

[2015 Session] Reduce Penalties for Small Drug Possession Offenses

Policy Background:

Possession of less than a gram of a controlled substance — the equivalent of less than a sugar packet — is a state jail felony in Texas, punishable by up to two years in confinement and a fine of \$10,000. This saddles convicted men and women with a lifelong felony record, potentially limiting their access to housing, employment, and other assistance.

Furthermore, the arrest, prosecution, public defense, and incarceration of individuals for miniscule drug amounts comes at significant taxpayer expense. Costs of incarceration alone total nearly \$16,000 per person per year.^[1]

Drug sentences should better match the severity of the crimes and maximize taxpayers' bang for their buck. Texas policy-makers should reduce the penalty for up to 1 gram of a controlled substance from a state jail felony to a Class A misdemeanor. This change would relieve crowded felony court dockets and save Texas millions in state prison spending, a percentage of which could be reinvested in county programs to address substance abuse.

Key Facts:

- Michael McSpadden, a Republican and longtime district court judge in Harris County, believes these penalties should be reduced. McSpadden and 11 fellow Harris County judges last year sent a [letter](#) to the chairman of the Senate Criminal Justice Committee saying that “the public has realized that draconian punishment of minor drug offenses as state jail felonies is not working, and as judges, we hear countless complaints from trial juries and grand juries who do not believe these cases should be tried as felonies.”
- In 2011 and 2012, Texas sentenced 16,262 individuals to state jail for a drug conviction,^[2] at costs of nearly \$16,000 per person per year.^[3] Of these individuals, 88% were convicted of possessing less than a gram of a controlled substance without the intent to deal or distribute.^[4]

Relevant Bills:

- **Bill Number:** [HB 254](#) (Thompson, Senfronia)
Bill Caption: Relating to the penalty for certain offenders for possession of a small amount of certain controlled substances.
TCJE Materials: [Fact Sheet](#)
Hearing Notice: House Criminal Jurisprudence Committee, [Notice of Public Hearing on April 8, 2015](#)
Archived Hearing Video: House Criminal Jurisprudence Committee, [04/08/15 Video](#) [TCJE testimony begins at 03:18:19]
- **Bill Number:** [HB 403](#) (Dutton)
Bill Caption: Relating to the penalty for certain offenders for possession of a small amount of certain controlled substances.
Hearing Notice: House Criminal Jurisprudence Committee, [Notice of Public Hearing on April 8, 2015](#)
- **Bill Number:** [SB 412](#) (Ellis)
Bill Caption: Relating to the penalty for certain offenders for possession of a small amount of certain controlled substances.
- **Bill Number:** [SB 851](#) (Ellis)
Bill Caption: Relating to reducing the penalty for certain offenders for possession of a small amount of certain controlled substances; creating a dedicated account.

[1] Legislative Budget Board (LBB), *Criminal Justice Uniform Cost Report, Fiscal Years 2010 to 2012*, Submitted to the 83rd Texas Legislature, January 2013, p. 8; www.lbb.state.tx.us/Public_Safety_Criminal_Justice/Uniform_Cost/Criminal%20Justice%20Uniform%20Cost%20Report%20Fiscal%20Years%202010%20to%202012.pdf. Texas spends \$42.90 per person per day to incarcerate one individual in a state jail, for an annual total of \$15,658.50.

[2] Texas Department of Criminal Justice, *Statistical Report Fiscal Year 2011*, p. 2 (8,176 individuals), and *Statistical Report Fiscal Year 2012*, p. 2 (8,086 individuals).

[3] LBB, *Criminal Justice Uniform Cost Report*, p. 8.

[4] Texas Department of Criminal Justice, response to open records request by the Texas Center for Justice and Equity; *data available upon request*.