

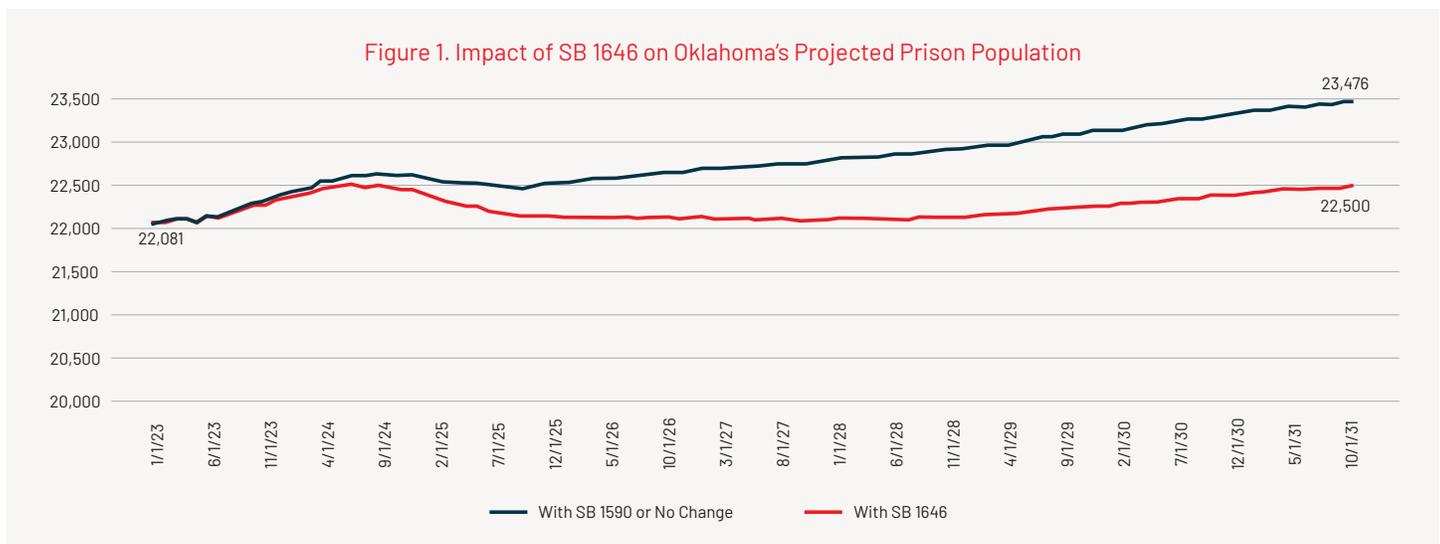
SB 1646 Will Clean Up Oklahoma’s Outdated Criminal Code While Saving the State Millions

The Oklahoma Crime Reclassification Act of 2022, introduced by Republican Sen. David Rader (2020 ACU score: 74%) as SB 1646, offers a common-sense solution to the state’s felony sentencing regime. The proposal would create a classification system of felony crimes. It would also provide recommended sentences for crimes based on the classification. The result will provide a more rational sentencing system and allow law enforcement to better target criminal justice resources. In addition, SB 1646 would moderately reduce the state’s prison population on a forward-looking basis, thereby reducing costs without sacrificing public safety. These two outcomes - a reorganized felony classification system and a reduction in the prison population going forward - are consistent with the 2018 legislation establishing the Criminal Justice Reclassification Coordination Council.

What does SB 1646 do?

- SB 1646 places each felony offense in Oklahoma statute into one of 15 categories, based on the relative severity of the crime.
- For most categories, a minimum and maximum sentence term is set and fines are capped. (The most serious offenses do not have caps on sentencing.) Moreover, sentence enhancements based on an individual’s criminal history are provided for each class of crime. This allows for repeat offenders to be held fully accountable.

What impact will SB 1646 have?



- By standardizing sentence terms in its classification system, SB 1646 could reduce the state’s prison population by nearly 1,000 people in the next 10 years, averting up to \$111 million in additional corrections costs over the next decade. These savings would continue and potentially grow further into the future.

Figure 2. SB 1646 Projected Savings Per Year (Millions)



Why is SB 1646 necessary?

- In 2018, Oklahoma’s Legislature created the Criminal Justice Reclassification Coordination Council. The Council was tasked with undertaking a thorough review of the state’s criminal code and recommending a classification system and accompanying sentence lengths that would “reduce or hold neutral the prison population.”
- After four years of work, the Council created a 15-category classification system, but their proposal included recommendations that would have *increased* the prison population and cost the state millions in corrections dollars. In fact, the Council’s original proposal would have **increased time spent in prison for people convicted of nonviolent crimes and decreased time spent in prison for those convicted of violent crimes.**
- SB 1646 uses the same classification system proposed by the Criminal Justice Reclassification Coordination Council, and assigns more appropriate sentence terms to create orderly and consistent sentencing practices across crimes and fulfill the original intent of the legislation.

How does SB 1646 compare to SB 1590?

- Though identical in name, these two bills should not be confused. SB 1590 creates a classification system that sorts felony offenses into the same 15 categories, but it does not set sentence terms for each class. As a result, SB 1590 would offer little meaningful change, leaving Oklahoma’s sentencing practices as disorganized and inconsistent as ever. Equally important, SB 1590 would fail to address the legislature’s mandate directing the Reclassification Council to ‘reduce or hold neutral the prison population.’
- As shown in Figure 1, the prison population is projected to increase with SB 1590, but the classification system proposed by SB 1646 will safely decrease the prison population by nearly 1,000 people over the next 10 years.

Methodology

Individual-level admissions, releases, and snapshot data from the Oklahoma Department of Corrections for FY2019, FY2020, and FY2021 were used to assess the potential impact of SB 1646 on Oklahoma's prison population and prison expenditures. Analysis also drew on an additional review of full-text court records for 678 randomly selected individuals admitted to prison in FY2019 or incarcerated in July 2019 for crimes defined in state law as nonviolent, who had at least one prior nonviolent offense and no current or prior violent offenses on their record.

The analysis began by creating a baseline prison population projection in order to predict the state's prison population growth in the absence of reform. In order to develop the baseline, an admissions cohort was identified from the 12-month period that directly preceded disruptions to court and corrections systems brought on by the COVID-19 pandemic in March 2020. That cohort was then adjusted to account for the recent reductions in admissions in certain counties resulting from the criminal jurisdictional changes tied to the U.S. Supreme Court decision in *McGirt v. Oklahoma*. Sentences and estimated length of stay distributions were then calculated using a release cohort that included releases from prison for the most recent two fiscal years, excluding November 2019 due to the mass commutation event following the passage of HB 1269. Those distributions were then further adjusted to account for recent changes in the law to certain property and drug offenses that have yet to be fully realized in the release cohort. Using these inputs, the baseline projection model estimated prison population growth of 8% or over 1,700 people over the next decade.

From there, a new model was developed that accounts for how many people receiving sentences under the new classification system in SB 1646 would be in prison (on a month to month basis) if the state were to enact the legislation. Individual-level case data from 678 randomly selected individuals were then used to approximate the impact of changes to the criminal history enhancement structure as a result of SB 1646, and length of stay distributions were adjusted according to the trends identified in the random case sampling. Sentencing trends for the top 50 most common crimes in Oklahoma's prison system – accounting for approximately 90% of prison admissions each year – were compared with the new maximum sentences in SB 1646. For individuals serving sentences for the crimes whose average sentence length exceeded the new maximum sentence under SB 1646, length of stay distributions were adjusted downward based on the findings from the case level review and individual-level criminal history factors. For the remaining individuals serving terms for the majority of crimes in which average sentences did not exceed the new maximum sentence under SB 1646, only sentences over the new maximum were shifted downward based on individual-level criminal history factors, a more conservative assumption.

In order to estimate the corrections expenditures averted as a result of SB 1646's passage, numerous figures approximating the per-person cost of incarceration in Oklahoma were used. The minimum savings estimate relies on a [marginal cost to incarcerate](#) of \$5,749/year or \$15.74/day as provided by the Department of Corrections for estimating SQ 781 savings calculations from FY2021. The maximum savings estimate relies on an [average cost to incarcerate](#) that is calculated by the Department of Corrections using actual FY2020 expenditures by security level. These costs range from \$20,962/year or \$57.39/day for people housed in minimum security facilities on the low end to \$39,509/year or \$108.17/day for maximum security facilities on the high end. The maximum savings estimate used was derived from an average of the costs for minimum, medium, and maximum security facilities, weighted by their relative share of the total population based on facility location in July 2021. This weighted average cost totalled approximately \$22,749/year or \$62.28/day. For individuals in which the facility's security type was unknown, costs were assumed to be equivalent to a minimum security facility. These estimates do not account for inflation nor do they account for the rapidly growing costs of medical care and staffing in correctional settings.