



#634  
October 29, 2019

Report to the Mississippi Legislature

# A Review of Mississippi's Criminal Justice Reform Efforts



## **PEER: The Mississippi Legislature's Oversight Agency**

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The Committee assigns top priority to written requests from individual legislators and legislative committees. The Committee also considers PEER staff proposals and written requests from state officials and others.

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October 29, 2019

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On October 29, 2019, the PEER Committee authorized release of the report titled *A Review of Mississippi's Criminal Justice Reform Efforts*.

A handwritten signature in cursive script that reads "Becky Currie".

Representative Becky Currie, Chair

**This report does not recommend increased funding or additional staff.**



## *Table of Contents*

Letter of Transmittal .....	i
Report Highlights .....	v
Introduction.....	1
Authority.....	1
Problem Statement.....	1
Scope and Purpose.....	1
Method.....	2
What was the Genesis of Mississippi’s Recent Criminal Justice Reforms? .....	3
What Criminal Justice Reform Legislation Has Been Enacted by the Legislature? .....	6
What Have Been the Effects of Mississippi’s Criminal Justice Reform Efforts to Date? .....	9
What is the Status of Mississippi’s Intervention Courts? .....	14
Are There Best Practices for Operating an Intervention Court?.....	21
What Steps Need to be Taken to Further Advance Mississippi’s Criminal Justice Reform Efforts?.....	25
Appendix A: Recommendations of the Corrections and Criminal Justice Task Force.....	27
Appendix B: Provisions of House Bill 585, 2014 Regular Session.....	29
Appendix C: Powers and Duties of the Corrections and Criminal Justice Task Force Created by House Bill 585, 2014 Regular Session .....	31
Appendix D: Provisions of House Bill 387, 2018 Regular Session.....	32
Appendix E: Provisions of House Bill 1352, 2019 Regular Session .....	33
Appendix F: Key Components of Drug and Family Courts, Office of Justice Programs .....	35
Appendix G: Best Practices for Mental Health Courts .....	37
Appendix H: AOC Intervention Court Structure .....	39
Agency Response.....	41

***List of Exhibits***

Exhibit 1: Membership of the Corrections and Criminal Justice Oversight Task Force ....8

Exhibit 2: Schedule of Reductions in Expenditures Attributable to House Bill 585 from  
FY 2014 through FY 2019..... 10

Exhibit 3: Technical Violation Centers Usage July 2017 through November 2018 ..... 11

Exhibit 4: Change in Specific Property Crimes Reduced from Felonies  
to Misdemeanors by House Bill 585 from CY 2014 through 2019 ..... 13

Exhibit 5: Type and Location of Mississippi’s Current Intervention Courts ..... 15

Exhibit 6: Scale for Adult Felony Level Intervention Court Funding ..... 18

Exhibit 7: FY 2021 Intervention Court Funding ..... 20

Exhibit 8: Adult Drug Court Best Practice Standards..... 22

## A Review of Mississippi's Criminal Justice Reform Efforts

**CONCLUSION:** Recent criminal justice reform efforts in Mississippi have been implemented as a result of the passage of H.B. 1231 (2013 Regular Session), H.B. 585 (2014 Regular Session), H.B. 387 (2018 Regular Session), and H.B. 1352 (2019 Regular Session). Each of these bills have moved criminal justice reform efforts forward in the state. H.B. 585 and H.B. 1352 have had the biggest effects so far. H.B. 585 made sweeping changes to sentencing standards for certain property and drug crimes by reducing them to misdemeanors from felonies. However, PEER analysis found that these changes in sentencing standards do not appear to reduce the commission of these types of crimes. Rather, the cost of handling these crimes has shifted to local governments, as lower courts must now absorb the cost of handling these crimes at the misdemeanor level. This finding is indicative of the need for more intervention programs, such as those expanded by H.B. 1352, to deter crime rather than just shift it.

### Background:

Criminal justice reform is a current issue of concern on both the national and state levels due to rising prison populations and the corresponding rise in corrections costs. According to the Pew Charitable Trusts (Pew), reforms vary from state to state, but all federal and state-level reforms aim to improve public safety, control taxpayers' costs by prioritizing prison space for people convicted of serious offenses, and invest savings into alternatives to incarceration that are effective at reducing recidivism.

### Criminal Justice Reform Legislation

- I. Enacted during the 2013 Regular Session, H.B. 1231 created the 1231 Task Force, which undertook a comprehensive review of the state's corrections and criminal justice systems and produced a report outlining its findings.
  1. The report found that if Mississippi continued to incarcerate people at the same rate, it would cost the state an additional \$266 million over the next ten-year period.
  2. Additionally, the report found that almost three quarters of offenders entering prison in 2012 were sentenced for a nonviolent offense; more offenders were entering prison for violations of supervision than for new crimes.
  3. Uncertainty about how long inmates would serve behind bars helped increase sentence lengths by 28%.
  4. Nearly one in three nonviolent offenders would return to prison within three years of release.

The 1231 Task Force developed 20 recommendations, which have been summarized as follows:

1. ensure certainty and clarity in sentencing;
  2. expand judicial discretion in imposing alternatives to incarceration;
  3. focus prison beds on violent and career offenders;
  4. strengthen supervision and interventions to reduce recidivism; and
  5. establish performance objectives to measure outcomes.
- II. Enacted during the 2014 Regular Session, H.B. 585 was based in part on the recommendations of H.B. 1231. The bill made sweeping changes to the state's corrections laws and criminal sentencing. The major thrust of the bill reclassified some property crimes as misdemeanors, established sentence ranges for drug sales based on weight transaction, and increased eligibility for drug court participation, house arrest, and parole. The bill also created the 585 Task force to review and monitor the implementation of the bill.
  - III. Enacted during the 2018 Regular Session, H.B. 387 helped clear up when and how to use technical violation centers (TVCs).
  - IV. Enacted during the 2019 Regular Session, H.B. 1352 expands the use and requirements of intervention courts: such as drug, mental health, family, veterans, and all other types of problem-solving courts.

## Effects of Current Criminal Justice Reform Legislation

Reports and data from MDOC show that in the first year since H.B. 585 was enacted in 2014, the state's prison population was reduced by 11%. This resulted in cost savings to the MDOC. However, in the second-year post enactment, the prison population began to rise again. The H.B. 585 Task Force identified two primary reasons for this rise: 1. the significant increases in supervision/technical revocations resulting in offenders on parole and 2. probation being sent back to prison and

an increase in the number of offenders sentenced for drug possession.

As a result of the Task Force's findings H.B. 387 and H.B. 1352 were passed. H.B. 387 brought clarity as to how and when to use TVCs. Data has shown that the use of TVCs has risen over the past year, and H.B. 1352 expanded the use of reinvestment programs by facilitating the use of not only drug courts but also other types of problem-solving courts. There has been no measurable effect to date regarding the effects of H.B. 1352 as it was just recently passed.

### Policy Conclusions and Recommendations:

1. To ensure effective operations of the new intervention courts, the Legislature should consider taking the following actions:
  - a. Amend MISS. CODE ANN. Section 9-23-9 to enhance provisions of intervention court certification by:
    - setting a deadline for the establishment of best practices for all intervention courts;
    - resetting a deadline for all intervention courts to become certified; and
    - barring any non-certified intervention court from expending any public funds for any programs or services.
  - b. Amend MISS. CODE ANN. Section 9-23-11 to require:
    - reporting to the Administrative Office of Courts on program participants who have been incarcerated for any reason;
    - requiring AOC to conduct best practices audits of all intervention courts; and
    - requiring third-party providers to agree contractually to provide services that comport with evidence- or research-based programs as defined in MISS. CODE ANN. Section 27-103-159.
  - c. Amend MISS. CODE ANN. Section 9-23-1 et seq., Section 9-25-1 et seq., and Section 9-27-1 et seq. to define intervention courts uniformly throughout each section.
2. The Administrative Office of Courts should provide the Legislature with a detailed estimate of funds needed to implement the new intervention courts, which includes staffing requirements and programmatic resources. Specifically, AOC should prepare a document setting out the Circuit Court Districts where each problem-solving court is to be established, the suggested staffing and job occupational codes for each position to be established. Further the AOC should estimate the costs of delivering services to the target clientele, the estimated number of clients it will be serving, and the method of service delivery, e.g., Community Mental Health Centers, private counsellors, or some other source of expertise.
3. The Legislature should consider the implementation of all remaining recommendations from the Final Report December 2013 of the Mississippi Corrections and Criminal Justice Task Force, which were not addressed by H.B. 585 (2014 Regular Session).



# A Review of Mississippi's Criminal Justice Reform Efforts

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## Introduction

### Authority

The PEER Committee reviewed recent criminal justice reform legislation enacted by the Legislature. The Committee acted in accordance with MISS. CODE ANN. Section 5-3-57 (1972).

### Problem Statement

Criminal justice reform is a current issue of concern on both national and state levels due to rising prison populations and the corresponding rise in corrections costs associated with such increases. According to the Pew Charitable Trusts (Pew), reforms vary from state to state, but all federal and state-level reforms aim to improve public safety, control taxpayer costs by prioritizing prison space for people convicted of serious offenses, and invest savings into alternatives to incarceration that are effective at reducing recidivism.

### Scope and Purpose

In conducting this review, PEER sought to address the following questions:

- What was the genesis of Mississippi's recent criminal justice reforms?
- What criminal justice reform legislation has been enacted by the Legislature?
- What have been the effects of Mississippi's criminal justice reform efforts to date?
- What is the status of Mississippi's intervention courts?
- Are there best practices for operating an intervention court?
- What steps need to be taken to further advance Mississippi's criminal justice reform efforts?

## Method

In conducting fieldwork, PEER:

- analyzed the report produced by the Corrections and Criminal Justice Task Force as a result of House Bill 1231, 2013 Regular Session (H.B. 1231 Task Force);
- analyzed the reports produced by the Corrections and Criminal Justice Oversight Task Force as a result of House Bill 585, 2014 Regular Session (H.B. 585 Task Force);
- obtained and analyzed operational and programmatic data maintained by the Administrative Office of the Courts;
- researched best practices for the establishment and implementation of intervention courts; and
- consulted with the representatives of Georgia's Council of Accountability Court Judges.

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# What was the Genesis of Mississippi's Recent Criminal Justice Reforms?

**Due to Mississippi's increasing prison populations and corrections costs associated with such increases, the Legislature enacted House Bill 1231 during its 2013 Regular Session and created a Corrections and Criminal Justice Task Force to conduct a comprehensive review of the state's corrections and criminal justice systems, make policy recommendations to improve the systems and contain costs.**

## **Creation of the House Bill 1231 Task Force**

The Legislature, during its 2013 Regular Session, enacted House Bill 1231, which created the H.B. 1231 Task Force to undertake a comprehensive review of the state's corrections and criminal justice systems. The Legislature mandated the 21-person task force, representing the legislative, executive, and judicial branches of government to:

- undertake a comprehensive review of all areas of the state's corrections system, including state, local and tribal governments' corrections practices and policies regarding sentencing guidelines;
- review the total number of offender populations in Mississippi correctional facilities to determine which offenders receive or serve differing sentences for the same crimes;
- prepare findings regarding such review and recommendations for changes in oversight, policies, practices, and laws designed to prevent, deter and reduce crime and violence, reduce recidivism, improve cost-effectiveness, and ensure the interest of justice at every step of the criminal justice system;
- identify critical problems in the criminal justice system and assess the cost-effectiveness of the use of state and local funds in the criminal justice system;
- consult with stakeholders involved with the corrections and criminal justice systems; and
- conduct a comprehensive review of the drug court programs, intensive supervision programs, and any other alternative incarceration programs utilized in the state; provide detailed recommendations regarding the appropriate funding to support those programs.

H.B. 1231 required the H.B. 1231 Task Force to submit a final report to the Legislature, Governor, and tribal governments by December 31, 2013.

## **Work of the H.B. 1231 Task Force**

The H.B. 1231 Task Force began its work in the summer of 2013 and met seven times to analyze Mississippi's sentencing and corrections data, evaluate programs and policies across the state's criminal justice system, and consider proven criminal reform approaches to sentencing and corrections from other states. The H.B. 1231 Task Force received technical assistance from the Public Safety Performance Project of the Pew Charitable Trusts and its partner, the Crime and Justice Institute at Community Resources for Justice. This technical assistance was provided in conjunction with the Justice Reinvestment Initiative (JRI) of the U.S. Department of Justice. JRI provided similar assistance to other states by helping to analyze sentencing and corrections data in order to develop research-based and fiscally sound policy options that protect public safety, hold offenders accountable, and contain corrections costs.

Through its research, the H.B. 1231 Task Force concluded that Mississippi's prison population had grown by 17% during the period 2003 to 2013 and that the state housed 22,600 inmates in July 2013. The research showed that Mississippi had the second-highest incarceration rate in the country behind Louisiana. The H.B. 1231 Task Force projected that the state's housing of an additional 1,990 offenders by 2024 would cost the state an additional \$266 million in corrections spending over a ten-year period—i.e., 2014 to 2024.

## **Key Findings and Recommendations of the H.B. 1231 Task Force**

After concluding its research and analysis, the H.B. 1231 Task Force developed the following key findings:

- almost three-quarters of offenders entering prison in 2012 were sentenced for a nonviolent offense;
- more offenders were entering prison for violations of supervision than for new crimes;
- uncertainty about how long inmates would serve behind bars helped increase sentence lengths by 28%; and
- nearly one in three nonviolent offenders would return to prison within three years of release.

The H.B. 1231 Task Force submitted its report in December 2013 and made 20 recommendations designed to:

- ensure certainty and clarity in sentencing;
- expand judicial discretion in imposing alternatives to incarceration;
- focus prison beds on violent and career offenders;
- strengthen supervision and interventions to reduce recidivism; and
- establish performance objective and measure outcomes.

Appendix A, page 27, provides details regarding the H.B. 1231 Task Force's recommendations.

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# What Criminal Justice Reform Legislation Has Been Enacted by the Legislature?

Since 2014, the Legislature has enacted significant legislation to reduce the state's incarceration rate while ensuring public safety and providing offenders with opportunities to successfully re-enter society.

## House Bill 585 (2014 Regular Session)

During its 2014 Regular Session, the Legislature enacted House Bill 585, which was based, in part, on the policy recommendations made by the H.B. 1231 Task Force. H.B. 585 made sweeping changes to the state's corrections laws and criminal sentencing. In summary, H.B. 585 reclassified some property crimes as misdemeanors, established sentence ranges for drug sales based on weight of transaction, and increased eligibility for drug court participation, house arrest, and parole. See Appendix B, page 29, for a summary of the specific provisions of H.B. 585.

H.B. 585 also created the Corrections and Criminal Justice Oversight Task Force (H.B. 585 Task Force) to review and monitor the implementation of the requirements of the bill. See Exhibit 1, page 8, for the statutory membership of the Task Force. See Appendix C, page 31, for the powers and duties of the Task Force.

## House Bill 387 (2018 Regular Session)

During its 2018 Regular Session, the Legislature enacted House Bill 387. In summary, H.B. 387 ended "debtor's prisons" for failure to pay fines and clarified that people sentenced with enhancements prior to July 1, 2014, were eligible for parole. The bill required the Mississippi Department of Corrections (MDOC) to establish and operate technical violation centers<sup>1</sup> (TVCs) to detain probation and parole violators revoked by the court of State Parole Board. The bill also provided discretion to judges to deviate from the mandatory minimum sentences for non-violent habitual convictions. Furthermore, the bill created the Mississippi Sentencing Disparity Task Force with the purpose of studying and reporting on possible disparity in sentencing in order to promote the interest of uniform justice throughout Mississippi. See Appendix D, page 32, for a summary of the specific provisions of H.B. 387.

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<sup>1</sup> A technical violation is an act or omission that violates a condition or conditions of being placed on community supervision (parole, probation or post-release supervision). A center is an existing MDOC facility equipped to address the underlying factors leading to the offenders' violation, including substance abuse. There are currently two centers: the Delta Technical Facility in Greenwood, MS and the Flowood Technical Facility in Flowood, MS.

## House Bill 1352 (2019 Regular Session)

During its 2019 Regular Session, the Legislature enacted House Bill 1352 (H.B. 1352), known as the Criminal Justice Reform Act. The bill's primary focus was the creation of intervention courts, which are defined as follows:

*...a drug court, mental health court, veterans court or problem-solving court that utilizes an immediate and highly structured intervention process for eligible defendants or juveniles that brings together mental health professionals, substance abuse professionals, local social programs and intensive judicial monitoring.*

H.B. 1352 also created the Intervention Courts Advisory Committee, which is chaired by the Director of the Administrative Office of Courts (AOC) or his designee. The bill charged the committee with the following responsibilities:

- developing and periodically updating proposed statewide evaluation plans and models for monitoring all critical aspects of intervention courts and providing these plans to the Chief Justice of the Mississippi Supreme Court and the AOC;
- making recommendations to the Chief Justice, the AOC Director and state officials concerning improvements to intervention court policies and procedures, including the intervention court certification process;
- serving as the arbiter of disputes arising out of the operation of intervention courts and making recommendations to improve the intervention courts;
- establishing, through rules and regulations, a viable and fiscally responsible plan to expand the number of adult and juvenile intervention court programs operating in Mississippi; and
- reviewing monthly reports submitted to the AOC by each certified intervention court and providing comments and making recommendations, as necessary, to the Chief Justice and the AOC.

See Appendix E, page 33, for a summary of the specific provisions of H.B. 1352.

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**Exhibit 1: Membership of the Corrections and Criminal Justice Oversight Task Force**

<b>Two appointees of the Lieutenant Governor</b>
<b>Two appointees of the Speaker of the House of Representatives</b>
<b>Commissioner of the Department of Corrections or designee</b>
<b>Member of the Circuit Court appointed by the Chief Justice</b>
<b>Member of the State Parole Board appointed by the Governor</b>
<b>Executive Director of the PEER Committee staff or designee</b>
<b>Victims' community member appointed by the Attorney General</b>
<b>Representative of the Mississippi Association of Supervisors</b>
<b>President of the Mississippi Prosecutors' Association</b>
<b>President of the Mississippi Sheriffs' Association or designee</b>
<b>Representative of the Office of the State Public Defender</b>

SOURCE: PEER analysis of House Bill 585, 2014 Regular Session.

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# What Have Been the Effects of Mississippi's Criminal Justice Reform Efforts to Date?

## Effects of criminal justice reform legislation passed since 2014.

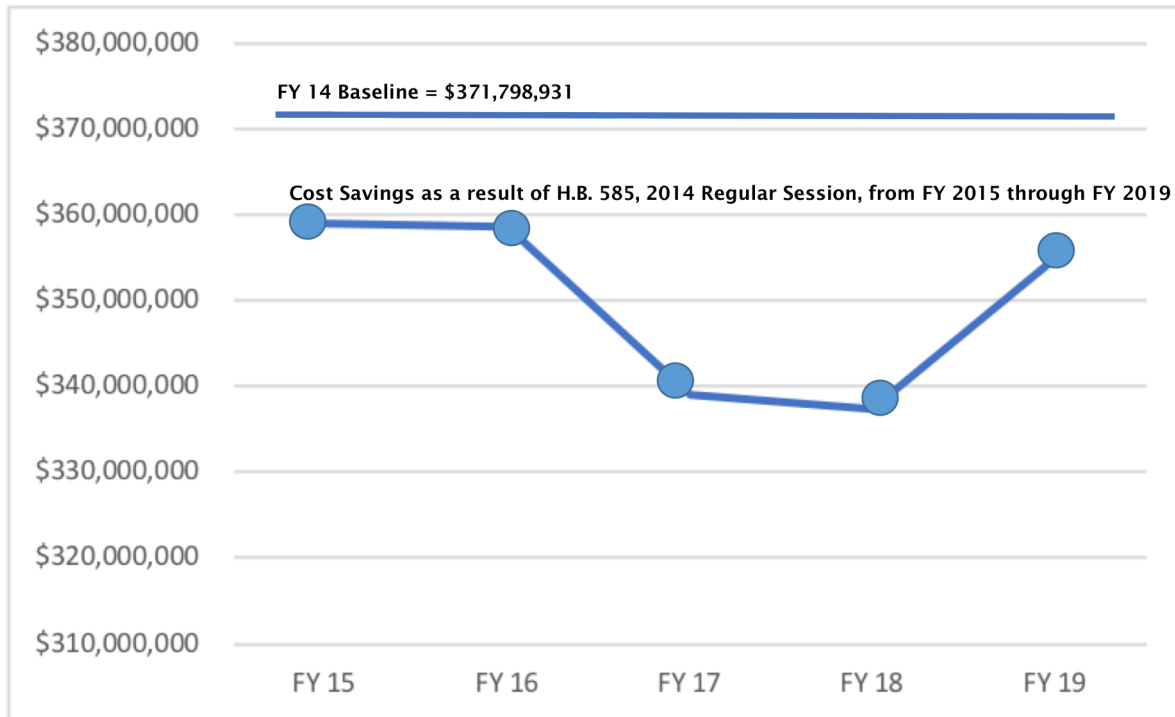
Reports and data from MDOC show that in the first year since H.B. 585 was enacted in 2014, Mississippi's prison population was reduced nearly 11%, (according to the H.B. 585 Task Force's 2018 Final Report), which dropped the state from the second to the fifth highest incarcerator in the nation. This drop was mainly due to the revisions to the monetary threshold amounts for certain property crimes made in H.B. 585. These revisions added more valuation tiers that allowed for these specific property crimes to be charged as misdemeanors and also revised the penalties for these crimes.

Additionally, cost savings were realized by the MDOC as a result of the passage of H.B. 585<sup>2</sup>. These savings are reflected in Exhibit 2 on page 10, which shows MDOC's baseline expenditures in FY 2014 prior to the passage of H.B. 545 and the cost savings realized after the passage of H.B. 585 from FY 2015 through FY 2019.

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<sup>2</sup> In Chief Justice Mike Randolph's FY 2021 presentation to the Joint Legislative Budget Committee, he pointed out that substantial cost savings resulted from the state's criminal justice reforms. The Chief Justice stated that since 2012 the state has realized an estimated \$452 million in savings in incarceration costs (calculated on an annual incarceration cost times the number of participants for the applicable period). This is due primarily to the Judiciary's utilization of drug intervention courts.

**Exhibit 2: Schedule of Reductions in Expenditures Attributable to House Bill 585 from FY 2014 through FY 2019<sup>3</sup>**



— FY 14 Baseline prior to H.B. 585      ● — ● Cost Savings post H.B. 585 FY 2015 through FY 2019

SOURCE: MDOC Fact Sheets July 2014 through July 2019 and Expenditures by Agency FY 2014 through FY 2019 from the Mississippi Transparency Webpage.

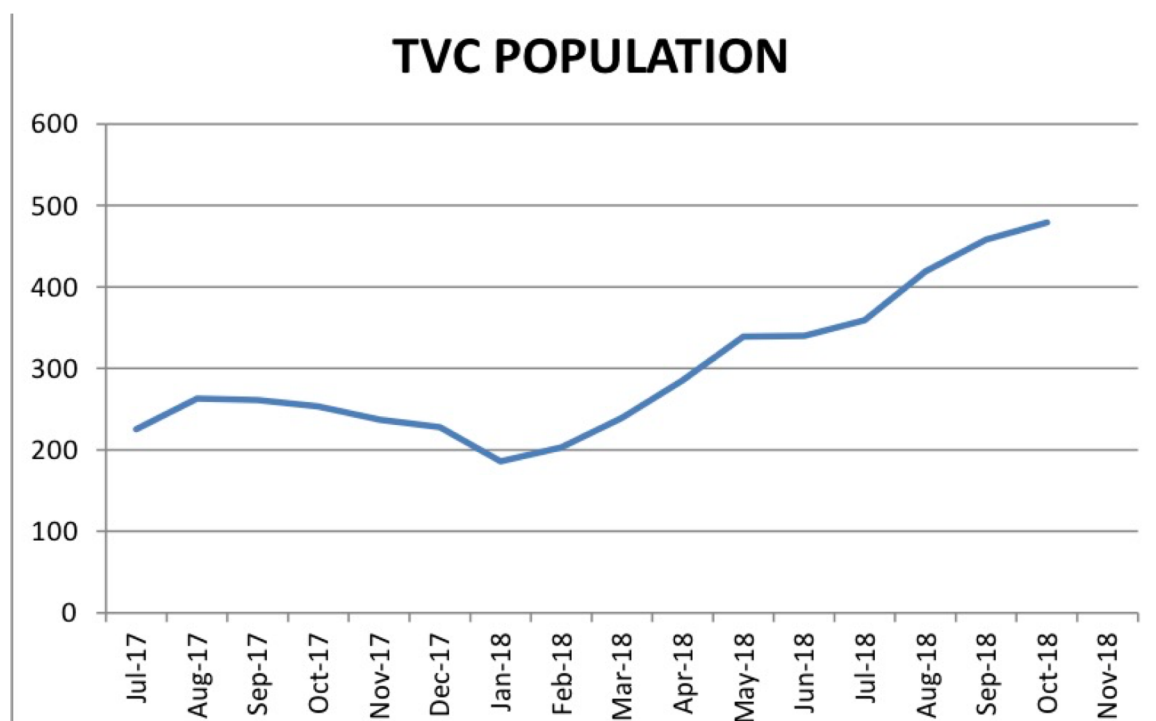
However, in the second-year post enactment, the prison population began to rise again and savings were not being reinvested for intervention programs. The H.B. 585 Task Force identified the primary reasons for this to be:

- the significant increases in supervision and technical revocations that resulted in offenders on parole and probation being sent back to prison; and
- an increase in the number of offenders sentenced for drug possession.

<sup>3</sup> The FY 2014 baseline, represented by the solid line in Exhibit 2, represents the cost of MDOC expenditures prior to the passage of H.B. 585. This chart assumes that the baseline would have remained relatively the same without the passage of H.B. 585 from FY 2015 through FY 2019. The dotted line represents the actual cost savings after the passage of H.B. 585 with the savings being the difference between the solid line and the dotted line.

This led to the passage of H.B. 387 in 2018 to help better clarify the use of technical violation centers (TVC) and to address significant increases in supervision and technical revocations. According to H.B. 585's Final Report in 2018, "Early indications suggest that the clarification of §§ 47-7-27 and 47-7-37 in H.B. 387 (2018) and MDOC providing tours of the facility for circuit judges appear to also be contributing to increased utilization of the TVC." This is reflected in the chart in Exhibit 3 below.

**Exhibit 3: Technical Violation Centers Usage July 2017 through November 2018**



SOURCE: 2018 Final Report, Corrections and Criminal Justice Oversight Task Force (H.B. 585 Task Force).

H.B. 1352 expanded the type of intervention courts used in Mississippi, which had previously been drug courts only.

Additionally, H.B. 585 had previously required the uniform certification of drug courts by the AOC and created the State Drug Court Advisory Committee to confirm that drug courts are operating under a set of evidence-based standards and that an oversight entity has ensured that that these courts follow best practices. Currently, Mississippi's drug courts must meet the ten key components of drug courts as published by the Drug Court Program Office of the United States Department of Justice and must strive to the best of their abilities to uphold the Adult Drug Court Best Practice Standards according the National Association of Drug Court Professionals. The State Intervention Court Advisory Committee has not yet promulgated rules for family

courts and juvenile drug courts. Rules for these courts fall under the current felony rules. Additionally, the AOC has no plans to promulgate rules for or expand municipal intervention courts. However, the AOC will certify municipal courts who apply for certification but will not provide funds for their operation. The AOC is currently working toward publishing rules for veterans and mental health courts and plans to expand these types of courts when the Legislature provides funding.

The only other effect of criminal justice reform efforts in Mississippi, post 2014, came not from legislation but from a change in policy influenced by a recommendation in the *2015 through 2016 Final Report*, Corrections and Criminal Justice Oversight Task Force (H.B. 585 Task Force). The recommendation stated that:

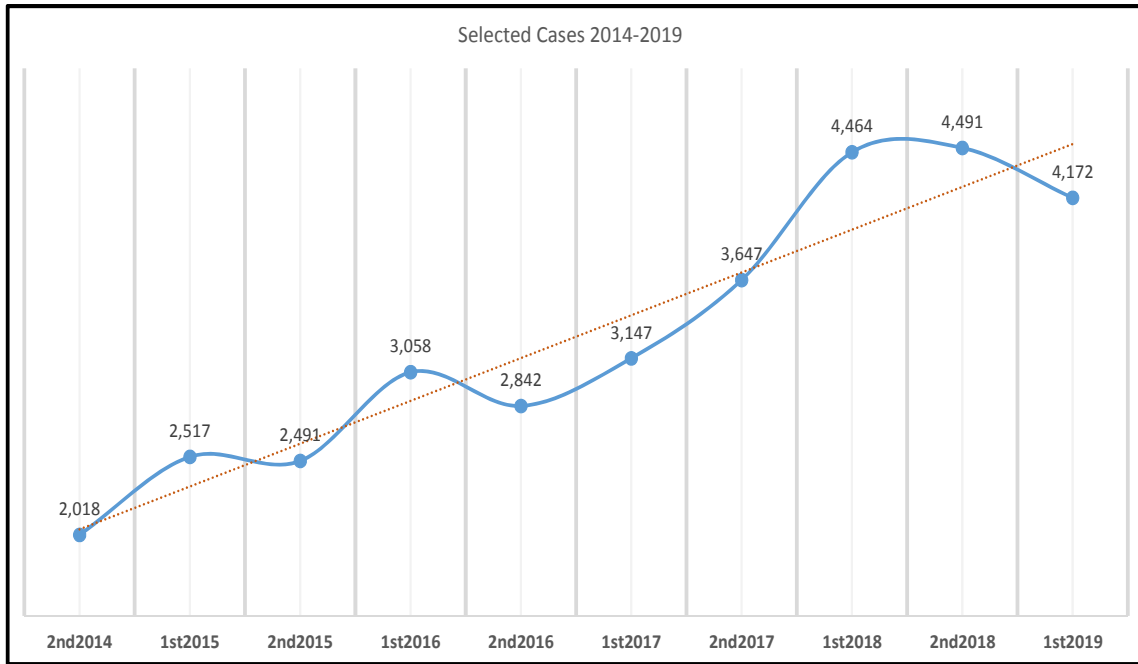
*The Department of Corrections should plan and implement an alternative to the current Regimented Inmate Discipline program that will provide a cognitive behavior program with elements of discipline within the correctional institution(s) prior to the expiration of the Regimented Inmate Disciplinary program in January 2017. This would not foreclose the development of other community-based programs to be administered by other entities to address the provision of cognitive behavior programs for non-adjudicated offenders.*

In light of this recommendation, the Regimented Inmate Disciplinary (RID) program was replaced by a cognitive behavioral program known as Thinking for a Change.

Lastly, PEER believes it is important to note that post H.B. 585 (2014) until CY 2019, the property crimes changed by the bill, in aggregate, have increased by 106% as misdemeanor charges. This indicates that although felony incarceration costs may have gone down there has likely been no decrease in the commission of these crimes and the cost is merely shifting to local government. This further indicates the need for intervention programs that deter crime rather than shift it. This is reflected by the chart in Exhibit 4 on page 13.

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**Exhibit 4: Change in Specific Property Crimes Reduced from Felonies to Misdemeanors by House Bill 585 from CY 2014 through CY 2019**



SOURCE: PEER analysis of Data of Specific Crimes Affected by H.B. 585, 2014 Regular Session, as provided by the Administrative Office of Courts.

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# What is the Status of Mississippi's Intervention Courts?

## Definition of Intervention Courts

With legislation enacted by the Legislature since 2014, the term “intervention court” now encompasses all problem-solving courts including drug, mental health, veterans, family, and juvenile (youth) intervention courts. House Bill 1352, 2019 Regular Session, provides the following definitions:

- **Drug Court:** problem-solving courts that target criminal defendants who have alcohol and other drug dependency problems;
- **Mental Health Court:** criminal diversion courts that link qualifying offenders with community-based treatment services; and
- **Veterans Court:** courts that work with community-based veterans services to treat substance abuse or mental health issues as an alternative to incarceration.

Family courts are defined in the Mississippi Intervention Court Rules promulgated by the State Intervention Courts Advisory Committee (SICAC) as:

- an immediate and highly structured intervention process for substance abuse treatment of eligible defendants or juveniles that:
  - brings together substance abuse professionals, local social programs, and intensive judicial monitoring; and
  - follows the ten recommendations of family drug courts as promulgated by the Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice.

Youth intervention courts are simply juvenile courts that implement problem solving-programs as determined and defined by the AOC. As previously mentioned, the SICAC has not yet promulgated rules for youth or family courts. Rules for these courts fall under the current intervention court rules promulgated by SICAC.

## Mississippi's Intervention Courts

As shown in Exhibit 5, page 15 and 16, the Administrative Office of Courts reports that 40 intervention courts currently exist in Mississippi. The veterans and mental health courts have not yet been certified by AOC.

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### Exhibit 5: Type and Location of Mississippi's Current Intervention Courts

Type of Court	Location
<i>Adult Felony Drug Court</i>	Booneville Gulfport Oxford/Ripley Greenville/Greenwood/Indianola Ackerman Natchez Jackson Walnut Grove Vicksburg Meridian Cleveland/Clarksdale Hattiesburg Raleigh McComb Columbia West Point Hernando Ellisville Lucedale/Pascagoula Canton Lexington Hazelhurst
<i>Adult Misdemeanor Drug Courts</i>	Columbus Greenwood Jackson

Cont. on page 16

<b><i>Youth Drug Courts</i></b>	Grenada Philadelphia Natchez Hernando Hattiesburg Biloxi Pascagoula Canton Magnolia Pelahatchie Tylertown Greenville
<b><i>Mental Health Courts (Not AOC Certified)</i></b>	Hattiesburg Greenville
<b><i>Veterans' Courts (Not AOC Certified)</i></b>	Walnut Grove Hattiesburg Pascagoula
<b><i>Family Courts</i></b>	Natchez Biloxi Pelahatchie

SOURCE: Administrative Office of Courts.

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H.B. 1352 (Criminal Justice Reform Act) requires the AOC to certify all intervention courts to ensure that such courts comply with all applicable state and federal regulations and rules promulgated by the State Intervention Court Advisory Committee, which succeeded the State Drug Advisory Committee created in 2003.

### **Current Funding of Intervention Courts**

Intervention court programs certified by the AOC are eligible to receive funding provided by the state. Senate Bill 2892, 2004 Regular Session, added a \$10 special assessment for drug court operations to fines for felony crimes, traffic offenses, driving



under the influence of alcohol, game and fish law violations, litter law violations, and an \$8 special assessment for other misdemeanors. The purpose of the funding was to provide supplemental funding to all certified intervention court programs in Mississippi.

During its 2016 Regular Session, the Legislature amended MISS. CODE ANN. Section 99-19-73 (1972) — i.e., state law regarding monetary assessment for certain violations, misdemeanors, and felonies—to delete monetary assessments being collected for specific programs, including drug court operations. The Legislature directed that total assessments for certain violations, misdemeanors, and felonies be deposited into the General Fund for appropriation by the Legislature. Since 2016, the Legislature has appropriated the following amounts of out of the General Fund to the AOC for the state’s drug court program:

- FY 2017: \$4.1 million;
- FY 2018: \$6.5 million;
- FY 2019: \$6.5 million;
- FY 2020: \$6.5 million; and
- FY 2021: \$8.2 million (requested)

The AOC plans to increase the number of intervention courts by adding 43 drug intervention courts, eight mental health intervention courts, and eight veterans intervention courts if the Legislature appropriates the amount requested by AOC for FY 2021. The State Intervention Courts Advisory Committee has promulgated guidelines and standards that courts must comply with to receive and maintain funding. Failure to meet these guidelines and standards can result in the loss of funding for the programs.

Adult felony-level intervention courts are funded based upon an average enrollment rate—e.g., each court’s highest three months of enrollment from the previous twelve months of enrollment. In order for a court to receive a full allocation from the AOC, the court must have a minimum average enrollment for 40 active clients. Exhibit 6, page 18, provides the funding allocation amounts for each court’s average number of clients.

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**Exhibit 6: Scale for Adult Felony Level Intervention Court Funding**

Average Number of Clients	AOC Allocation
40 - 99 clients	\$100,000
100 - 124 clients	\$140,000
125 - 149 clients	\$180,000
150 - 174 clients	\$220,000
175 - 199 clients	\$260,000
200 or more clients	\$300,000

SOURCE: Mississippi Intervention Court Rules as Promulgated by the State Intervention Courts Advisory Committee (July 19, 2019).

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The SICAC only allows the AOC to fund three misdemeanor courts (Columbus, Greenwood, and Hinds). The SICAC has decided not to fund any new misdemeanor courts other than those currently in operation.

Functioning within the municipal court system, the mental health court located in Hattiesburg is primarily funded through a \$350,000 grant from the Bureau of Justice Assistance, U.S. Department of Justice. The court is not certified by AOC nor does it receive any funding from AOC. The SICAC voted to allow the 17<sup>th</sup> Circuit to research and explore opening a mental health court funded by the 17<sup>th</sup> Circuit using the court's local intervention court funds. However, there is no mental health court currently operating within the 17<sup>th</sup> Circuit, and it would need to be certified by AOC before beginning operation. The state's three veterans courts are being operated as part of each jurisdiction's drug courts. Family intervention court programs function within county courts and may qualify for funding up to \$65,000 from AOC, with no local match being required to receive such funding.

### **Projected Funding of Intervention Courts**

Prior to the Legislature's passage of H.B. 1352, 2019 Regular Session, the AOC only provided supplemental funding to the state's drug courts. With the expansion of intervention courts to include mental health and veterans courts, in addition to drug courts, the AOC, through Legislative appropriation, will be responsible for providing supplemental funding to the courts.

Because the state has limited experience in operating freestanding mental health courts, PEER obtained information from Georgia's Council of Accountability Court Judges (CACJ) in order to project funding for such courts. Both BJA and the Council of State Governments Justice Center consider the state of Georgia to be in the forefront of implementing evidenced-based mental health courts. According to Georgia's CACJ a freestanding mental health court would need to consist of the following positions and services:

- program coordinator;
- case manager;
- lab technician/drug screen collector;
- law enforcement/surveillance;
- drug testing;
- emergency housing; and
- community mental health services, typically provided by a regional community mental health provider.

Georgia's CACJ estimates that these positions and services would require approximately \$250,000 in funding annually for general operations and approximately \$125,000 in treatment costs from third-party service providers.

At the Mississippi FY 2021 budget hearing for the Judiciary, Chief Justice Randolph stated the following budgetary need for intervention courts:

*For the Judiciary to comply with H.B. 1352, passed in the 2019 Legislative Session, we are requesting an increase in general funds of \$2,215,000 to fund three (3) new intervention courts, eight (8) mental health courts, and eight (8) veterans courts.*

The existing intervention courts are being funded by the FY 2020 \$6.5 million general fund appropriation. Please see Exhibit 7, page 20, for a breakdown of budget requests for the intervention courts.

**Exhibit 7: FY 2021 Intervention Court Funding**

30-Jul-19	FY21 Intervention Courts Budget Request			
	FY21 Intervention Courts Budget Request - 45 Courts	FY21 Mental Health Courts Budget Request - 8 Courts	FY21 Veterans Courts Budget Request - 8 Courts	FY21 Total Budget Request
Total Budget by Court Type Subsidies; New County personnel in FY21 - Mental Health Courts; 8 MH Coordinators and 8 MH Case Managers. Veterans Treatment Courts; 8 Veterans Court Case Managers	\$ 6,415,000	\$ 1,050,000	\$ 800,000	\$ 8,265,000
First year, one time Warren County Youth Court January 2020	\$ -	\$ -	\$ -	\$ -
DCCM Annual Maintenance Contract	\$ 30,000	\$ 30,000	\$ 30,000	\$ 90,000
AOC Operational Costs to include salaries, travel and office supplies	\$ 380,000	\$ 98,000	\$ 98,000	\$ 576,000
<b>FY21 Legislative Budget Request</b>	<b>\$ 6,825,000</b>	<b>\$ 1,178,000</b>	<b>\$ 928,000</b>	<b>\$ 8,931,000</b>

SOURCE: FY 2021 Intervention Courts Budget Request provided by the Administrative Office of Courts.

According to Exhibit 7 above, in FY 2021, AOC is planning on setting aside approximately \$147,250 to operate each mental health court the first year. As discussed above, Georgia budgets approximately \$250,000 for operation of these types of courts, as well as another \$125,000 set aside in treatment costs for third-party service providers. This is approximately \$227,750 less than the comparison court from Georgia. During FY 2017, Georgia's eight mental health courts served approximately 1,518 individuals. However, Georgia's per court budget includes funds for emergency housing and other services, which are not anticipated to be funded in Mississippi due to resource limitations. (Refer to Appendix H, page 39, for a description of the AOC's intervention court team structure for FY 2021 through FY 2025.)

In Mississippi, circuit judges have been the overseers of intervention or problem-solving courts since the advent of drug courts in 2012. With the passage of H.B. 1352, it is anticipated that the judges' workloads will rise and become increasingly more important.

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# Are There Best Practices for Operating an Intervention Court?

## Certification of Intervention Courts

MISS. CODE ANN. Section 9-23-11 (1972) states the following regarding the certification of intervention courts:

*The Administrative Office of Courts shall establish, implement and operate a uniform certification process for all drug courts and other problem-solving courts including juvenile courts, veterans courts or any other court designed to adjudicated criminal actions involving an identified classification of criminal defendant to ensure funding for drug courts supports effective and proven practices that reduce recidivism and substance dependency among their participants.*

The section further states that the certification process should ensure that any new or existing drug courts meet the following minimum standards:

- use of evidence-based practices including, but not limited to, the use of a valid and reliable risk and needs assessment tool to identify participants and deliver appropriate interventions;
- targeting medium to high-risk offenders for participation;
- use of current, evidence-based interventions proven to reduce dependency on drugs or alcohol, or both;
- frequent testing for alcohol or drugs;
- coordinated strategy between all drug court program personnel involving the use of graduated clinical interventions;
- ongoing judicial interaction with each participant; and
- monitoring and evaluation of drug court program implementation and outcomes through data collection and reporting.

The section provides the AOC with the authority to carry out the certification and re-certification processes and makes any other policies as necessary. Currently, the AOC adheres to the *Best Practice Standards* promulgated by the National Association of Drug Court Professionals (NADCP), as shown in Exhibit 8 on page 22.

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## Exhibit 8: Adult Drug Court Best Practice Standards

- **Standard I: Target Population**
  - Drug courts are most effective for people who are addicted to intoxicating drugs or alcohol (i.e., high-need) and are at a substantial risk for reoffending or have struggled to succeed in less-intensive supervision or treatment programs (i.e., high-risk).
- **Standard II: Equity and Inclusion**
  - Drug courts ensure equal opportunity for everyone to participate and succeed, regardless of race, ethnicity, or gender.
- **Standard III: Roles and Responsibilities of the Judge**
  - Drug court judges greatly influence participants' success in the program.
- **Standard IV: Incentives, Sanctions, and Therapeutic Adjustments**
  - Drug courts use behavior change strategies that are evidence-based, fair, and consistently administered.
- **Standard V: Substance Use Disorder Treatment**
  - Drug courts provide a continuum of evidence-based treatment services, including medication-assisted treatment in combination with counseling and other psychosocial therapies as recommended by a qualified clinician.
- **Standard VI: Complementary Treatment and Social Services**
  - Drug courts are most effective at reducing crime and encouraging long-term recovery when they assess participants for mental health disorders and other needs that may interfere with positive progress.
- **Standard VII: Drug and Alcohol Testing**
  - Drug courts implement frequent, random, and comprehensive drug and alcohol testing of participants to gauge treatment progress and ensure that substance abstinence or use is responded to in a timely and effective manner.
- **Standard VIII: Multidisciplinary Team**
  - The drug court team approach is indispensable.
- **Standard IX: Census and Caseloads**
  - Because drug court probation officers and clinicians work with high-risk/high-need individuals, their caseload sizes are considerably smaller than traditional caseloads.
- **Standard X: Monitoring and Evaluation**
  - Adherence to best practices is among the characteristics that distinguish drug courts from business as usual.

SOURCE: National Association of Drug Court Professionals.

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To receive and retain certification, adult drug courts, juvenile drug courts, and family courts must adhere to the “key components” promulgated by the Office of Justice Programs, U.S. Department of Justice in addition to the NADCP’s *Best Practice Standards*. See Appendix F, page 35, which details these key components.

***Although the AOC has best practices for the operation of drug courts, there are few recognized best practices for the implementation and operation of mental health and veterans courts.***

According to the Bureau of Justice Assistance (BJA), U.S. Department of Justice, despite the recent creation and expansion of mental health courts nationwide, there are few nationally-accepted, specific criteria for the implementation and operation of such courts. Because mental health courts require the coordination of community resources, Georgia’s Adult Mental Health Court Standards state that:

*a multidisciplinary “planning committee” should be charged with designing the mental health court. Along with determining eligibility criteria, monitoring mechanisms, and other court processes, this committee should articulate clear, specific, and realizable goals that reflect agreement on the court’s purposes and provide a foundation for measuring the court’s impact.*

Georgia’s standards further recommend that the planning committee appoint members to serve as an “advisory group” responsible for monitoring each court’s adherence to its mission and its coordination with relevant activities across the criminal justice and mental health systems. The advisory group should be representative of the court, law enforcement, and individuals with expertise in the intervention services being provided. The advisory group should be the driver behind any operational or policy changes that need to be made. Appendix G, page 37, provides details regarding Georgia’s best practices for the implementation of mental health courts.

According to the AOC staff, the office plans to provide funding, if appropriated, to eight mental health and eight veterans courts in the next year. Additionally, AOC staff has indicated that they intend to evaluate the Georgia model site and others, in anticipation of funding, and make a recommendation to the SICAC on how to best implement the eight new mental health intervention courts. The SICAC will serve as the planning committee for such courts.

With regard to veterans intervention courts, the first such court opened in Buffalo, New York in 2008. The veterans court model is based on drug treatment and/or mental health treatment courts. Substance abuse or mental health treatment is offered as an alternative to incarceration. Typically, veteran mentors assist

with the programs. According to an inventory conducted by the U.S. Department of Veterans Affairs, veterans treatment courts increased dramatically from 168 in 2012 to 461 in 2016. Best practices applicable to drug courts are also relevant to the operations of veterans courts.



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## What Steps Need to be Taken to Further Advance Mississippi's Criminal Justice Reform Efforts?

1. To ensure effective operations of the new intervention courts, the Legislature should consider taking the following actions:
  - a. Amend MISS. CODE ANN. Section 9-23-9 (1972) to enhance provisions of intervention court certification by:
    - setting a deadline for the establishment of best practices for all intervention courts;
    - resetting a deadline for all intervention courts to become certified; and
    - barring any non-certified intervention court from expending any public funds for any programs or services.
  - b. Amend MISS. CODE ANN. Section 9-23-11(1972) to require:
    - reporting to the Administrative Office of Courts on program participants who have been incarcerated for any reason;
    - requiring AOC to conduct best practices audits of all intervention courts; and
    - requiring third-party providers to agree contractually to provide services that comport with evidence- or research-based programs as defined in MISS. CODE ANN. Section 27-103-159.
  - c. Amend MISS. CODE ANN. Section 9-23-1 et seq., (1972) Section 9-25-1 et seq., (1972) and Section 9-27-1 et seq. (1972) to define intervention courts uniformly throughout each section.
2. The Administrative Office of Courts should provide the Legislature with a detailed estimate of funds needed to implement the new intervention courts, which includes staffing requirements and programmatic resources. Specifically, AOC should prepare a document setting out the Circuit Court Districts where each problem-solving court is to be established and the suggested staffing and job occupational codes for each position to be established. Furthermore, the AOC should estimate the costs of delivering services to the target clientele, the estimated number of clients it will be serving, and the method of

service delivery, e.g., Community Mental Health Centers, private counsellors, or some other source of expertise.

3. The Legislature should consider the implementation of all remaining recommendations from the *Final Report December 2013* of the Mississippi Corrections and Criminal Justice Task Force, which were not addressed by H.B. 585 (2014 Regular Session).

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## Appendix A: Recommendations of the Corrections and Criminal Justice Task Force

- *Ensure Certainty and Clarity in Sentencing*
  - Institute “true minimums” to guarantee that nonviolent offenders serve at least 25 percent and violent offenders serve at least 50 percent of their court-ordered sentences;
  - Remove MDOC’s ability to release offenders to house arrest;
  - Create one clear definition or list of violent offenses and apply it consistently across all policies that use “crime of violence” to determine eligibility;
  - Ensure a more consistent paroled grant rate by developing case plans for all parole-eligible inmates at admission and restricting parole hearings to non-compliant offenders; and
  - Institute statewide standards to create a uniform victim notification policy that reaches the most victims possible.
- *Expand Judicial Discretion in Imposing Alternatives to Incarceration*
  - Expand judicial discretion to impose non-prison alternatives;
  - Broaden statutory criteria for drug court eligibility by eliminating the automatic disqualification for offenders convicted of a commercial drug offense or a driving under the influence offense, coupled with careful screening of all drug court eligible offenders prior to entering the drug court program; and
  - Continue to require annual training on evidence or research-based practices.
- *Focus Prison Beds on Violent and Career Criminals*
  - Differentiate levels of property crimes;
  - Restructure drug sentences;
  - Replace the existing conditional geriatric release statute with a “parole hearing trigger” that would require parole hearings for nonviolent offenders who are 60 years old or older and have served at least 10 years of their sentences behind bars;
  - Expand eligibility for trusty time to possession with intent offenses; and
  - Ensure that parole eligibility is available to nonviolent offenders.
- *Strengthen Supervision and Interventions to Reduce Recidivism*
  - Develop a structured system of intermediate sanctions and incentives to swiftly and proportionately respond to both positive behavior and technical violations of supervision conditions;

- Re-designate existing MDOC facilities as specialized technical violation centers (TVCs) with a corresponding sanctioning structure for technical revocations of supervision; and
- Statutorily limit to 21 days the time parolees and probationers can be held in county jails awaiting revocation proceedings for technical violations.
- *Establish Performance Objectives and Measure Outcomes*
  - Institute statewide standards for all drug courts based on the 10 key components established by the National Association of Drug Court Professionals;
  - Require annual trainings on evidence-based practices;
  - Require enhanced data collection and establish an Oversight Task Force composed of legislative, executive, and judicial branch designees as well as criminal justice practitioners; and
  - Require 10-year fiscal impact statements to accompany future sentencing and corrections legislation.

SOURCE: PEER analysis of *Final Report December 2013*, Mississippi Corrections and Criminal Justice Task Force.

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## Appendix B: Provisions of House Bill 585, 2014 Regular Session

- Adds to the goals of drug courts, the effective use of corrections resources by redirecting prison-bound offenders whose criminal conduct is driven in part by drug and alcohol dependence to intensive supervision and clinical treatment available in the drug court.
- Requires the State Drug Courts Advisory Committee to receive and review the monthly reports submitted to the Administrative Office of Courts by each certified drug court and provides comments and makes recommendations, as necessary, to the Chief Justice and the Director of the Administrative Office of Courts.
- Requires the Administrative Office of Courts to establish, implement and operate a uniform certification process for all drug courts and other problem-solving courts, including juvenile courts, veterans courts, or any other court designed to adjudicate criminal actions involving an identified classification of criminal defendant to ensure funding for drug courts supports effective and proven practices that reduce recidivism and substance dependency among their participants.
- Requires the Administrative Office of Courts to establish a certification process that ensures any new or existing drug court meets minimum standards for drug court operation.
- Requires the Administrative Office of Courts to use evidenced-based practices and reliable risk and needs assessment tools to identify participants and deliver appropriate interventions.
- Excludes the following persons from eligibility for drug courts:
  - A person who has been convicted of a felony crime of violence as defined with state law within the previous ten years from participation in any alternative sentencing through a local drug court.
  - A person who has committed a crime of violence.
  - A person currently charged with home invasion or burglary with explosives.
  - A person charged with drug trafficking.
- Authorizes drug courts to assess reasonable and appropriate fees to participants.
- Expands judicial discretion by amending state law to allow a judge to suspend the sentence and place on probation a person who has committed a previous felony.
- Prohibits any person convicted of a crime of violence as defined in the bill from participating in the intensive supervision program (ISP).
- Requires the Department of Corrections to provide all relevant data to the Oversight Task Force about ISP participants.
- Expands judicial authority by authorizing the court to add conditions for participants in the ISP and required the participant to abide by other conditions.
- Excludes a person who has committed a crime of violence as defined by state law, or drug trafficking from being considered for pretrial intervention.

- Revises monetary threshold amounts for property crimes by adding more valuation tiers that designate such crimes as misdemeanors and felonies and to revise penalties for such crimes.
- Expands judicial authority for certain misdemeanor and petit larceny crimes by allowing the court to suspend the sentence of imprisonment and impose probation.
- Creates a new CODE section to provide that it shall be unlawful for any person to conduct, organize, supervise or manage, directly or indirectly, an organized theft or fraud enterprise.
- Standardizes the penalties and sentencing guidelines for the sell, barter, transfer, manufacture, distribution, dispensing or possession with intent to sell, barter, transfer, manufacture, distribute or dispense of a controlled substance or a counterfeit substance.
- Revises the sentence for a first-time offender who violates the new sentencing guidelines with an amount less than one kilogram but not more than 30 grams of marijuana or synthetic cannabinoids as classified in Schedule I to not more than five years.
- Revises the penalty and definition of trafficking controlled substances.
- Revises the penalties for intent to manufacture or distribute drugs by adding tiers based on weight possession of precursor drugs.
- Clearly defines certain existing crimes as “crimes of violence” for purposes of sentencing and exclusion from alternative sentencing.
- Revises victim notification provisions.
- Revises training requirements for Parole Board members.
- Authorizes graduated sanctions and earned-discharge credits for offenders on supervised release.
- Revises parole violation hearings provisions and establishes technical violation centers in the Department of Corrections.
- Revises the duties and responsibilities of the Commissioner of the Department of Corrections.
- Requires county clerks, municipal clerks and justice court clerks to file certain information with the Mississippi Judicial College.
- Creates the Sentencing and Criminal Justice Oversight Task Force and provides for the membership, duties and powers of the task force.
- Authorizes creation of a veterans treatment court program by the circuit courts and provides conditions for eligibility for participation in a program.

SOURCE: PEER analysis of 2014 Regular Session bill summary report prepared by the Senate Legislative Services Office.

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## Appendix C: Powers and Duties of the Corrections and Criminal Justice Task Force Created by House Bill 585, 2014 Regular Session

- Track and assess outcomes from the recommendations in the Corrections and Criminal Justice Task Force report of December 2013.
- Prepare and submit an annual report no later than the first day of the second full week of each regular session of the Legislature on the outcome and performance measures to the Legislature, Governor and Chief Justice. The report shall include recommendations for improvements, recommendations on transfers of funding based on the success or failure of implementation of the recommendations, and a summary of savings. The report may also present additional recommendations to the Legislature on future legislation and policy options to enhance public safety and control corrections costs.
- Monitor compliance with sentencing standards, assess their impact on the correctional resources of the state and determine if the standards advance the adopted sentencing policy goals of the state.
- Review the classifications of crimes and sentences and make recommendations for change when supported by information that change is advisable to further the adopted sentencing policy goals of the state.
- Develop a research and analysis system to determine the feasibility, impact on resources, and budget consequences of any proposed or existing legislation affecting sentence length.
- Request, review, and receive data and reports on performance outcome measures.
- Undertake such additional studies or evaluations as the Oversight Task Force considers necessary to provide sentencing reform information and analysis.
- Prepare and conduct annual continuing legal education seminars regarding the sentencing guidelines to be presented to judges, prosecuting attorneys and their deputies, and public defenders and their deputies.

SOURCE: PEER analysis of House Bill 585, 2014 Regular Session.

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## Appendix D: Provisions of House Bill 387, 2018 Regular Session

- Provides that incarceration will not automatically follow the nonpayment of fines, restitution, or court costs.
- Sets forth a standard for the determination of indigence as it affects nonpayment of fines, fees and restitution.
- Provides that the aggregate total of the period of incarceration imposed for a supervision-period violation plus the term of the sentence originally imposed may not exceed the maximum term of imprisonment authorized for the offense.
- Provides that an inmate who is otherwise ineligible for parole shall be eligible for parole if not convicted of committing a crime of violence, drug trafficking or as a habitual offender, if the inmate has served at least 25% of the sentence imposed.
- Requires the Joint Legislative Committee on Performance Evaluation and Expenditure Review to conduct a one-time census of jail populations throughout the state.
- Creates the Mississippi Sentencing Disparity Task Force and appoints the members to the task force.
- Provides that the number of prior revocations is to be considered for purposes of revocation sentencing rather than the number of alleged technical violations.

SOURCE: PEER analysis of 2018 Regular Session bill summary report prepared by the Senate Legislative Services Office.

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## Appendix E: Provisions of House Bill 1352, 2019 Regular Session

- Updates the drug court statutes to allow for additional types of problem-solving courts. Defines such courts as drug, mental health or veterans courts.
- Revises the monitoring authority of the State Intervention Courts Advisory Committee to include mental health courts, veterans' courts and other intervention courts.
- Add to the required data-collection plan of an intervention courts, "the total number of applications for screening by race, gender, offense and reason for nonacceptance."
- Creates a special clinical assessment for any person with two or more DUI convictions, and requires the court to determine whether the person would benefit from court-approved medication-assisted treatment as specified in the most recent Diagnostic and Statistical manual of Mental Disorders published by the American Psychiatric Association; all intervention courts are required to make court-approved medication-assisted treatment an option for participants.
- Authorizes judges to waive all participant fees if the person is determined to be indigent.
- Requires screening for admission to intervention courts for any person, upon request of the person, if the person is eligible under the statutory requirements for participation.
- Removes the word "pilot" throughout the provisions that regulate the Rivers McGraw Mental Health Diversion Program.
- Conforms the provisions of law which regulate judges' salaries, youth court intake, court-ordered drug testing, release following arrest, and criminal fines, by changing the internal references to "intervention court."
- Removes the requirement that a person's driver's license be suspended for a controlled substance violation that is unrelated to operating a motor vehicle.
- Eliminates the requirement to suspend a driver's license for failure to pay fines and fees.
- Authorizes the release of certain misdemeanants on their own recognizance.
- Expands time for initial payment of supervision fees to 60 days and prohibits denial of earned-discharge credits based solely on nonpayment of fees or fines if a hardship waiver has been granted.
- Provides for expunction of certain felony and misdemeanor conviction records if the person was found not guilty or a minor is found not delinquent.
- Opts out of the application of 21 USC Section 862a (a) 2019.
- Revises the expunction provisions by allowing expunction of one felony conviction. The following crimes are not eligible for expunction:

- crime of violence;
- arson, first degree;
- trafficking in controlled substances;
- third, fourth and subsequent offense DUI;
- felon in possession of a firearm;
- failure to register as a sex offender;
- voyeurism;
- witness intimidation;
- abuse, neglect or exploitation of a vulnerable person; and
- embezzlement.

SOURCE: PEER analysis of 2019 Regular Session bill summary report prepared by the Senate Legislative Services Office.

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## Appendix F: Key Components of Drug and Family Courts, Office of Justice Programs

### *Adult Drug Courts*

- Drug courts integrate alcohol and other drug treatment services with justice system case processing.
- Using a non-adversarial approach, prosecution and defense counsel promote public safety while protecting participants' due process rights.
- Eligible participants are identified early and placed promptly in the drug court program.
- Drug courts provide access to a continuum of alcohol, drug, and other related treatment and rehabilitation services.
- Abstinence is monitored by frequent alcohol and other drug testing.
- A coordinated strategy governs drug court responses to participant compliance.
- Ongoing judicial interaction with each drug court participant is essential.
- Monitoring and evaluation measure the achievement of program goals and gauge effectiveness.
- Continuing interdisciplinary education promotes effective drug court planning, implementation and operations.
- Forging partnerships among drug courts, public agencies, and community-based organizations generates local support and enhances drug court effectiveness.

### *Juvenile Drug Courts*

- Engage all stakeholders in creating an interdisciplinary, coordinated, and systematic approach to working with youth and their families.
- Develop and maintain an interdisciplinary, non-adversarial work team.
- Define a target population and eligibility criteria that are aligned with the program's goals and objectives.
- Schedule frequent judicial review and be sensitive to the effect that court proceedings can have on youth and their families.
- Establish a system for program monitoring and evaluation to maintain quality of service, assess program impact, and contribute to knowledge in the field.
- Build partnerships with community organizations to expand the range of opportunities available to youth and their families.

- Tailor interventions to the complex and varied needs of youth and their families.
- Tailor treatment to the developmental needs of adolescents.
- Design treatment to address the unique needs of each gender.
- Create policies and procedures that are responsive to cultural differences and train personnel to be culturally competent.
- Maintain a focus on the strengths of youth and their families during program planning and in every interaction between the court and those it serves.
- Recognize and engage the family as a valued partner in all components of the program.
- Coordinate with the school system to ensure that each participant enrolls in and attends an educational program that is appropriate to his or her needs.
- Design drug testing to be frequent, random, and observed. Document testing policies and procedures in writing.
- Respond to compliance and noncompliance with incentives and sanctions that are designed to reinforce or modify the behavior of youth and their families.
- Establish a confidentiality policy and procedures that guard the privacy of the youth while allowing the drug court team to access key information.

### ***Family Courts***

- Create shared mission and vision.
- Develop interagency partnerships.
- Create effective communication protocols for sharing information.
- Ensure interdisciplinary knowledge.
- Develop a process for early identification and assessment.
- Address the needs of parents
- Address the needs of children.
- Garner community support
- Implement funding and sustaining strategies.
- Evaluate for shared outcomes and accountability.

SOURCE: Office of Justice Programs, U.S. Department of Justice.

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## Appendix G: Best Practices for Mental Health Courts

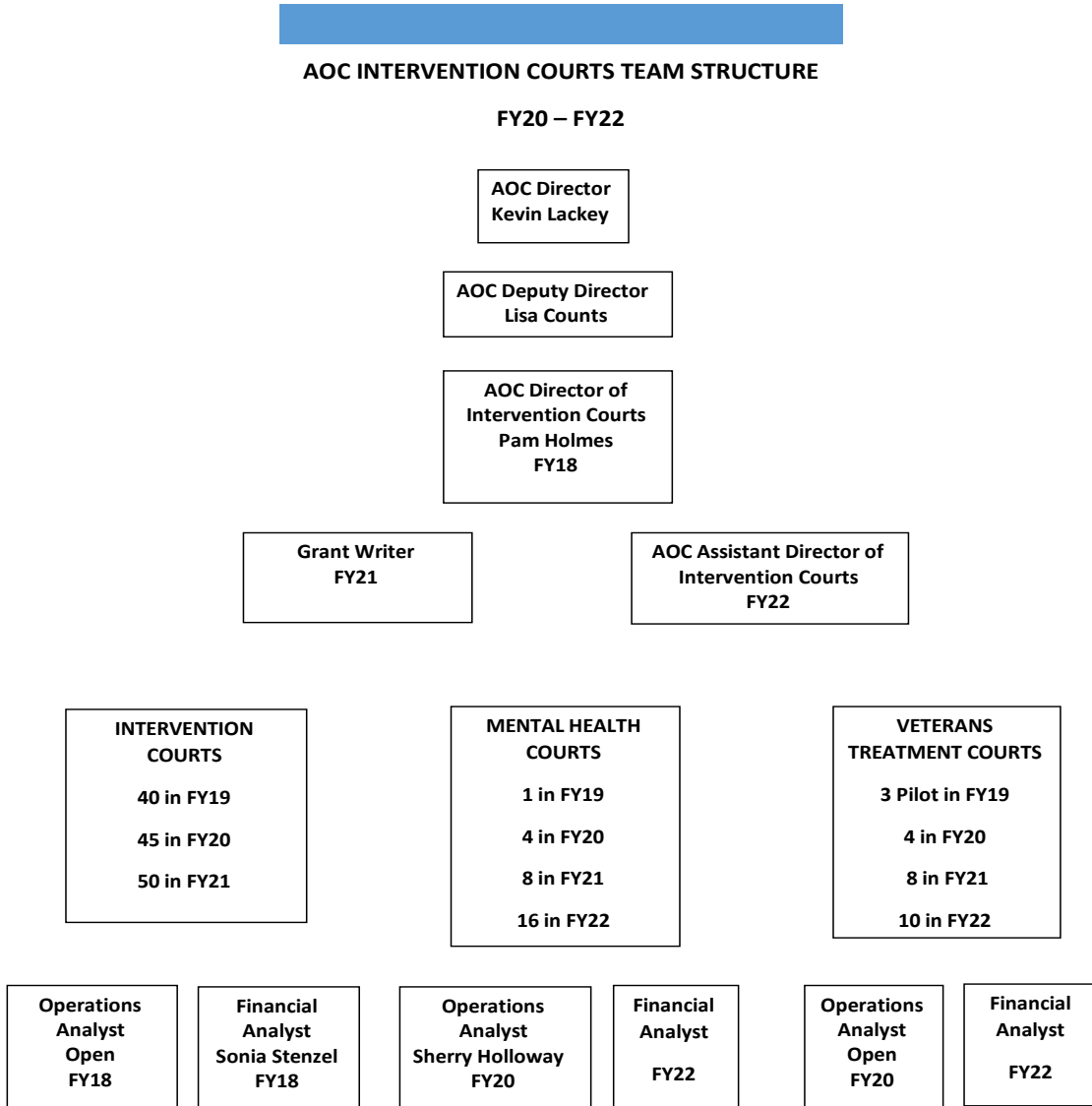
- ***Planning and Administration***
  - Mental health courts must have a broad group of stakeholders, including members of the mental health, substance abuse, and criminal justice fields, as well as support from the local community.
  - In designing the program, the courts must identify the resources they currently have and identify how to fill the gap in these resources.
  - Small advisory group to monitor and fine tune the program.
  - Written work plan (i.e., a program manual) with eligibility criteria, operations, and job responsibilities.
  - Advisory group composed of members of the judiciary, district and defense attorneys, and sheriffs that meets at least twice a year to provide key input.
  - Appropriate clinical treatment and drug testing.
- ***Target Population***
  - Public safety must be considered in eligibility criteria (i.e., exclude serious crimes of violence or of a sexual nature).
  - Statutory flexibility for court supervised re-entry program.
  - Relationship between the mental health issues and the criminal activity (case-by-case analysis).
  - “Level of function” should be used as a point of demarcation between dealing with high-functioning defendants with co-occurring disorders in a drug court program compared to a more mentally ill offender in a mental health court.
- ***Timely Participation, Identification and Service Linkage***
  - Identify, screen, and refer as soon as possible in order to minimize jail time.
  - Screening tools and clinical assessments must be present.
  - Assessments should be an ongoing process.
  - Prosecutors/defense attorneys should review charges for eligibility.
- ***Terms of Participation***
  - Clear, concise program terms.
  - More individualized than drug court.
  - Facilitate treatment (rely on clinician input).
  - Competent to plead and actually work the program requirements.

- Positive completion (some type of positive case outcome).
- Misdemeanor program should be a minimum of twelve months.
- Felony program should be a minimum of eighteen months.
- Program should be consistent with length of drug court program.
- ***Informed Choice***
  - Entry into the program should be a voluntary choice with full explanation.
  - Legal counsel should be given program education.
  - Current competency to participate should always be monitored.
  - Defendant must understand what is required to participate.

SOURCE: PEER analysis of best practices for mental health courts, Georgia Council of Accountability Court Judges.

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# Appendix H: AOC Intervention Court Structure



10/10/19

SOURCE: Administrative Office of Courts.





# Agency Response



## SUPREME COURT OF MISSISSIPPI

POST OFFICE BOX 117  
JACKSON, MISSISSIPPI 39205  
TELEPHONE (601) 359-3697

MICHAEL K. RANDOLPH  
CHIEF JUSTICE

JAMES W. KITCHENS  
LESLIE D. KING  
PRESIDING JUSTICES

October 23, 2019

JOSIAH D. COLEMAN  
JAMES D. MAXWELL II  
DAWN H. BEAM  
ROBERT P. CHAMBERLIN  
DAVID M. ISHEE  
T. KENNETH GRIFFIS, JR.  
JUSTICES

HUBBARD T. SAUNDERS IV  
COURT ADMINISTRATOR  
AND COUNSEL

James A. Barber, Executive Director  
Joint Legislative Committee on Performance Evaluation  
and Expenditure Review  
501 North West Street, Suite 301-A  
Woolfolk Third Floor  
Jackson, MS 39201

Dear Mr. Barber:

I have reviewed the draft report "A Review of Mississippi's Criminal Justice Reform Efforts" along with members of the Administrative Office of Courts and Intervention Courts staff. We would like to thank those involved for their in-depth analysis. We urge the Legislature to consider the recommendations contained in the report and reiterate the need for sufficient funding to carry out those recommendations. Effective criminal justice reform is essential and will improve the lives of all citizens of our state.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike Randolph", written over the word "Sincerely,".

Mike Randolph  
Chief Justice

cc: James F. "Ted" Booth, Esq., General Counsel, PEER Committee  
Barton Norfleet, Esq., Analyst, PEER Committee  
Kevin Lackey, Esq., Director, Administrative Office of Courts  
Lisa Counts, Esq., Deputy Director, Administrative Office of Courts  
Pam Holmes, Director of Intervention Courts



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