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TESTIMONY 2013

H.B. 1417

Dear Members of the Committee,

Thank you for allowing me this opportunity to present testimony in favor of H.B. 1417, which will provide individuals with certain first-time low-level drug offenses greater access to treatment. This policy will save money otherwise spent on costly incarceration, while increasing public safety and public health, and strengthening communities.

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. 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).¹ As of August 31, 2012, nearly one-third (31%) of the total Texas state jail population was incarcerated for possession of less than a gram.²

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.³ Approximately 42% of these individuals were incarcerated for possession of less than a gram.⁴

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, 465⁵ had been placed in a medical unit (\$661.86/day)⁶ during the span of their incarceration. These individuals alone filled beds in the medical unit for a total of 5,812 days,⁷ 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, 113⁸ had been placed in a psychiatric unit (\$63.10/day)⁹ during the span of their incarceration. These 113 individuals alone filled beds in the psychiatric unit for 13,969 days,¹⁰ 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, 18¹¹ individuals had been placed in an intellectually disabled program (\$66.35/day)¹² during the span of their incarceration. These 18 individuals alone filled beds in intellectually disabled units for 6,550 days,¹³ costing the state \$434,592.

Continued on reverse.

COMMUNITY SUPERVISION AND TREATMENT: A MORE EFFECTIVE, COST-EFFICIENT APPROACH

Community supervision (also referred to as probation) is far less expensive than incarceration, costing the state only \$1.38 per person per day compared to state jail (\$42.90/day) or prison (\$50.04/day).¹⁴ Furthermore, community supervision is often more effective at addressing addiction and mental illness than incarceration: individuals on probation typically have more access to drug treatment and mental health services than those incarcerated, and treatment programming results in lower levels of re-offending than strict incarceration.¹⁵

H.B. 1417 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 A misdemeanor, **allowing individuals the opportunity to access community-based addiction and mental health services, while being monitored by qualified probation officers.** This measure will increase public safety and public health, and produce significant savings for the state of Texas.

KEY FINDINGS

- In 2011 and 2012 alone, 16,262 individuals were sentenced to state jail for a drug conviction. Of these individuals, 88% were convicted of possessing *less than a gram* of a controlled substance.¹⁶
- Nearly one-third (31%) of the total Texas state jail population is incarcerated for possession of less than a gram.¹⁷ Individuals incarcerated in state jails have little to no access to substance abuse treatment.¹⁸
- Treatment is more effective and less expensive than incarceration.¹⁹

COST-SAVING AND PUBLIC SAFETY-DRIVEN SOLUTION: SUPPORT H.B. 1417 BY REPRESENTATIVE THOMPSON

H.B. 1417 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 A misdemeanor, allowing individuals the opportunity to access effective community-based addiction and mental health services, while being monitored by qualified probation officers. This is a proactive, common sense approach to addiction and correlated issues that will increase public safety and cost savings.

CONCLUSION

Thank you again for allowing me the opportunity to present testimony in favor of H.B. 1417. This policy has broad support and will increase public safety while saving taxpayers money.

Citations

¹ Open Records Request, Texas Department of Criminal Justice.

² Ibid.

³ Texas Department of Criminal Justice, *Fiscal Year 2011 Statistical Report (2012)* and *Fiscal Year 2012 Statistical Report (2013)*.

⁴ Open Records Request, Texas Department of Criminal Justice.

⁵ Ibid.

⁶ Legislative Budget Board (LBB), *Criminal Justice Uniform Cost Report, Fiscal Years 2010-2012 (2013)*, p. 8.

⁷ Open Records Request, Texas Department of Criminal Justice.

⁸ Ibid.

⁹ LBB, *Criminal Justice Uniform Cost Report*, p. 8.

¹⁰ Open Records Request, Texas Department of Criminal Justice.

¹¹ Ibid.

¹² LBB, *Criminal Justice Uniform Cost Report*, p. 8.

¹³ Open Records Request, Texas Department of Criminal Justice.

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

¹⁵ U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Association, Center for Substance Abuse Treatment. 1997. *The National Treatment Improvement Evaluation Study: NTIES Highlights*, <http://www.ncjrs.gov/nties97/index.htm>. Also see: Dustin Johnson, Ph.D., "Community Corrections Facility Outcome Study of FY 2008 Discharges: Texas Department of Criminal Justice – Community Justice Assistance Division: Research and Evaluation," May 2011, pp. 13, 23 (individuals completing residential programs have significantly lower two-year arrest and incarceration rates than those who do not complete their program).

¹⁶ Open Records Request, Texas Department of Criminal Justice.

¹⁷ Ibid.

¹⁸ Mike Ward, "State jails struggle with lack of treatment, rehab programs," *Austin American-Statesman*, December 30, 2012.

¹⁹ See notes 14 and 15.