling, Grand Larceny (\$15k or more), DUI-2 nd , securities fraud
D1	0 TO 5 YEARS	20%	2 TO 10 YEARS	30%	Wiretapping crimes, Bribery, Neglect Vulnerable Adult, Medicaid Fraud; larceny (\$2,500-\$15k)
D2	0 TO 2 YEARS	20%	1 TO 7 YEARS	30%	Attempt to Escape, Abortion crimes, Dist. Of Imitation CDS (2 nd)
D3	0 TO 2 YEARS	10%	1 TO 5 YEARS	20%	False advertising, agricultural and forestry crimes, Grand Larceny (\$1k-\$2,500); trespass, bail jumping

What changed?

- Most of the minimum punishments have been lowered or removed, and in some cases, the death penalty option has been removed.
- In almost all cases, the maximum penalties have been lowered.
- In order to provide certainty to defendants, victims, and society, we propose that each defendant must complete some portion of the sentence ranging from 10% to 85% before release.
- All classifications contain a range of punishment with five categories starting at **zero** and seven categories starting at **five years or less**.

Enhancements

- **Recidivism is a major concern and a threat to public safety**
- **After conviction of one felony, an enhanced (higher range of) punishment is triggered for each category.**
 - For example, a defendant convicted of a felony in Class B1 would receive punishment in the range of 3-20 years for a first offense and must serve 50% of his sentence before release. If he has one prior felony conviction, his range of punishment becomes 5-40 years.
- **After conviction of two or more felonies, a defendant must serve a higher percentage of the enhanced punishment.**
 - For example, a defendant convicted of a felony in Class B1 would receive punishment in the range of 3-20 years for a first offense and must serve 50% of his sentence before release. If he has one prior felony conviction, his range of punishment becomes a minimum of 5-40 years. With two or more prior convictions, his range of punishment is still 5-40 years, but he must now serve 65% of that sentence.

Enhancements

<u>CLASS</u>	<u>NEW RANGE OF PUNISHMENT</u>		<u>1 PRIOR</u>	<u>2 OR MORE PRIORS</u>
Y	NOT LESS THAN 30, LWOP, DEATH	85%	40+ YEARS	LIFE
A1	10 TO 45 YEARS	75%	20 + YEARS	85%
A2	5 TO 40 YEARS	75%	10 + YEARS	85%
A3	2 TO 40 YEARS	75%	5 + YEARS	85%
B1	3 TO 20 YEARS	50%	5 TO 40 YEARS	65%
B2	2 TO 20 YEARS	45%	3 TO 30 YEARS	60%
B3	1 TO 15 YEARS	45%	3 TO 25 YEARS	55%
B4	1 TO 10 YEARS	40%	3 TO 20 YEARS	50%
B5	1 TO 5 YEARS	40%	2 TO 10 YEARS	50%
C1	0 TO 10 YEARS	30%	2 TO 20 YEARS	50%
C2	0 TO 7 YEARS	25%	2 TO 15 YEARS	40%
D1	0 TO 5 YEARS	20%	2 TO 10 YEARS	30%
D2	0 TO 2 YEARS	20%	1 TO 7 YEARS	30%
D3	0 TO 2 YEARS	10%	1 TO 5 YEARS	20%

Other Appropriate Changes

- ▶ Create and provide funding for a statewide interface/data exchange program that would accept all agency information from intake through discharge to final release. This would allow all access points to communicate and would allow the state to track outcomes and provide accountability.
- ▶ Create a statewide warrant search system. This would allow law enforcement agencies to operate more efficiently and provide accountability among the agencies.
- ▶ Support and promote early diversion programs for youth and young adults with an emphasis on mental health programming and addiction treatment.

Other Appropriate Changes

- ▶ Provide more funding for specially trained mental health emergency responders who can assist officers in diverting offenders to appropriate treatment.
- ▶ Work with OMES to identify the savings from SQ 780 and distribute it to the County Community Safety Investment Fund as mandated and directed by statute.
- ▶ Provide funding to screen local jail inmates for criminogenic risks, mental health, and substance use disorder so inmates with these issues could be appropriately diverted to treatment programs.

Other Appropriate Changes

- Create a pilot program (out-of-custody docket for deprived children and children in need of supervision) which would offer support and guidance for families and divert youths from victimization and criminal and mental health court system involvement. The program should partner with a research university to track outcomes.
- Provide more training for the stakeholders in the juvenile justice system to support better outcomes.
- Support the expansion of juvenile drug courts and mental health courts. Currently, there are eight juvenile drug courts and 22 mental health courts, but more individuals could be served by these programs.

Other Appropriate Changes

- Provide more funding for re-entry programs, post-incarceration supervision, and treatment of individuals while on probation and parole to discourage recidivism and encourage recovery.
- Provide a certificate of rehabilitation for those who have completed their sentences to recognize formal restoration and to demonstrate the offender is no longer a threat to public safety. This would help with future employability and be a formal recognition of reparation.

Other Appropriate Changes

- **We recommend codification of the DOC program credit system to enhance transparency and accountability.**
 - Victims and defendants, as well as society at large, deserve clarity and consistency with regard to how a criminal sentence will be served. In turn, corrections officials need the flexibility of credits to incentivize good behavior and rehabilitation

Other Appropriate Changes (con't)

- Adequate, dedicated funding is needed for all parts of the system:
 - DOC – for treatment of inmates and those on parole
 - DMHSAS – for treatment and services pre and post-incarceration
 - Judiciary, DAs, Public Defenders – so that there is meaningful oversight of the system

The Final Task

- ▶ “The recommendations of the Council shall be intended to reduce or hold neutral the prison population. The Council shall consider fiscal impact statements of all recommendations of the Council.”

Did we
accomplish the
mandate?

1) REVIEWED POTENTIAL RECOMMENDATIONS REGARDING THE CLASSIFICATION OF ALL FELONIES INTO APPROPRIATE CATEGORIES; ✓

2) RECOMMENDED APPROPRIATE SENTENCE LENGTHS FOR EACH CLASS OF FELONIES; ✓

3) RECOMMENDED APPROPRIATE ENHANCED SENTENCES FOR CRIMES COMMITTED AFTER PRIOR CONVICTIONS; ✓

4) RECOMMENDED OTHER APPROPRIATE CHANGES TO IMPROVE THE CRIMINAL JUSTICE SYSTEM IN OKLAHOMA AND ENSURE THE PUBLIC SAFETY OF ITS CITIZENS. ✓

5) INTENDED TO REDUCE OR HOLD NEUTRAL THE PRISON POPULATION

Questions