

U.S. NYT NOW

North Carolina Cuts Prison Time for Probation Violators, and Costs

By ERIK ECKHOLM SEPT. 11, 2014

ROANOKE RAPIDS, N.C. — André Duckett, 43, had an unpleasant surprise when he came in to see his probation officer. After missing some previous appointments, he had just failed a drug test, the officer told him, and he was going to spend the next three days in jail.

He was dismayed that day in March, Mr. Duckett said. But in the end he was grateful that his violations had provoked only this sharp jolt.

A few years back, they might well have led to formal revocation of his probation, stemming from an assault conviction, and sent him to prison for months. Instead, after experiencing what officials call a “quick dip,” Mr. Duckett was able to keep his job as an electrician and, so far at least, to avoid more violations.

“It was a wake-up call that this is serious business,” Mr. Duckett said in an interview here in rural Halifax County, near the border with Virginia.

The quick dip is one of a battery of new policies, adopted in the name of “justice reinvestment,” that have helped North Carolina reverse the costly increase in prisoners, and that officials hope will help curb crime and recidivism as well.

Criminal justice officials knew that something had to give. The number of prison inmates had climbed to 41,000 by 2011, with further increases projected, even though crime was declining. The adult corrections budget had climbed to more than \$1.3 billion.

As they considered their next steps, officials made a startling discovery: More than half of all prison admissions involved offenders whose probation had been revoked. And in a large majority of those cases, the offenders had not committed any serious new crime but rather had committed so-called technical violations: missed appointments, failed drug tests, failure to attend drug treatment.

“We were filling very expensive prison beds with low-level felons for technical probation violations,” said W. David Guice, the commissioner of adult corrections and juvenile justice.

As a legislator, Mr. Guice was the primary sponsor of a 2011 law that set the state in a new direction. In addition to the quick dips and a related decline in probation revocations, the new approach includes the use of 90-day jail stays, still without formal revocation, for probationers with more serious crimes; efforts to focus probation and parole supervision on offenders judged at highest risk of trouble while easing the monitoring of others; and at least some oversight and services for those re-entering society after serving prison time.

Prison admissions have declined by 21 percent in three years, to 23,000 in the year that ended June 30, 2014, down from 29,000 in 2011, according to state data. The overall prison population shrank over the same three years to 38,000, and 10 prisons have closed, although significant further declines in prisoner numbers do not appear likely. The adult corrections budget, instead of rising as once projected, has dropped by \$50 million per year, officials say.

“North Carolina demonstrates that there are ways to increase public safety while also saving a lot of money by shrinking the prison system,” said Michael Thompson, director of the Justice Center of the nonpartisan Council of State Governments. His group helped North Carolina devise the new approach and has promoted similar measures in several states, many of which have achieved modest reductions in prison populations.

Some of the savings here are being used to hire 175 more probation and parole officers to reduce caseloads. Their jobs have been redefined to focus

less on catching miscreants and more on helping probationers break the pattern of crime by mandating services like behavior therapy, while imposing brief jail stints on those who drift.

Probation and parole oversight is being focused most intensely on offenders considered most likely to commit new crimes, such as those with chronic drug addiction, mental illness or a serious criminal history. Contacts with low-risk offenders are held to a minimum, in part because research shows that intensive oversight can be counterproductive.

New efforts also aim to fight recidivism by those who do spend months or years in prison. Under “truth in sentencing” laws, most prisoners were serving out their full terms, but then going home with no parole supervision. If combined with needed treatment or other assistance, supervision can reduce the chance of new crimes, research suggests.

North Carolina’s answer has not been to shorten sentences, which seemed politically impossible, but to add at least nine months of mandatory parole to existing sentences for some felonies, ensuring that every departing convict has some time under supervision.

Compromises like that have led to criticism from groups like the American Civil Liberties Union and the Sentencing Project as well as from some independent criminal justice experts. The policy changes here and in other states that are pursuing justice reinvestment, while mostly useful, do not go nearly far enough to curb the toll that high incarceration is inflicting on society, these critics say.

In this view, more politically contentious steps to curb lengthy drug and other mandatory sentences will also be essential to achieve a large drop in prisoners. The critics also lament that more of the funds saved by closing prisons are not being redirected to poor and minority populations for social programs.

“There’s a consensus among criminologists that our exceptionally high incarceration rates have become problems in and of themselves,” said Todd R. Clear, an expert on criminal justice and provost of Rutgers University-Newark, who calls himself a “friendly critic” of justice reinvestment

programs so far. While reducing probation revocations can provide quick gains, he said, they are limited and “low compared to what we could achieve with changes in sentencing.”

But officials in North Carolina may have pushed to the edges of the politically possible.

The new system, while not easing criminal penalties, does allow probation officers to give offenders a second chance, and even a third.

Kourtnie James served time on felony firearms, drug and credit-card-theft charges, and he is now at his home in rural Enfield, under three years of supervision.

Twice since his release, after failing drug tests, missing required therapy and failing to pay restitution, he was reimprisoned for 90-day periods under the new “confinement in response to violation” policy, or C.R.V., as ordered by a judge.

He knows he is now on very thin ice.

At the house among soybean fields he shares with his stepfather, Mr. James recently admitted that “I wasn’t thinking” when he courted revocation by using drugs, but he said he was now determined to attend welding school.

“I’m 23, and I’ve been in prison three times, around guys who’ve been in there for 20 or 30 years,” he said. “I don’t want to end up like that.”

A major weakness of the C.R.V. program, colloquially known as “the dunk” among corrections officials, is that offenders usually spend their 90 days sitting idly in cells.

As a next step in reinvesting its savings, the state plans to create two residential facilities for those receiving 90-day warning stints, said Anne L. Precythe, the director of community corrections.

The facilities will have probation officers on site and provide cognitive therapy and other services, Ms. Precythe said. “That will help show the value of C.R.V.,” she said.

A version of this article appears in print on September 12, 2014, on page A14 of the New York edition with the headline: A State Cuts Jail Time for Probation Violators, and Costs.

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