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FACT SHEET 2013

H.B. 3336

Dear Members of the Committee,

Thank you for the opportunity to present testimony in favor of H.B. 3336, an effective policy that will provide policy leaders and practitioners with additional information about why individuals with drug offenses are sentenced to a term of incarceration rather than placed on probation or in a treatment program – crucial for future corrections planning and resource allocation.

#### TRACKING JUDICIAL DECISIONS WILL PROVIDE CRITICAL INFORMATION TO POLICY-MAKERS

Judges should be required to record why they choose to incarcerate individuals charged solely with possession of a controlled substance instead of placing them on community supervision (probation) or in treatment, and make this data available to the public via the Office of Court Administration. Collecting data about sentencing decisions for drug possession crimes will help policy-makers and practitioners identify statewide sentencing patterns, which will assist in planning for future treatment services and corrections capacity.

#### KEY FINDINGS: INCARCERATING ADDICTION FAILS TEXANS

**A considerable percentage of individuals arrested, tried, and incarcerated in Texas are charged with low-level drug possession.**

- About 90% of all drug-related arrests in Texas are for possession of a controlled substance, not delivery or distribution.<sup>1</sup> In FY 2012, almost 30% of individuals who entered the Texas Department of Criminal Justice were admitted for a drug offense – and nearly 73% of those individuals were charged with drug possession, as opposed to delivery or other offenses.<sup>2</sup> Incarcerating individuals for drug possession costs Texas taxpayers more than \$1 million daily, or about \$397 million per year.<sup>3</sup>
- Prescription drug abuse is on the rise in Texas,<sup>4</sup> putting more people at risk of criminal justice system involvement – particularly youth, older adults, women,<sup>5</sup> and veterans returning from Iraq and Afghanistan.<sup>6</sup>

**Incarceration-driven responses to addiction are bad for Texas.**

- Many Texans struggle with addiction, and increasingly, research indicates that chemical dependency is a brain disease that can be treated with proper resources and services – not incarceration. By altering the chemistry of the brain, drug addiction can lead to compulsive cravings and limits the ability of an individual to make voluntary decisions.<sup>7</sup> Treatment is critical to address these issues.
- Incarceration in prison (\$18,265/year) is almost seven and a half times more expensive than community supervision with treatment (\$2,438/year).<sup>8</sup>
- Incarceration creates barriers to accessing housing, employment, education, and other services, and it reduces the ability of individuals to pay child support and meet other obligations. These challenges can trigger relapse, leading to re-arrest or re-incarceration.<sup>9</sup>

#### COMMUNITY SUPERVISION AND TREATMENT: A MORE EFFECTIVE, COST-EFFICIENT APPROACH

Community supervision is far less expensive than incarceration, costing the state only \$1.38 per person per day compared to county jail (\$59.00/day<sup>10</sup>), state jail (\$42.90/day), or prison (\$50.04/day).<sup>11</sup> Furthermore, community supervision is often more effective at addressing addiction and mental illness than incarceration: **individuals on probation typically 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.**<sup>12</sup>

*Continued on reverse.*

## COST-SAVING AND PUBLIC SAFETY-DRIVEN SOLUTION: SUPPORT H.B. 3336 BY REPRESENTATIVE HUGHES

**H.B. 3336 will require Texas judges to report why they sentence individuals with drug possession charges to prison or jail instead of placing them on community supervision or in treatment.** Improving transparency around judicial decision-making through the collection of additional information can inform future criminal justice policies and practices related to low-level drug possession and chemical dependency.

### CONCLUSION

Thank you again for the opportunity to provide testimony in favor of H.B. 3336. Collecting information about drug sentencing practices will increase the ability of Texas leadership to plan for and meet the needs of individuals with low-level possession charges. The Texas Criminal Justice Coalition strongly urges you to support this bill.

### **Citations**

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<sup>1</sup> Texas Department of Public Safety, *Crime in Texas: Texas Arrest Data, 1999 – 2011*.

<sup>2</sup> Texas Department of Criminal Justice, *Statistical Report Fiscal Year 2012*, pp. 2, 21.

<sup>3</sup> Legislative Budget Board, *Criminal Justice Uniform Cost Report, Fiscal Years 2010 – 2012*, January 2013, p. 8.

<sup>4</sup> The Texas Drug Demand Reduction Advisory Committee, *Report to State Leadership*, January 2009, pp. 12-13, <http://www.dshs.state.tx.us/sa/ddrac/default.shtm>.

<sup>5</sup> National Institute of Health: National Institute on Drug Abuse, "Prescription Drugs: Abuse and Addiction," Research Report Series, U.S. Department of Health and Human Service, pp. 7-8, <http://www.drugabuse.gov/publications/research-reports/prescription-drugs>.

<sup>6</sup> American-Statesman Investigative Team, "Uncounted Casualties: Home, But not Safe," *Austin American-Statesman*: statesman.com, September 29, 2012, <http://www.statesman.com/news/news/local-military/texas-war-veteran-deaths-studied/nSPJs/>.

<sup>7</sup> National Institutes of Health, National Institute on Drug Abuse, *Medical Consequences of Drug Abuse*, <http://www.drugabuse.gov/related-topics/medical-consequences-drug-abuse>.

<sup>8</sup> Legislative Budget Board, *Criminal Justice Uniform Cost Report, Fiscal Years 2010 – 2012*, January 2013, pp. 8, 14, 15; using FY 2012 prison inmate costs-per-day of \$50.04; state costs-per-day for community supervision of \$1.38; and state costs-per-day for substance abuse outpatient treatment of \$5.30.

<sup>9</sup> U.S. Department of Health and Human Service, National Institute on Drug Abuse, *Principles of Drug Abuse Treatment for Criminal Justice Populations: A Research-Based Guide*, <http://www.drugabuse.gov/publications/principles-drug-abuse-treatment-criminal-justice-populations>.

<sup>10</sup> Brandon Wood, Then-Assistant Director of the Texas Commission on Jail Standards, in presentation at American Bar Association, Criminal Justice Section, *Roundtable on Pretrial Detention in Texas*, held in Austin, Texas, March 30, 2012

<sup>11</sup> LBB, *Criminal Justice Uniform Cost Report*, pp. 8, 14.

<sup>12</sup> U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Association, Center for Substance Abuse Treatment. 1997. *The National Treatment Improvement Evaluation Study: NTIES Highlights*, <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 and incarceration rates than those who do not complete their program).