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TESTIMONY 2013

H.B. 2045

Dear Members of the Committee,

Thank you for allowing me this opportunity to present testimony in favor of H.B. 2045 by Representative Turner. This bill will save taxpayer money otherwise spent on costly incarceration, and give individuals with first-time low-level drug offenses a better chance at accessing rehabilitative services and gaining employment.

THE HIGH COSTS OF INCARCERATION FOR LOW-LEVEL DRUG POSSESSION

Texas incarcerates high numbers of individuals for low-level drug possession. In 2011 and 2012 alone, 16,262 individuals were sentenced to state jail for a drug conviction,¹ annually costing taxpayers approximately **\$15,500 per person.**² Of these individuals, 88% were convicted of possessing less than a gram of a controlled substance without the intent to deal or distribute (a gram equals one packet of Sweet’N Low).³ As of August 2012, nearly one-third (31%) of the total Texas state jail population was incarcerated for possession of less than a gram.⁴

In 2011 and 2012, the Texas Department of Criminal Justice (TDCJ), comprised of state jails, prison units, and Substance Abuse Felony Punishment facilities, received 43,793 individuals convicted of drug crimes.⁵ Approximately 42% of these individuals were incarcerated for possession of less than a gram.⁶

Many individuals convicted of low-level drug offenses struggle with mental illness and chemical dependency. For that reason, **incarcerating individuals for possession of less than one gram of a controlled substance often costs the state more on average than incarcerating those convicted of other types of offenses.**

Indeed, individuals convicted of possession of less than a gram fill beds in TDCJ medical, psychiatric, and intellectually disabled units at high expense:

- **Medical Unit:** Of the individuals on hand in TDCJ on August 31, 2012, who were sentenced for possession of under a gram, 465⁷ had been placed in a medical unit (\$661.86/day)⁸ during the span of their incarceration. These individuals alone filled beds in the medical unit for a total of 5,812 days,⁹ costing the state \$3,846,730.
- **Psychiatric Unit:** Of the individuals on hand in TDCJ on August 31, 2012, who were sentenced for possession of under a gram, 113¹⁰ had been placed in a psychiatric unit (\$63.10/day)¹¹ during the span of their incarceration. These 113 individuals alone filled beds in the psychiatric unit for 13,969 days,¹² costing the state \$881,443.
- **Intellectually Disabled Program:** Of the individuals on hand in TDCJ on August 31, 2012, who were sentenced for possession of under a gram, 18¹³ individuals had been placed in an intellectually disabled program (\$66.35/day)¹⁴ during the span of their incarceration. These 18 individuals alone filled beds in intellectually disabled units for 6,550 days,¹⁵ costing the state \$434,592.

KEY FINDINGS

- In 2011 and 2012 alone, TDCJ received 18,535 individuals for possession of less than a gram of a controlled substance.¹⁶
- In 2011 and 2012 alone, 16,262 individuals were sentenced to state jail for a drug conviction.¹⁷ 88%, or 14,309 of these individuals, were sentenced for possession of less than a gram.¹⁸ Individuals incarcerated in state jails have little to no access to substance abuse treatment.¹⁹

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KEY FINDINGS (CONTINUED)

- Altogether, nearly one-third (31%) of the total Texas state jail population is incarcerated for possession of less than a gram.²⁰
- Under the administration of former Harris County District Attorney Pat Lykos, trace amounts of controlled substances were prosecuted as Class C misdemeanors instead of state jail felonies.²¹ This policy safely decreased incarceration, saved money, and freed up time in the Houston Police Department Crime Lab and local courts.²² **Notably, the crime rate steadily dropped during Lykos's tenure.**

COST-SAVING AND PUBLIC SAFETY-DRIVEN SOLUTION: SUPPORT H.B. 2045 BY REPRESENTATIVE SYLVESTER TURNER

H.B. 2045 would change the penalty for *first-time* possession of less than a gram of a controlled substance from a state jail felony to a Class C misdemeanor. This is a proactive, common sense approach to minor drug crimes will save taxpayers money by reducing costly state jail stays, while also preventing individuals from being burdened with the devastating, lifelong consequences of a felony conviction.

CONCLUSION

Thank you again for allowing me the opportunity to present testimony in favor of H.B. 2045. This policy has broad support and will save taxpayers money while helping more individuals access critical rehabilitative services.

Citations

¹ Texas Department of Criminal Justice, *Fiscal Year 2011 Statistical Report* (2012) and *Fiscal Year 2012 Statistical Report* (2013).

² Legislative Budget Board (LBB), *Criminal Justice Uniform Cost Report, Fiscal Years 2010 to 2012*, p. 8.

³ Open Records Request, Texas Department of Criminal Justice.

⁴ *Ibid.*

⁵ TDCJ, *Fiscal Year 2011 Statistical Report* (2012) and *Fiscal Year 2012 Statistical Report* (2013).

⁶ Open Records Request, Texas Department of Criminal Justice.

⁷ *Ibid.*

⁸ LBB, *Criminal Justice Uniform Cost Report*, p. 8.

⁹ Open Records Request, Texas Department of Criminal Justice.

¹⁰ *Ibid.*

¹¹ LBB, *Criminal Justice Uniform Cost Report*, p. 8.

¹² Open Records Request, Texas Department of Criminal Justice.

¹³ *Ibid.*

¹⁴ LBB, *Criminal Justice Uniform Cost Report*, p. 8.

¹⁵ Open Records Request, Texas Department of Criminal Justice.

¹⁶ Open Records Request, Texas Department of Criminal Justice.

¹⁷ TDCJ, *Fiscal Year 2011 Statistical Report* (2012) and *Fiscal Year 2012 Statistical Report* (2013).

¹⁸ Open Records Request, Texas Department of Criminal Justice.

¹⁹ Mike Ward, *State jails struggle with lack of treatment, rehab programs*. "The state jails [...] have fewer treatment and rehabilitation programs than many of the regular prisons — the opposite of the original goals."

²⁰ Open Records Request, Texas Department of Criminal Justice.

²¹ Emily DePrang, "Houston's New DA Brings Back 'Trace' Felonies, the Eighties," *Texas Observer*, February 15, 2013.

²² *Ibid.*