

Ohio's Statehouse-to-Prison Pipeline



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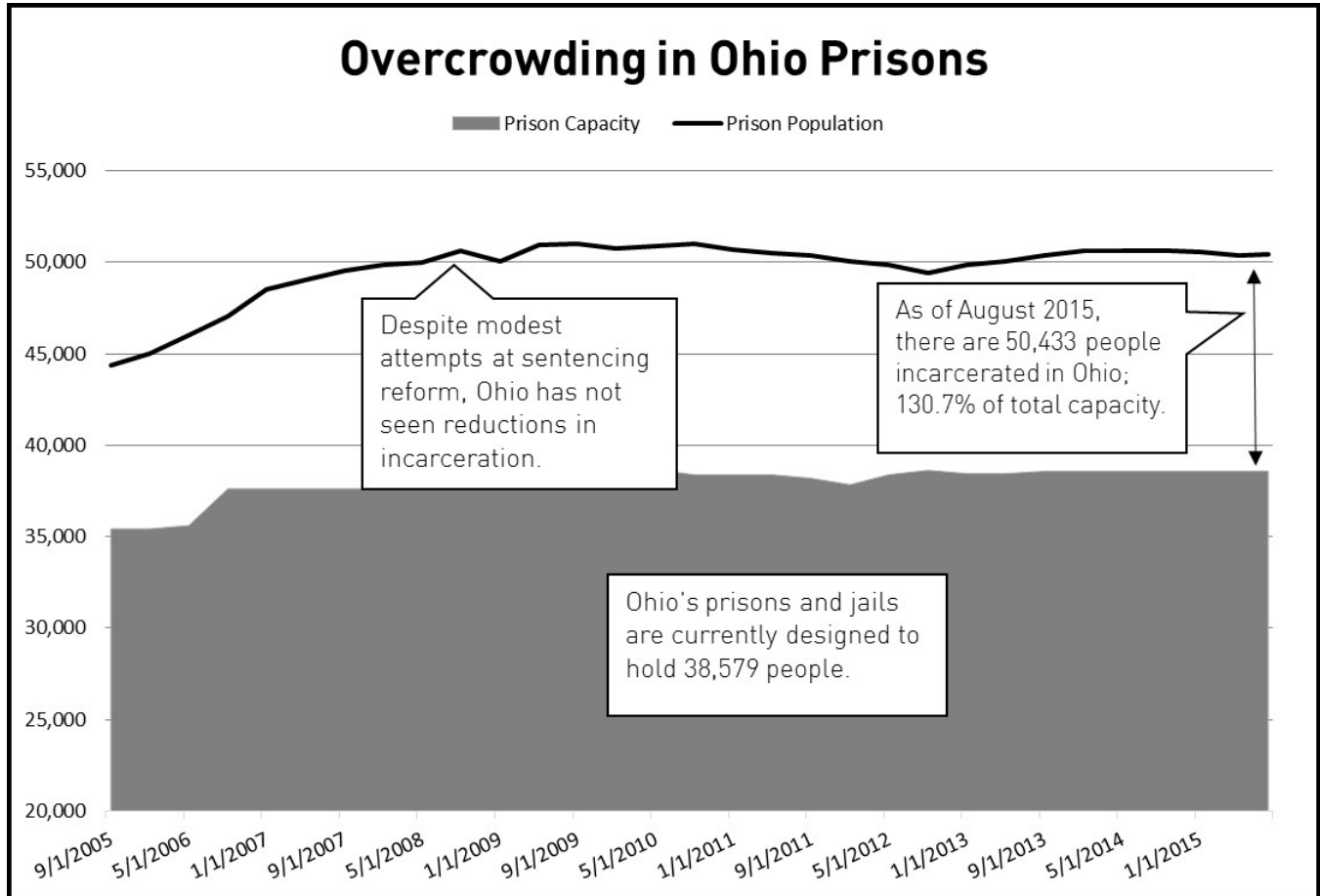
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In Ohio, we have an incarceration problem. More specifically, we have an over-incarceration problem.

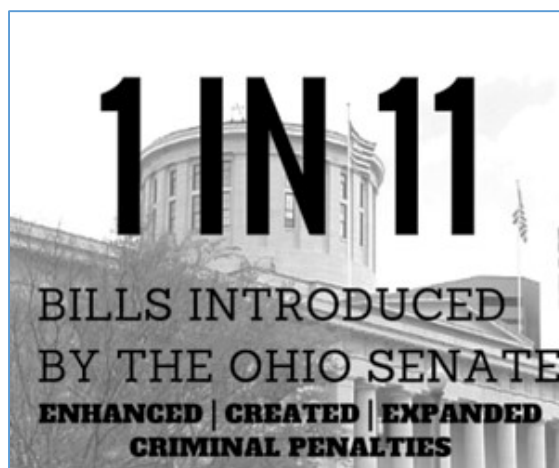
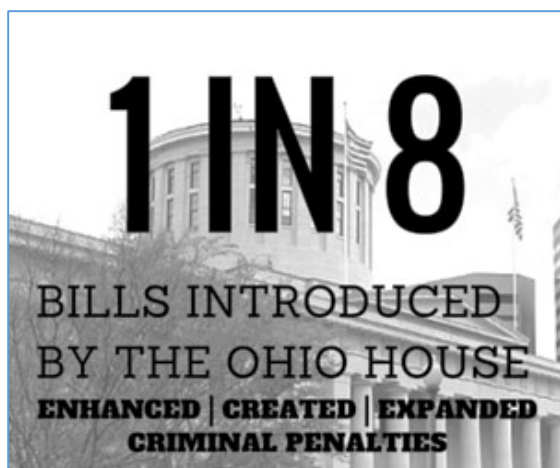
Our prison system is designed to hold nearly 39,000 people. Yet, as of August 2015, we imprisoned more than 50,000 individuals. This is not a recent phenomenon. Ohio's prisons have been overcrowded for years at great cost to individuals, families, taxpayers, and the larger economy.



In 2011, Ohio legislators passed modest reform-minded legislation with bipartisan support. The hope was that these changes would gradually reduce our prison population. While the prison population did stabilize for a short amount of time, we have not seen significant decreases in our prisons.

The reason is not a mystery. At the same time that legislators recognized the need for modest reform, they have continued to introduce and pass bills that enhance criminal sentences, create new crimes, and extend the scope of current laws to cover new people and situations. As with criminal justice reform efforts, these sentencing enhancements also were introduced and supported by members of both political parties.

Taken individually, this proposed legislation may not seem like cause for alarm. At committee hearings, elected officials and the Ohio Legislative Commission claim that the bill will not lead to a large increase in the prison population nor will significantly drain the state's budget. Unfortunately, this is an oversimplification of the problem. If one is dying by a thousand paper cuts, it is nearly impossible to point to a single cut as the worst or most offensive. Similarly, politicians are introducing bills that seem innocuous, but are undoubtedly part of the problem in the grand scale of mass incarceration.



It also is clear that legislators do not view themselves as a part of our mass incarceration problem. However, this report tells a different story. In just the first six months of Ohio's current two-year legislative session (2015-2016), Ohio's senators and representatives introduced 54 new bills to send more people to prison and jail. Over 11 percent of the total number of bills introduced in both chambers would have grown our mass incarceration system.

The negative effects of mass incarceration are not limited to what happens inside our prisons and jails, but also follow people with criminal convictions for the rest of their lives. With more offenses accompanied by steep felony charges, more people—especially people of color—must bear the stigma of being a felon. This makes it nearly impossible for individuals to obtain housing, employment, and educational opportunities, relegating them to the outskirts of society. It is no surprise that many of these people, who have no hope nor prospects for the future, commit new crimes and are back in our prisons and jails.

Ironically, while so-called "tough-on-crime" laws might be intended to improve public safety, they only undermine it.

Once again, the state finds itself in a position to reform its mass incarceration system while at the same time potentially growing it. As elected officials continue to introduce sentencing enhancements, leaders from across Ohio are meeting as part of the Ohio Criminal Justice Recodification Committee to simplify the criminal code and propose changes that will result in fewer people incarcerated in jails and prisons. Statehouse leaders have called on committee members to be creative and think expansively on reforms.

It defies logic that Ohio could simultaneously be reforming its system while continuing to propose these misguided and harmful bills that only feed mass incarceration.

In order to stop the growth of the criminal justice system and allow the Recodification Committee to do its work, the legislature should commit to the following principles:

- Every legislator in the General Assembly should pledge that they will not introduce any bills that will place additional criminal penalties into state law.
- Leadership in the House and Senate should instruct their caucuses not to advance any legislation that has already been introduced.
- This freeze on new sentencing enhancements should last at least until the people of Ohio see the results of the Recodification Committee's reforms, but the legislature would be farther ahead never considering these types of laws again.

We must stop relying on the failed policies of the past and instead embrace reforms that promote smart justice. We cannot incarcerate our problems away, so we must start to use rehabilitation, treatment, and education as tools to transform our system from one of punishment to one of justice.

What follows is a complete list of these bills introduced from January 5, 2015, to June 30, 2015.

"We need to restrain them in a setting—that makes sense. We've got to keep the public safe but think about if we can keep them somewhere where we save money, reduce the recidivism rate and they can be rehabbed and go out and get a job."

***Governor John Kasich
2011 State of the State Address***

OHIO HOUSE BILLS

January 5, 2015 to June 30, 2015

Enhanced Sentencing–Creation of New Crimes–Expansion of Offenses

House Bill 16 - Firearms

Effect: Criminalizes various sales, modifications, and displays of imitation firearms.

Sponsors: Reece (D); 13 Democrats

Status: One hearing occurred in the House State Government Committee.

House Bill 36 - Funeral directors

Effect: Criminalizes certain uses of hydrolysis chambers and recklessly operating a hydrolysis facility without a license.

Sponsors: Retherford (R); 1 Republican

Status: One hearing occurred in the Government Accountability and Oversight Committee.

House Bill 38 - Hate crimes

Effect: Enhances penalties for certain felonies committed against disabled or elderly victims.

Sponsors: Patmon (D); 4 Republicans and 1 Democrat

Status: Two hearings occurred in the House Judiciary Committee.

House Bill 53 - Transportation budget

Effect: Increases penalties for acting as a driving school instructor or operating a driving school without being licensed.

Sponsors: Grossman (R); 53 other representatives and 15 senators

Status: Passed the House and the Senate, signed by the governor.

House Bill 57 - Aggravated murder

Effect: Increases sentence for aggravated murder and creates new aggravating circumstance.

Sponsors: Maag (R); 3 Republicans

Status: Voted out of the House Judiciary Committee.

House Bill 59 - Firearms

Effect: Increases mandatory prison term for use, display, etc., of firearm when defendant is convicted of underlying felony offense.

Sponsors: Cera (D); 2 Democrats

Status: One hearing occurred in the House Judiciary Committee.

House Bill 60 - Companion animals

Effect: Creates felony offense for knowingly causing physical harm to a companion animal.

Sponsors: Patmon (D) and Hall (R); 5 Republicans and 11 Democrats

Status: Passed the House (92-1). No hearings are scheduled in the Senate yet.

“I was told when I first studied criminal law, legislatures should go through and revise the criminal code to make sure it's updated and that it meets the current standards, that we're still not penalizing someone for carrying a lantern in front of their horseless carriage.”

***Senator Keith Faber
Senate President***

Cleveland Plain Dealer, September 10, 2015

House Bill 69 - Abortion

Effect: The “Heartbeat Bill” provides criminal penalties for physicians who perform abortions after a fetal heartbeat is detected.

Sponsors: Hagan (R) and Hood (R); 47 Republicans and 1 Democrat

Status: Passed the House (55-40). No hearings are scheduled in the Senate yet.

House Bill 75 - Firearms

Effect: Criminalizes not properly storing a firearm if a minor can access it.

Sponsors: Patmon (D); 2 Democrats

Status: One hearing occurred in the House State Government Committee.

House Bill 77 - Home contractors

Effect: Criminalizes acting as a home contractor without a license and failing to register with the relevant licensing board.

Sponsors: Patmon (D)

Status: Three hearings occurred in the House Commerce and Labor Committee.

House Bill 78 - Firearms

Effect: Criminalizes and regulates three types of firearm transfers.

Sponsors: Patmon (D); 2 Democrats

Status: One hearing occurred in the House State Government Committee.

House Bill 90 - Transportation network insurance

Effect: Criminalizes failure to comply with specific liability insurance, insurance disclosure, and maintenance of records requirements.

Sponsors: Hackett (R) and Sheehy (D); 2 Republicans and 4 Democrats

Status: One hearing occurred in the House Government Accountability and Oversight Committee.

House Bill 92 - Sexual battery

Effect: Expands offense of sexual battery to prohibit higher education employees from having sexual conduct with minor students.

Sponsors: Hagan (R); 8 Republicans and 1 Democrat

Status: Passed by the House Judiciary Committee.

House Bill 94 - Animal negligence

Effect: Criminalizes tethering of animals outside under certain circumstances.

Sponsors: Barnes (D); 2 Republicans and 1 Democrat

Status: One hearing occurred in the House Agriculture and Rural Development Committee.

House Bill 106 - Public indecency

Effect: Expands offense of public indecency for certain circumstances and when viewed by a minor.

Sponsors: Schaffer (R); 4 Republicans

Status: Two hearings occurred in the House Judiciary Committee.

House Bill 110 - Traffic accidents

Effect: Enhances penalty for failure to stop after an accident that caused death or serious physical harm.

Sponsors: Hill (R); 5 Republicans

Status: Passed the House (87-0). One hearing occurred in the Senate Criminal Justice Committee.

House Bill 117 - Abortion

Effect: Criminalizes performing an abortion after 20 weeks, falsifying reports, and not age-testing fetus.

Sponsors: Roegner (R) and Cupp (R); 27 Republicans and 1 Democrat

Status: No hearings are scheduled yet.

House Bill 119 - Firearms

Effect: Bans the sale, display, and modification of imitation firearms.

Sponsors: Patmon (D)

Status: No hearings are scheduled yet.

House Bill 135 - Abortion

Effect: Criminalizes performing abortions on fetuses believed to have Down syndrome.

Sponsors: Hall (R) and LaTourette (R); 16 Republicans

Status: Passed out of the House Community and Family Advancement Committee.

House Bill 151 - Stalking and harassment

Effect: Expands and/or modifies current menacing by stalking and telecommunications harassment laws. Also, it expands certain existing assault law when victim is volunteer firefighter.

Sponsors: Anielski (R); 6 Republicans and 1 Democrat

Status: Passed out of the House Judiciary Committee.

House Bill 154 - Traffic

Effect: Expands traffic offenses to include when driver does not leave safe distance when passing bicyclist. Separate section applies to actions when there is malfunctioning traffic light.

Sponsors: Henne (R) and Sheehy (D); 5 Republicans and 5 Democrats

Status: Passed out of the House Armed Services, Veterans Affairs and Public Safety Committee.

House Bill 161 - Precious metals

Effect: Criminalizes advertising or acting as a precious metals dealer without being licensed.

Sponsors: Henne (R) and Craig (D); 3 Republicans and 2 Democrats

Status: No hearings are scheduled yet.

House Bill 171 - Drugs/heroin sentencing

Effect: Reduces amount of heroin needed to make heroin trafficking and possession charges crimes and to classify offender as a major drug offender.

Sponsors: Blessing (R) and Dever (R); 4 Republicans

Status: Passed the House (80-16). No Senate hearings are scheduled yet.

House Bill 177 - Animal cruelty-violator registry

Effect: Criminalizes failure of violators to report certain violations of animal cruelty laws to the Ohio Attorney General.

Sponsors: Celebreeze (D); 9 Democrats

Status: No hearings are scheduled yet.

House Bill 185 - Arson laws

Effect: Expands existing arson laws to include criminalizing arson of real property under specific circumstances.

Sponsors: Koehler (R); 5 Republicans

Status: One hearing occurred in the House Judiciary Committee.

House Bill 193 - Address confidentiality

Effect: Criminalizes disclosure of confidential address under certain circumstances.

Sponsors: Clyde (D) and Fedor (D); 4 Democrats

Status: No hearings are scheduled yet.

House Bill 208 - Importuning

Effect: Mandates prison terms for some existing importuning offenses.

Sponsors: Schaffer (R)

Status: Passed out of the House Judiciary Committee.

House Bill 209 - False alarms

Effect: Expands current offenses of disorderly conduct, inducing panic, making false alarms and obstructing official business to include simulated criminal activity.

Sponsors: Grossman (R)

Status: Three hearings occurred in the House Judiciary Committee.

House Bill 215 - Animal fighting

Effect: Expands crime of animal fighting and enhances sentencing for specific violations already illegal.

Sponsors: Sears (R) and Bishoff (D); 5 Republicans and 4 Democrats

Status: Passed out of the House Judiciary Committee.

House Bill 218 - Drone operation

Effect: Criminalizes drone operation under certain circumstances.

Sponsors: Barnes (D)

Status: No hearings are scheduled yet.

House Bill 222 - Transit worker assault

Effect: Enhances criminal penalties for assault of transit worker and evading payment.

Sponsors: Driehaus (D) and Perales (R); 2 Republicans and 6 Democrats

Status: One hearing occurred in the House Judiciary Committee.

House Bill 228 - Drone operation

Effect: Creates new criminal penalty of “engaging in criminal activity through use of a drone.”

Sponsors: Cupp (R); 11 Republicans and 2 Democrats

Status: One hearing occurred in the House Judiciary Committee.

House Bill 234 - Sex offenses

Effect: Eliminates statute of limitations for certain sex offenses.

Sponsors: Johnson (D) and Fedor (D); 15 Democrats

Status: No hearings are scheduled yet.

House Bill 246 - Absentee ballot applications

Effect: Criminalizes Secretary of State knowingly using public funds to mail unsolicited absentee ballot applications containing Secretary of State’s name, signature, or likeness.

Sponsors: Clyde (D); 10 Democrats

Status: No hearings are scheduled yet.

“I understand everybody sees something that happens and the knee-jerk reaction is we need to increase the fine or increase the penalty. We really need to see what the unintended consequences of that are.”

***Representative Barbara Sears
Majority Floor Leader
Columbus Dispatch; August 25, 2015***

House Bill 255 – Abortion-inducing drugs

Effect: Expands current RU-486 prohibitions and criminal penalties to other abortion-inducing drugs.

Sponsors: Brinkman (R) and Hagan (R); 16 Republicans

Status: One hearing occurred in the House Community and Family Advancement Committee.

House Bill 270 - Drug overdoses

Effect: Expands offense of involuntary manslaughter to include sale or providing of controlled substances when a person overdoses and dies as a result.

Sponsors: Dever (R) and Pelanda (R); 3 Republicans and 2 Democrats

Status: No hearings are scheduled yet.

House Bill 284 - Retirement systems

Effect: Criminalizes failure of person to send notice to public retirement system after being charged with and convicted for certain offenses.

Sponsors: Dovilla (R) and Anielsk (R); 16 Republicans and 1 Democrat

Status: No hearings are scheduled yet.

» A total of 37 out of 280 House bills introduced by June 30, 2015, that would create or extend criminal penalties.

SENATE BILLS
January 5, 2015 to June 30, 2015
Enhanced Sentencing—Creation of New Crimes—Expansion of Offenses

Senate Bill 13 – Sex offenses

Effect: Eliminates statute of limitations for certain sex offenses.

Sponsors: Jones (R) and Hughes (R); 19 Republicans and 2 Democrats

Status: Passed the Senate (32-1). Passed out of the House Judiciary Committee.

Senate Bill 25 – Minimum wage

Effect: Criminalizes various retaliation measures by employer against employee.

Sponsors: Yuko (D); 9 Democrats

Status: One hearing occurred in the Senate Transportation, Commerce and Labor Committee.

Ohio has the sixth largest prisoner population in the United States.

**U.S. Department of Justice
2014 Prisoner Report**

Senate Bill 39 - Traffic

Effect: Increases penalties for not yielding the right-of-way to pedestrians at school crosswalks.

Sponsors: Beagle (R); 2 Republicans

Status: One hearing occurred in the Senate Criminal Justice Committee.

Senate Bill 53 - Aggravated menacing

Effect: Enhances sentence for aggravated menacing when victim is law enforcement officer performing duties.

Sponsors: Hughes(R); 3 Republicans and 1 Democrat

Status: One hearing occurred in the Senate Criminal Justice Committee.

Senate Bill 63 - Online voter registration

Effect: Expands criminalization of election law violations to include bribing individuals regarding their party status.

Sponsors: LaRose (R); 18 Republicans and 5 Democrats

Status: Passed the Senate (31-1). No House hearings are scheduled yet.

Senate Bill 76 - Protection orders

Effect: Expands circumstances when violation of protection order is a felony offense.

Sponsors: Bacon (R) and Manning (R); 6 Republicans and 2 Democrats

Status: Two hearings occurred in the Senate Criminal Justice Committee.

Senate Bill 83 - Address confidentiality

Effect: Criminalizes disclosure of a confidential address.

Sponsors: Williams (D); 3 Democrats

Status: One hearing occurred in the Senate State and Local Government Committee.

Senate Bill 86 - Charitable auctions

Effect: Criminalizes illegal conduct of a quarter auction.

Sponsors: Gardner (R)

Status: One hearing occurred in the Senate Finance Committee.

Senate Bill 97 - Firearms

Effect: Increases a variety of penalties related to possession or use of firearms. Examples: It enhances mandatory prison term by 50 percent for people convicted of existing and new firearm specifications; also, it imposes 18-month prison term for those who commit a felony while possessing a firearm and have been previously convicted of a firearms specification.

Sponsors: Hughes (R) and LaRose (R)

Status: Passed the Senate (30-3).

Senate Bill 111 - Transportation insurance

Effect: Criminalizes violations of various policy, record-keeping and disclosure provisions.

Sponsors: Bacon (R); 1 Republican

Status: No hearings are scheduled yet.

Senate Bill 120 - Oil and gas law

Effect: Enhances sentences for certain pollution provisions.

Sponsors: Schiavoni (D); 1 Democrat

Status: No hearings are scheduled yet.

Senate Bill 127 - Abortion

Effect: Criminalizes performing abortions if probable age of fetus is 20 weeks or more.

Sponsors: Lehner (R) and Hottinger (R); 8 Republicans

Status: Passed the Senate (23-9).

Senate Bill 138 - Traffic

Effect: Enhances penalties for driving on wrong side of freeway. Penalties depend on exact circumstances but can include mandatory prison terms.

Sponsors: Hughes (R) and Cafaro (D); 2 Republicans

Status: No hearings are scheduled yet.

Senate Bill 145 - Stalking and harassment

Effect: Expands and/or modifies current menacing by stalking and telecommunications harassment laws. Also, it expands certain existing assault law when victim is volunteer firefighter.

Sponsors: Eklund (R); 4 Republicans

Status: No hearings are scheduled yet.

Senate Bill 151 - Vicious dogs

Effect: Enhances some sentences for violation of vicious dog laws and creates new ones.

Sponsors: Beagle (R); 1 Republican

Status: No hearings are scheduled yet.

Senate Bill 178 - Prison terms for death or physical harm

Effect: Mandatory prison terms for felony convictions involving causing or attempting to cause death or physical harm to victim.

Sponsors: Schiavoni (D) and Gentile (D); 4 Democrats and 1 Republican

Status: No hearings are scheduled yet.

Senate Bill 186 - Elections Commission enforcement

Effect: Criminalizes various violations of Ohio election law.

Sponsors: LaRose (R) and Seitz (R); 2 Republicans

Status: No hearings are scheduled yet.

» A total of 17 of 192 Senate bills introduced by June 30, 2015, that would create or extend criminal penalties.

“Without a huge increase in population, without a significant increase in violent crime, we as a society have chosen to expend our money in this way. I believe there are too many people coming to prison.”

Gary C. Mohr
Director of the Ohio Department of Rehabilitation and Correction
Marion Star; July 26, 2014

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