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TESTIMONY 2013
H.B. 1790

Dear Members of the Committee,

Thank you for allowing me this opportunity to present testimony in favor of House Bill (H.B.) 1790, which will encourage greater rehabilitative success among individuals with certain offenses, resulting in significant taxpayer cost savings, increased public safety, and strengthened communities.

COMMUNITY SUPERVISION ALTERNATIVES WILL INCREASE PUBLIC SAFETY, PERSONAL RESPONSIBILITY, AND COST SAVINGS

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 posed a higher risk to public safety.¹ In many cases, community supervision provides a better, less expensive opportunity to obtain 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 a day per person) than incarceration alternatives such as community supervision (\$1.38 a day per person) and diversion treatment (less than \$7 a day per person).² Yet today, tens of thousands of Texans, primarily with 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.

Additionally, many individuals actually elect to serve their sentence in a state jail rather than take advantage of the support and resources offered by community supervision. This is due primarily to the extra requirements of community supervision. Community supervision terms are generally longer than state jail terms and require a higher level of personal accountability and self-responsibility. The average length of stay in a state jail is about six months, which offers little opportunity for an individual to participate in meaningful rehabilitation or treatment, if any is even available at that facility. Unfortunately, a state jail conviction also creates collateral barriers associated with a felony conviction.

H.B. 1790 will incentivize community supervision by allowing certain individuals who meet specific criteria the opportunity to have a state jail conviction reduced by one offense level. Current law already permits a state jail offense to be punished and prosecuted as a Class A misdemeanor, but H.B. 1790 will provide a more effective incentive for community supervision because it will apply only after successful completion of a term of probation, as opposed to before. By encouraging more community supervision placements, H.B. 1790 will ensure that individuals have access to important community-based programs and services that will increase the chances of success in the community and decrease the likelihood of reoffending.

KEY FINDINGS

- **STATE JAIL COST:** In 2012, there were nearly 12,000 individuals on hand in a state jail facility (8% of all individuals incarcerated) and over 23,000 new receives throughout the year.³ Incarcerating these men and women cost taxpayers over \$500,000 a day and over \$180 million annually.⁴
- **STATE JAIL DEMOGRAPHICS:**
 - About 85% of the individuals in a state jail are there for nonviolent drug or property offenses.⁵
 - Over 50% of the individuals in a state jail are there for their first or second offense.⁶
 - The majority of individuals are in for drug possession (nearly 30%), followed by larceny and burglary.⁷
 - The average state jail sentence is 1.02 years, while the average length of time an individual will spend in a state jail is about 6 months.⁸

Continued on reverse.

- **STATE JAIL RECIDIVISM RATES: 31.1%** of individuals released from a state jail in FY 2009 (measured through FY 2012) were re-incarcerated.⁹ By way of comparison, an average **14.8%** of individuals on felony direct supervision were revoked from their probation from FY 2008 through FY 2012.¹⁰

COST-SAVING AND PUBLIC SAFETY-DRIVEN SOLUTION: SUPPORT H.B. 1790 BY REPRESENTATIVE LONGORIA

- **H.B. 1790 will encourage individuals with certain state jail felony convictions to serve their sentence on community supervision by allowing a court to reduce the conviction one offense level after all conditions of probation are satisfied.** Before a defendant requests a modification for an offense reduction under H.B. 1790, he or she must first successfully fulfill all conditions of community supervision and pay any required fees, restitution, or fines.
- **H.B. 1790 will not modify a state jail level offense for all offenses, and various restrictions will limit its applicability.** H.B. 1790 only applies to limited state jail offenses and it excludes any offenses under Title 5 of the Penal Code (such as homicide, kidnapping, and assault). Moreover, before a judge can grant a modification, he or she must provide notice to the attorney representing the state who may in turn request a hearing before any modification is issued. The modification can only be issued if no party requests a hearing or, if a hearing is requested, the judge makes a finding that a modification of the record of conviction is in the best interest of justice.
- **H.B. 1790 will save taxpayer dollars, enhance public safety through lower recidivism, increase self-responsibility, and strengthen communities.** Community supervision requires more diligence, self-responsibility, and accountability than state jail facilities. Moreover, with access to resources and services, community supervision has a significant impact on reducing recidivism. While increasing public safety is paramount, diverting a person from state jail to community supervision also saves taxpayers a significant amount of money that would be spent on state jail incarceration.

CONCLUSION

Thank you again for allowing me the opportunity to testify in favor of H.B. 1790. The Texas Criminal Justice Coalition strongly urges you to support this bill, which implements safeguards while promoting increased rehabilitative success among individuals with certain offenses, leading to cost savings and recidivism reductions.

Citations

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

² Legislative Budget Board (LBB), *Criminal Justice Uniform Cost Report Fiscal Years 2010-2012*, Submitted to the 83rd Texas Legislature, January 2013, pp. 8, 14, 15 (state jail costs are estimated at \$42.90 a day per person; substance abuse outpatient treatment is estimated at \$5.30 a day per person, while the Treatment Alternatives to Incarceration Program is estimated at \$6.51 a day per person).

³ Texas Department of Criminal Justice, *Statistical Report Fiscal Year 2012*, pp. 1, 2. Available at http://www.tdcj.state.tx.us/documents/Statistical_Report_FY2012.pdf.

⁴ Based on LBB, *Uniform Cost Report*, p. 8.

⁵ TDCJ, *Statistical Report*, pp. 1, 2.

⁶ TDCJ Open Records Response, 16 October 2012, information available upon request. Over 3,000 individuals (nearly 30%) are on their first offense.

⁷ *Id.*

⁸ *Id.* The average stay is about 6 months in a TDCJ state jail facility, and about 3.5 months in county facility—confinement averages less than 10 months (.8 years).

⁹ LBB, *Statewide Criminal Justice Recidivism and Revocation Rates*, Submitted to the 83rd Texas Legislature, January 2013, pp. 4, 31, 35; available at www.lbb.state.tx.us/Public_Safety_Criminal_Justice/RecRev_Rates/Statewide%20Criminal%20Justice%20Recidivism%20and%20Revocation%20Rates2012.pdf. 62.7% of individuals released from state jail in FY 2008 (measured through FY 2011) were re-arrested.

¹⁰ *Id.* p. 11.