

Fact Sheets and Testimony 2021

Support Family Reunification After Involvement with DFPS

THERE IS LITTLE GUIDANCE FOR PARENTS SEEKING TO REUNIFY WITH THEIR CHILDREN AFTER INCARCERATION

Parents who experience incarceration or substance abuse disorder can have their rights and access to their children limited; instead, the Department of Family and Protective Services (DFPS) can become a child's permanent managing conservator or appoint another person. Parents receive little guidance on how to regain full custody of their children, which leaves those children languishing in foster care and in home settings that are not conducive to the growth of the parent-child relationship. Furthermore, parents are not given a legal remedy to regain custody or enforce visits without being burdened with average costs of \$5,000-\$10,000 to begin a proceeding to reinstate parental rights.

IN SHORT

CSSB 1349 will give more guidance to parents seeking to regain custody of their children following DFPS involvement, specifically by: (1) allowing parents to petition the court for a modification and/or review final order, and (2) requiring DFPS to conduct a review for placement every 6 months after a final order is issued.

KEY FINDINGS

- After DFPS initiates contact with a parent, a parent has a 12- to 18-month window in which to regain custody before a final modification order is issued. This means that, if DFPS takes custody before or during a parent's incarceration, some parents will have limited time to leave incarceration, stabilize their life, and create a safe home for their child. On the other hand, other parents will be in a stable place within that 12- to 18-month window.
- The parent is not reconsidered for permanent placement after that final order is rendered unless the parent initiates the modification suit, at great expense.
- No existing policy or service is offered to women leaving incarceration that encourages or promotes family reunification, even if they have maintained possessory rights to their children.
- Family ties are a critical element in reducing an individual's rate of recidivism.
- DFPS has a promoted goal of family reunification.

COST-SAVING AND PUBLIC SAFETY-DRIVEN SOLUTION: SUPPORT CSSB 1349

The Texas Criminal Justice Coalition has closely examined the gaps in services offered to people before, during, and after incarceration. One missing service has the potential to have a generational impact of positive reinforcement: family reunification following DFPS involvement. This will positively impact both parents and their children, while saving costs to the state associated with serving as a conservator of children.

Parents who have worked to stabilize their lives and create a safe home for their children are currently left with little information and few options costing thousands of dollars. **CSSB 1349 simply allows more options for family reunification by requiring DFPS and courts to reconsider the parent for placement every 6 months after DFPS initiates a case resulting in the change of parent-child relationship, provided it is the best interest of the child.** This bill reinforces the value of redemption, and it creates opportunities for children to return home and thrive.



Eliminate the State Jail Felony System And Support Opportunities that Help People Succeed and Stay Safe

IT'S TIME TO FINALLY END THE FAILED STATE JAIL SYSTEM

Nearly 16,000 people are sent to Texas' state jail system each year,¹ predominantly for nonviolent property or drug offenses, like possession of less than a gram of a controlled substance (the equivalent of a sugar packet).

Alarmingly, people released from state jails have the highest rearrest rate of any state correctional population; specifically, 63 percent of people released from state jail are rearrested within three years of release, compared to 46 percent of people released from prison.² **This high recidivism rate costs the state hundreds of millions of dollars each year without improving public safety outcomes.**³

In large part, the failures of the state jail system can be attributed to limited interventions for people housed in state jail facilities, and the fact that people are often released to the same circumstances from which they came.

This is especially heartbreaking when considering that the community supports necessary to prevent arrest and sentencing to state jail are challenging to access. Low-income people with substance use disorder must wait more than two weeks for intensive residential treatment, four weeks for outpatient treatment, and almost five weeks for Medication-Assisted Treatment.⁴

Prioritizing incarceration over community-based treatment and other supports creates a costly, destructive cycle that keeps people from getting back on their feet and becoming contributing, productive members of our communities.

COST-SAVING AND PUBLIC SAFETY-DRIVEN SOLUTION: SUPPORT HB 1086 BY REPRESENTATIVE MOODY

HB 1086 eliminates the state jail felony and creates a fourth-degree felony, allowing individuals to become eligible for parole, which in turn will help reduce the incarcerated population while also helping people transition back into the community with designated support.

Further, HB 1086 lowers penalties for certain offenses to Class A misdemeanors, which will create more proportionality with the offense; remove the long-term barriers to housing, education, employment, and military service created by a felony record; and save the state millions of dollars that can be invested in front-end rehabilitative programming.

Citations on reverse.

Citations

¹ Texas Department of Criminal Justice, *FY 2019 Statistical Report*, 2, https://www.tdcj.texas.gov/documents/Statistical_Report_FY2019.pdf. Receives into state jail totaled 15,362.

² Legislative Budget Boards, *Statewide Criminal and Juvenile Justice Recidivism and Revocation Rates*, January 2019, https://www.lbb.state.tx.us/Documents/Publications/Policy_Report/4914_Recidivism_Revocation_Rates_Jan2019.pdf.

³ Legislative Budget Board, *Criminal and Juvenile Justice Uniform Cost Report: Fiscal Years 2019 and 2020*, January 2021, 5, https://www.lbb.state.tx.us/Documents/Publications/Policy_Report/6292_CJDA_Uniform_Cost.pdf. Calculated by taking the total receives, 15,362 (per Note 1), and multiplying by the FY 2019 cost per day (\$55.40) at an average number of days served of 194 (per TDCJ's *Statistical Report*, people serve on average 10.8 months in state jail, minus time in county jail).

⁴ Texas Health and Human Services Commission, Behavioral Health Services, Office of Decision Support, Data request and analysis prepared by Texas Criminal Justice Coalition, September 2017.



A Common-Sense Approach to Expanding Cite and Release

CURRENT PRACTICE LIMITS ADDITIONAL COST SAVINGS AND ACCESS TO COMMUNITY SUPPORTS

Under current Texas statute, law enforcement officials can only issue a citation for certain misdemeanors,¹ excluding other offenses where a citation can be more effective. This increases the number of unnecessary arrests and prosecutions, contributes to local jail churn, and reduces savings for local taxpayers.

Furthermore, current practice limits the use of pre-arrest diversion programs and access to other community-based alternatives and solutions, which are less costly and provide a more effective approach to addressing the needs of people with substance use disorder, mental health issues, and other traumas. Detaining such individuals results in further barriers and hardships that can lead to devastating collateral consequences, while also failing to acknowledge long-term solutions that can better address public safety concerns and overall community health.

KEY FINDINGS

- In the 10 Texas counties with the largest jail populations, their jails are operating at a high capacity (74% on average)² – a burden that could be relieved by fewer arrests and bookings.
- Current cite and release policies are reducing arrests, providing a safe model for expansion. For example, over the first year that Bexar County implemented cite and release, **2,500** individuals were cited rather than arrested, **4,249** officer hours were saved, and over **\$2 million** were saved in booking and prosecution costs alone.³
- Evidence strongly suggests that embracing alternative approaches to issues such as substance abuse will allow more people to seek the help they need, in turn keeping their jobs and housing, and promoting stronger public safety and community health in the long term.⁴

COST-SAVING AND PUBLIC SAFETY-DRIVEN SOLUTION: SUPPORT HB 1388 BY REPRESENTATIVE INA MINJAREZ

- HB 1388 expands the list of citation-eligible offenses to state jail felony drug offenses and other Class A and B misdemeanors, allowing law enforcement more opportunities to utilize a less harmful and less costly alternative to arrest.

Statewide, the impacts would be significant. In 2019 alone, roughly **104,000**⁵ arrests could have been avoided had the offenses included in HB 1388 already been citation-eligible. Approximately **61.5%** of these arrests were drug-related,⁶ reinforcing the need for community-based approaches that help people get back on their feet.

- HB 1388 provides jurisdictions with means to better promote and address public safety and community health through cost savings that can be targeted toward community needs.

Citations on reverse.

Citations

¹ Article 14.06, Code of Criminal Procedure.

² ACLU of Texas, *Texas Jails Data Dashboard*; <https://txjailsdata.org/>. Individual county capacity levels for January 2021: Harris – 83.85%; Dallas – 62.98%; Tarrant – 80.48%; Bexar – 73.47%; El Paso – 77.55%; Travis – 60.68%; McLennan – 73.3%; Lubbock – 83.62%; Smith – 89.21%; Denton – 54.75%.

³ Bexar County District Attorney's Office *Cite and Release Annual Report 2019-2020*; see dashboard: <https://www.bexar.org/3322/Cite-Release>.

⁴ PEW, *More Imprisonment Does Not Reduce State Drug Problems*, March 2018, <https://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2018/03/more-imprisonment-does-not-reduce-state-drug-problems>; See TCJC et al, *Ending the War on Drugs in Travis County, Texas: How Low-Level Drug Possession Arrests are Harmful and Ineffective*, <https://www.texascjc.org/system/files/publications/Report%20-%20Ending%20the%20War%20on%20Drugs%20in%20Travis%20County%20Texas.pdf>.

⁵ Texas Department of Public Safety, *Criminal History Arrest and Conviction Statistics: 2021 – Arrest Stats by Offense (XLSX)*; *County Arrest Records: Arrest Records: 2015 – 2019*, <https://www.dps.texas.gov/section/crime-records-service/crime-records-reports-and-statistical-information>.

⁶ Ibid.



HB 1509: Vote NO on Enhancing Penalties for Individuals with Minor Offenses

HB 1509 enhances the criminal penalty from a Class A misdemeanor to a state jail felony if a person has been convicted four or more times in the past ten years, and at least one of the previous convictions was a felony.

How will HB 1509 impact Texas?

- **Over 26,000 individuals¹ will be unfairly punished by this bill, rather than connected to services that can help them stabilize and live successfully in Texas communities.** Individuals with repeat minor offenses are often struggling with a substance use disorder and/or severe, chronic mental illness. It is problematic to target and punish such individuals as opposed to connecting them to treatment opportunities and other evidence-based interventions within their communities.
- **Harsher punishment is not a proven solution for fixing the issue of minor repeat offenses – meaning this bill will not improve public safety.** Supporters of this bill believe that harsher sentencing will solve the issue of “repeat offending.” Again, this is not an evidence-based solution.
- **Thousands of individuals will enter state jails at significant taxpayer expense.** Enhancing a fifth offense from a Class A misdemeanor to a state jail felony would result in more individuals being pushed deeper into the criminal justice system, with approximately 5,000 people² being incarcerated in a state jail facility, at a potential cost to taxpayers of nearly \$185,000 to \$315,000 per day.³

Vote NO on HB 1509

HB 1509 will **not** solve the issue of individuals committing multiple minor offenses. State leaders must focus on helping people stabilize, access help, and live healthier lives within our communities.

¹ This figure is from a data request to the Texas Department of Public Safety (DPS); data was received by the Texas Criminal Justice Coalition in February 2021. The request asked DPS to calculate the number of Class A misdemeanors during the prior year that would have been enhanced to a state jail felony had this bill been in effect.

² This is an estimate based on knowledge regarding sentencing patterns. Some of the 26,000 individuals would have their cases dismissed or be placed on probation, while about 20 percent (5,200 people) would be sentenced to time in a state jail facility.

³ Legislative Budget Board, *Criminal and Juvenile Justice Uniform Cost Report: Fiscal Years 2019 and 2020*, January 2021, 5-6, https://www.lbb.state.tx.us/Documents/Publications/Policy_Report/6292_CJDA_Uniform_Cost.pdf. Per-day state jails costs are \$36.79 at private facilities and \$62.52 at state-operated facilities; multiplying these figures by 5,000 people equals \$183,950 and \$312,600 in daily costs, respectively.



Improve Safety, Conditions, Accountability, and Efficiency in Adult Corrections Facilities By Establishing an Independent Ombudsman

TDCJ MUST CONTINUE EVOLVING ITS PRACTICES AND CREATE SAFE ENVIRONMENTS FOR REHABILITATION

The Texas Department of Criminal Justice Department (TDCJ) operates not only the largest prison system in any state, but also one of the largest in the world, with more than 122,000 people in custody,¹ 101 facilities,² and an annual budget exceeding \$3.4 billion.³ Yet, no independent entity oversees conditions within Texas prisons.

While TDCJ does have a variety of *internal* monitoring mechanisms, none of these are independent from TDCJ and cannot provide the transparency and scrutiny of an independent oversight body.⁴ Furthermore, none of these internal mechanisms have the focus of correcting issues leading to litigation and ensuring best practices.

IN SHORT

HB 1598 will create an independent oversight ombudsman for TDCJ – saving time and money spent on litigation, and giving lawmakers the tools to make policy and budget decisions.

In the light of recent weather-related scandals, a massive fiscal budget, and a pandemic that has plagued state prisons, the State must take steps to protect the thousands of people working and living in corrections facilities, including through safer and more sanitary conditions. Oversight is imperative.

Reducing the likelihood of expensive litigation isn't just a fiscal matter. The American Bar Association argues that independent oversight allows for the identification and resolution of various problems, resulting in facilities that are safer, that respect the constitutional rights of the individual, and that are better equipped to help people prepare for reintegration into society.⁵

Independent oversight detects systemically overlooked problems, is cost-effective, and can help legislators and the general public make informed decisions.

KEY FINDINGS

- Both staff and incarcerated people within the confines of Texas prisons have tested positive for COVID at rates **490 percent higher** than the Texas public. Fifty-eight percent of the people who died from COVID in Texas prisons were eligible for parole.⁶
- Independent oversight is a common practice. The Texas Juvenile Justice Department,⁷ State Supported Living Centers,⁸ and other agencies that serve vulnerable populations have independent oversight, which has shown great success within their respective agencies.

SUPPORT HB 1598 BY REPRESENTATIVE JARVIS JOHNSON

HB 1598 will create independent oversight of Texas' state corrections system, promoting accountability, providing cost savings, and protecting the rights and well-being of incarcerated individuals and staff. A dangerous lack of transparency impacts not only people who work and live in facilities, but the Legislature, which is denied an independent monitor of prison operations and cannot make informed decisions regarding sentencing and correctional policies.

Citations on reverse.

Citations

- ¹ Texas Department of Criminal Justice, *Statistical Report FY 2019*, 1, https://www.tdcj.texas.gov/documents/Statistical_Report_FY2019.pdf.
- ² Texas Department of Criminal Justice, Unit Directory, https://www.tdcj.texas.gov/unit_directory/.
- ³ Legislative Budget Board, General Appropriations Act FY 2020 – 2021.
- ⁴ Michele Deitch, “The Need for Independent Prison Oversight in a Post-PLRA World,” *Federal Sentencing Reporter*, Vol. 24, No. 4, April 2012, <https://www.equitasproject.org/wp-content/uploads/2018/01/Deitch-The-Need-for-Independent-Prison-Oversight-in-a-Post-PLRA-World-Federal-Sentencing-Reporter-April-2012.pdf>.
- ⁵ American Bar Association, *Resolution 104B: Prison Oversight and Monitoring of Juvenile and Adult Facilities*, 2008, 2, <http://www.abanet.org/crimjust/policy/am08104b.pdf>.
- ⁶ Michele Deitch, “New report reveals the devastating toll of COVID-19 in Texas prisons and jails,” University of Texas at Austin, Lyndon Baines Johnson School of Public Affairs, November 2020, <https://repositories.lib.utexas.edu/bitstream/handle/2152/83635/Profile%20of%20COVID%20deaths%20in%20custody.pdf?sequence=6&isAllowed=y>.
- ⁷ Independent Ombudsman for the Texas Juvenile Justice Department, *First Quarter Report FY 21: September 1, 2020 to November 30, 2020*, <https://www.tjjd.texas.gov/index.php/doc-library/send/645-fiscal-year-2021/2612-fy21q1>.
- ⁸ Office of the Independent Ombudsman for State Supported Living Centers, *2020 Biannual Report: January – June*, <https://sslc-independent-ombudsman.texas.gov/sites/sslc-ombudsman/files/assets/publications/biannual-jan-june-2020.pdf>.

VOTE NO HB 1925

HB 1925 creates a Class C misdemeanor offense for “camping” in public. It also requires jurisdictions to vigorously enforce these Class Cs at the risk of losing state funding.

TRAPPING TEXANS IN POVERTY AND HOMELESSNESS

People who are unsheltered have no way to get to court and pay a \$500 ticket and would receive a warrant for failure to pay. Warrants make it nearly impossible to find employment or housing.

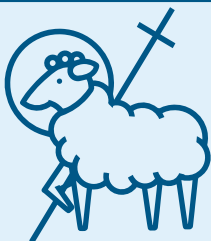


PUBLIC HEALTH CONCERNS

Ending homelessness is a public health issue and should be treated as such. Individuals experiencing homelessness face high rates of chronic mental and physical health conditions, co-occurring disorders, and barriers to care and food.

RACIAL DISPARITIES

13 percent of Texans are Black, but 37 percent of unhoused people in Texas identified as Black in 2020. Criminalizing the unhoused will only increase disparities in the criminal legal system.



FAITH LEADERS OPPOSE CRIMINALIZING HOMELESSNESS

Over 65 faith leaders in Texas have come together to oppose similar measures to criminalize homelessness. They say, “the best pathway toward supporting our unsheltered neighbors is through a community effort to accompany and assist rather than criminalize and isolate.”

DON'T PRIORITIZE CRIMINALIZING HOMELESSNESS OVER PROSECUTING VIOLENT CRIMES

HB 1925 is inhumane and unconstitutional, and is NOT the answer to Texas’ problems with housing insecurity. Vote no to criminalizing unhoused Texans who are simply surviving. Cities should not be forced to choose between prioritizing enforcement of crimes like sexual assault or keeping state grant funding by punishing people for sleeping in public.

INFORMATION SOURCE

Texas Fair Defense Project
ACLU TX
Texas Criminal Justice Coalition
NASW TX
NAMI Texas
Texas Appleseed

**BECAUSE THE MOST
VULNERABLE TEXANS
DESERVE RESOURCES,
NOT A JAIL CELL.**

Vote NO on HB 1925



HB 1925: Vote No on Criminalizing Homelessness in Texas

What is HB 1925?

HB 1925 creates a Class C misdemeanor offense for “camping” in public. A criminal record and fine will make it harder for individuals experiencing homelessness to overcome challenges and come out of homelessness.

How will HB 1925 impact Texas?

It will exacerbate public health concerns. Individuals experiencing homelessness have high rates of chronic mental and physical health conditions, as well as co-occurring disorders. Making it more challenging to overcome homelessness will only expose unhoused people to further trauma and worsen the issue. Already, nearly 8,500 homeless individuals in Texas reported a serious mental illness, substance use disorder, or HIV/AIDS in 2020.¹

It will undermine public safety. People experiencing homelessness are more likely to be victims of violence. This is especially true for women who are unsheltered. In 2020, more than 3,000 individuals experiencing homelessness reported being survivors of domestic violence.² HB 1925 will make unhoused people afraid to call the police for help when they are victims of violence due to fear of being criminalized.

It will disproportionately criminalize Black Texans. There are significant racial disparities among individuals experiencing homelessness: Black individuals account for approximately 13% of the population in Texas,³ but they comprise 37% of unhoused individuals identified in Texas in 2020.⁴

It will undermine local progress. According to the Texas Homeless Network, 120 Texas cities have no city-wide camping bans. Other cities have lenient bans that work with people to find housing. But under HB 1925, all cities would be *forced* to immediately criminalize and punish people in crisis who pose no threat to public safety.

Vote NO on HB 1925

HB 1925 is inhumane, unconstitutional,⁵ and **not** the answer to Texas’s homelessness crisis. We must focus on helping people stabilize, access help, and live self-sufficient lives in our communities.

Citations

¹ Texas Homeless Network (THN), *2020 Annual Report*, 2020, <https://www.thn.org/2020-annual-report/>.

² THN, *2020 Annual Report*.

³ U.S. Census: Quick Facts, *Population Estimates*, 2019, <https://www.census.gov/quickfacts/TX>.

⁴ THN, *2020 Annual Report*.

⁵ The Eighth Amendment to the United States Constitution forbids cruel and unusual punishment, which the United States Supreme Court has ruled includes criminalizing people for their status. *Robinson v. California*, 370 U.S. 660 (1962). This can include the status of being homeless, meaning that bans against sleeping outside are unconstitutional if people have no other options and the shelters are full. See *Powell v. Texas*, 392 U.S. 514, 551 (1968) (White, J. concurring); *Johnson v. City of Dallas*, 860 F. Supp. 344, 350 (N.D. Tex. 1994), *rev'd in part on other grounds*, *Johnson v. City of Dallas, Tex.*, 61 F.3d 442 (5th Cir. 1995) (“Eighth Amendment scrutiny on the facts before the Court does not bode well for the sleeping in public ordinance. It should be a foregone conclusion that maintaining human life requires certain acts, among them being the consuming of nourishment, breathing and sleeping.”); *Martin v. City of Boise*, 920 F.3d 584, 617 (9th Cir. 2019), cert. denied sub nom. *City of Boise, Idaho v. Martin*, 140 S. Ct. 674 (2019) (“as long as there is no option of sleeping indoors, the government cannot criminalize indigent, homeless people for sleeping outdoors, on public property, on the false premise they had a choice in the matter.”).



Texas Prisons Must be Better Prepared for Declared Disasters

The Texas Department of Criminal Justice (TDCJ) operates not only the largest prison system in any state, but also one of the largest in the world, with more than 122,000 people in custody,¹ 101 facilities,² and an annual budget exceeding \$3.4 billion.³ Preparing such a large system for an emergency requires constant attention and forethought, including adequate planning mechanisms not currently in place.

After Hurricane Harvey hit Texas in 2017, lack of proper planning caused TDCJ to violate a federal order and place incarcerated individuals with heat sensitivities in a prison declared unsafe due to dangerous sustained heat levels.⁴ Reports from Winter Storm Uri in February 2021 reveal a similar picture: incarcerated people secured in their cells with as little as one small bottle of drinking water per day, and plumbing outages that caused bodily waste to build up.⁵ Furthermore, as temperatures stayed below freezing for multiple days, many individuals resorted to burning paper and hygiene supplies to stay warm when extra blankets were not made available. Correctional staff also report being told by their leadership that they could not leave their facilities without being terminated, even as the disaster continued and items like medical supplies, soap, and other hygiene products disappeared. Two female officers with TDCJ reported being forced to work while they bled through their clothing.⁶ **It is in these stories of forced suffering that we see the separation between prison conditions and the grief that other Texans suffered during this disaster.**

SOLUTION: SUPPORT HB 2331 BY REPRESENTATIVE CORTEZ

Texas must ensure that TDCJ has a proper emergency management plan in place before another disaster strikes.

- **HB 2331 creates an advisory board that can help safeguard against issues like insufficient hygiene and protective equipment, extended lockdowns, and gaps in proper healthcare for incarcerated individuals and correctional staff during disasters.** The advisory board – which will include representatives of TDCJ, the Texas Parole Board, the Department of State Health Services, previously system-impacted people, and other experts – will provide TDCJ and the Texas Parole Board with recommendations to inform an emergency response plan.
- **HB 2331 will create procedures governing the release of individuals on parole during declared disasters.** The emergency response plan will specify criteria to be considered by a parole panel in release decisions, including age, pregnancy status, assigned programming completion, and the ability to complete programming once released. The plan will also specify procedures for parole officers and community providers to provide classes and programming, as well as procedures authorizing the use of funds to provide housing vouchers or payments for alternative housing providers to ensure temporary post-release housing. During any declared disaster, the Parole Board will be required to implement an expedited parole approval process.

Releasing parole-eligible people during disasters will save lives and countless dollars that could instead be used to bolster the emergency preparedness of all TDCJ facilities.

Citations on reverse.

Citations

¹ Texas Department of Criminal Justice, *Statistical Report FY 2019*, 1, https://www.tdcj.texas.gov/documents/Statistical_Report_FY2019.pdf.

² Texas Department of Criminal Justice, Unit Directory, https://www.tdcj.texas.gov/unit_directory/.

³ Legislative Budget Board, General Appropriations Act for the FY 2020-21 Biennium, https://www.lbb.state.tx.us/Documents/GAA/General_Appropriations_Act_2020_2021.pdf.

⁴ Gabrielle Banks, "Texas prisons take hit from Harvey, complaints of water, sewage problems surface," *Houston Chronicle*, September 4, 2017, <https://www.chron.com/news/houston-texas/article/Texas-prisons-take-hit-from-Harvey-complaints-of-12172438.php#taboola-2>.

⁵ Madison Pauly, "'It's Terrifying, It's Almost Crippling': Texas Jails and Prisons Are Freezing Over," *Mother Jones*, February 19, 2021, <https://www.motherjones.com/crime-justice/2021/02/its-terrifying-its-almost-crippling-texas-jails-and-prisons-are-freezing-over/>.

⁶ Arya Sundaram, "Clogged Toilets, Snow inside: How the Winter Storm Exacerbated Problems in Texas Lock-Ups," *Texas Observer*, February 25, 2021, <https://www.texasobserver.org/clogged-toilets-snow-inside-how-the-winter-storm-exacerbated-problems-in-texas-lock-ups/>.

HB 2384: The Community Supervision Success Plan

PROBATION SUCCESS RATES VARY FROM COUNTY TO COUNTY, WITH NO INCENTIVE TO IMPROVE

Community supervision (probation) success rates vary widely across Texas, with some courts achieving a 70 percent completion rate among those on felony supervision, and other courts' rates falling as low as 30 percent.¹ The wide variance in unsuccessful completion rates results in more than 20,000 people being revoked from probation and sent to prison each year,² **costing the state \$1.3 million per day.**³

IN SHORT

HB 2384 ties probation grant funding to the utilization of probation best-practices, which will facilitate higher probation success rates across Texas.

Texas' decentralized probation system may be a contributor to these inconsistent outcomes: 123 independent community supervision and corrections departments (CSCDs) are accountable to county and district courts in the region.⁴ Aside from enforcing minimum standards, the state does not regulate policies with regard to revocations – respecting the discretion of the courts.⁵ As a result, courts differ widely in how they supervise probation clients and handle violations.

Despite the lack of uniform standards and varying success rates, CSCDs receive substantial state funding through the Community Justice Assistance Division (CJAD) of the Texas Department of Criminal Justice; in FY 2021, that funding exceeded \$240 million.⁶ **CSCDs with high success rates receive the same basic allocation from the state as those with low success rates**, resulting in little incentive for low-performing departments to achieve higher success rates.

KEY FINDINGS

- In 2019, a vast number of Texas counties saw probation failure rates well above the state average; in certain counties, 70 percent of those revocations were not for new crimes but for “technical” violations of probation conditions (e.g., a missed appointment with a probation officer, inability to pay restitution, traveling outside of a strict geographical boundary).⁷
- Factors associated with high revocation rates include technical violations, overly-long supervision terms, lack of standard guidance for courts and probation departments on when to revoke a person to incarceration, lack of resources to address substance use disorders, and fees that create an insurmountable cost burden to clients.⁸
- Counties with higher probation success rates focus their efforts on case management and tailor interventions to meet the needs of clients, whereas counties with lower probation success rates focus on surveillance, and judges are less likely to have a conversation with the probationer regarding a revocation decision.
- A current probation client in a low-performing county shared that, within 8 months, she had been transferred five times to a different officer's caseload due to officer turnover, and each officer had a different approach to probation. And like many others, this client admits that it is easier to complete a jail sentence than successfully complete probation.⁹

COST-SAVING AND PUBLIC SAFETY-DRIVEN SOLUTION: SUPPORT HB 2384 BY REPRESENTATIVE SHERMAN, SR.

This bill aims to improve probation success rates across Texas by leveraging best-practices from counties with high success rates. The “community supervision success plan” includes the following components:

1. CJAD will create an annual report for judges containing judges’ rate of probation completions in relation to other courts and the state as a whole, helping to inform decision-making around needed improvements.
2. CJAD will award grant funding to probation departments and judges with higher-than-average success rates, enabling them to provide training and technical assistance to other departments and courts to help them increase their success rates.
3. With grant funding, probation departments can hire Certified Peer Support Specialists, Certified Recovery Coaches, and Certified Reentry Support Specialists to help individuals successfully complete all probation requirements, prevent revocation, and provide relapse prevention support.
4. CJAD will allow probation departments to implement a “caseload reduction program” so probation officers can prioritize clients with a higher risk of recidivism and reduce their overall caseload.

Citations

¹ Texas Department of Criminal Justice (TDCJ), *FY 2019 Probation Fact Sheet*, received from TDCJ in June 2020. Methodology: examined the number of felony community supervision terminations each year for each Community Supervision and Corrections Department. The proportion of those terminations that were successful constituted the probation success rate.

² Community Justice Assistance Division (CJAD), *Report to the Governor and the Legislative Budget Board on the Monitoring of Community Supervision Diversion Funds*, December 1, 2019, https://www.tdcj.texas.gov/documents/cjad/CJAD_Monitoring_of_DP_Reports_2019_Report_To_Governor.pdf.

³ Legislative Budget Board, *Criminal and Juvenile Justice Uniform Cost Report Fiscal Years 2019 and 2020*, January 2021, https://www.lbb.state.tx.us/Documents/Publications/Policy_Report/6292_CJDA_Uniform_Cost.pdf. Methodology: It costs \$64.35 per day to incarcerate an individual; multiplying \$64.35 by 20,363 (the number of annual felony probation revocations resulting in a prison sentence) totals \$1.3 million per day.

⁴ TDCJ, *Community Supervision and Corrections Department Directory*, https://www.tdcj.texas.gov/documents/CSCD_directory.pdf.

⁵ TDCJ-CJAD, *Enforcing Standards/Guidelines*, <https://www.tdcj.texas.gov/divisions/cjad/standards.html>.

⁶ Legislative Budget Board, *General Appropriations Act for the 2020-21 Biennium*, TDCJ budget Goal A: Provide Prison Diversions, 594, https://www.lbb.state.tx.us/Documents/GAA/General_Appropriations_Act_2020_2021.pdf.

⁷ TDCJ, *FY 2019 Probation Fact Sheet*, received from TDCJ in June 2020.

⁸ Cecelia Klingele, “Understanding Revocation from Community Supervision,” last modified July 2019, <https://repository.law.wisc.edu/s/uwlaw/media/303570>.

⁹ Texas Criminal Justice Coalition interview with current probationer, October 2020.



HB 2754: Improve Reentry Outcomes and Increase Public Safety Through Housing Vouchers

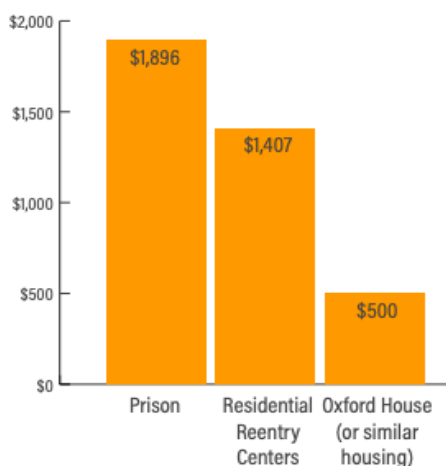
REENTRY IN ITS CURRENT STATE

Typically, the Texas Department of Criminal Justice (TDCJ) does not determine whether a parole-eligible individual has a housing plan until they are approved for release. **People approved for parole who have no housing plan must wait in prison for months or even more than a year for an available bed in a residential reentry center (RRC).** Texas only has 2,000 state-funded RRC beds in eight facilities throughout the state, all operated by private prison corporations.¹

IN SHORT

HB 2754 will expand opportunities for safe housing options for people approved for parole, establish a task force to aid in this effort, and save Texans money.

AVERAGE MONTHLY COST PER PERSON



Because of the bed scarcity, parolees placed into RRC's are often far from their familial support systems. Also problematic, RRC's are widely known not to provide an environment conducive to successful reentry, yet **Texas spends more than \$35 million each year on RRC beds.**² The state's investment in these centers becomes more troubling when one considers that **it could provide monthly housing stipends during the reentry period to more than double the number of people housed in RRCs.**³ Indeed, high-quality,⁴ alternative housing options such as Oxford Houses start around \$500 per month.⁵

HB 2754 provides a key opportunity to expand housing options, improve standards, and reduce costs.

SUPPORT HB 2754 BY REPRESENTATIVE ALLEN

HB 2754 gives individuals leaving a prison an opportunity for better outcomes.

- This bill establishes the Reentry Housing Task Force to set standards for reentry housing, helping to elevate alternative housing options to national best practices.
- The bill requires TDCJ to identify people without a housing plan well before discharge or parole release, which will enable the agency to connect individuals to housing rather than hold them in prison for months waiting for an RRC bed.
- This bill also requires TDCJ to seek grants to expand the use of temporary post-release housing vouchers to reduce wait times, and to evaluate outcomes of those placed into housing that meets the standards developed by the Task Force.
- This bill requires TDCJ to annually report on its efforts to find post-release housing, reduce the length of time between parole approval and release, and expand post-release housing options in local communities.

Citations on reverse.

Citations

¹ Texas Department of Criminal Justice Parole Division, *Directory – Residential Reentry Centers*, https://www.tdcj.texas.gov/divisions/pd/halfway_houses.html.

² Legislative Budget Board, *General Appropriations Act for the 2020-21 Biennium*, https://www.lbb.state.tx.us/Documents/GAA/General_Appropriations_Act_2020_2021.pdf.

³ Costs were based on an estimated monthly housing voucher of \$500 multiplied by 4,000 parolees, then by 12 months. The number of people the state could house through housing vouchers may be much higher when considering the variance in monthly rental costs by city.

⁴ Leonard Jason and Joseph Ferrari, "Oxford House Recovery Homes: Characteristics and Effectiveness," *Psychological Services*, 2010, Vol 7, No. 2, 92–102, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2888149/>.

⁵ Oxford House, Inc., *OXFORD HOUSE™ AND TEXAS: A Comprehensive Survey Report on the Network of Texas Oxford Houses and their Residents*, December 17, 2015, https://oxfordhouse.org/userfiles/file/doc/eval_tx2015.pdf. This survey reports an average monthly cost of \$500 for residency at Oxford House.



Placement into Texas' In-Prison Therapeutic Community Should Be Based on Clinical Assessment Criteria

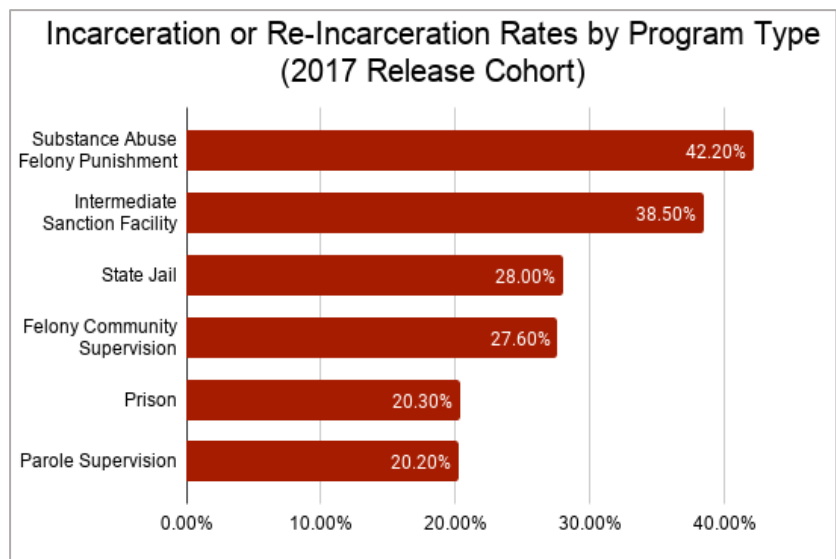
PLACEMENT INTO THE SAFP PROGRAM VIA A PLEA AGREEMENT IS COSTLY AND INEFFECTIVE

Texas spends \$50 million per year on its Substance Abuse Felony Punishment (SAFP) program,¹ the state's in-prison substance use treatment program for people at risk of probation or parole revocation due to repeated drug or alcohol use. However, the SAFP program has a recidivism rate of 42.2% – higher than rates of (re)incarceration following other terms of supervision or incarceration.²

Currently, individuals can be placed into SAFP programming via a plea agreement. In other words, the program services individuals who have not been clinically assessed for alcohol or substance use disorder(s). The lack of a standardized screening and selection process prior to SAFP placement means that taxpayers are wasting money on resources for individuals who do not need this level or type of treatment.

KEY FACTS

- **There is no clinical assessment required for placement into the SAFP program.** It is likely that its high recidivism rate is heightened by the placement of individuals who do not meet criteria for the type and level of treatment services being provided.
- The SAFP program takes an individual anywhere from **9 to 12 months to complete** (6 to 9 months for the in-prison portion, and 3 or more months for aftercare).³ If individuals are not an appropriate fit for the program, it is unlikely they will successfully navigate this lengthy treatment process.
- A 2021 report by the state's Legislative Budget Board found that SAFP programming has the **highest percentage of individuals who are incarcerated or re-incarcerated within three years of release** compared to felony community supervision, prison, state jail, intermediate sanction facilities, and parole supervision.⁴



COST-SAVING AND PUBLIC SAFETY-DRIVEN SOLUTION: SUPPORT HB 2791 BY REPRESENTATIVE JARVIS JOHNSON

HB 2791 only permits SAFP program placement as part of a plea agreement if the judge finds that the person is a suitable candidate for treatment based on an established screening and assessment. This policy change will reduce the rate of misplacement into the program, as well as the corresponding misallocation of resources towards unnecessary treatment, in turn saving taxpayer dollars.

Citations on reverse.

Citations

¹ General Appropriations Act for the 2020-21 Biennium, Department of Criminal Justice, Strategy C.2.4, https://www.lbb.state.tx.us/Documents/GAA/General_Appropriations_Act_2020_2021.pdf.

² Legislative Budget Board (LBB), *Statewide Criminal and Juvenile Justice Recidivism and Revocation Rates*, January 2021, 6, https://www.lbb.state.tx.us/Documents/Publications/Policy_Report/6293_CJDA_Recidivism-Revocation.pdf.

³ Texas Department of Criminal Justice, *Rehabilitation Programs Division: Substance Use Treatment Program*, https://www.tdcj.texas.gov/divisions/rpd/substance_abuse.html.

⁴ LBB, *Statewide Criminal and Juvenile Justice Recidivism and Revocation Rates*.

REUNITE TEXAS FAMILIES

Reduce the burden on Texas' foster care system and improve outcomes for children by creating a pathway to reinstate parental rights

HB 2926

Full fact sheet and citations available from Texas Criminal Justice Coalition at bit.ly/3ePrfuM

Children are the hidden victims of a state that relies too heavily on incarceration. When the state removes a child from a parent, the parent has 12 months to create a stable environment to welcome the child back into the home. Some parents are unable to meet these conditions solely as a result of incarceration. Because 81 percent of incarcerated women in Texas are mothers, the termination of parental rights is a common unintended consequence of incarceration.



22 other states already allow for reinstatement of parental rights for those whose rights were terminated as a result of incarceration.

1,200

Number of children who age out of the foster care system every year in Texas

41

Percent of emancipated youth who spend time in jail within 6 months of leaving the foster care system

5,000

Number of children separated from parents whose rights were terminated in 2018

Texas can create a pathway to family reunification for children whose parents have experienced incarceration.

Support HB 2926 in Senate State Affairs on May 17, 2021.

HB 2926 will create a clear and accessible path to family reunification for parents who can demonstrate that they have done the work necessary to provide for the best interests of their children.

Family reunification after incarceration reduces recidivism rates for mothers. In fact, research shows that family is the most important factor in helping formerly incarcerated individuals stay out of jail or prison.

Creating a path to reunification has the potential to save taxpayer dollars. The burden facing the foster care system could be lifted by allowing children to return to safe and stable homes following a parent's reentry.





Limit School Resource Officers from Using Restraints On Kids Under 10 Years Old

By Alycia Castillo, Policy Analyst
April 2021

HARSH DISCIPLINARY PRACTICES ARE DAMAGING TO VERY YOUNG CHILDREN

School Resource Officers (SROs) are on-campus law enforcement officers in schools. Although these officers are ostensibly placed in schools for student safety, excessive SRO responses often lead to the criminalization of students. Harsh responses to typical behaviors are harmful to young children for a number of reasons:

- Expulsion and suspension for young children leads to [high rates](#) of expulsion and suspension later in school.
- Labeling young children as in need of harsh discipline has [lasting detrimental effects](#) on their social-emotional learning. It also creates a negative lens through which teachers and administrators view them.
- Early negative impacts on social-emotional learning have been shown to create [negative outcomes](#) later in life, in areas including unemployment, criminal activity, substance use, and mental and physical health issues.

Harsh disciplinary practices often reflect [racial and other biases](#). Although Black students comprise 15 percent of students nationally, they represent 31 percent of students referred to law enforcement or arrested. Although just 12 percent of the student population has special needs, these students represent a quarter of referrals to law enforcement or school-related arrests.

[HB 2975 \[Hull\]](#) would provide guidelines for SROs, limiting their ability to use restraints on children 10 years old or younger “unless the student poses a serious risk of harm to the student or another person.” This would prevent trauma for young children in public schools without jeopardizing a safe educational environment.

ONE FAMILY’S STORY: A 7-YEAR-OLD BOY WITH AUTISM HANDCUFFED AT SCHOOL IN SAN ANTONIO

In September 2019, 7-year-old Joey (pseudonym) was handcuffed and taken to the hospital. After he had experienced an over-stimulation-based outburst in the classroom, administrators had attempted to call his dad, but they misdialed his number. The administrators then called the police. They later reached Joey’s dad, who asked to take him home. Police refused and took Joey to a nearby hospital for evaluation, where he was promptly released into his father’s custody. Ever since, Joey has expressed fears of being arrested in the future.

“Handcuffs should never be used on a small child, especially for a child with mental disabilities – they’re confused; they don’t know what is happening when they’re placed in handcuffs and taken away in a police car,” Joey’s mom said. *“I’m terrified for him. If this is what police will do to him as a 7-year-old, what will they do when he’s twelve? Sixteen? He has a right to an education, but he’s being stripped of his right when he isn’t accommodated or helped in these situations.”*





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FACT SHEET 2021

HB 3334

Increase Transparency and Accountability With a Statewide Criminal Justice Sentencing Database

LACK OF DATA ON INDIVIDUAL JUDGES LEAVES VOTERS UNABLE TO ASCERTAIN JUDICIAL PERFORMANCE

Despite being in the majority of states that chooses their judges by election,¹ Texas voters have rarely been provided with information relevant to the performance of elected judges. Though the state's Office of Court Administration (OCA) collects and reports 68 data points from the district courts in each of Texas' 254 counties, that data does not allow users to identify individual courts and judges.

HB 3334 fills a major gap in publicly available judicial data by creating a statewide criminal justice sentencing database. Providing this data to the public will better allow for voters to objectively evaluate judicial candidates on their policies and performance and compare judges both within and outside of their home counties. Such a database will also allow for the identification of judges that are overly reliant on extended periods of incarceration, which waste valuable resources and the tax dollars of all Texas residents.

IN SHORT

HB 3334 promotes transparency in Texas' court system by creating a centralized database for sentencing data. Since the availability and quality of court data varies by jurisdiction, this bill ensures that reliable data on sentencing is accessible to the public so that judges can be held accountable for their sentencing decisions.

The election of criminal court judges is a long-standing tradition in Texas. HB 3334's statewide sentencing database is a resource that will promote government transparency and judicial accountability while giving Texas voters access to the relevant information necessary to make informed choices in the voting booth.

KEY FINDINGS

- Texas' Office of Court Administration (OCA) currently has a Court Activity Database that collects basic information for the district courts in each of Texas' 254 counties.² Though the OCA's reports shine light on court function in each Texas county, they do not separate statistics based on individual judges.³
- Absent individual judicial statistics, voters are unable to make informed decisions about the performance of judges and judicial candidates. Creation of a criminal justice sentencing database solves this problem while promoting government transparency, judicial accountability, and responsible allocation of state resources.

HELP TEXAS VOTERS GET INFORMED ABOUT JUDGES: SUPPORT HB 4189 BY REPRESENTATIVE ALLEN

HB 3334 increases access to information for the public. Specifically, it requires the Office of Court Administration to:

- Collect, compile, and analyze data on the sentencing of each defendant, to include the court and presiding judge, offense category, and sentence imposed.
- Create a database with de-identified sentencing data, searchable by judge, which will increase public transparency and enhance the voting public's ability to hold elected criminal court judges accountable.

Citations on reverse.

Citations

¹ National Center for State Courts, *Methods of Judicial Selection*,

http://judicialselection.us/judicial_selection/methods/selection_of_judges.cfm?state=. Accessed April 5, 2021.

² The Texas Office Of Court Administration, *Court Activity Reporting and Directory System*, <https://card.txcourts.gov/>. Accessed April 5, 2021.

³ Id.

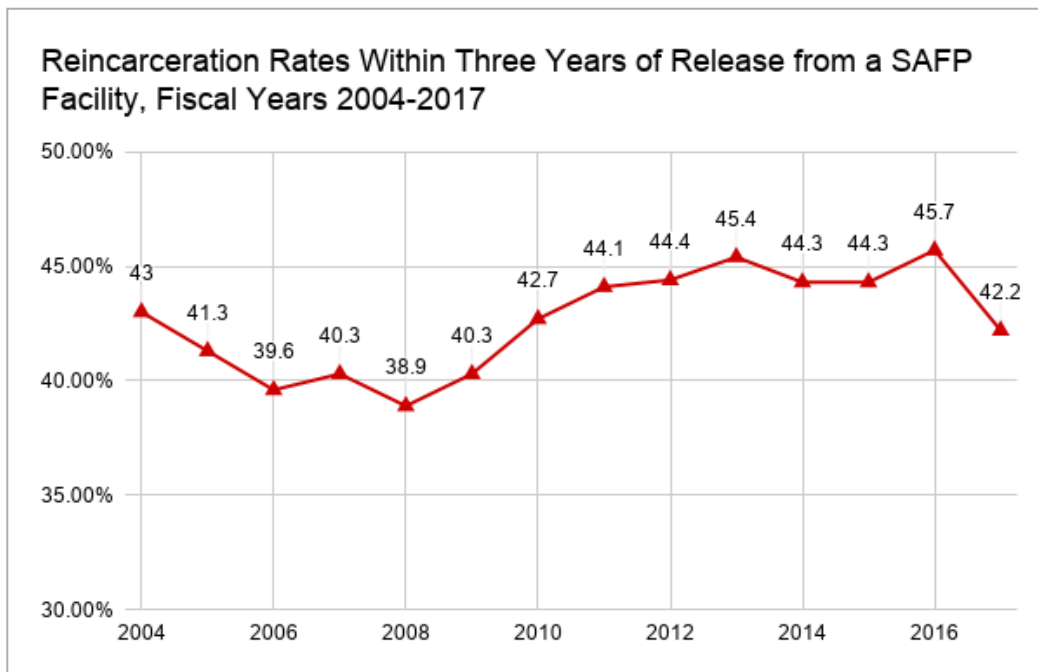


Improve Texas' In-Prison Therapeutic Community Through Outcome Reporting and Transparency Measures

THE SAFP PROGRAM MODEL HAS NOT BEEN INDEPENDENTLY EVALUATED IN 20 YEARS

Texas spends \$50 million per year on its Substance Abuse Felony Punishment (SAFP) program,¹ the state's in-prison substance use treatment program for people at risk of probation or parole revocation due to repeated drug or alcohol use. However, the SAFP program has a recidivism rate of 42.2% – higher than rates of (re)incarceration following other terms of supervision or incarceration.²

And the rate of re-incarceration following SAFP programming has been climbing over time. In looking at individuals released from SAFP facilities from 2008 to 2016, and measuring re-incarceration over the following three years, the rate grew from 38.9 percent³ to 45.7 percent.⁴ **SAFP programs have increasingly failed to address clients' needs or provide them the tools to live successfully in the community.**



Also problematic, the SAFP program has not been independently evaluated in 20 years. **The lack of examination and course correction have likely contributed to the program's increasingly high failure rate,** which harms public safety and wastes taxpayer dollars associated with re-arrest and incarceration.

HEAR FROM THEM: SAFP PROGRAM CLIENTS

In 2020, the Texas Criminal Justice Coalition partnered with Texas Tech University to design and implement a multi-phase independent SAFP program evaluation. Through our research to date, we have pinpointed a few areas that, if improved, would strengthen the SAFP program model, as well as the treatment services offered to clients in SAFP and aftercare facilities.

Continued on reverse.

1. **Long periods of non-therapeutic-focused programming led clients to feel like they were missing out on opportunities to concentrate on rehabilitation.** The majority of research participants mentioned sitting upright in chairs with their hands on their lap, without moving, unless they were excused to use the bathroom or eat meals.
 - *“We spent months on what they called a ‘shut down,’ where we sat in chairs for 14 hours a day with our hands on our laps. And I watched a lot of women break. They just couldn’t take the stress of that.”*
2. **Clients were more engaged in substance use treatment when they were receiving clinical therapeutic services from counselors who seemed invested in their recovery – but that happened infrequently.** An overwhelming number of clients mentioned limited access to one-on-one counseling; furthermore, group therapy sessions, which were large, were run not by counselors but by peers, leading some clients to feel uncomfortable sharing their experiences.
 - *“There were about thirty people in weekly group therapy sessions, which meant I usually didn’t get to talk at all. We had individual therapy once a month.”*
3. **The transition from the SAFP program to transitional housing is abrupt, and clients feel unprepared to reenter the community.** Numerous clients expressed identical barriers to reentry, including an inability to obtain meaningful employment, being taken to transitional housing far from their home, living in areas with no public transportation, and lacking appropriate shoes and clothing.
 - *“They focus on reentry status once they get you to the halfway house. There was no focus on job skills or interviews or how to deal with the collateral consequences.”*

COST-SAVING AND PUBLIC SAFETY-DRIVEN SOLUTION: SUPPORT HB 4102 BY REPRESENTATIVE JARVIS JOHNSON

HB 4102 seeks to improve in-prison substance use treatment and aftercare programming through outcome reporting and transparency, which will lead to more effective outcomes, increased public safety, and taxpayer savings. This bill: requires the Texas Department of Criminal Justice to produce an annual, publicly available report on SAFP and aftercare program participation, as well as recidivism rates for SAFP and aftercare programs; requires the curricula used in these programs to be evidence-based and trauma-informed; and calls for regular, independent evaluation of SAFP and aftercare program effectiveness.

Citations

¹ General Appropriations Act for the 2020-21 Biennium, Department of Criminal Justice, Strategy C.2.4, https://www.lbb.state.tx.us/Documents/GAA/General_Appropriations_Act_2020_2021.pdf.

² Legislative Budget Board (LBB), *Statewide Criminal and Juvenile Justice Recidivism and Revocation Rates*, January 2021, 6, https://www.lbb.state.tx.us/Documents/Publications/Policy_Report/6293_CJDA_Recidivism-Revocation.pdf. The SAFP program has the highest percentage of individuals who are incarcerated or re-incarcerated within three years of release compared to felony community supervision, prison, state jail, intermediate sanction facilities, and parole supervision.

³ LBB, *Statewide Criminal and Juvenile Justice Recidivism and Revocation Rates*, January 2013, 42, https://www.lbb.state.tx.us/Documents/Publications/Policy_Report/Statewide%20Criminal%20Justice%20Recidivism%20and%20Revocation%20Rates2012.pdf.

⁴ LBB, *Statewide Criminal and Juvenile Justice Recidivism and Revocation Rates*, January 2021, 14.



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FACT SHEET 2021

HB 4189

Help Incarcerated Women Return Successfully to Our Communities

PROGRAM ACCESSIBILITY AND EXPANSION WILL GIVE MORE WOMEN A FAIR SHOT ON REENTRY

Texas' 86th Legislature took strong first steps to expand in-prison programming for women. Specifically, HB 3227 required the Texas Department of Criminal Justice (TDCJ) to develop and implement policies that would increase and promote women's access to educational, vocational, substance use treatment, rehabilitation, life skills training, and pre-release programs.¹

Now, the Legislature must take the next step and ensure that programming is fully accessible, including in state jails. Women report a limited number of spaces in new programs; for instance, the new EWOP (Empowered Women of Purpose) and STRIVE (Strength Through Restoration, Independence, Vision and Empowerment) programs are critical for women's successful reentry, but they are only offered at two women's units. Furthermore, women are still restricted from obtaining master's degree-level education courses, which are available to men in TDCJ.

IN SHORT

HB 4189 will help more women access in-prison rehabilitative programs and give them the same opportunities as men to take master's level education courses. This will ensure that women are strong workforce candidates on reentry, which will help them support their families and will reduce the likelihood of re-offending.

Success on reentry is built on stability, with education and job skills being a crucial component. We must equip women with the tools to live safe, productive, self-sustaining lives in the community. Doing so will stop the cycle of re-offending and re-incarceration that comes at great expense to taxpayers, families, and communities.

KEY FINDINGS

- As of February 2021, nearly 8,500 women were incarcerated in TDCJ.²
- Women face unique challenges when they are released from prison. Like all women, they are more likely to be providers and caregivers, whether to children, parents, or other family. In Texas, 81% of women in prison are mothers (versus 62% nationally).³
- In a survey by the Texas Criminal Justice Coalition of incarcerated women in Texas, 65% had not graduated from high school or obtained a GED, with 35% completing less than 12th grade before entering TDCJ, and 11% not completing higher than 8th grade.⁴
- The EWOP program combines a strong educational curriculum with a proven re-entry strategy – providing a certificate of entrepreneurship from the Wolff Center for Entrepreneurship at the University of Houston upon completion. Its goal for 2021 was to recruit 100 women participants.⁵

The STRIVE program provides gender-responsive, trauma-informed programming, career readiness skills, employment referrals, post-release supervision, and community support. But this class is just 12 weeks long and had only 31 women in its inaugural class.⁶

Continued on reverse.

COST-SAVING AND PUBLIC SAFETY-DRIVEN SOLUTION: SUPPORT HB 4189 BY REPRESENTATIVE ALLEN

HB 4189 increases access to and expands programming to meet the needs of incarcerated women. Specifically, it requires the Texas Department of Criminal Justice to:

- Develop and implement policies that require each facility to make certain programs – including parenting classes, as well as educational, vocational, substance use treatment, rehabilitation, life skills training, and prerelease programs – available and accessible to incarcerated women within 45 days of arriving at the facility.
- Ensure incarcerated women have access to the same program opportunities, including master's level education courses, that are available to incarcerated men.

The expansion of programs to all units, including state jails, will create an equal playing field of success upon reentry – better equipping women to support their families, while reducing the likelihood of re-offending and lowering costs associated with repeated justice system involvement.

Citations

¹ House Bill 3227 (Reps. Howard, Jarvis Johnson, Allen, White; sponsor: Sen. Huffman), *Relating to the availability of and access to certain programs and services for persons in the custody of the Texas Department of Criminal Justice*, 86th Texas Legislature, <https://capitol.texas.gov/BillLookup/history.aspx?LegSess=86R&Bill=HB3227>.

² Texas Department of Criminal Justice, *High Value Data Sets*, accessible here: https://www.tdcj.texas.gov/kss_inside.html.

³ Texas Criminal Justice Coalition (TCJC), *Data on Women in Texas' Justice System*, <https://www.texascjc.org/data-women-texas-justice-system#:~:text=Women%20in%20TDCJ%20are%20far,68%25%20of%20men>.

⁴ TCJC, *An Unsupported Population: The Treatment of Women in Texas' Criminal Justice System*, April 2018, 6, <https://www.texascjc.org/system/files/publications/TCJC%20Womens%20Report%20Part%202.pdf>.

⁵ Empowered Women of Purpose, *The Program*, <https://www.ewoptx.org/the-program.html>.

⁶ Jolie McCullough, "New Texas prison program aims to help women leave the system with jobs waiting for them," *Texas Tribune*, September 25, 2019, <https://www.texastribune.org/2019/09/25/texas-prison-program-help-women-reenter-society-jobs-waiting-them/>.



**TEXAS CRIMINAL
JUSTICE COALITION**

WRITTEN TESTIMONY

SUBMITTED BY

**ALYCIA CASTILLO, POLICY ANALYST
ILANA BLUMSTEIN AND TEMITOPE BANJO, POLICY ASSOCIATES
TEXAS CRIMINAL JUSTICE COALITION**

IN SUPPORT OF

HB 4371

To

THE HOUSE COMMITTEE ON JUVENILE JUSTICE & FAMILY ISSUES

APRIL 19, 2021

Dear Chair Neave and Members of the Juvenile Justice & Family Issues Committee,

We appreciate this opportunity to provide written testimony in support of HB 4371, omnibus legislation that would **raise the floor for juvenile jurisdiction, raise the age of adult criminal jurisdiction**, and make key **juvenile probation changes that will help make “raise the age” feasible for Texas**.

For years, the Texas Criminal Justice Coalition has been closely monitoring the state’s juvenile justice system. As an organization, we analyze systems that intersect with youth justice and promote strategies that reduce justice system involvement while addressing root causes of crime, increasing public safety, and saving taxpayers money. We believe in the power of rehabilitation over punishment, and we understand that criminalizing children between the ages of 10 and 12, as well as charging children aged 17 as adults, is traumatizing, unfair, and ineffective.

It is crucial for Texas to undertake the broad, holistic reform needed to ensure that the juvenile justice system works as effectively as possible, and to reform the juvenile probation system and limit the number of children coming into contact with the Texas Juvenile Justice Department (TJJD) altogether.

HB 4371 by Rep. Allen would make three major shifts:

- Raise the age of adult criminal jurisdiction from 17 to 18.
- Raise the floor of juvenile jurisdiction from 10 to at least 12.
- Update probation practices to align with the “Texas Model.”¹

RAISE THE AGE OF ADULT CRIMINAL JURISDICTION FROM 17 TO 18

Raising the automatic age of adult criminal jurisdiction will start kids off in the juvenile system but give judges the discretion to transfer kids with the most serious offenses to the adult system on a case-by-case basis.

This is centered on rehabilitation. Successfully implementing this reform would enable 17-year-olds to receive rehabilitative services in juvenile facilities that are more suitable and better designed to meet their individualized needs, rather than exposing them to the traumas in adult correctional facilities. Juveniles housed in adult facilities are five times more likely to become victims of sexual assault and are 50 percent more likely than their adult counterparts to be attacked with a weapon. Juveniles are also 36 times more likely to commit suicide in an adult jail.²

This will reduce re-offending. This reform would prevent 17-year-olds – for whom 95 percent of arrests are for nonviolent and misdemeanor offenses³ – from receiving an adult criminal record, which could create further trauma and other hardships, including challenges finding employment and housing, accessing education, and maintaining financial stability; these are risk factors that increase the chance of re-offending and prolong justice system involvement.⁴ In fact, treating 17-year-olds as children is predicted to lower their likelihood of re-offending by 34 percent.⁵

This will save taxpayers money. Per one study, a “raise the age” reform would result in a net benefit of \$88.9 million for each cohort of 17-year-olds moved to the juvenile justice system.⁶

This will bring Texas in line with 47 other states. Texas is one of just three states left that automatically charges 17-year-olds as adults for criminal purposes,⁷ while the vast majority have already implemented policies that treat juveniles in a fair and effective manner, enabling kids to be treated as kids. Now is a timely point at which to consider a “raise the age” reform: Since 2007, the number of youth detained in the five remaining facilities decreased from 5,000 to less than 1,000.⁸ And, crucially, reports from other states that have recently raised the age have not shown evidence that such a policy change has overwhelmed their juvenile systems.⁹

RAISE THE FLOOR OF JUVENILE JURISDICTION FROM 10 TO AT LEAST 12

Raising the minimum age of delinquency will keep very young children out of corrections facilities.

This will reduce re-offending and target funding toward higher-needs youth. According to a study conducted by an MIT economist, 40 percent of youth who are detained under 12 are re-arrested before the age of 25,¹⁰ pointing to the need for alternatives. State leaders must expand on the “Texas Model”: keeping kids in the shallowest end of the system, keeping them closer to home, and diverting them from system involvement whenever possible. Implementing a “raise the floor” reform would allow TJJD and local probation departments to save valuable resources otherwise associated with detaining and supervising very young children, and instead would allow them to focus their time and funding on meeting the needs of older youth with more severe offenses. When pre-adolescent children exhibit law-breaking behavior, there are often family dysfunction or behavioral health issues that are better addressed outside of the justice system.¹¹

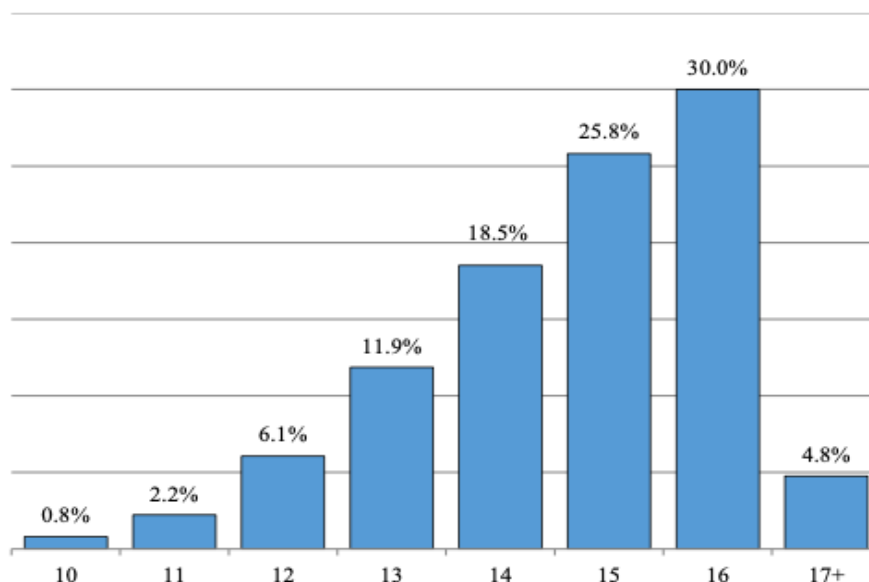
One alternative to system involvement is FAYS (Family and Youth Services),¹² a prevention program available in all 254 Texas counties that provides counseling and parenting classes; anyone can refer a child to FAYS, including school officials, which can provide much-needed help to young people without criminalizing them. Another alternative to incarcerating 10-, 11-, and 12-year-olds would involve educational institutions playing a larger role. Every school district in Texas has federal funding and mandates for childhood intervention; school-based referrals to behavioral or mental health services can significantly help young Texans. For instance, referrals to such services are required by the Individuals with Disabilities Education Act (IDEA). Yet in the 2017-2018 school year, the largest number of disciplinary removals per child or student with a disability were due to emotional disturbance, one of the disabilities specified in IDEA.¹³ Utilizing localized alternatives would better enable young children to proceed through developmental stages with tailored assistance, and would reduce the severity of traumas experienced from school discipline and system involvement.

The earlier a person is exposed to trauma, the more serious the consequences are, and the more likely they are to engage in criminal behavior. According to the *Council for Exceptional Children*, youth arrested before the age of 14 are two to three times more likely to become chronically involved in the adult system. — “*Adolescents with Disabilities in the Juvenile Justice System: Patterns of Recidivism*,” *Exceptional Children* (2011).

This will impact a small population of youth whose needs could be met in the community. As it is, kids aged 10-11 make up a small percentage of young people referred to Texas’ juvenile justice system, and most are referred for misdemeanors.¹⁴ Furthermore, the number of youth aged 10 to 12 who are committed to TJJD has been steadily decreasing. In both 2017 and 2018, there were no placements of 10-

year-olds, three of 11-year-olds, and only six of 12-year-olds. Just last year, less than 1 percent of commitments to TJJD were of youth aged 10 to 12.¹⁵

Figure 8: Age at Referral – Calendar Year 2019



With this data in mind, increasing the age of delinquency will mean that a relatively small population of youth will instead have their needs met in their communities, which can keep them on a more stable, successful path. Referrals to probation only increase the likelihood that youth will be involved in the justice system later in life.¹⁶ Texas must take steps to keep young children out of the system altogether.

This will save taxpayers money. Placing young people in therapeutic facilities and community-based diversion programs instead of incarcerating them has the potential to lower the cost of care from \$523 to \$86 per day. This would create potential savings of \$159,505 per youth each year.¹⁷

UPDATE PROBATION PRACTICES TO ALIGN WITH THE TEXAS MODEL

Enabling probation departments to work with local service providers will get more kids the help they need, while limiting their placement into juvenile facilities will reduce trauma. And collectively, these provisions will help make “raise the age” more feasible for Texas.

Juvenile probation is often referred to as a gateway into TJJD, because youth who do not successfully meet all probation conditions can find themselves more deeply involved in the justice system. Indeed, studies show that long probation sentences often lead to further supervision or incarceration because of violations for minor slip ups, flawed procedures, and disproportionately harsh sentences.¹⁸ In Texas, this certainly is the case: Approximately 60 percent of youth on probation following an adjudication were re-arrested within three years of release, and about 25 percent of the same youth were re-convicted in the juvenile justice system or convicted as an adult within the same time period.¹⁹ This problem largely stems from the lack of adequate community support.

This will give kids the tools to remain successful in the community. Local probation departments that are seeking to keep children from deeper system involvement must be empowered to do so. State leaders should support community reinvestment funds, wherein local service providers work in partnership with probation departments to offer supports and services; HB 4371 specifies that such a fund can help provide mentoring, behavioral and mental health services, financial or housing assistance, job training, educational services, and after-school activities. These community reinvestment funds can be financed by surplus funds of the probation department, by the county, or through gifts, grants, and donations. This is something Harris County has begun doing, as the first county in Texas to implement a community reinvestment fund. From preliminary reports, and given the significantly low re-arrest rate among kids who have been accessing community-based services, it seems to be an effective, rehabilitative model.²⁰

This will keep more kids out of facilities unnecessarily. Probation reform separately requires a change in approach to violations that do occur. Per this bill, if a court finds that a child violated a probation condition through conduct that does not constitute a criminal offense, the court cannot order the child's placement into a juvenile facility unless that conduct indicates that the child may be dangerous to themselves or others. This is a strong step towards keeping kids out of facilities and providing opportunities for care in the community, while still maintaining accountability and protecting public safety.

RACIAL IMPLICATIONS OF CHILDHOOD INCARCERATION IN TEXAS

Black youth are two times more likely to have an interaction with TJJD in comparison to white youth, based on their representation in Texas.²¹ HB 4371, through its various provisions, will help reduce involvement with the youth justice system and, correspondingly, may help reduce racial disparities in that system. This is critical to providing opportunities for people of color to have hope and achieve success.

CONCLUSION

HB 4371 is vital to the wellbeing of Texas youth and the safety of Texas communities, foregrounding approaches that reduce recidivism through rehabilitation while saving taxpayer dollars. HB 4371 can reverse the effects of the incarceration cycle, and we strongly urge the Committee's support.

For questions, contact Alycia Castillo at acastillo@TexasCJC.org or at (512) 441-8123 ext. 107.

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Invited Testimony
House Committee on Criminal Jurisprudence
March 1, 2021

Dear Chair Collier and Members:

Thank you for allowing me this opportunity to provide information on policies that tackle the root causes of crime, safely decrease state jail and prison populations, save taxpayer dollars, and improve health in Texas communities. The Texas Criminal Justice Coalition is committed to advancing safe and rehabilitative alternatives to incarceration and expanding opportunities for people after justice system involvement.

TOP PRIORITIES FOR THE 87TH LEGISLATIVE SESSION

CLEAN SLATE

Nearly one in three Texans has some type of criminal record,¹ which, for some, can create lifelong barriers to employment, housing, or other opportunities, even when the incident resulted in dismissal or placement on deferred adjudication. Nearly 90 percent of employers use a criminal background check in the hiring process; that check reveals all past involvement with the justice system, except for records that have been sealed (non-disclosure) or expunged, which is only available for arrests not leading to conviction. Orders of non-disclosure (OND), which are available for some who completed deferred adjudication or those with first-time misdemeanor offenses, can seal the record from all but some government agencies, law enforcement, and select employers, such as schools. The benefits to individuals, families, and communities of record sealing are enormous, helping people to obtain housing and better paying jobs. Unfortunately, the process of obtaining an OND can be arduous and costly.

Clean Slate legislation would automate the process of record sealing for those currently entitled to an OND. The process would simply entail an automated eligibility determination through the Department of Public Safety's Computerized Criminal History System and notification to district clerks. It will save valuable time and court resources, as well as prevent eligible people from having to pay fees and attorney costs. Ideally, Clean Slate legislation will also include a modest expansion of eligibility for ONDs, particularly for those who successfully completed probation.

Clean Slate and COVID

Clean Slate is timely and necessary. People with criminal records faced higher rates of unemployment before the COVID-19 pandemic.² The economic impacts of COVID-19 have compounded the impacts of criminal records, causing unemployment rates for those with records to soar. A group that faced homelessness at rates 10 times that for those with no criminal records are even more likely to experience housing insecurity during times of economic hardship.³ Clean Slate legislation will contribute to the economic recovery and help families get back on their feet.

STATE JAIL REFORM

The Texas state jail system was created in 1994, intended to serve as an alternative to the state's prison system – emphasizing rehabilitative programming for low-level felonies, including drug and nonviolent property offenses, rather than lengthy incarceration. But the original intention of the system was never realized. Those sent to state jail have less access to necessary rehabilitative services and are released to the same circumstances they left. As a result, people released from state jail have the highest rearrest rate compared to all programs and state prison or probation programs/facilities (see chart on following page).⁴

The failure of this system is also a missed opportunity to better address the underlying needs of substance use disorder. According to the Texas Health and Human Services Commission, low-income people with substance use disorder must wait weeks for effective recovery supports.⁵ State jail reforms create savings that could be directed toward services that prevent arrests.

Drug Penalty Reform

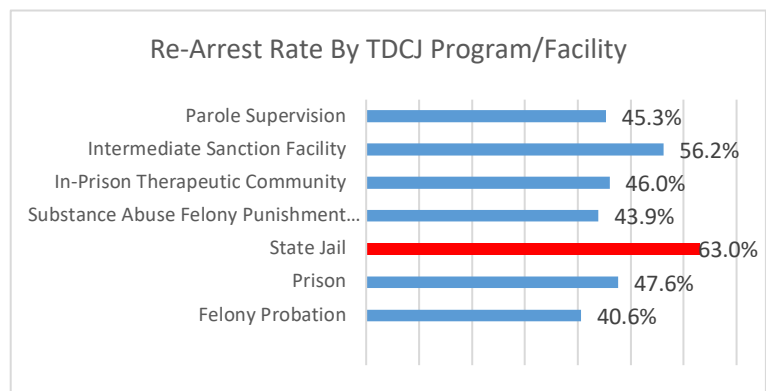
There are 2,074 people serving time for possessing less than one gram of a controlled substance (the equivalent of a sugar packet).⁶ This costs the state nearly \$40 million per year,⁷ only to produce a 63% re-arrest rate. Drug arrests increase county jail populations, costing local taxpayers millions while doing little to rehabilitate individuals. Lowering the penalty for possessing less than one gram of a substance from a state jail felony to a misdemeanor would save money that can be re-directed to treatment alternatives to incarceration.

State Jail Elimination

Another option is to eliminate the state jail system entirely, shifting to a 4th degree felony system where people are eligible for parole. This will ensure that people convicted of low-level drug and property offenses have access to the same programming as those in prison, and that they have the additional incentive of parole release to motivate treatment participation and good conduct.

Diligent Participation

Texas' 82nd Legislature provided an opportunity for individuals in state jails to earn "diligent participation" credit for taking part in educational, vocational, treatment, or work programs; the credits can result in a 20% sentence reduction.⁸ Under the current system, judges must proactively authorize the credit, which results in lower utilization of the credit and missed opportunities to achieve savings and motivate treatment participation. A common-sense reform will shift the authority to grant the credit from courts to the Texas Department of Criminal Justice, which is able to monitor participation and determine whether the credit has been earned. During the 2019 session, the fiscal note for similar legislation – which passed the House and ran out of time in the Senate – indicated a nearly \$60 million biennial savings, simply by improving motivation for rehabilitation programming.⁹



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HB 1509: Vote NO on Enhancing Penalties for Individuals with Minor Offenses

HB 1509 enhances the criminal penalty from a Class A misdemeanor to a state jail felony if a person has been convicted four or more times in the past ten years, and at least one of the previous convictions was a felony.

How will HB 1509 impact Texas?

- **Over 26,000 individuals¹ will be unfairly punished by this bill, rather than connected to services that can help them stabilize and live successfully in Texas communities.** Individuals with repeat minor offenses are often struggling with a substance use disorder and/or severe, chronic mental illness. It is problematic to target and punish such individuals as opposed to connecting them to treatment opportunities and other evidence-based interventions within their communities.
- **Harsher punishment is not a proven solution for fixing the issue of minor repeat offenses – meaning this bill will not improve public safety.** Supporters of this bill believe that harsher sentencing will solve the issue of “repeat offending.” Again, this is not an evidence-based solution.
- **Thousands of individuals will enter state jails at significant taxpayer expense.** Enhancing a fifth offense from a Class A misdemeanor to a state jail felony would result in more individuals being pushed deeper into the criminal justice system, with approximately 5,000 people² being incarcerated in a state jail facility, at a potential cost to taxpayers of nearly \$185,000 to \$315,000 *per day*.³

Vote NO on HB 1509

HB 1509 will **not** solve the issue of individuals committing multiple minor offenses. State leaders must focus on helping people stabilize, access help, and live healthier lives within our communities.

¹ This figure is from a data request to the Texas Department of Public Safety (DPS); data was received by the Texas Criminal Justice Coalition in February 2021. The request asked DPS to calculate the number of Class A misdemeanors during the prior year that would have been enhanced to a state jail felony had this bill been in effect.

² This is an estimate based on knowledge regarding sentencing patterns. Some of the 26,000 individuals would have their cases dismissed or be placed on probation, while about 20 percent (5,200 people) would be sentenced to time in a state jail facility.

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“Raise the Age” and the Collateral Consequences of Charging 17-Year-Olds as Adults

PROBLEM STATEMENT

In Texas, 17-year-olds who are arrested are automatically sent to the adult justice system. **Texas is one of only three states left to treat these teens as adults** for criminal justice purposes¹ – removing their parents from the court process, and exposing kids to confinement in adult jails. Of the 16,000 17-year-olds arrested in Texas in 2019, approximately 95 percent were arrested for nonviolent and misdemeanor offenses.²

Youth arrested and tried in the criminal justice system are adversely impacted in multiple ways, both with short- and long-term collateral consequences.³

IN SHORT

Raising the automatic age of adult jurisdiction from 17 to 18 will start kids off in the juvenile system but give judges the discretion to transfer kids with the most serious offenses to the adult system on a case-by-case basis.

THE CONSEQUENCES OF SENDING YOUTH TO THE ADULT CRIMINAL LEGAL SYSTEM

- **Criminal Record:** Prosecution and conviction in the adult system results in an adult criminal record, which poses obstacles to higher education, employment, housing, and practicing civic duties, including joining the military or voting.⁴
- **Education Challenges:** Youth incarcerated in adult corrections facilities lack access to educational services that they would receive in the juvenile system; adult facilities are not equipped to address their special educational needs. Furthermore, incarceration reduces the chance of youth completing high school by 13.3 percent,⁵ and even those young people who do complete high school may not qualify for financial aid to pursue a college education due to their criminal record.⁶
- **Employment Barriers and Lower Wages:** Youth with justice system contact and educational limitations are at increased risk of unemployment and lower wages. Incarceration itself negatively impacts wages earned by 11 percent and decreases yearly income by 40 percent.⁷
- **Housing Barriers:** Individuals recently released from prison may have difficulty qualifying for public and private housing. Most applications require background checks, which will indicate their criminal record and likely disqualify them.⁸
- **Military Ineligibility:** About 75 percent of Americans aged 17–24 are ineligible to join the military, and 10 percent of those cases are due to past criminality. Texas ranks higher than the national average for military ineligibility due to a criminal record.⁹
- **Inability to Carry out Civic Duties:** Per Texas law, individuals released from prison on parole do not have the right to vote until they have completed their sentence.
- **Higher Recidivism:** Incarcerated youth who reside in adult prisons not only have an increased likelihood of reoffending, but their likelihood of committing a violent offense also increases.¹⁰

Continued on reverse.

THE CONSEQUENCES OF SENDING YOUTH TO THE ADULT SYSTEM [CONTINUED]

- **Limits on Family Bonding:** For developing youth, incarceration has a devastating impact on social relationships with family and friends.¹¹ This negative impact is especially significant because adult support reduces aggressive behaviors, and family interaction during confinement reduces symptoms of depression.¹²
- **Mental Health Challenges:** Incarceration has been found to increase depression and suicidal ideation. Youth in adult prisons are 36 times more likely to commit suicide than youth in juvenile justice settings.¹³ While separation from adults in prison is routine to keep juveniles safe, prolonged isolation occurs, which profoundly affects mental health, and many treatment options through the Texas Department of Criminal Justice do not allow children under 18 to participate.¹⁴
- **Physical Threats and Health Problems:** In the adult system, 17-year-olds face a higher risk of sexual assault.¹⁵ Incarceration during adolescence also affects cognitive and social development, with long-term effects including disproportionate morbidity and mortality, worse physical health outcomes, and limited overall functioning as adults.¹⁶

COST-SAVING AND PUBLIC SAFETY-DRIVEN SOLUTION: SUPPORT “RAISE THE AGE” LEGISLATION

Texas leaders should hold 17-year-olds accountable in the youth justice system, while giving judges the discretion to transfer kids with the most serious offenses to the Texas Department of Criminal Justice on a case-by-case basis. **Doing so will:**

- **Prevent most youth under the age of 18 from being prosecuted as adults**, without overwhelming the juvenile system. It is important to note that, between 2016 and 2019, arrests of 17-year-olds fell nearly 25 percent (from 21,374 to 16,104).¹⁷ Also during that time, the average daily population in Texas’ secure juvenile facilities fell 16 percent (from 1,129 youth aged 10-16 to 949 youth).¹⁸ With COVID-19 also reducing populations of kids in county facilities,¹⁹ the Texas Juvenile Justice Department is well equipped to absorb 17-year-olds who are confined to or facing adult prison. Crucially, reports from other states that have recently “raised the age” have not shown evidence that such a policy change has overwhelmed their juvenile systems.²⁰
- **Allow teens to receive the rehabilitative and educational support provided by the juvenile justice system, which will improve their capacity to desist from delinquency.** When 17-year-olds (like their 15- and 16-year-old counterparts) have access to services intentionally designed to meet their needs as young people – including counseling, education, and treatment that offers positive, age-appropriate redirection – they have increased chances of future success.
- **Decrease the likelihood of abuse that youth may encounter in adult prison**, which threatens their physical and mental health in both the short and long term.
- **Reduce long-term collateral consequences**, many of which stem from a criminal record.
- **Reduce recidivism and foster the perspective that youth are worth saving.** Keeping kids in the youth (vs. adult) system lowers their likelihood of re-offending by 34 percent,²¹ and it reduces their risk of exposure to the traumatic experiences and hardships that can lead to further legal involvement.

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¹⁵ Bureau of Justice Statistics, *Sexual Victimization in Prisons and Jails Reported by Inmates, 2011-12*, 2013, p. 23, <http://www.bjs.gov/content/pub/pdf/svpjri1112.pdf>.

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RAISE THE AGE

Why Texas Should Treat Kids Like Kids

Texas Criminal Justice Coalition | (512) 441-8123



INTRODUCTION

Texas is one of **only three states left** that automatically treats 17-year-olds as adults in the criminal legal system. This means that 17-year-olds have less access to rehabilitative services, and adult system exposure exacerbates trauma.

THE FACTS

- 95% of 17-year-old arrests in Texas are for nonviolent and misdemeanor crimes.
- Children in the juvenile system have opportunities at record sealing that those in the adult system don't have. Adult criminal records can create barriers to educational attainment, secure housing, employment, and military service.
- Raising the age of juvenile jurisdiction to 18 is expected to save Texas \$88.9 million for every cohort of 17-year-olds.

WHY SHOULD TEXAS RAISE THE AGE?

1. Prioritize Physical & Mental Health

Incarcerated youth in adult facilities are 5 times more likely to become sexually assaulted, 50% more likely to be attacked by a weapon, and 36 times more likely to commit suicide

2. Cut Unnecessary Costs for Taxpayers

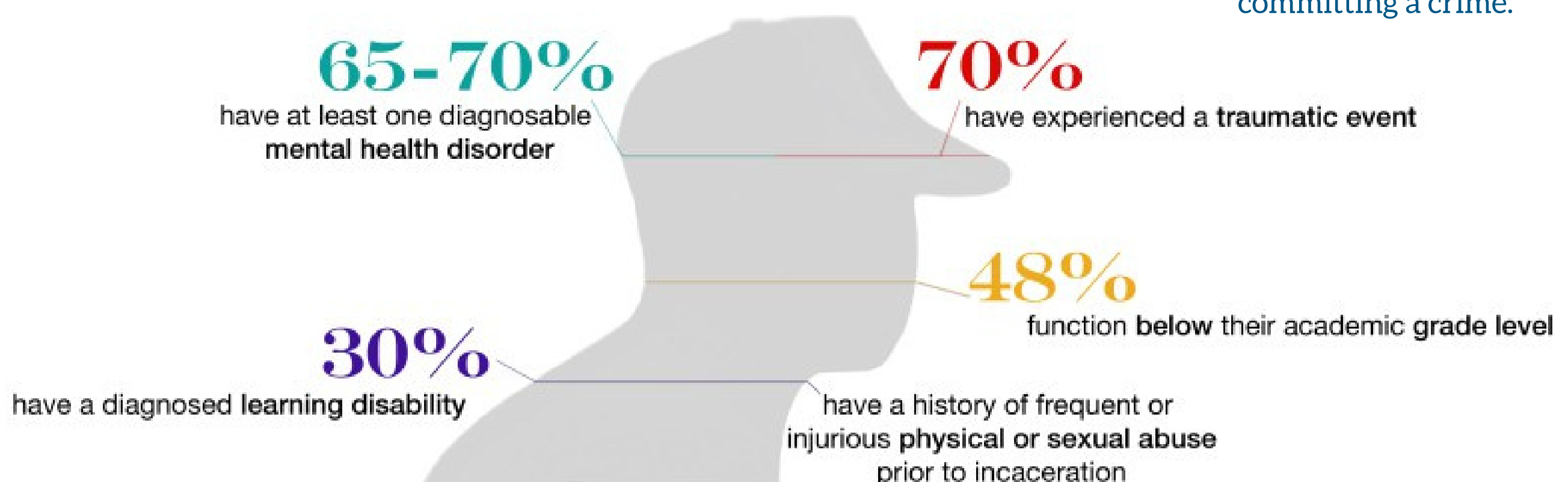
A robust, Texas-specific cost-benefit analysis revealed that raising the age of juvenile jurisdiction in Texas would result in a **net benefit of \$88.9 million** for each cohort of 17-year-olds moved to the juvenile system.

3. Decrease Rates of Re-Offending to Keep Communities Safe

Keeping 17-year-olds out of the adult justice system is predicted to decrease the likelihood of re-offending by 34%, since children are more likely to be provided with resources that meet their needs.

4. Prevent Overcrowding in Light of COVID-19

Throughout the pandemic and during the winter storm, children in Texas' adult jails and prisons have faced inhumane conditions. This increases barriers to rehabilitation and risk factors associated with committing a crime.



VULNERABILITY OF INCARCERATED YOUTH

WHAT CAN THE TEXAS LEGISLATURE DO TO ENACT CHANGE?

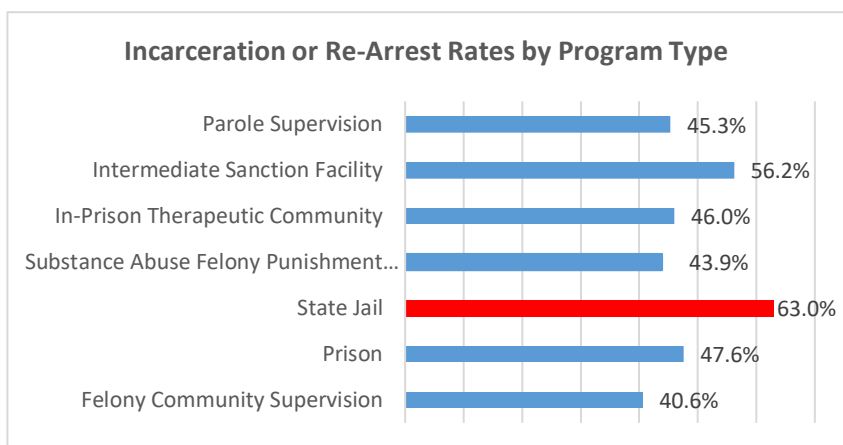
Pass Raise the Age legislation like:

HB 486 | HB 967 | HB 1273 | HB 1430

Diligent Participation Credits: A Smart Way to Create Cost Savings and Improve Public Safety

Nearly 16,000 people are annually sent to Texas' state jail system, which predominantly houses those convicted of nonviolent property or drug offenses, like possession of less than a gram of a controlled substance.¹ Unfortunately, state jails have the highest recidivism rate of all correctional programs,² costing the state hundreds of millions of dollars each year without improving public safety outcomes.³

In part, this high rate of re-offending may be attributable to the fact that state jails have fewer rehabilitative services available to people housed in them, and that people sentenced to state jail are not eligible for parole – meaning they must serve each day of their sentence.⁴ This reduces people's motivation to engage in the services that *are* available.



To partially remedy this problem, Texas statute allows judges to authorize a 20 percent time credit for program participation in state jails. However, the credit is under-utilized: As of 2019, only 52.2 percent of state jail releases received the diligent participation credit.⁵

Texas could save up to \$60 million over the biennium, while giving more people the tools that will keep them safe and successful in our communities.

Texas should allow the Texas Department of Criminal Justice to grant credit to people who participate in programming, instead of only allowing judges to do so. The Department is best positioned to determine if the credit is warranted, as prison officials have access to program participation and disciplinary records that the judge does not see. Improving diligent participation credits and expediting release of people

from state jails could save Texas up to \$60 million over the biennium, while programming participation will give more people the tools to keep them safe and successful in our communities.

SUPPORT SB 122 BY SENATOR JOHNSON

SB 122 simply removes the requirement that the judge make a finding of eligibility for diligent participation credits and authorizes the Texas Department of Criminal Justice to automate the enrollment of individuals and award the 20 percent time credit to those who engage in programming and avoid disciplinary infractions.

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⁵ Legislative Budget Boards, *Fiscal Note for HB 4566 (Allen)*, 86th Legislative Regular Session, April 17, 2019,

<https://capitol.texas.gov/tlodocs/86R/fiscalnotes/pdf/HB04566I.pdf#navpanes=0>.