

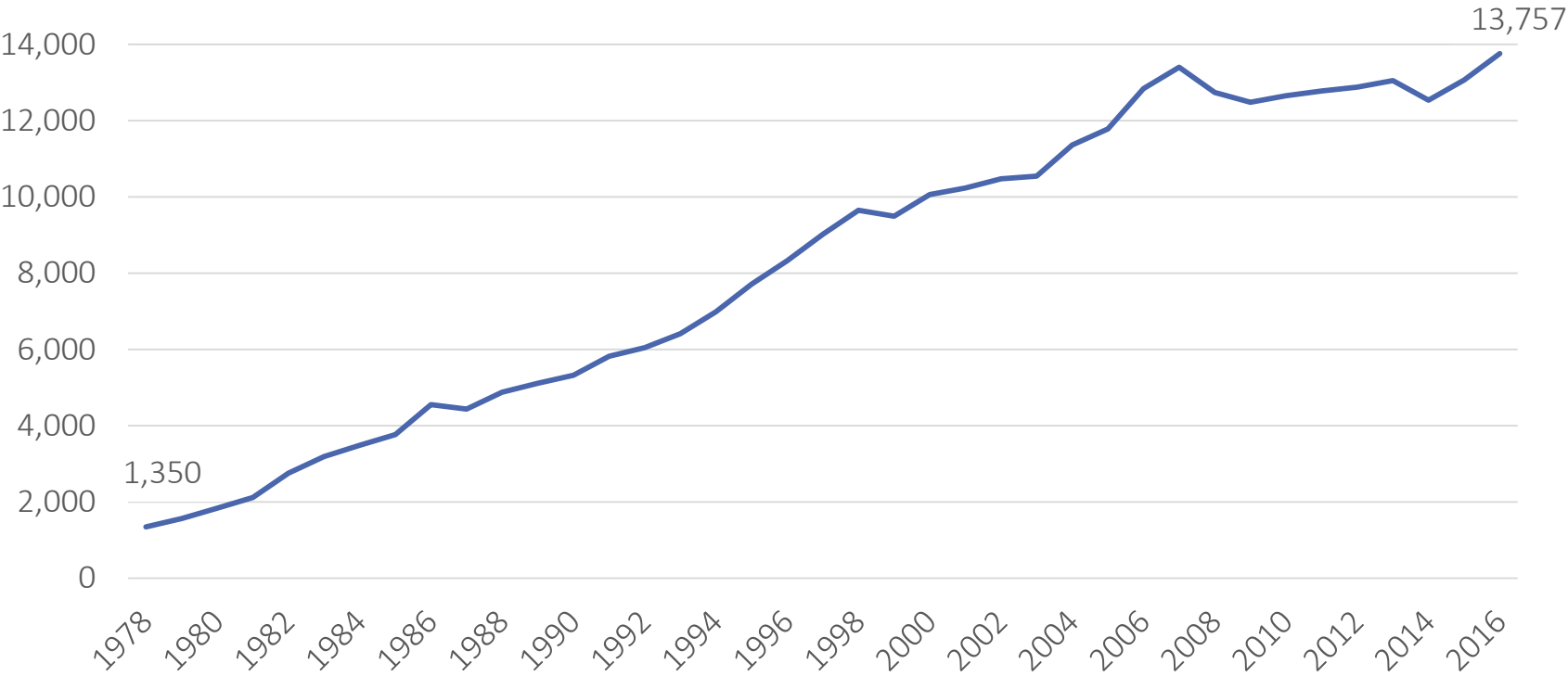
Justice Reinvestment Initiative Selection of Data Findings and Recommendations

Assembly Committee on Judiciary

March 8, 2019

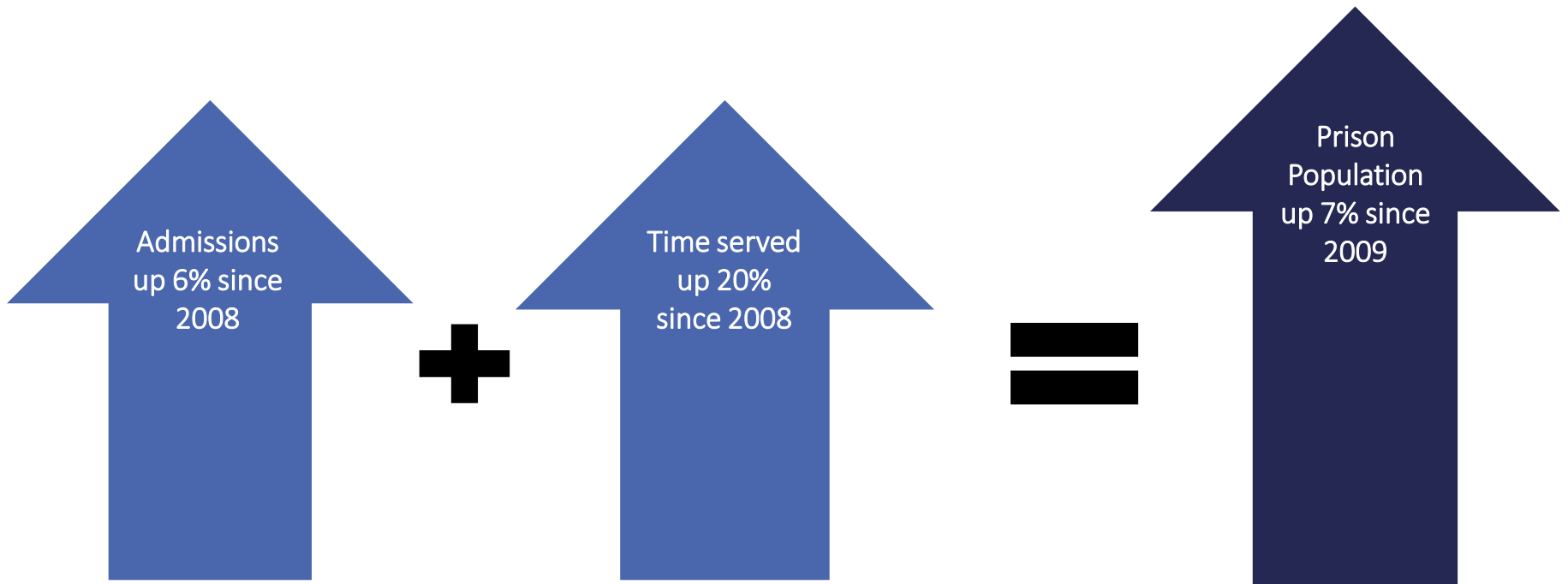
Nevada Prison Population Grew 919% Since 1978

Nevada Prison Population, 1978-2016



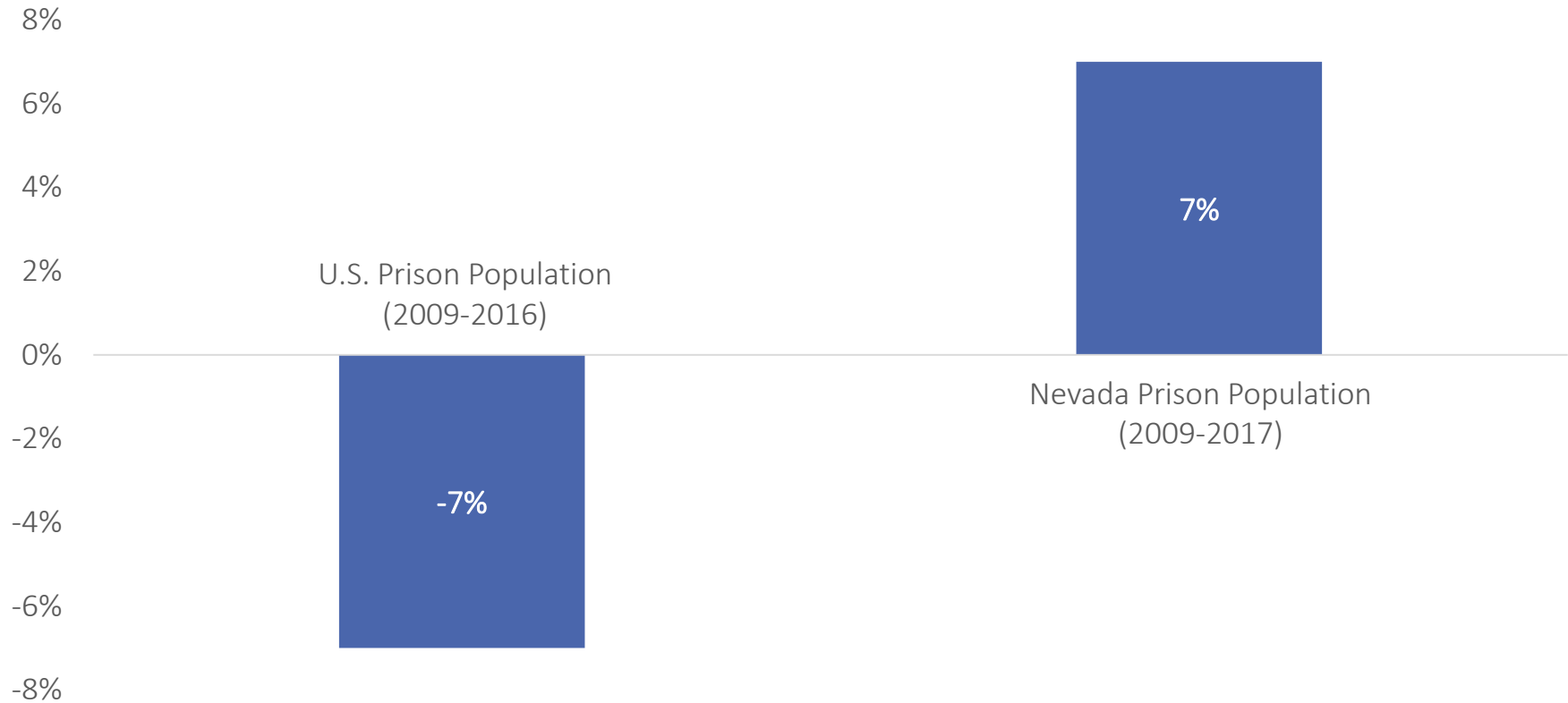
Source: Department of Justice, Bureau of Justice Statistics

Overview of Prison Growth Trends



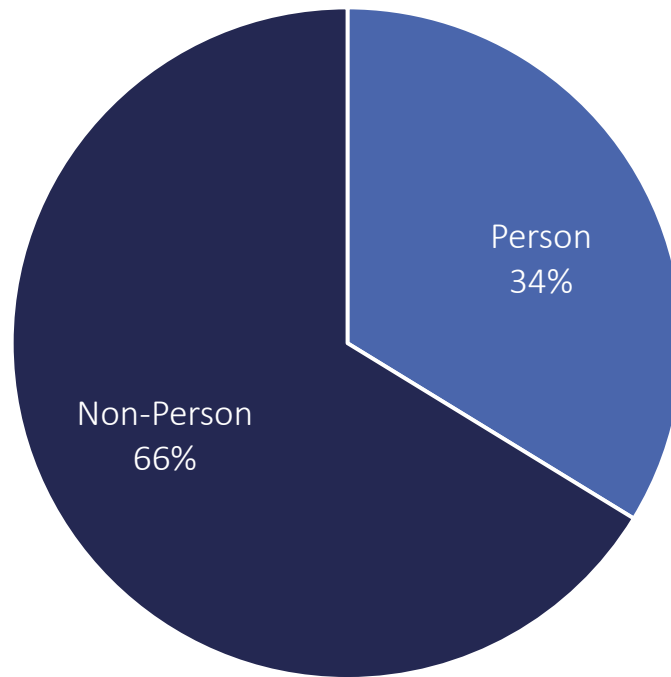
Nevada's Recent Prison Growth At Odds With National Decline

Percent Change in Size of U.S. and Nevada Prison Populations, 2009-2017



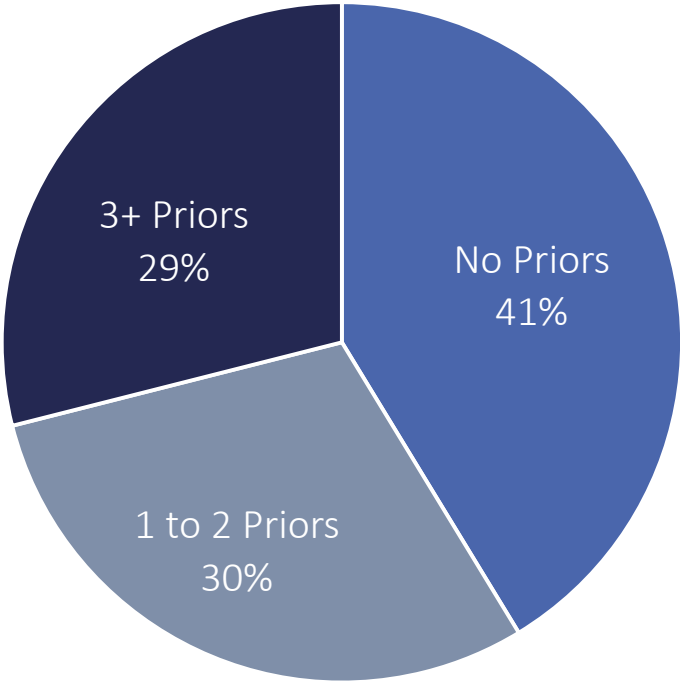
2 in 3 Prison Admissions for Non-Person Offenses

Prison Admissions by Person Offenses, 2017



4 in 10 Admissions Have No Prior Felony Convictions

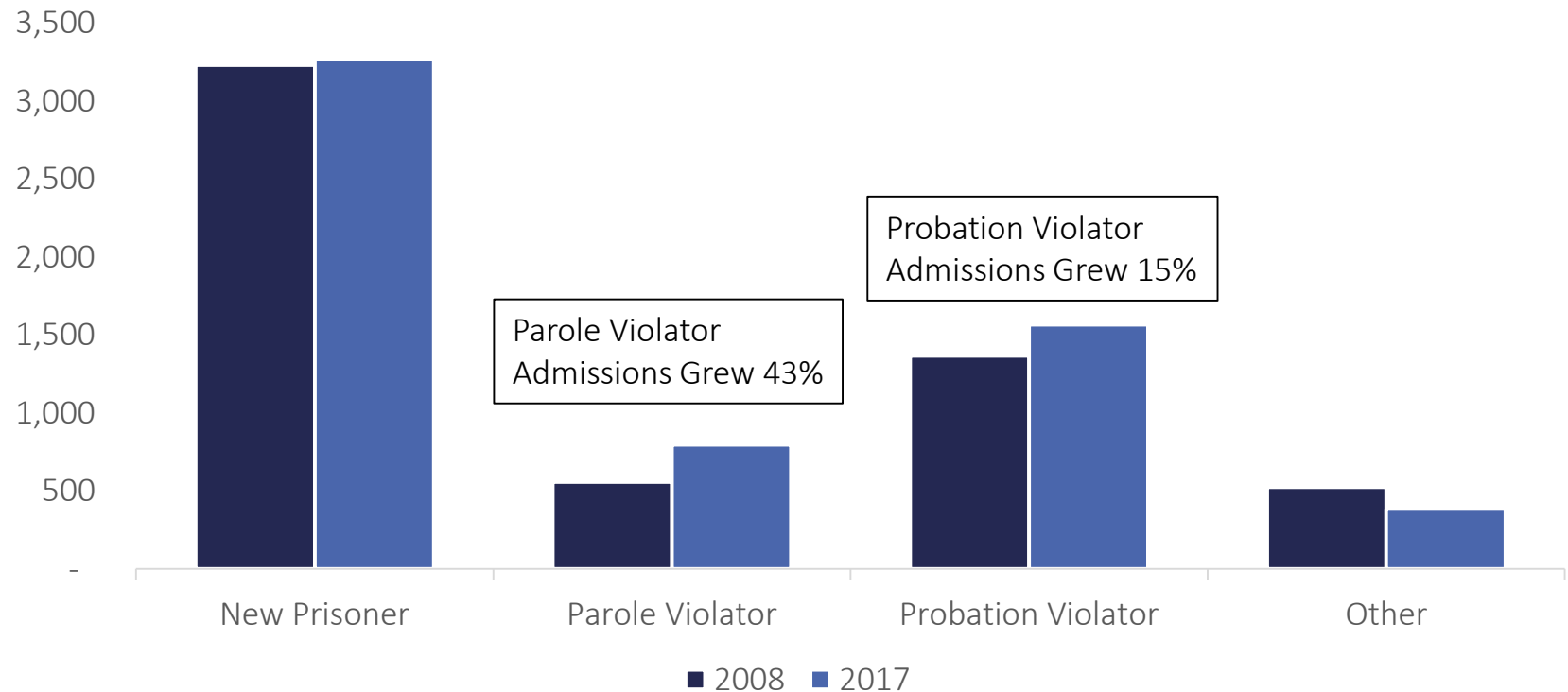
Prison Admissions by Prior Felony Convictions, 2017



Source: Nevada Department of Corrections

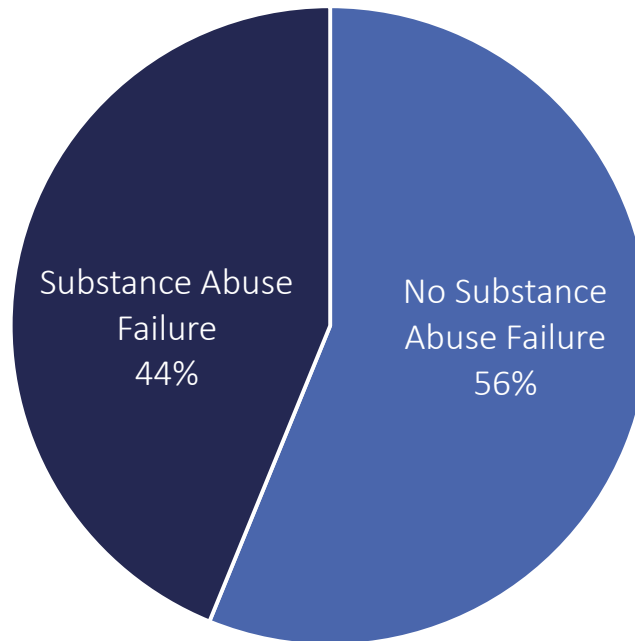
Admissions Growth Concentrated Among Community Supervision Returns

Prison Admissions by Admission Type, 2008 vs 2017



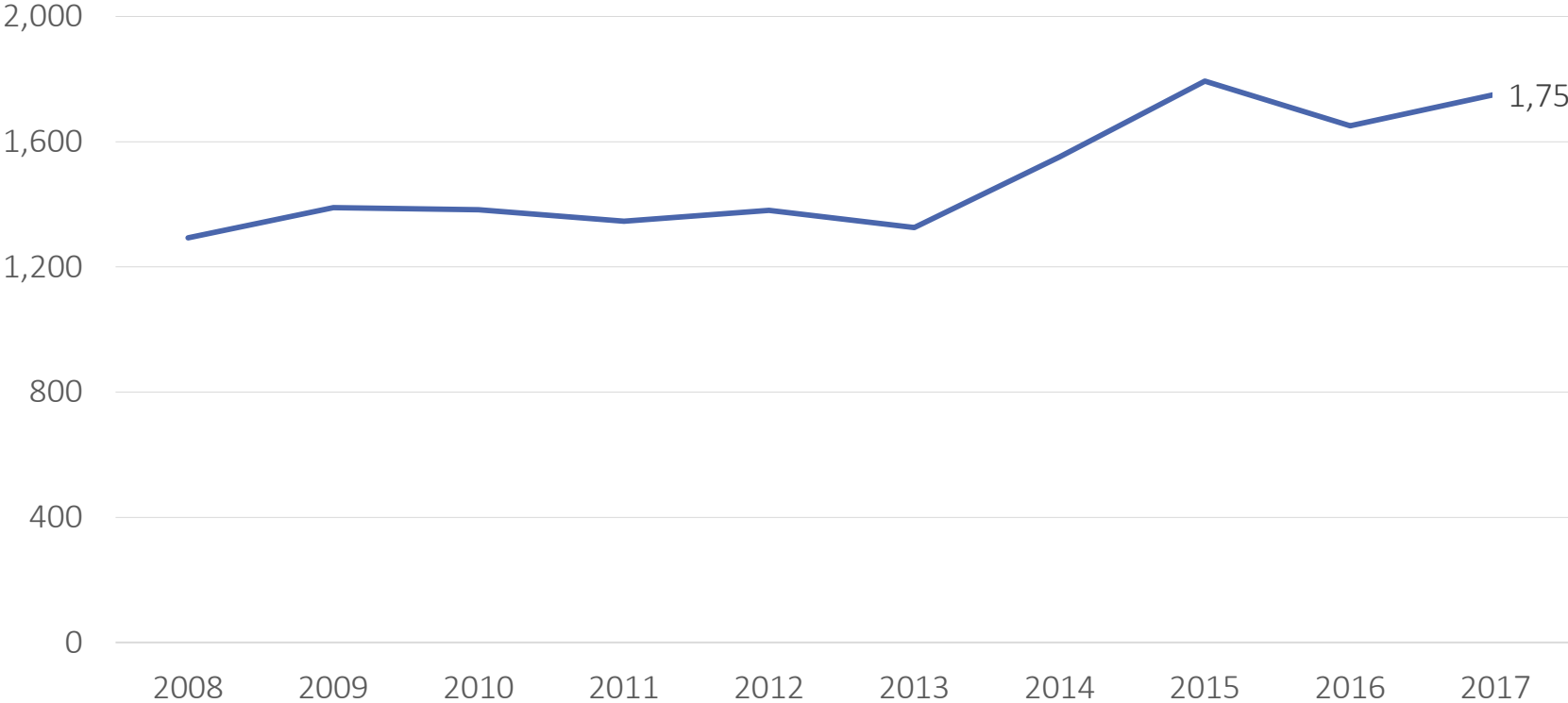
44% of Failures on Supervision Involved Substance Abuse

Supervision Failures in Violation Report File Review, 2017



Number of Individuals Admitted to Prison With Mental Health Needs Up 35%

Prison Admissions Indicating a Mental Health Need, 2008-2017



Source: Nevada Department of Corrections

Time Served Increased 20% Since 2008

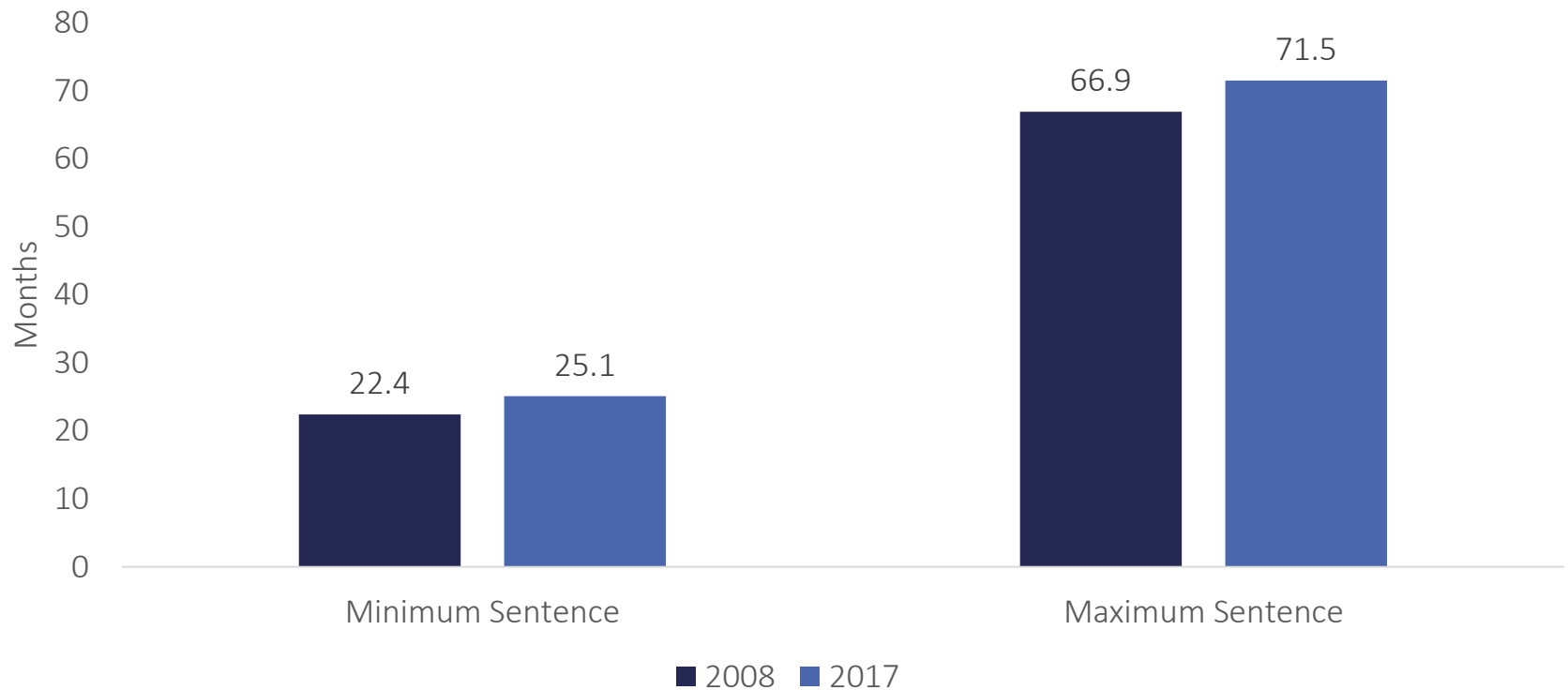


Source: Nevada Department of Corrections

Note: Consecutive sentences excluded from this analysis. Time served for consecutive sentences increased 48% since 2012.

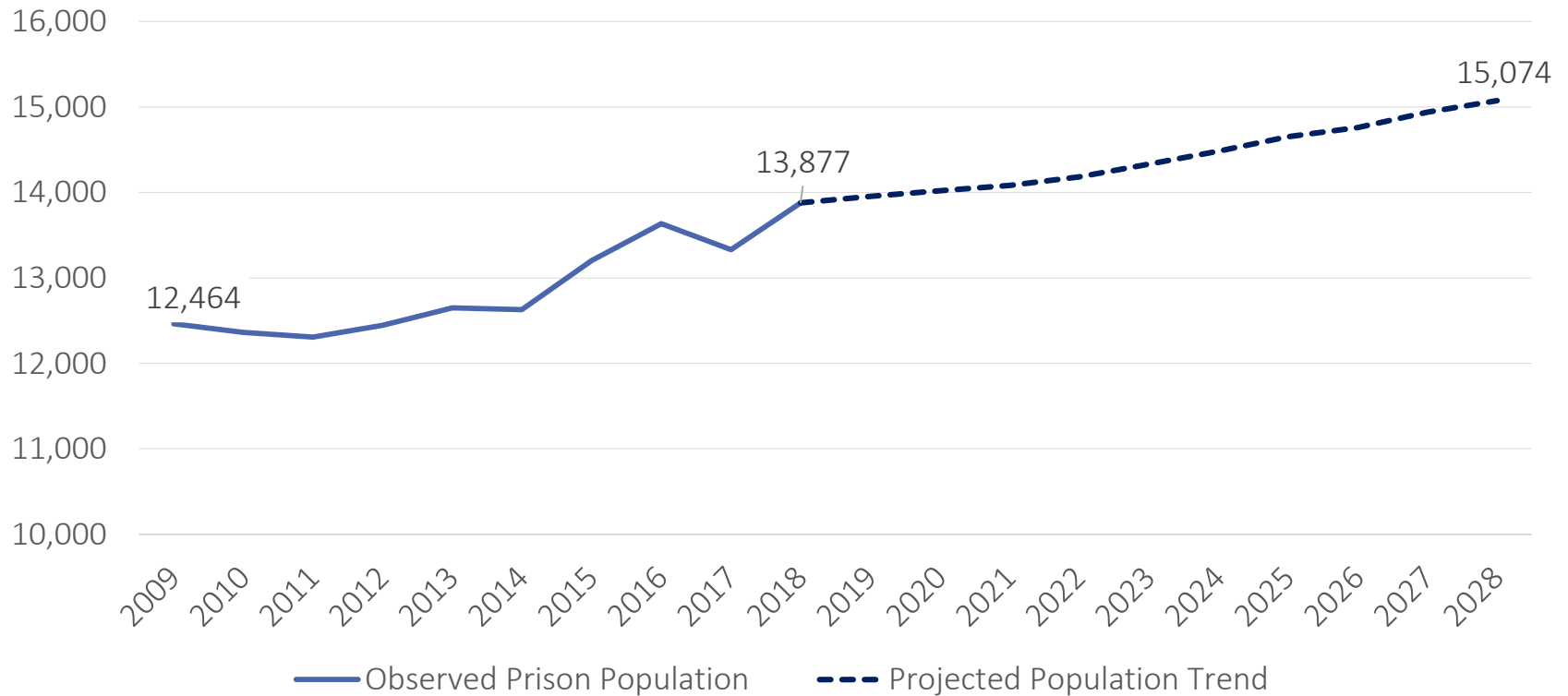
Both Min and Max Sentences Have Increased for Newly Sentenced Prisoners

Mean Sentences for New Prisoner Admissions,
2008 vs 2017



Nevada Prison Population Projected to Surpass 15,000 by 2028

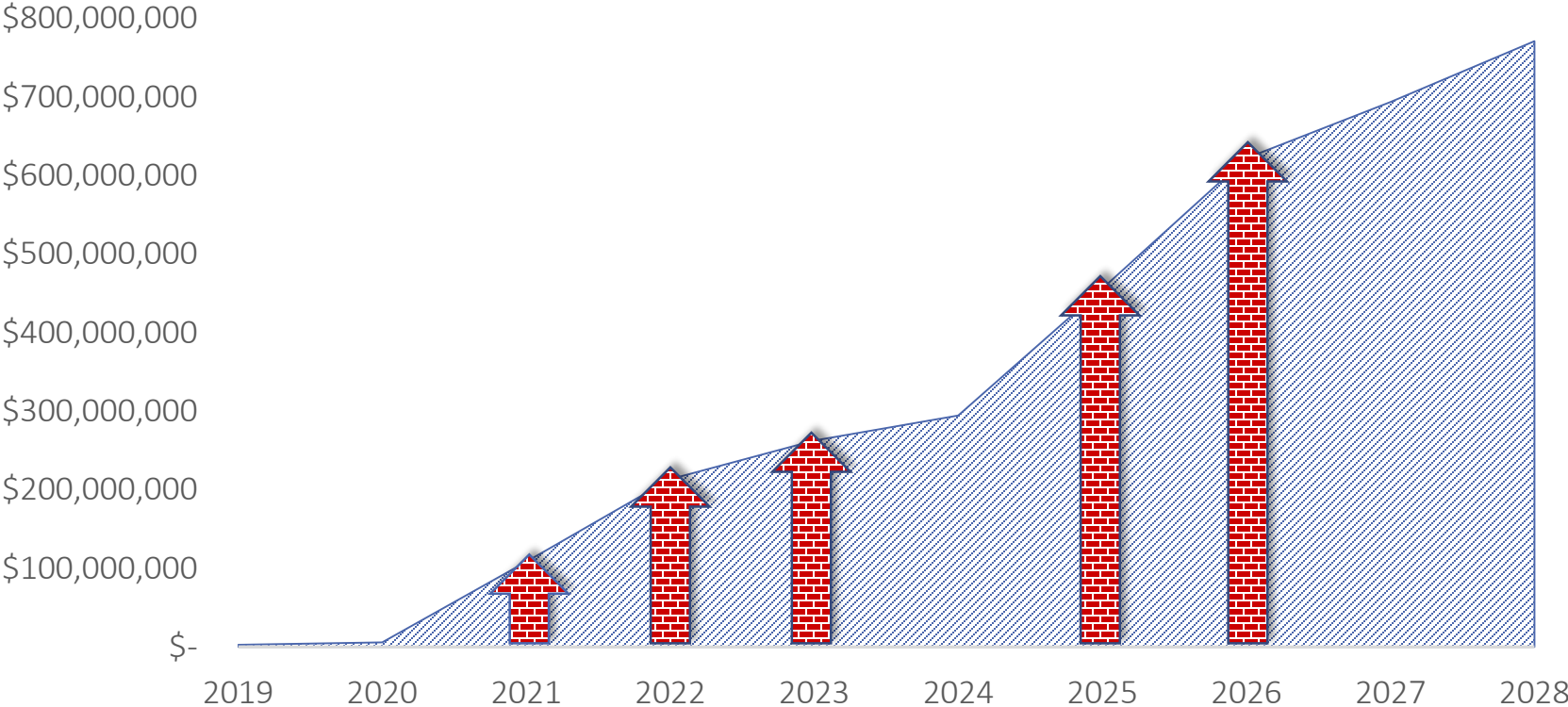
Nevada Observed and Projected Prison Population, 2009-2028



Source: Nevada Department of Corrections, JFA Associates

Nevada Faces \$770 Million in Growth-Related Costs by 2028

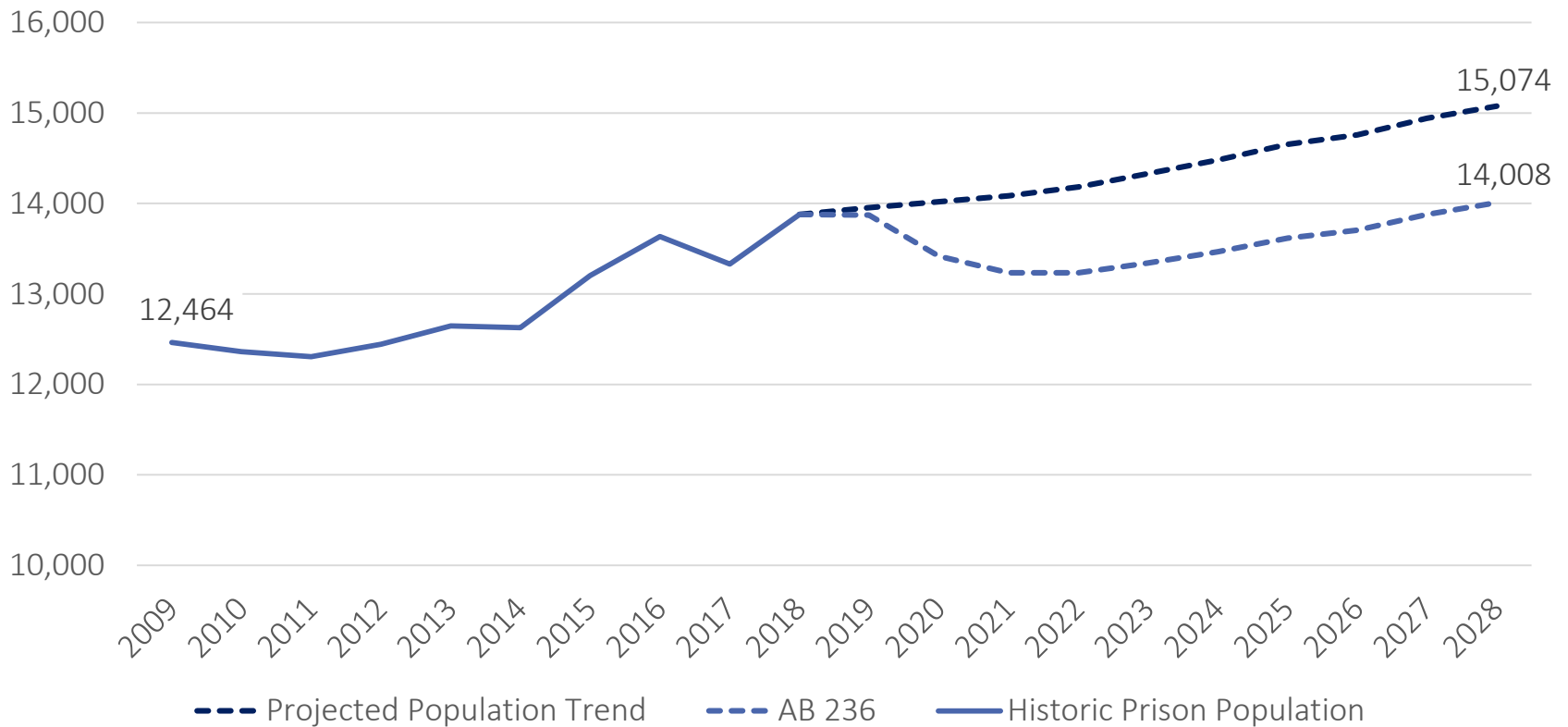
Cumulative Additional Costs Associated with Nevada's Projected Prison Population Growth, 2019-2028



Source: Nevada Department of Corrections, Crime and Justice Institute

AB236 Projected to Avert 89% of Prison Population Growth

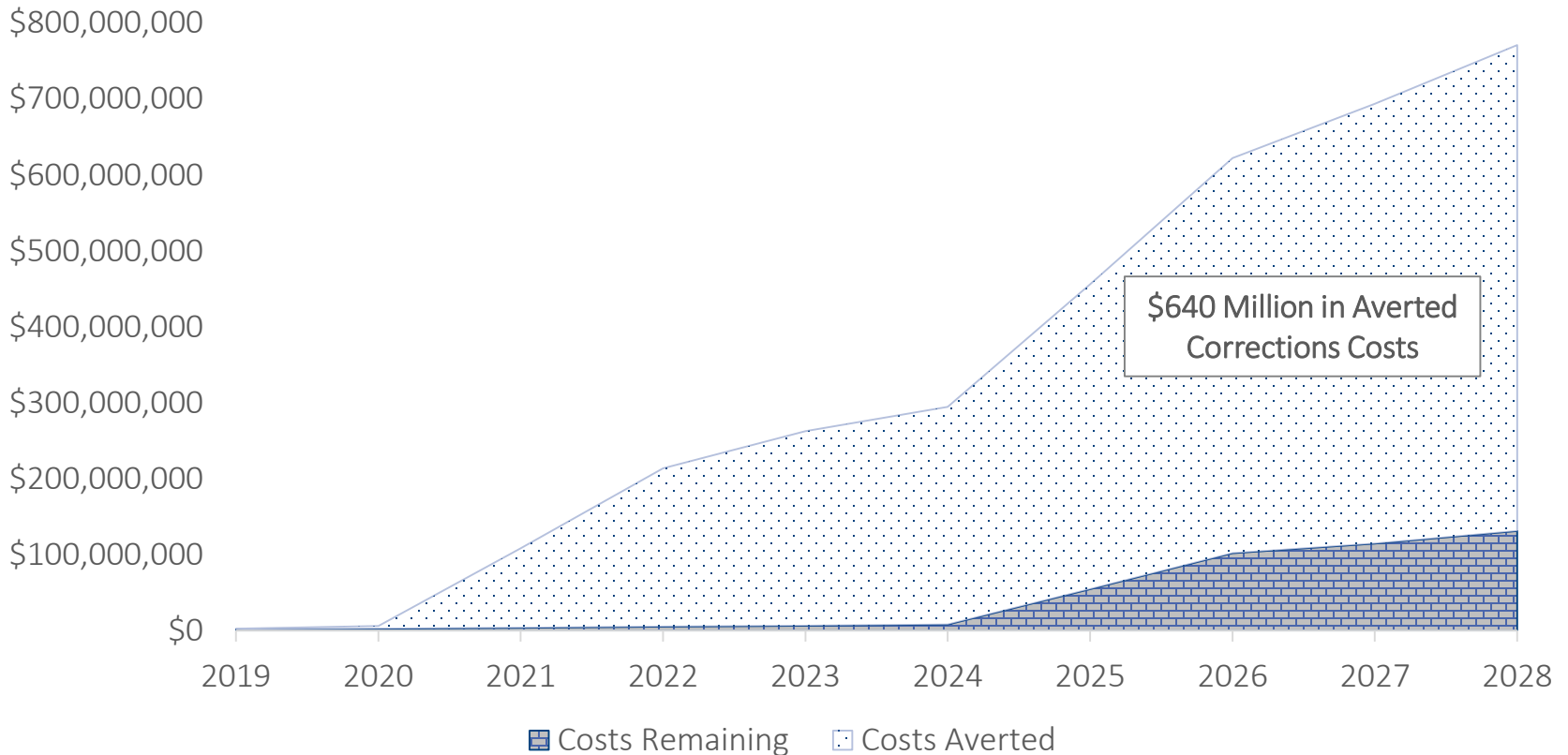
Nevada Observed and Projected Prison Population, 2009-2028



Source: Nevada Department of Corrections, JFA Associates, Crime and Justice Institute

AB236 Estimated to Avert \$640 Million in Extra Corrections Costs

Cumulative Remaining and Averted Costs Associated with Nevada's Prison
Population Growth, 2019-2028



ACAJ Recommendation 1: Establish Crisis Intervention Training for Law Enforcement

Finding: The number of individuals entering prison with a mental health need has increased 35% over the past ten years

AB236 Summary: Sections 107 and 108 require the Peace Officer Training Commission to develop and approve standards for Crisis Intervention Training programs to train law enforcement officers to identify signs and symptoms of mental illness and provide them with the skills necessary to de-escalate situations involving persons experiencing a behavioral health crisis

ACAJ Recommendation 2: Expand Pre-Prosecution Diversion

Finding: Four in 10 people entering prison in 2017 had no prior felony record, and two thirds of inmates that year entered prison for a nonviolent offense

AB236 Summary: Sections 1, 2, 3 and 4 expand the existing pre-adjudicatory diversion program to eligible first-time nonviolent felony offenders. Eligible offenders include individuals who have not previously participated in a diversion program, who have no prior felony conviction, and who are not charged with a violent offense or an offense involving substantial bodily harm

ACAJ Recommendation 3: Remove Existing Barriers to Presumptive Probation

Finding: NRS 176.A 100 creates a presumptive sentence of probation for category E felonies but defines numerous exclusions

AB236 Summary: Section 24 removes several barriers to presumptive probation including currently being on supervision, having supervision previously revoked, and having previously failed a treatment program

ACAJ Recommendation 4: Establish a Presumptive Sentence Deferral for Specialty Court Participants

Finding: Individuals granted the opportunity to avoid a felony conviction upon completion of a Specialty Court program had higher success rates than those who were not

AB236 Summary: Sections 4 and 19 create a presumption in favor of deferred sentences for individuals participating in Specialty Court programs, allowing the court to dismiss the case if the individual is successful. This presumption only applies to nonviolent offenders and can be overcome if the individual poses a public safety risk

ACAJ Recommendation 5: Align Specialty Court Programs With Best Practices

Finding: There is significant regional variation in how Specialty Court programs operate around the state, ranging from differences in eligibility criteria to differences in available outcomes

AB236 Summary: Sections 20, 21, 22, 23 and 26 through 31 seek to address these jurisdictional differences by requiring in-person clinical assessments be conducted to determine eligibility for participation, among other changes

ACAJ Recommendation 6: Tailor Burglary Penalties to Severity of Conduct

Finding: Burglary is the most common offense driving admission to prison and third most common offense for which people are currently serving time in prison

AB236 Summary: Sections 55 through 57 amend the burglary statute by requiring, distinguishing and defining different structures involved, requiring unlawful entry, and aligning penalties as follows:

Unlawful Entry of:	Penalty
Motor Vehicle	First or Second Offense: Gross Misdemeanor, Up to 1 year jail Third or Subsequent Offense: Category E Felony, 1 – 4 years
Other Building	Category D Felony, 1 – 4 years prison
Commercial Building	Category C Felony, 1 – 5 years prison
Residence	Category B Felony, 1 – 10 years prison
Home Invasion	Category B Felony, 2 – 18 years prison

ACAJ Recommendation 7: Raise Felony Theft Threshold

Finding: Forty-three states have a higher felony theft threshold than Nevada

AB236 Summary: Sections 58 through 83, 85, 126, 131, and 132 raise the felony theft threshold from \$650 to \$2,000 and create a tiered penalty structure based on increasing values, as follows:

Property Value	Penalty
\$1,000 and less	Misdemeanor, Up to 6 months jail
\$1,000 - \$1,999	Gross Misdemeanor, Up to 1 year jail
\$2,000 - \$4,999	Category D Felony, 1 – 4 years prison
\$5,000 - \$24,999	Category C Felony, 1 – 5 years prison
\$25,000 - \$99,999	Category B Felony, 1 – 10 years prison
\$100,000 or greater	Category B Felony, 1 – 20 years prison

ACAJ Recommendation 8: Reclassify Simple Possession of a Controlled Substance

Finding: The number of people admitted to prison for simple possession grew by 53% over the last decade

AB236 Summary: Section 113 reclassifies the first and second convictions of possession of a controlled substance as a misdemeanor offense and the third and subsequent offenses as a category E felony

ACAJ Recommendation 9: Increase Judicial Discretion for Commercial Drug Offenses

Finding: Currently Nevada's commercial drug statutes do not allow judges the discretion to determine if a mandatory minimum sentence is warranted. In 2017, more than 350 people were sentenced to prison for a commercial drug offense, making it one of the most common offenses driving admissions to prison

AB236 Summary: Sections 112, 116, and 117 expand judicial discretion and authorize judges to impose probation for certain commercial drug offenses

ACAJ Recommendation 10: Raise Trafficking Weight Thresholds

Finding: Nevada's trafficking statute is unique in that it currently applies to any individual possessing more than 4 grams of a controlled substance

AB236 Summary: Sections 118 through 123 amend the trafficking statute by requiring evidence of an intent to sell and raising the weight amounts, as follows:

Trafficking of Schedule I Substances	Penalty
28 – 100 grams with indicia of intent to sell or manufacture	Category B Felony, 1 – 10 years prison
100 – 400 grams with indicia of intent to sell or manufacture	Category B Felony, 2 – 20 years prison
400 grams or more with indicia of intent to sell or manufacture	Category B Felony, 3 – 20 years prison, mandatory incarceration

ACAJ Recommendation 11: Establish a Lookback Period for Habitual Criminal Statute

Finding: Unlike other states, Nevada does not limit the time frame within which past offenses occurred that may be used as the basis to sentence under the habitual criminal statute

AB236 Summary: Section 86 establishes a maximum age, or “lookback period,” for the habitual criminal statute. When a person has completed their sentence, a conviction cannot be considered for the purposes of the statute after:

- 10 years for a Category A felony
- 5 years for a Category B, C, or D felony
- 2 years for a Category E felony

ACAJ Recommendation 12: Remove Sentence Recommendation from Pre-Sentence Investigation (PSI) Report

Finding: The current tool used to generate the PSI sentence recommendation relies on subjective criteria unrelated to public safety. Data show that sentences have increased across all offense types over the last decade, and that the PSI recommendation is adopted 75% of the time

AB236 Summary: Sections 12 through 15 remove the sentence recommendation portion of the PSI

ACAJ Recommendation 13: Reclassify Certain Nonviolent Category B Offenses

Finding: Category B offenders accounted for nearly half of all prison admissions in 2017. On average, Category B offenders released in 2017 spent almost 10 months longer behind bars than offenders released five years earlier

AB236 Summary: Sections 84, 111, 125, and 130 reclassify certain nonviolent Category B offenses to Category C offenses, including:

- Knowingly selling a motor vehicle with odometer has been fraudulently altered;
- Unlawful use of scanning device;
- Gaming crimes; and
- Maintaining a drug house

ACAJ Recommendation 14: Codify Streamlined Parole Practices

Finding: Parole release rates have fluctuated over the past ten years, contributing to growth in time served. The Parole Board currently has the ability to grant parole without a hearing to certain eligible low-risk offenders

AB236 Summary: Sections 97, 98 and 99 codify the current administrative parole review process by requiring the Board of Parole Commissioners to review parole eligibility of offenders, and make a recommendation for release with or without a hearing, in accordance with regulations established by the Board

ACAJ Recommendation 15: Expand Medical Release and Create Geriatric Parole Option

Finding: Nevada's population of inmates aged 55 and over, the most expensive cohort in terms of medical costs, has grown 70% since 2009 and continues to grow

AB236 Summary: Section 91 expands eligibility for medical release to offenders within 24 months of death and allows other individuals to petition NDOC for release

Section 93 creates a geriatric parole option and allows the Board to grant geriatric parole to inmates who are 60 or older and have served 10 years, and inmates who are 65 or older and have served 7 years

ACAJ Recommendation 16: Frontload Resources by Reducing Probation Length

Finding: Nearly two thirds of probation revocations occur within the first year of probation, and one third occur within the first six months.

AB236 Summary: Sections 16 and 17 require the Division to submit a recommendation for early termination to the court when certain conditions are present

Section 34 establishes maximum periods of probation corresponding to the offense category, as follows:

- 12 months for a gross misdemeanor
- 18 months for a Category E felony
- 24 months for a Category C or D felony
- 36 months for a Category B felony

ACAJ Recommendation 17: Expand the Use of Swift, Certain, and Proportional Sanctions

Finding: 39% of prison admissions in 2017 were for a failure on community supervision

AB236 Summary: Section 18 requires the use of graduated sanctions to respond to technical violations

Sections 25, 32, and 33 tailor conditions of supervision to better align with public safety and prohibit revocation solely on grounds unrelated to public safety

ACAJ Recommendation 18: Establish Revocation Caps for Technical Violations

Finding: Between 2008 and 2017, admissions to prison from community supervision represented the greatest area of growth among admissions types

AB236 Summary: Sections 35 and 101 establish limits on the amount of time an individual on probation and parole can be incarcerated for a revocation due a non-criminal (technical) violation of the conditions of supervision, defined as any noncompliance that does not constitute absconding, a felony offense, or a gross misdemeanor

ACAJ Recommendation 19: Tailor Supervision to an Individual's Risks and Needs

Finding: 44% of failures on supervision resulting in a prison admission in 2017 involved a substance abuse issue

AB236 Summary: Sections 94 and 95 require the Division of Parole and Probation to use a risk and needs assessment to determine supervision level, to create an individualized supervision case plan, and to guide decisions related to program and treatment referrals

ACAJ Recommendation 20: Provide Greater Support for Reentry

Finding: At any given time, hundreds of individuals who have been granted parole are still in NDOC custody, often because of an inadequate reentry plan

AB236 Summary: Section 92 requires NDOC to provide transportation, clothing, and medication to individuals leaving custody

Section 100 requires a reentry plan that includes information on employment, health, and educational services, and other areas important to successful reentry, be developed 6 months prior to an inmate's parole eligibility date

ACAJ Recommendation 21: Establish Policies and Practices that Align Programming with Individual Needs

Finding: Nevada's female prison population has grown at four times the rate of the overall prison population. More than half of the women admitted in 2017 had mental health needs

AB236 Summary: Section 90 requires the use of a risk and needs assessment to guide institutional programming

Sections 89 and 96 require staff from both the Department of Corrections and the Division of Parole and Probation to receive training on trauma, domestic violence, and evidence-based practices to effectively change behavior and reduce recidivism

ACAJ Recommendation 22: Ensure the Sustainability of the Reforms

Finding: Agencies have outdated data tracking systems that do not facilitate inter-agency communication or data analysis across systems

AB238 Summary: Sections 5 and 6 establish new duties for the Sentencing Commission to function as an oversight body for the provisions of this legislation, including:

- Continued collection and analysis of data relating to prison admissions, prison releases, parole practices, and persons on probation and parole
- Presentation of data in an annual report to the legislature

ACAJ Recommendation 23: Proactively Address Behavioral Health Issues

Finding: Many jurisdictions have launched programs to respond to individuals with behavioral health issues, yet a lack of funding limits availability and access throughout the state

AB236 Summary: Sections 103 and 104 establish a new Mental Health Field Response Grant Program to encourage innovative law enforcement programs

Sections 105 and 106 requires law enforcement agencies to establish a policy and procedure for interacting with persons with a behavioral health issue

ACAJ Recommendation 24: Invest in Public Safety and Rehabilitation

Finding: Over the past 40 years Nevada's prison population and prison budget has skyrocketed, diverting funding for services, treatment and programs that are proven to reduce recidivism and improve communities and lives

AB236 Summary: Section 7 requires the Sentencing Commission to develop a formula to calculate the averted costs as a result of the legislation and prioritize reinvestment in targeted areas such as reentry, behavioral health, and transitional housing

Section 8 establishes the Nevada Local Justice Reinvestment Coordinating Council to oversee the impact of the reforms on a local level and advocate for local initiatives

ACAJ Recommendation 25: Reinvest in Victims' Services

Finding: The two Victims' Roundtables identified significant policy and funding gaps related to victims services

AB236 Summary: Sections 45, 49, and 52 establish criteria for a batterer's intervention program for individuals convicted of misdemeanor domestic violence and authorize the imposition of such program as a condition of one's sentence

Section 102 expands the definition of victim to appropriately address all who are impacted

Impact of AB236

If all the recommendations included in AB236 are enacted, the state will save an estimated \$640 million dollars by averting nearly 90% of the state's prison population growth

Absent any changes, the prison population will continue to grow to over 15,000 inmates at a cost of \$770 million dollars