

Delaware can lead the way on sentencing reform

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Nationally, lawmakers are revisiting the tough sentencing laws that made the United States the world's number one jailer. In recent years, voices from the left and the right have joined together in challenging the scale of incarceration. Delaware has engaged similar efforts too, but lags behind the country in downscaling its prison population. This year, state lawmakers have an opportunity to revisit excessive punishment by scaling back the state's "three strikes" out law.



The growth of incarceration in Delaware resulted from the choices of lawmakers to increase the use and severity of prison sentences. Delaware's correctional population has grown by more than 207 percent since 1980; taxpayers spend more than \$32,900 to incarcerate each prisoner. According to the Delaware Criminal Justice Council more than 500 prisoners were serving life terms at the end of 2015.

Delaware legislators are revisiting the state's harsh sentencing frameworks with Senate Bill 163. The modest proposal would change the statute that governs habitual offenders including eliminating mandatory life in prison for a third criminal conviction. Specifically, under the proposed law a person would be declared a habitual criminal after being convicted of a third violent felony or a fourth felony of any kind. The bill is retroactive and would allow for a sentencing modification for persons convicted under the old law.

State law enforcement leaders like Attorney General Matt Denn have called for changes to the "three-strikes" law, specifically challenging life in prison as a mandatory sentencing option.

Any serious crime, is a crime too many. But doing something and solving the problem are not always the same. Despite their intent, mandatory minimum laws like "three strikes" do little to reduce crime. They do, however, help drive growth in incarceration and demand substantial spending on a state's prison system. Those are among the key reasons there is growing consensus to reform harsh sentencing laws and restore judicial discretion to judges.

More important, after years of experience, legislators and policy-makers across the country are recognizing these one-size-fit-all laws don't increase public safety. In California -- voters revisited their "three strikes" law year and allowed for resentencing. Legislators in Mississippi scaled back that state's mandatory sentencing scheme for violent offenses to address prison overcrowding. Last year, Alabama lawmakers revisited that state's harsh sentencing laws and expanded alternatives to incarceration. This year, New Mexico lawmakers rejected efforts to toughen that state's "three strikes" laws.

Delaware's adoption of SB 163 could help to move the country even farther. And much more could be done.

In recent years, legislators in Rhode Island and Utah repealed mandatory minimums for certain offenses. Officials in at least 29 states have adopted reforms designed to scale back the scope and severity of their mandatory sentencing policies over the past decade. Criminal justice reform should prioritize law enforcement, judicial and corrections resources towards preventing crime from happening in the first place -- rather than clogging up the system due to a lack of judicial discretion and an inability in imposing criminal penalties that are fair and just.

It is tempting to believe mandatory minimum sentencing and "three strikes" laws will make Delaware safer. But in

reality, there is little proof to show that such laws accomplish that. To the contrary, studies suggest that recidivism may actually increase with longer sentences. Officials motivated to improve public safety should prioritize evidence-based practices known to deter crime rather than rely on harsh penalties demonstrated to have little impact on future offending.

Revisiting harsh sentencing laws will recognize that the state's rate of incarceration has produced diminishing returns for public safety. Scaling back sentencing laws retroactively should help to control the prison population and free up resources. Those resources could be directed into interventions known to reduce crime like quality education, health care, and job training programs.

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