

[2015 Session] Eliminate Penalties for the Smallest 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 decriminalize possession of .02 grams or less. 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:

- Controlled substances of less than .02 grams cannot be tested twice by a crime lab and therefore cannot be prosecuted if both the State and defense request testing.
- 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 253](#) (Thompson, Senfronia)
Bill Caption: Relating to the penalty for possession of certain small amounts of controlled substances in Penalty Group 1.
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:** [SB 419](#) (Ellis)
Bill Caption: Relating to the penalty for possession of certain small amounts of controlled substances in Penalty Group 1.

[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*.