

[2015 Session] Incentivize Individuals with Certain Nonviolent State Jail Felony Offenses to Complete Probation

Policy Background:

Texas' state jail system, created in 1993, was originally intended to divert individuals with nonviolent offenses from crowded prisons and provide them rehabilitative assistance. However, individuals sentenced to state jail facilities have extremely limited access to treatment and programming options, and typically have no post-release supervision.^[1] As a result, state jail releasees have the highest rates of re-arrest and re-incarceration among returning populations.

Texas policy-makers should permit a judge – with the consent of the district attorney – to reduce a person's state jail felony offense to a Class A misdemeanor *after* he or she successfully completes all probation supervision and treatment requirements, provided the offense was not violent or sexually based. This would better incentivize a probation term (which costs 31 times less per day than a state jail term), for significant cost savings and longer-term recidivism reductions, while keeping critical safeguards in place.

Key Facts:

- 30.7% of individuals released from a state jail in FY 2011 (measured through FY 2013) were re-incarcerated. By way of comparison, an average 15% of individuals on felony direct supervision (probation) were revoked from FY 2009 to FY 2014.^[2]
- As of August 2014, there were nearly 11,000 individuals on hand in a state jail facility, 87% of whom were incarcerated for a nonviolent property or drug offense.^[3]
- Incarcerating one person in state jail costs taxpayers \$47.30 per day.^[4] Incarcerating all 11,000 individuals costs \$520,300 per day, or nearly \$190 million annually.
- Probation is far less expensive than incarceration, costing the state only \$1.63 per person per day.^[5] And it is often more effective at addressing addiction and

mental illness than incarceration: individuals on probation frequently have more access to drug treatment and mental health services than those incarcerated, and treatment programming results in lower levels of re-offending than strict incarceration.[6]

- Probation conditions, which vary by judge and offense, typically require regular reporting to a probation officer, fee payments throughout the course of the probation term, full payment of court costs and fees, community service, meeting all mandated class or program obligations (e.g., class or program attendance, drug testing, etc.), school or employment attendance, abiding by restrictive conditions (e.g., curfews, drug and alcohol abstinence, avoidance of negatively influential peers or locations), and remaining law-abiding during the course of the probation term; depending on the offense, probation conditions may also require victim restitution. **It is incumbent upon each probationer to ensure all conditions are met, making this a highly rigorous and regulated period under supervision.**

Relevant Bill:

- **Bill Number:** [HB 333](#) (Longoria)
Bill Caption: Relating to certain procedures for defendants who successfully complete a period of state jail felony community supervision.
TCJE Materials: [Fact Sheet](#) | [Testimony](#)
Hearing Notice: House Criminal Jurisprudence Committee, [Notice of Public Hearing on March 18, 2015](#)
Archived Hearing Video: House Criminal Jurisprudence Committee, [03/18/15 Video](#) [TCJE testimony begins at 05:39:47]

Outside Publications:

- House Committee on Criminal Jurisprudence, [Interim Report to the 84th Legislature](#) [January 2015]

See *Charge 7: Examine the utilization of community supervision in state jail felonies and the effectiveness of the state jail in light of its original purpose.* (pages 47-51)

[1] Texas Department of Criminal Justice (TDCJ), *Statistical Report: Fiscal Year (FY) 2014*, p. 34; http://www.tdcj.state.tx.us/documents/Statistical_Report_FY2014.pdf. Of 22,192 total releases from state jails in FY 2014, 81 people (0.4%) were released to community supervision.

[2] Legislative Budget Board, *Statewide Criminal and Juvenile Justice Recidivism and Revocation Rates*, February 2015, pp. 3, 7, 8, 16; http://www.lbb.state.tx.us/Documents/Publications/Policy_Report/1450_CJ_Statewide_Recidivism.pdf

[3] TDCJ, *Statistical Report: FY 2014*, p. 1.

[4] Legislative Budget Board, *Criminal and Juvenile Justice Uniform Cost Report: Fiscal Years 2013 and 2014*, Submitted to the 84th Legislature, February 2015, p. 4; http://www.lbb.state.tx.us/Documents/Publications/Policy_Report/1440_Criminal_Juvenile_Justice_Uniform_Cost_Report.pdf. State-operated state jail facilities spent \$47.30 per day in FY 2014 to house individuals, while privately operated state jail facilities spent \$30.99 per day in 2014. There are 15 state-operated and 4 privately operated state jail facilities. The numbers above reflect the cost for state-operated facilities.

[5] *Ibid*, p. 6.

[6] U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Association, Center for Substance Abuse Treatment, *The National Treatment Improvement Evaluation Study: NTIES Highlights*, 1997; <http://www.ncjrs.gov/nties97/index.htm>. Also see: Dustin Johnson, Ph.D., “Community Corrections Facility Outcome Study of FY 2008 Discharges: Texas Department of Criminal Justice-Community Justice Assistance Division: Research and Evaluation,” May 2011, pp. 13, 23 (individuals completing residential programs have significantly lower two-year arrest rates and incarceration rates than those who do not complete their program).