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Testimony 2013

H.B. 3004

Dear Members of the Committee,

Thank you for allowing me to present testimony in favor of H.B. 3004, which will clarify procedures related to granting time credits to individuals who participate in rehabilitative and self-improvement programs in state jails. This bill will increase efficiency in the process and better encourage participation in crucial programming, thus reducing the likelihood of costly re-offending and strengthening communities.

**CONFUSION IN THE ALLOCATION OF TIME CREDITS MAKES IT DIFFICULT FOR INDIVIDUALS IN STATE JAILS TO RECEIVE CREDIT FOR SUCCESSFUL PARTICIPATION IN REHABILITATION OR VOCATIONAL PROGRAMS.**

Until recently, and unlike in state prisons, individuals serving their sentence in state jails were ineligible for any time credits and had to serve their full sentence (up to two years) with no eligibility for parole or early release. Consequently, there was no legitimate incentive to participate in rehabilitative, educational, or vocational programs, nor were there significant advantages to maintaining a positive disciplinary record. It should come as little surprise that state jail inmates have a higher recidivism rate than state prisoners.<sup>1</sup>

**Recognizing that individuals in a state jail facility would benefit significantly from rehabilitative and self-improvement programs, Texas' 2011 Legislature ratified H.B. 2649**, which allows individuals to receive limited "diligent participation" credits for successful participation in state jail programs. In other words, H.B. 2649 incentivized participation in programming by allowing judges to reduce the original sentences of eligible individuals by as much as one-fifth.

However, the implementation of this incentive scheme has been impeded by confusion amongst practitioners in the court and jail system with regard to who is authorized to grant credits to a state jail inmate and who should receive such credits, leaving judges unwilling to grant diligent participation credits when appropriate. **H.B. 3004 will clarify the duties of H.B. 2649 and clear up confusion in the process by allowing the Texas Department of Criminal Justice (TDCJ) to grant program credits.** Furthermore, H.B. 3004 will allow TDCJ to grant the credits at any time prior to the termination of the original sentence; currently, a judge may only grant credits until the 30<sup>th</sup> day before the date on which the individual will have served 80% of his or her sentence.

**KEY FINDINGS**

- A study of more than 3,600 individuals who participated in prison education programs showed they were **29% less likely to be re-incarcerated than non-participants.**<sup>2</sup>
- The average cost per day per person in a state jail facility is approximately \$43.<sup>3</sup> As of August 2012, state jails held 11,729 men and women,<sup>4</sup> **costing taxpayers more than \$500,000 per day.**
- Also as of August 2012, 99% of people in state jails (11,578 men and women) were incarcerated for a **nonviolent, non-sexually based offense.**<sup>5</sup>
- The average sentence length for a person in a state jail is 1.02 years, and the average length of time served in a TDCJ facility is about 6 months (typically 6 months in a state jail and about 4 months in a county facility).<sup>6</sup> This costs the state **over \$7,000 per person.**
- Based on a 10-month sentence, the average maximum credit earned through diligent participation in rehabilitative programs would be 60 days, which **saves the state more than \$2,500 per person.**<sup>7</sup>

*Solution offered on reverse.*

## COST-SAVING AND PUBLIC SAFETY-DRIVEN SOLUTION: SUPPORT H.B. 3004 BY REPRESENTATIVE ALLEN

- **H.B. 3004 will provide much-needed clarity about the role and responsibilities related to awarding credit for diligent participation in state jail educational, vocational, or rehabilitative programs**, placing the power to grant credit in the hands of the Texas Department of Criminal Justice. This clarification will improve efficiency and accuracy in the crediting process, thus incentivizing wider program participation.
- **H.B. 3004 will encourage greater participation in state jail rehabilitative and self-improvement programs by allowing the TDCJ to grant program credits at *any* time prior to the termination of an individual's sentence.** Currently, an individual is only eligible for program credits until 30<sup>th</sup> day before the date on which 80% of his or her sentence has been completed. For example, if a defendant is serving a 180-day sentence, he or she would not be eligible for credits after the 114<sup>th</sup> day, leaving no incentive to participate in rehabilitation programs after that point. To encourage wider participation in rehabilitation programs for long-term public safety gains, H.B. 3004 allows TDCJ to grant credit at any point prior to the end of the original sentence.

## CONCLUSION

Thank you again for allowing me the opportunity to present testimony in favor of H.B. 3004. Fully implementing the Legislature's plan to grant credit to individuals who choose to improve their lives through programming is a practical and responsible measure that will help ease the strain of costly state jail stays while improving public safety and strengthening communities.

## **References**

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<sup>1</sup> Legislative Budget Board, *Statewide Criminal Justice Recidivism and Revocation Rates*, January 2011, Submitted to the 83<sup>rd</sup> Texas Legislature, January 2013, pp. 4, 31; available at [www.lbb.state.tx.us/Public\\_Safety\\_Criminal\\_Justice/RecRev\\_Rates/Statewide%20Criminal%20Justice%20Recidivism%20and%20Revocation%20Rates2012.pdf](http://www.lbb.state.tx.us/Public_Safety_Criminal_Justice/RecRev_Rates/Statewide%20Criminal%20Justice%20Recidivism%20and%20Revocation%20Rates2012.pdf).

<sup>2</sup> The Pew Center on the States, *Collateral Costs: Incarceration's Effects on Economic Mobility*, 23 September 2010, p. 23; available at [http://www.pewcenteronthestates.org/uploadedFiles/Collateral\\_Costs.pdf?n=8653](http://www.pewcenteronthestates.org/uploadedFiles/Collateral_Costs.pdf?n=8653).

<sup>3</sup> Legislative Budget Board Report, *Criminal Justice Uniform Cost Report, Fiscal Years 2010-2012*, Submitted to the 83<sup>rd</sup> Texas Legislature, January 2013, p. 8 [using FY 2012 costs per person per day of \$42.90]; available at [www.lbb.state.tx.us/Public\\_Safety\\_Criminal\\_Justice/Uniform\\_Cost/Criminal%20Justice%20Uniform%20Cost%20Report%20Fiscal%20Years%202010%20to%202012.pdf](http://www.lbb.state.tx.us/Public_Safety_Criminal_Justice/Uniform_Cost/Criminal%20Justice%20Uniform%20Cost%20Report%20Fiscal%20Years%202010%20to%202012.pdf).

<sup>4</sup> Texas Department of Criminal Justice, *Fiscal Year (FY) 2012 Statistical Report*, p. 1; available at [www.tdcj.state.tx.us/documents/Statistical\\_Report\\_FY2012.pdf](http://www.tdcj.state.tx.us/documents/Statistical_Report_FY2012.pdf).

<sup>5</sup> *Ibid.*

<sup>6</sup> TDCJ Open Records Response, 16 October 2012, *information available upon request*.

<sup>7</sup> Legislative Budget Board: *Criminal Justice Impact Statement*, 6 April 2011, p. 1; available at <http://www.capitol.state.tx.us/tlodocs/82R/impactstmts/html/HB02649IB.htm>.