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## House Committee on Criminal Jurisprudence

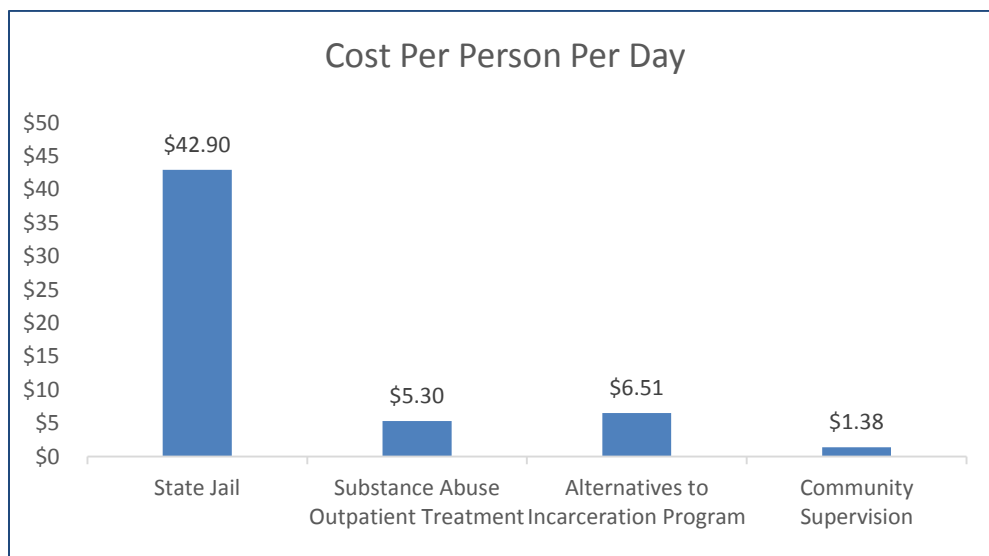
*Charge # 7: Examine the utilization of community supervision in state jail felonies and the effectiveness of the state jail in light of its original purpose.*

Dear Members of the Committee,

My name is Sarah Pahl. I am a Policy Attorney for Texas Criminal Justice Coalition (TCJC). Thank you for allowing me this opportunity to present testimony on effective strategies to address our state jail system.

### STATE JAILS AND COMMUNITY SUPERVISION

The state jail system was originally designed to improve the state criminal justice and corrections systems by redirecting individuals with low-level offenses out of overcrowded prisons, providing them the opportunity to serve their sentence on community supervision while reserving space in prisons for those who pose a higher risk to public safety.<sup>1</sup> In many cases, community supervision provides a better, less expensive opportunity to access meaningful services and resources that address substance abuse issues, mental health issues, employment problems, etc. In comparison, state jails are dramatically more costly (averaging nearly \$43 per day per person) than alternatives to incarceration such as community supervision (only \$1.38 per day per person) or community-based treatment (less than \$7 per day per person).<sup>2</sup> Please see the table below with per-day costs of state jail incarceration and other approaches.



Despite the cost and treatment benefits of community-based approaches to crime, tens of thousands of Texans, with primarily low-level drug or property offenses, are sentenced directly to state jail with little access to treatment, and almost always without post-release community supervision or support.

It should also be noted that the creation of state jail felony offenses was intended to carve out a population of individuals more amenable to rehabilitative services and treatment programs, yet **persons convicted of state jail**

**felony offenses have higher rates of re-arrest and re-incarceration than individuals exiting prisons and those on community supervision** (*see below for more information*). This trend may be due to the lack of rehabilitative programming provided at state jail facilities, the relatively short terms of incarceration that prohibit engagement in effective treatment programs, or the lack of post-release supervision and structured support in the community.

### KEY FINDINGS

- **State Jail Recidivism Rates:** **31.1%** of individuals released from a state jail in FY 2009 (measured through FY 2012) were re-incarcerated. To compare, **22.6%** of individuals released from prison in FY 2009 (measured through FY 2012) were re-incarcerated and an average 14.8% of individuals on direct felony supervision were revoked from their probation from FY 2008 through FY 2012 (half of which were technical violations and not for committing a new crime).<sup>3</sup>
- **State Jail Population:** The Texas Department of Criminal Justice (TDCJ) reported in FY 2013 that there were nearly 11,000 individuals on hand in a state jail facility and over 22,000 new individuals entering facilities throughout the year.<sup>4</sup> However, the High Value Data Set available on TDCJ's website indicates otherwise, showing that in May 2014, **23,386 individuals were held in 19 state jail facilities, 47% of which were serving sentences longer than 2 years**<sup>5</sup> (the maximum sentence for state jail felonies is two years). While it is common knowledge that TDCJ regularly utilizes state jail facilities to hold individuals convicted of higher-level crimes for periods of time less than two years, this practice is entirely improper and contrary to the purpose for which state jails were created.

TDCJ may save money by housing individuals with longer sentences in state jails (given that some prison facilities cost as much as \$48.84 per person per day, compared to the \$42.90 price tag of state jails).<sup>6</sup> However, depriving individuals with longer sentences of the services and programs they should receive in prison facilities is a blatant misuse of the resources designated for this population.

### COST-SAVING AND PUBLIC SAFETY-DRIVEN SOLUTIONS

- **Incentivize individuals with certain nonviolent state jail felony offenses to complete probation.** Judges—with the consent of the district attorney—should be required 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. (*see H.B. 1790, 83R*)
- **Allow the Texas Department of Criminal Justice (TDCJ) to provide the timely award of credits for participation in self-improvement programming in state jails to relieve the current burden on judges.** Texas' 82nd Legislature ratified H.B. 2649, which allows individuals to receive limited "diligent participation" credits for successful participation in available state jail programming. However, the implementation of this incentive scheme has been impeded by confusion amongst practitioners in the court and jail system with regard to who is authorized to grant credits to a state jail inmate and who should receive such credits. TDCJ should be authorized to grant credits to programming participants in state jails. Fully implementing the Legislature's plan to grant credit to individuals who choose to improve their lives through programming is a practical and responsible measure that will help ease the strain of costly state jail stays while improving public safety and strengthening communities. (*see H.B. 3004, 83R*)

- **Create an advisory committee to examine the state jail system and make recommendations for its improvement.** TDCJ should convene a volunteer advisory panel to study the problems facing the state jail system, and recommend how Texas can minimize recidivism rates and better provide opportunities for holistic rehabilitation to those with low-level offenses. The advisory panel should be comprised of legislators, probation chiefs, prosecutors, defense attorneys, advocates, criminal law experts, and individuals formerly involved in the state jail system. (see *H.B. 2734, 83R*)

## Citations

<sup>1</sup> House Research Organization, Bill Analysis, Tex. S.B. 1067, 73rd Leg., R.S. (1993); House Research Organization, Tex. S.B. 532, 73rd Leg., R.S. (1993).

<sup>2</sup> Legislative Budget Board (LBB), “Criminal Justice Uniform Cost Report: Fiscal Years 2010 to 2012,” Submitted to the 83rd Legislature (Jan. 2013): 8, 14, 15, accessed October 1, 2014, available at [http://www.lbb.state.tx.us/Public\\_Safety\\_Criminal\\_Justice/Uniform\\_Cost/Criminal%20Justice%20Uniform%20Cost%20Report%20Fiscal%20Years%202010%20to%202012.pdf](http://www.lbb.state.tx.us/Public_Safety_Criminal_Justice/Uniform_Cost/Criminal%20Justice%20Uniform%20Cost%20Report%20Fiscal%20Years%202010%20to%202012.pdf). State jail costs are estimated at \$42.90 per day; substance abuse outpatient treatment is estimated at \$5.30 per day; while the Treatment Alternatives to Incarceration Program is estimated at \$6.51 per day.

<sup>3</sup> Legislative Budget Board (LBB), “Statewide Criminal Justice Recidivism and Revocation Rates,” Submitted to the 83rd Legislature (Jan. 2013): 4, 11, accessed October 1, 2014, available at [http://www.lbb.state.tx.us/Public\\_Safety\\_Criminal\\_Justice/RecRev\\_Rates/Statewide%20Criminal%20Justice%20Recidivism%20and%20Revocation%20Rates2012.pdf](http://www.lbb.state.tx.us/Public_Safety_Criminal_Justice/RecRev_Rates/Statewide%20Criminal%20Justice%20Recidivism%20and%20Revocation%20Rates2012.pdf).

<sup>4</sup> Texas Department of Criminal Justice (TDCJ), “Fiscal Year 2013 Statistical Report,” (2014): 1, 2, accessed October 1, 2014, available at [http://www.tdcj.state.tx.us/documents/Statistical\\_Report\\_FY2013.pdf](http://www.tdcj.state.tx.us/documents/Statistical_Report_FY2013.pdf). The report indicates that 10,951 individuals were on hand in state jails, while 22,271 individuals were received into state jail facilities. The total number of individuals in TDCJ was 150,784.

<sup>5</sup> Texas Department of Criminal Justice (TDCJ), Public Resources, “High Value Data Set,” accessed October 1, 2014, available at [http://www.tdcj.state.tx.us/documents/High\\_Value\\_Data\\_Sets.xls](http://www.tdcj.state.tx.us/documents/High_Value_Data_Sets.xls).

<sup>6</sup> LBB, “Criminal Justice Uniform Cost Report,” 8.