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## **SUPPORT CSHB 3303: Consideration for Primary Caretakers & Minor Children** *Require courts to consider primary caretaker status in community supervision decisions*

### **MINOR CHILDREN ARE AT RISK WHEN THEIR PRIMARY CARETAKER IS INCARCERATED FOR A PROBATION VIOLATION**

**Parental incarceration** not only impacts the parent under correctional control, it also **has profound and widespread effects on the health and wellbeing of their children**. Children of incarcerated parents have high rates of behavioral problems, speech and language delays, asthma, obesity, depression, and anxiety. They have higher rates of attention deficits than those with parents missing because of death or divorce. Additionally, the probability of risky sleep and eating behaviors in children with an incarcerated parent is more than double that of children who have had neither parent incarcerated. This is particularly worrisome, as sufficient sleep and proper eating habits are the cornerstone of healthy development in children.<sup>1</sup> But even worse, incarcerated parents can permanently lose custody of their children, sending them into the foster care system or into other vulnerable situations, including homelessness.<sup>2</sup>

#### **IN SHORT**

CSHB 3303 will require judges to take primary caretaker status into consideration when making community supervision decisions. It will also create a reporting process to track revocations among young adults on community supervision.

**Young adults aged 17 to 25 who are parents of minor children require special assistance and attention.** As an age group, they are far more likely than their older peers to have their probation revoked. In fact, only 18 percent of 17- to 21-year-olds successfully terminated from felony community supervision in 2017. The remaining 82% were revoked and sent to jail or prison.<sup>3</sup>

Rather than incarcerating a primary caretaker for a probation violation, judges should modify their probation conditions or consider family-based treatment alternatives to incarceration, which consistently result in lower recidivism<sup>4</sup> and lead to **improved children's health, family stability, sustained parental sobriety, increased family reunification, and significantly better outcomes for children than foster care placement.**<sup>5</sup>

#### **KEY FINDINGS**

- Per a 2018 survey of women in Woodman State Jail, 55 percent had been placed on probation but were unable to meet the conditions and had been revoked. The women cited challenges related to probation's costs and conditions that made compliance challenging, especially when also caring for a family.<sup>6</sup>
- Incarceration impacts parents' ability to provide financial and emotional support to their children and can result in negative outcomes for their children, including serious mental, physical, and emotional health issues,<sup>7</sup> and involvement in the child welfare system.
- Children of incarcerated parents are five times more likely to commit crimes than their peers,<sup>8</sup> and children of young adults on felony community supervision are at particularly high risk. Research shows young adults are not fully mature and have greater impulsivity and proclivity toward risk-taking behaviors than older adults.<sup>9</sup> Many of their parents may ultimately be sent to jail or prison unless Texas takes steps to assist them.

*Continued on reverse.*

## COST-SAVING AND PUBLIC SAFETY-DRIVEN SOLUTION: SUPPORT CSHB 3303 BY REPRESENTATIVE BOWERS

CSHB 3303 would require courts to take into consideration whether a parent is the sole caretaker of a child (under 18 years of age) when determining whether to revoke, continue, or modify community supervision for a probation violation, unless the violation involved being arrested for, charged with, or convicted of an offense other than a traffic offense punishable by fine only.

This reform is critical. While 81 percent of women in Texas prisons are mothers, 68 percent of men are fathers. Collectively, almost 103,000 people in Texas' state corrections system in FY 2016 had children,<sup>10</sup> at tremendous cost to Texas children, family units, and communities.

CSHB 3303 also takes the important step of addressing disproportionality in young adults being revoked on probation, specifically by:

- requiring more rigorous reporting on the outcomes of young adults on felony community supervision, especially for those who are primary caretakers of children;
- directing the Texas Department of Criminal Justice (TDCJ) to provide technical assistance on developmental factors impacting young adults on probation; and
- ensuring that TDCJ grant funds are available to improve young adult programming, especially for young adults who are primary caretakers.

### Citations

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<sup>1</sup> Texas Smart-On-Crime Coalition, HB 1389 Fact Sheet, 2019. Available by request.

<sup>2</sup> R. Anspach, "What It's Like to Grow Up with a Parent Behind Bars," *Teen Vogue*, October 13, 2017, <https://www.teenvogue.com/story/what-its-like-to-have-an-incarcerated-parent>.

<sup>3</sup> Texas Department of Criminal Justice (TDCJ), FY 2017 Statistical Report, [https://www.tdcj.texas.gov/documents/Statistical\\_Report\\_FY2017.pdf](https://www.tdcj.texas.gov/documents/Statistical_Report_FY2017.pdf).

<sup>4</sup> A. Thompson, "Releasing Prisoners, Redeeming Communities Reentry, Race, and Politics" *NYU Press*, 2008, 64-65.

See also: Women's Prison Association, *Mothers, Infants and Imprisonment: A National Look at Prison Nurseries and Community-Based Alternatives*, 2009, [https://www.prisonlegalnews.org/media/publications/womens\\_prison\\_assoc\\_report\\_on\\_prison\\_nurseries\\_and\\_community\\_alternatives\\_2009.pdf](https://www.prisonlegalnews.org/media/publications/womens_prison_assoc_report_on_prison_nurseries_and_community_alternatives_2009.pdf)

<sup>5</sup> National Women's Law Center, *Mothers Behind Bars*, 2010, <https://www.nwlc.org/sites/default/files/pdfs/mothersbehindbars2010.pdf>.

<sup>6</sup> Doug Smith, *A Failure in the Fourth Degree: Reforming the State Jail Felony System in Texas*, Texas Criminal Justice Coalition, October 2018.

<sup>7</sup> Lindsey Linder, *An Unsupported Population: The Treatment of Women in Texas' Criminal Justice System*, Texas Criminal Justice Coalition, April 2018, <https://www.texascjc.org/womens-justice>.

<sup>8</sup> Tracy Velazquez, *Young Adult Justice: A new frontier worth exploring*, 2013, <https://chronicleofsocialchange.org/wp-content/uploads/2013/05/Young-Adult-Justice-FINAL-revised.pdf>.

<sup>9</sup> Tracy Velazquez, *Young Adult Justice*.

<sup>10</sup> TDCJ, data request, September 2017.