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TESTIMONY 2013

H.B. 256

Dear Members of the Committee,

Thank you for allowing me this opportunity to present testimony in favor of H.B. 256, an effective policy that will help realize the true intent of deferred adjudication, save taxpayer money, and prioritize the allocation of criminal justice resources on more critical interventions.

RESTORE MANDATORY SUPERVISION FOR TECHNICAL VIOLATIONS

Through deferred adjudication, a judge and prosecutor decide that certain defendants do not warrant jail time and instead deserve the opportunity to rehabilitate in the community. The judge suspends a determination of a defendant’s guilt and places him or her on probation; the defendant is released into the community and supervised by the court, with conditions of supervision.¹

An individual on deferred adjudication can be revoked to the Texas Department of Criminal Justice for a technical violation of the probation term, like missing a meeting or breaking curfew. Unfortunately, many individuals are filling expensive beds in TDCJ for these minor, administrative violations, not for committing a new crime. Then, while incarcerated, they are being denied release on mandatory supervision.

H.B. 256 would restore mandatory supervision for certain individuals who have committed a technical violation while on deferred adjudication, which will free up prison space and provide parole panels with additional time to review more serious cases. More specifically, eligible individuals will be automatically released to mandatory supervision once their time served plus good time equals their sentence length.

HUNDREDS OF THOUSANDS OF TEXANS ARE PLACED ON DEFERRED ADJUDICATION

Since September 1, 2010, Texas courts assigned 290,000 cases with a deferred adjudication.² Some of these individuals will serve between five and ten years on community supervision.³ Of the approximately 178,000 individuals placed on deferred adjudication for misdemeanor offenses during this time, about 40,000 (22%) were charged with traffic offenses, and about 30,000 (17%) were charged with possession or delivery of small amounts of marihuana.⁴ Of the approximately 113,000 individuals placed on deferred adjudication for felonies, over 30,000 (27%) were charged with drug possession.⁵

CASES PLACED ON DEFERRED ADJUDICATION BETWEEN SEPTEMBER 2010 AND DECEMBER 2012⁶

| Total Cases Placed on Deferred Adjudication (Sept 2010 – Dec 2012) | 290,971 |
|---|----------------|
| Total for Felonies | 113,222 |
| <i>Felony Drug Possession</i> | 30,055 |
| Total for Misdemeanors | 177,749 |
| <i>Misdemeanor Traffic Offense</i> | 39,824 |
| <i>Misdemeanor Possession of Marihuana</i> | 30,794 |

Continued on reverse.

KEY FINDINGS

- Between September 2010 and December 2012, Texas courts have placed over 290,000 individuals on deferred adjudication.⁷
- Deferred adjudication can be imposed for even minor misdemeanor offenses like gambling or state jail felony offenses like marihuana possession.⁸
- According to the Legislative Budget Board, “A technical violation is any violation of community supervision conditions other than committing a subsequent new offense (e.g., positive urinalysis or failure to pay court-ordered fees).”⁹ Other technical violations that can result in revocation to a correctional facility include missing a meeting or breaking curfew.
- In FY 2012, 50% of probation revocations were for technical violations.¹⁰
- While incarceration in prison costs the state \$50.04 per person per day, community supervision costs the state only \$1.38 per person per day¹¹ – 36 times less.

COST-SAVING AND PUBLIC SAFETY-DRIVEN SOLUTION: H.B. 256 BY REPRESENTATIVE MILES

H.B. 256 allows individuals on deferred adjudication who have been revoked to the Texas Department of Criminal Justice for a technical violation to be released to mandatory supervision once their time served plus good time equals their sentence length. This will free up costly prison beds, while allowing parole panels to focus on individuals with more serious offenses.

NOTE: This bill makes an exception for registered sex offenders, who are ineligible for release under this provision.

CONCLUSION

Thank you again for allowing me the opportunity to present testimony in favor of H.B. 256. Amending mandatory supervision provisions for individuals with minor administrative offenses will decrease demand on corrections resources, allowing state and agency leadership to conserve funding for other critical strategies.

Citations

¹ TEX. CODE OF CRIM. PROCEDURE, ART. 42.12 SEC. 5(C)

² Office of Court Administration: Court Activity Reporting, <http://card.txcourts.gov/ReportSelection.aspx>.

³ TEX. CODE OF CRIM. PROCEDURE, ART. 42.12 SEC. 5(A)

⁴ Office of Court Administration.

⁵ *Ibid.*

⁶ *Ibid.*

⁷ *Ibid.*

⁸ TEX. CODE OF CRIM. PROCEDURE, ART. 42.12 SEC.3

⁹ Legislative Budget Board (LBB), *Statewide Criminal Justice Recidivism and Revocation Rates*, Submitted to the 83rd Texas Legislature, January 2013, p. 11; available at www.lbb.state.tx.us/Public_Safety_Criminal_Justice/RecRev_Rates/Statewide%20Criminal%20Justice%20Recidivism%20and%20Revocation%20Rates2012.pdf.

¹⁰ *Ibid.*, p. 19

¹¹ Legislative Budget Board, *Criminal Justice Uniform Cost Report, Fiscal Years 2010 to 2012*, pp. 8, 14; 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.