

[2019 Session] Overhaul Texas' Failed State Jail System

Policy Background

Texas' state jail system was originally intended to divert people with nonviolent drug and property offenses from crowded prisons and instead offer them rehabilitative services in localized facilities, followed by community supervision. However, because the state did not adequately fund rehabilitative services, the 8,000 people in state jails today have extremely limited access to treatment and programming options, and typically have no post-release supervision. Despite taxpayers' annual investment of \$150 million in this population,¹ people sent to state jails go on to have the highest re-arrest rate of any population released from a state correctional institution in Texas – nearly 63 percent, compared to 46 percent for prison releases² – creating another cycle that wastes state resources and fails to meet Texas' public safety goals.

Pretrial programs offer an alternative: They allow counties to interrupt the cycle by more immediately connecting arrestees to community-based substance use or mental health treatment, which address the underlying causes of criminal behavior; and through rigorous supervision, these programs create strict accountability. This helps mitigate the risk of releasing a person before trial who may have a history of criminal justice involvement due to untreated substance use or mental health issues. The results of such programs are significant: Diverting people from jail and into community-based services (\$7/day³) produces 30-50 percent lower recidivism rates, depending on whether the individual was to be sentenced to county jail (\$60/day⁴) or state jail (\$53/day⁵).⁶

Proposed Solution

(1) Provide counties with pretrial and diversion grant funds through the Community Justice Assistance Division to improve their capacity to offer substance use and mental health treatment and recovery supports, with priority given to counties committed to utilizing pretrial interventions, speedy case processing, and strategies to encourage success while under supervision; and tie outcomes (meeting performance targets) to continued receipt of pretrial funding. (2) Reduce penalties for certain first and low-level offenses to prevent a lifelong felony record, and to provide people more opportunities

and incentives to choose probation supervision and treatment over a jail term. (3) For people who are ultimately sentenced to state jails, encourage the Texas Department of Criminal Justice to partner with nonprofits and community providers to offer pre- and post-release case management and peer support to reduce people's likelihood of re-offending and returning to confinement.

Relevant Bill

- **Bill Number:** [HB 289](#) [Senfronia Thompson, Canales, Reynolds, Yvonne Davis, Wu]
Bill Caption: Relating to the criminal penalty for possession of certain small amounts of controlled substances in Penalty Group 1.
- **Bill Number:** [HB 1240](#) [Yvonne Davis]
Bill Caption: Relating to the punishment for the criminal offense of theft.
House Hearing Notice: [Criminal Jurisprudence, March 25, 2019](#)
TCJE House Action: [Testimony in support](#)
House Hearing Video: [Criminal Jurisprudence, 3/25/19](#)
- **Bill Number:** [HB 1653](#) [White]
Bill Caption: Relating to pretrial diversion programs funded by the community justice assistance division of the Texas Department of Criminal Justice.
House Hearing Notice: [Corrections, March 14, 2019](#)
TCJE House Action: [Testimony in support](#)
House Hearing Video: [Corrections, 3/14/19](#)
- **Bill Number:** [HB 4169](#) [Moody]
Bill Caption: Relating to the criminal penalties for certain criminal offenses.
TCJE Materials: [Fact Sheet](#)
House Hearing Notice: [Criminal Jurisprudence, April 25, 2019](#)
TCJE House Action: [Testimony in support](#) | [Card in support](#)
House Hearing Video: [Criminal Jurisprudence, 4/25/19](#)

Other Bills Related to Diversion or Community-Based Supports for People in the Justice System

- **Bill Number:** [HB 395](#) [Gervin-Hawkins]
Bill Caption: Relating to the issuance of a citation for a criminal trespass offense punishable as a Class B misdemeanor.

- **Bill Number:** [HB 482](#) [Senfronia Thompson, Krause, Coleman, Toth, White]
Bill Caption: Relating to a limitation on the authority to arrest a person for certain misdemeanors punishable by fine only.
House Hearing Notice: [Homeland Security & Public Safety, April 3, 2019](#)
TCJE House Action: [Card in support](#)
House Hearing Video: [Homeland Security & Public Safety, 4/3/19](#)
- **Bill Number:** [HB 818](#) [Cole]
Bill Caption: Relating to the release by a peace officer of certain individuals suspected of the offense of public intoxication.
- **Bill Number:** [HB 830](#) [Israel]
Bill Caption: Relating to the release by a peace officer of certain individuals suspected of the offense of public intoxication.
House Hearing Notice: [Homeland Security & Public Safety, March 13, 2019](#)
TCJE House Action: [Card in support](#)
House Hearing Video: [Homeland Security & Public Safety, 3/13/19](#)
- **Bill Number:** [HB 1020](#) [Moody]
Bill Caption: Relating to requiring certain law enforcement agencies to implement a policy regarding cite and release for certain criminal offenses.
- **Bill Number:** [HB 1320](#) [Moody, Coleman]
Bill Caption: Relating to the operation of, participation in, and effects of successful completion of a mental health court program.
House Hearing Notice: [Criminal Jurisprudence, April 1, 2019](#)
TCJE House Action: [Card in support](#)
House Hearing Video: [Criminal Jurisprudence, 4/1/19](#)
- **Bill Number:** [HB 1719](#) [Senfronia Thompson]
Bill Caption: Relating to the penalties for the possession of small amounts of Penalty Group 1 controlled substances and marihuana.
House Hearing Notice: [Criminal Jurisprudence, April 29, 2019](#)
TCJE House Action: [Testimony in support](#)
House Hearing Video: [Criminal Jurisprudence, 4/29/19](#)
- **Bill Number:** [HB 1787](#) [Geren]
Bill Caption: Relating to the punishment for the criminal offense of theft.
- **Bill Number:** [HB 2026](#) [Collier]
Bill Caption: Relating to certain procedures for defendants who successfully complete a period of state jail felony community supervision.
- **Bill Number:** [HB 2754](#) [White, Senfronia Thompson, Toth, Krause, Coleman]
Bill Caption: Relating to a limitation on the authority to arrest a person for

certain misdemeanors punishable by fine only.

House Hearing Notice: [Criminal Jurisprudence, April 15, 2019](#)

House Hearing Video: [Criminal Jurisprudence, 4/15/19](#)

- **Bill Number:** [HB 3529](#) [Gutierrez | Sponsor: Menéndez]

Bill Caption: Relating to the creation of a family violence pretrial diversion pilot program in Bexar County.

House Hearing Notice: [Corrections, April 11, 2019](#)

House Hearing Video: [Corrections, 4/11/19](#)

Senate Hearing Notice: [Criminal Justice, May 15, 2019](#)

TCJE Senate Action: [Card in support](#)

Senate Hearing Video: [Criminal Justice, 5/15/19](#)

Signed by the Governor; effective immediately, 6/10/2019

- **Bill Number:** [HB 3540](#) [Burns, Raymond, Collier | Sponsor: Hughes]

Bill Caption: Relating to the authority of a peace officer to release in lieu of arrest certain persons with an intellectual or developmental disability.

House Hearing Notice: [Homeland Security & Public Safety, April 10, 2019](#)

TCJE House Action: [Testimony in support](#)

House Hearing Video: [Homeland Security & Public Safety, 4/10/19](#)

Signed by the Governor; effective on 9/1/2019

- **Bill Number:** [HB 3582](#) [Murr, Moody, White, Wray, Wu | Sponsor: Menéndez]

Bill Caption: Relating to the punishment for certain intoxication offenses, the conditions of bond for defendants charged with certain intoxication offenses, and the eligibility for deferred adjudication community supervision of defendants who committed certain intoxication offenses.

House Hearing Notice: [Corrections, April 4, 2019](#)

TCJE House Action: [Card in support](#)

House Hearing Video: [Corrections, 4/4/19](#)

Senate Hearing Notice: [Criminal Justice, May 8, 2019](#)

TCJE Senate Action: [Card in support](#)

Senate Hearing Video: [Criminal Justice, 5/8/19](#)

Signed by the Governor; effective on 9/1/2019

- **Bill Number:** [HB 4009](#) [Toth, Wu, Ed Thompson, Canales]

Bill Caption: Relating to the establishment, operation, and funding of victim-offender mediation programs; authorizing fees.

TCJE Materials: [Fact Sheet](#)

House Hearing Notice: [Corrections, April 11, 2019](#)

TCJE House Action: [Card in support](#)

House Hearing Video: [Corrections, 4/11/19](#)

- **Bill Number:** [HB 4441](#) [Neave]

Bill Caption: Relating to requests for certain information by the Texas Judicial Council regarding reductions of state jail felony punishment to misdemeanor punishment.

House Hearing Notice: [Judiciary & Civil Jurisprudence, April 15, 2019](#)

TCJE House Action: [Testimony in support](#)

House Hearing Notice: [Judiciary & Civil Jurisprudence, 4/15/19](#)

- **Bill Number:** [HB 4594](#) [Jessica González]

Bill Caption: Relating to the punishment for certain possession offenses under the Texas Controlled Substances Act; changing eligibility for and conditions of community supervision.

House Hearing Notice: [Corrections, April 11, 2019](#)

TCJE House Action: [Testimony in support](#) | [Card in support](#)

House Hearing Video: [Corrections, 4/11/19](#)

- **Bill Number:** [SB 105](#) [Menéndez]

Bill Caption: Relating to the creation of a mental health jail diversion and crisis stabilization unit pilot program.

- **Bill Number:** [SB 106](#) [Menéndez]

Bill Caption: Relating to the punishment for certain intoxication offenses and the eligibility for deferred adjudication community supervision of defendants who committed certain intoxication offenses.

- **Bill Number:** [SB 306](#) [Watson | Sponsor: Israel]

Bill Caption: Relating to the release by a peace officer of certain individuals suspected of the offense of public intoxication.

Senate Hearing Notice: [Criminal Justice, March 19, 2019](#)

TCJE Senate Action: [Card in support](#)

Senate Hearing Video: [Criminal Justice, 3/19/19](#)

Filed without the Governor's signature; effective immediately, 4/25/2019

- **Bill Number:** [SB 495](#) [Hughes]

Bill Caption: Relating to the establishment, operation, and funding of victim-offender mediation programs; authorizing fees.

- **Bill Number:** [SB 961](#) [Bettencourt, Flores | Sponsor: Gervin-Hawkins]

Bill Caption: Relating to the issuance of a citation for a criminal trespass offense punishable as a Class B misdemeanor.

Senate Hearing Notice: [Criminal Justice, March 26, 2019](#)

TCJE Senate Action: [Card in support](#)

Senate Hearing Video: [Criminal Justice, 3/26/19](#)

House Hearing Notice: [Criminal Jurisprudence, April 25, 2019](#)

House Hearing Video: [Criminal Jurisprudence, 4/25/19](#)

Other Materials

- Texas Smart-On-Crime Coalition 1-Pager: [Reform Our State Jail System](#) [2019]
- House Committee on Corrections [Interim Report](#) to the 86th Texas Legislature [November 2018]
- House Select Committee on Opioids and Substance Abuse [Interim Report](#) to the 86th Texas Legislature [November 2018]
- TCJE Report: [A Failure in the Fourth Degree: Reforming the State Jail Felony System in Texas](#) [October 2018]
- TCJE [Quick Guide](#) for “A Failure in the Fourth Degree” [October 2018]
- Substance Use Disorder Coalition [Recommendations](#) for House Select Committee on Opioids and Substance Use Disorder [August 2018]
- TCJE [Interim Testimony](#) on adult probation, submitted to House Appropriations Committee [April 2018]
- TCJE [Interim Testimony](#) on substance use, submitted to Senate Health & Human Services Committee [March 2018]
- TCJE [Interim Testimony](#) on adult probation, submitted to Senate Finance Committee [December 2017]
- TCJE Blog Post: [Texans are Battling Addiction – Let’s Help Them Win the Fight](#) [November 2017]

¹ Texas Department of Criminal Justice, *FY 2017 Statistical Report*, 1.

See also: Legislative Budget Board (LBB), *Criminal and Juvenile Justice Uniform Cost Report: Fiscal Years 2015 and 2016*, January 2017, 4 [\$52.88 per person per day].

² LBB, *Statewide Criminal and Juvenile Justice Recidivism and Revocations Rates*, January 2017.

³ LBB, *Criminal and Juvenile Justice Uniform Cost Report: Fiscal Years 2015 and 2016*, January 2017, 6 [see Intensive Supervision Probation – State Cost: \$6.95 per person per day].

⁴ Texas Commission on Jail Standards, *Immigration Detainer Report*, 10/1/2018.
Calculation = (Total Cost / # of Inmate Days) = \$59.80 per person per day.

⁵ LBB, *Criminal and Juvenile Justice Uniform Cost Report: Fiscal Years 2015 and 2016*, January 2017, 4 [\$52.88 per person per day].

⁶ Tony Fabelo, et al, *County Uniform Recidivism Measure Project: Third Year Results for Harris County*, April 21, 2017, 20.