

Unlocking the Key Elements of the Adult Corrections Budget

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Recommendations

- Enact numerous reforms to reduce the prison population and reallocate a share of the savings to strengthen probation, TCOOMI, and parole.
- Add provisions to pending legislation that would reduce the prison population to allocate a share of the savings to probation and/or parole if that legislation would result in more offenders on probation and/or parole.

Executive Summary

The tentative budget decisions made by the conference committee maintain nearly all of the funding added for incarceration alternatives in 2005 and 2007, and carried though in 2009.* At the same time, the conferees opted to close the Central Unit in Sugar Land by December 2010. This will be the first time in Texas history that a state-run adult prison will have been shuttered.

Given that the state's adult prison system is currently at its operating capacity, the conferees' decisions assume that lawmakers will pass sufficient reforms to reduce the state's prison population by between 1,071 and 2,071 inmates relative to the level that it is currently projected to reach by the end of the fiscal year 2013. The conferees' budget fully funds existing prisons other than the Central Unit, and includes a \$15 million contingency rider for temporary contract capacity, which would be sufficient to fund about 500 beds over the biennium.

When the Legislative Budget Board's January 2011 projection of 1,121 additional inmates by the end of the biennium is added to the 950 Central Unit beds, the total is 2,071 beds. Contingent temporary contracted capacity funds have met the line item veto in recent years. Assuming they are not stricken by the Governor, they would be enough to pay for about 500 beds over the biennium or 1,000 beds for the 2013 fiscal year alone.

The conference committee budget positions Texas to continue its progress in reducing both its crime and incarceration rates, particularly in conjunction with some of the pending statutory changes outlined below. By strategically reducing overall corrections expenditures with an emphasis on maintaining the recent shift towards more cost-effective community-based approaches, this budget confronts the fact that the state simply has less to spend and provides a useful impetus for advancing legislation in the session's closing weeks that not only saves money but, more important, constitutes good policy.

Introduction

As a conference committee finalizes decisions on reconciling the House and Senate budget proposals, corrections expenditures are receiving far less attention than those in other areas, such as education and health care. Corrections may receive less notice even though there is a \$360 million gap between the Senate's larger budget for the Texas Department of Criminal Justice and the House's blueprint because in the last few years expenses have not skyrocketed as they have in areas such as Medicaid. Nonetheless, cost-effective policies in corrections are just as important as elsewhere in the budget.

Corrections spending has stabilized in the last several years following an increased emphasis on alternatives to incarceration in the 2005, 2007, and 2009 budgets that is described in

* The tentative decisions are likely to be the final decisions since no corrections items were pending. However, the conference committee has indicated it will not issue any report on the budget if it does not reach an agreement on all budget articles. Currently, the Committee is deadlocked on education funding. If this is unresolved, leaders have indicated a special session will be needed at which time the entire budget will be reopened, though the conference committee's agreed recommendations in the other areas will likely serve as the starting point.

greater detail in the appendix. However, this occurred after TDCJ’s budget had grown from \$793 million in 1990 to nearly \$2.5 billion in 2004,¹ primarily because the prison population grew 278 percent during this period.² The 2010 fiscal year TDCJ budget was \$3.1 billion.³ Although Texas’ overall per capita spending is 50th among the states, it spends more than the median state per capita on corrections.⁴

Table 1: Texas Trend: Lower Incarceration Rate & Less Crime

| Year | Incarceration Rate Per 100,000 Residents | Serious Crimes Per 100,000 Residents |
|----------|------------------------------------------|--------------------------------------|
| 2004 | 704 | 5,039 |
| 2009 | 648 | 4,506 |
| % Change | -8.0% | -10.6% |

Sources: Bureau of Justice Statistics and Texas Law Enforcement Agency Uniform Crime Reports⁵

The Senate budget, unlike those of the House and the Governor, maintains funding for the 950-bed Sugar Land Central unit at a biennial operational cost of \$25.2 million. There are differences in other areas of the corrections budget relating to prison operations that are not the focus of this report, most notably the \$104 million for 2,800 contract prison beds the House does not appropriate and the \$196 million less the House spends on correctional health care as compared to the Senate and the current biennium.

Key TDCJ Budget Facts

- Prisons cost Texas taxpayers \$50.79 per inmate per day or \$18,031 per year. This is lower than in most states.
- Each new state prison bed costs more than \$60,000 to build.
- Probation costs the state \$1.30 per person per day, with the other half paid for through offender fees.
- Parole costs the state \$3.74 per person per day, or \$1,365 per year.

Currently, TDCJ houses 156,099 inmates with an operational capacity of 155,689 and a total capacity of 159,967.⁶ The system cannot function at total capacity due to factors such as some cells being unavailable due to renovations and daily changes in classification and placement of inmates. In January 2011 the Legislative Budget Board forecast prison population growth of only 1,121 during the 2012-13 biennium, taking

into account current funding levels for probation and diversion programs.⁷ This lower than 1 percent projected growth in the prison population would be less than the state’s overall population growth.

In analyzing the House budget, the House Research Office concluded, based on the LBB projection model, that “The projected number of incarcerated offenders are (sic) not fully funded for fiscal years 2012-13, and TDCJ is expected to exceed capacity by at least 4,700 beds by the end of fiscal year 2013.”⁸ This projection was based on the House funding 3,750 fewer prison beds and less capacity in the probation system, including 540 fewer community corrections beds that are used as shorter-term alternatives in lieu of revoking probationers to prison.

Both chambers are considering numerous bills relating to sentencing, probation, and parole that, in various combinations, could free up at least this many beds. The bills summarized in the chart that appears towards the end of this document are among those that may reduce the prison population. While the Senate budget funds TDCJ at approximately the same dollar figure and capacity level as the House budget, the House budget seeks to downsize corrections along with the rest of state government to align with the state’s diminished available revenues.

Given that prison costs taxpayers \$50.79 per day vs. \$1.30 for probation, Texas can continue to reduce crime and incarceration costs by strengthening forms of probation for many nonviolent offenders. These include drug courts, mandatory work and restitution, treatment, and electronic monitoring. Savings can also be achieved through identifying operational efficiencies, such as pending proposals to require prison officials to pay for housing on the units increase health care co-payments for inmates who can afford it, and turn over nonviolent, parole-eligible illegal immigrant inmates for immediate deportation.

The Senate Budget

The Senate budget for 2012-13 essentially funds alternatives to incarceration at the same level as in the current biennium. This does not account for projected increases in the probation and parole caseloads in the next biennium as well as inflationary pressures in areas such as health care and energy. Nonetheless, state and local agencies have been on notice for some time concerning the state’s fiscal situation. It is reasonable to

Table 2: Texas Probation & Parole State Cost vs. National Average

| Jurisdiction | Probation Cost Per Day Per Offender | Parole Cost Per Day Per Offender |
|--------------------------------|-------------------------------------|----------------------------------|
| Texas ⁹ | \$1.30 | \$3.74 |
| National Average ¹⁰ | \$3.42 | \$7.47 |

Note: Neither the state nor the national average figures include fees paid by probationers—about \$1.62 per day in Texas, which covers more than half of total supervision costs.

assume they are prepared to achieve sufficient operational efficiencies that will allow them to continue current levels of supervision and treatment based on a flat budget. Also, public sector fields such as corrections may be better able to attract and retain more productive employees at the same salaries than prior to the downturn in 2008, when private sector opportunities were more lucrative and abundant.

Both budgets fund parole supervision at a slightly greater level than the current biennium, with this being the one area in which the House appropriates slightly more, spending \$10.2 million more than the Senate. This difference is entirely attributable to the Senate’s decision to close the Burnet County Intermediate Sanctions Facility (ISF), which has 456 beds.

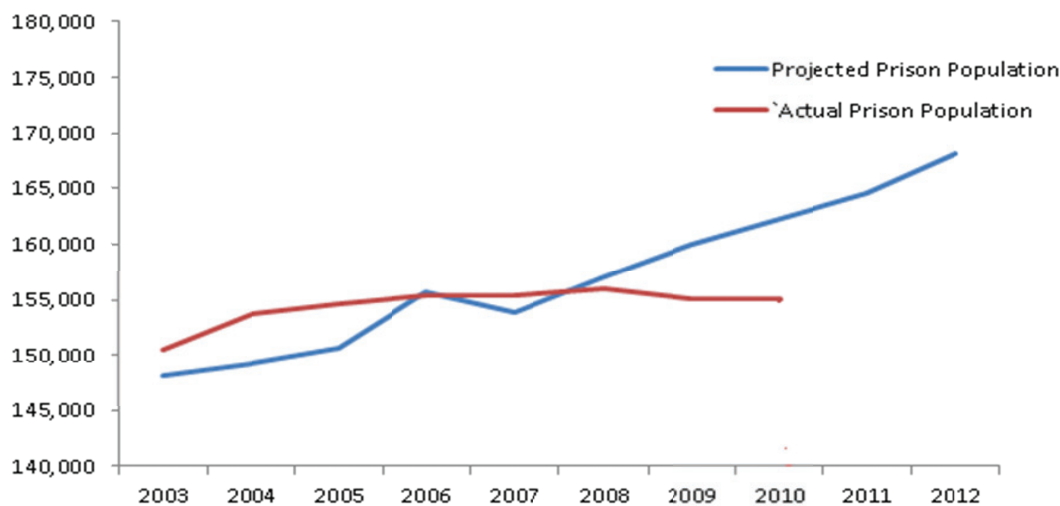
TDCJ currently has enough empty ISF beds, which provide a 60 to 90 day time-out in lieu of revocation for parolees who commit technical violations, to do without this facility, though it could be repurposed.¹¹

Both chambers also spend slightly more than the current biennium on the line items for Substance Abuse Felony Punishment Facilities (SAFPFs), In-Prison Therapeutic Communities (IPTCs), and treatment services, with the House spending \$9.0 million more than the Senate. Accordingly, when the higher level of House spending on parole and SAFPfs, IPTCs, and treatment service is offset against the higher Senate spending on probation and specialized supervision of mentally ill probationers and parolees, the net difference is that the Senate total is higher for these items by \$34.84 million.

The House Budget

House budget funding for alternatives to incarceration diverges more from current levels than does the Senate budget. Some of the largest differences can be found in two probation line items: diversion programs and Treatment Alternatives to Incarceration (TAIP). As their names would suggest, these funds support diversion of nonviolent offenders who, instead of going to prison, are assigned to residential or out-

Figure 1: 2007 Budgetary Initiatives Supporting Alternatives to Incarceration Avoided Huge Projected Increase in Prison Population



Sources: 2012 projections from January 2007 LBB report, http://www.lbb.state.tx.us/PubSafety_CrimJustice/3_Reports/Projections_Reports_2007.pdf; 2003-2006 projections from June 2004 LBB report, http://www.lbb.state.tx.us/PubSafety_CrimJustice/3_Reports/Projections_Report_2004.pdf.

Table 3: Budget Breakdown: 2010-11 House, Senate, and Conference Proposals

| Item | 2010-2011 | House | Senate | Tentative Conference |
|------------------------------------------------------------------------------------------------------|--------------------------------------------------------|------------------------------------------------|--------------------------------------------------------|----------------------|
| Basic Supervision | \$220,424,371 | \$220,324,955 | \$220,324,955 | \$220,324,955 |
| Diversion Programs | \$240,062,841 | \$213,469,430 | \$253,452,421 | \$233,460,936 |
| Community Corrections Programs | \$75,940,176 | \$72,498,406 | \$77,540,176 | \$72,498,406 |
| Treatment Alternatives to Incarceration (TAIP) | \$23,209,824 | \$12,258,692 | \$23,209,824 | \$22,258,692 |
| Substance Abuse Felony Punishment Facilities, In-Prison Therapeutic Communities & Treatment Services | \$215,531,245 | \$231,799,090 | \$222,768,594 | \$222,768,594 |
| Special Needs Projects (TCOOMI) | \$40,877,198 (28,500 on specialized caseloads) | \$31,859,890 (21,500 on specialized caseloads) | \$40,877,198 (28,500 on specialized caseloads) | \$37,859,890 |
| Parole System (parole population projected to increase) | \$309,901,011 | \$321,819,594 | \$311,619,594* | \$311,619,594* |
| Board of Pardons and Paroles | \$50,852,310 | \$50,796,022 | \$50,796,022 | \$50,796,022 |
| Sugar Land Central Unit Operations Costs | \$25,232,576 (operations) \$11,697,200 (benefits)** | \$0 | \$25,232,576 (operations) \$11,697,200 (benefits)** | \$0 |

*Estimate based on allocation of biennialization of 3.5 percent pay raise, adjusting for number of prison guards vs. number of parole officers.

**\$11.7 million was a technical adjustment by the LBB for the benefits charged to TDCJ.

Note: In addition to the closure of the 950-bed Sugar Land Central Unit, the House budget does not include approximately \$103.8 million needed to cover 2,800 other unspecified contract beds, which would be in privately operated facilities.

Note: The total Senate proposed TDCJ budget is \$6.15 billion compared to the House's proposal of \$5.79 billion, a difference of \$360 million. Both budgets contain the same approximately \$1.3 billion allocated for TDCJ employee benefits and debt service in other budget articles.

patient substance abuse treatment programs. This line item provides up to 700 beds at intermediate sanctions facilities (ISFs) for probationers and also funds up to 800 beds at residential facilities run by probation departments and known as community corrections facilities (CCFs). The funds for approximately 2,500 other CCF beds fall under the community corrections line item. Nonviolent offenders are typically sent for a few months to either an ISF or CCF as an alternative to being sentenced or revoked to prison for several years. Also, about \$2.5 million per year is currently spent from the diversion programs line item on drug and DWI courts. Some probation departments, such as Dallas County's, also receive grants from TAIP to perform risk/needs assessments to help judges identify those nonviolent offenders who are low-risk and suitable for diversion and determine the appropriate level of supervision for each offender.

The other large gap lies in the funding for TCOOMI, which funds specialized caseloads and continuity of care case management for severely mentally ill felony probationers and parolees. These specialized caseloads, which are typically 30 to

45 per officer as opposed to more than 100, enable the officer to provide closer supervision and work with the treatment provider to ensure that offenders maintain their regimens of therapy and medication.

These specialized caseloads have been associated with a significant reduction in the number of new crimes and revocations by mentally ill probationers and parolees.¹² Particularly worrisome is a related factor. With funding withdrawn for half of present specialized parole caseloads, many inmates receiving a cocktail of psychiatric drugs but lacking post-release supervision could fail to participate in treatment and suddenly go off their medications. The House cut to TCOOMI, even though it is within the TDCJ budget, would eliminate all TCOOMI services for juvenile offenders, which involve continuous case management and the purchasing of mental health treatment services from local mental health agencies.

Specifically, the projected 4,700-bed shortfall stems from several cuts in the House budget, including closing the 950-bed Sugar Land Central Unit, withholding funding for 2,800 con-

Table 4: Texas Probation Department Have Turned Funding into Results, with Revocation Rate Falling from 16.7% in 2004 to 14.7% in 2010

Average Felony Community Supervision Revocation Rates, Fiscal Years 2001–2010

| FISCAL YEAR | AVERAGE FELONY DIRECT SUPERVISION POPULATION | FELONY REVOCATIONS | REVOCAATION RATE |
|--------------------|-----------------------------------------------------|---------------------------|-------------------------|
| 2001 | 160,457 | 22,164 | 13.8% |
| 2002 | 159,352 | 22,876 | 14.4% |
| 2003 | 158,075 | 24,838 | 15.7% |
| 2004 | 157,216 | 26,249 | 16.7% |
| 2005 | 157,323 | 25,741 | 16.4% |
| 2006 | 158,479 | 24,921 | 15.7% |
| 2007 | 161,999 | 25,830 | 15.9% |
| 2008 | 168,788 | 25,782 | 15.3% |
| 2009 | 172,514 | 26,194 | 15.2% |
| 2010 | 172,893 | 25,456 | 14.7% |

tract beds (privately operated lockups), and the ripple effect from the reduction of \$39.98 million for the diversion line item. That would reduce from 3,284 to 2,744 the number of community corrections beds operated by probation departments. These beds are currently being fully utilized.¹³ The average length of stay in these beds is six months; probationers revoked to prison would be incarcerated for several years. Thus, the loss of 540 CCF beds could translate into 2,160 more prison beds needed. The LBB, however, conservatively assumes only half of these are true diversions. This would mean 1,080 more prison beds needed.

The LBB prison projection model also forecasts that House budget reductions in the diversion and other probation and TCOOMI line items would result in diminished supervision and less funds for community-based residential placement into treatment programs. This in turn, according to the LBB, would lead to more probationers being revoked to prison for either new crimes or rules violations. As noted above, the other contributing factors to the projected shortfall in prison

beds under the House are the loss of 950 beds through closure of the Sugar Land Central Unit and the defunding of 2,800 unspecified contract beds in prisons, state jails, and/or pre-parole transfer facilities.

The Sugar Land Central Unit was built in 1905, costs 14 percent more to operate than the average prison, and sits on land that has been appraised at \$30 million, with a taxable redeveloped value of \$240 million.¹⁴ The approximately \$30 million that would be generated from selling the facility would shore up the state’s finances, and the operational savings of \$25.23 million free up funds that can be used on an ongoing basis for other corrections priorities such as diversion programs. As indicated above, closing this lockup is also projected to save more than \$11 million in employee benefits costs. Even if the beds were eventually needed, they could be rented from county jails or private operators at a much lower cost. Some county jails in Texas have recently offered beds to Harris County at \$30 a day, which is about half of the Central Unit’s cost. However, the better approach is to enact policies that

A Local Perspective from Teresa May Williams, Assistant Director, Dallas County Community Supervision and Corrections Department (CSCD)

“In Dallas County, courts rely heavily on solid assessments from our TAIP/Assessment Unit to make sentencing decisions during the plea process on new cases and to determine whether an offender should be revoked. In both new pleas and pending revocations, an assessment from this unit is the first thing requested by courts. In fact, the courts and attorneys declare in many cases that the assessment is the key factor in a plea agreement to probation and is in many cases is the deciding factor in a decision to divert offenders from revocation.

Source: Teresa May Williams, Assistant Director, Dallas County Community Supervision and Corrections Department (CSCD), email, April 13, 2011.

Table 5: Dallas County Adult Probation Department Projection Under CSHB1

| Year | Diversion and TAIP Funding | Prison Revocations | TDCJ Incarceration Cost Difference |
|------|----------------------------|--------------------|------------------------------------|
| 2011 | \$15,926,808 | 3,149 | ----- |
| 2012 | \$11,637,037 | 5,503 | \$25,198, 221 |

divert more nonviolent offenders to cost-effective alternatives and make better use of existing capacity through safely reducing the nearly 9,000 inmates in solitary confinement.

Conference Committee's Tentative Decisions

On probation, basic supervision funding remains virtually the same for the forthcoming biennium as in the current biennium, just as in both chambers' budgets. The conference committee split the difference between the House and Senate on the largest disparate line item, diversion programs. This decision would fund diversion programs at only a 2.75 percent lower level than in the current biennium. This contrasts with the 20 percent cut made to adult probation in the budget crisis session of 2003, which was followed by a surge in the prison population. Legislative leaders say this modest cut can be absorbed by departments by narrowing the reach of the 7 percent salary increase over the last biennium which some departments applied to upper level staff, though the Legislature had intended only for rank-and-file probation officers.

Community corrections programs, a smaller probation line item, would be cut 4.53 percent relative to the current biennium under the conferee's tentative decision. Similarly, TAIP would be cut by 4.10 percent. It is envisioned that the conferee's tentative funding levels for probation will allow all CCF's, which are currently at 92 percent of capacity, to continue to house the same number of probationers, thereby providing the same number of diversions from prison.

Special needs projects (TCOOMI) was funded by the conferees at 7.38 percent below the current level. This will, however, provide sufficient funds to continue all of their current adult services, most notably specialized caseloads and continuity of care for mentally ill offenders, as well as identifying and recommending inmates for medical parole. Any reduction in services will, per a rider, come from TCOOMI's juvenile services, though the new juvenile justice agency may be able to shift resources to fill this gap.

Conferees adopted the Senate's figure for Substance Abuse Felony Punishment Facilities, In-Prison Therapeutic Communities (IPTC) & Treatment Services, which is more than \$7 million above the funding level for the current biennium, though less than the House's proposed figure. Accordingly, the increased capacity that was funded in 2007 to eliminate waiting lists for these programs will remain. This accomplishes two purposes. First, many substance abuse offenders are sentenced or revoked from probation or parole to SAFPFs for six months in lieu of going to prison for several years. Second, the expanded number of IPTC slots created in the 2007 package cleared out the backlog of inmates waiting in prison for months after being approved for parole with a condition of completing the six-month treatment program. New data released by TDCJ this month found that those released from SAFPF in 2007 had a three-year re-incarceration rate that was 13.90 percent less than that of the comparison group.¹⁵ The IPTC offender recidivism rate was 4.75 percent less than that of the comparison group.

With regard to prisons, the conference committee opted in its tentative decisions for the Senate's figure on state jails and private prisons, which is approximately the current expenditure level and \$46 million more than the House. This eliminates the 2,800 bed shortfall that the LBB attributed to this item in the House budget. However, the conferees sided with the House's decision close the Sugar Land Central Unit. At the same time, they added a new \$15 million contingency rider not in either chamber's budget for temporary contracted capacity to provide extra beds if needed. The only difference to be bridged on parole concerned the Burnet County ISF, and the conferees opted to go with the Senate's closure recommendation which will take these 456 beds offline, thereby saving more than \$10 million.

On correctional health care, the conferees went with the Senate budget minus \$44.7 million over the biennium, which totals \$867.48 million. That is less than the current biennial budget of approximately \$929 million.

Recommendations

Enact numerous reforms to reduce the prison population and reallocate a share of the savings to strengthen probation, TCOOMI, and parole.

Many bills pending would free up more than enough prison beds to align with the assumptions of the conferees' tentatively adopted decisions, and furthermore avoid the need to trigger the \$15 million contingent rider for temporary contracted capacity.

Some savings from these bills can also be used in the event of cost overruns that lead to a TDCJ supplemental request, as has happened prior to nearly every recent legislative session. Such a supplemental request could involve tens of millions of dollars if energy costs remain high (TDCJ transports many inmates and goods across the state), and reforms to the delivery of inmate health care do not produce savings that are hoped for. Because federal courts have decided that inmates are constitutionally entitled to health care, these expenses, just like Medicaid caseload growth that is tied to federal eligibility criteria, can often run over budget. The conferees appropriated \$61.5 million less for correctional health care than is currently spent.

A prime example of pending legislation that would deliver savings is the committee substitute of Madden's correctional savings bill (HB 3386). It could save \$65.39 million over the biennium through key provisions such as imposing a \$100 health care copayment on financially able inmates; deporting parole-eligible non-violent illegal alien inmates; reducing subsidies for TDCJ staff housing; and limiting to one year the prison term for probationers revoked for technical violations (not new crimes). Although HB 3386 did not make it out of the House Calendars Committee, it is anticipated that most of the provisions will be attached to other legislation.

However, numerous pending bills highlighted below would go even further. There are many combinations of these proposals that would, in fact, not only meet the budget assumptions without any temporary contracted capacity, but even generate left-over savings to address a possible TDCJ supplemental funding request or be returned to taxpayers in the next biennium.

Add provisions to pending legislation that would reduce the prison population to allocate a share of the savings to probation and/or parole if that legislation would result in more offenders on probation and/or parole.

Like most agencies, TDCJ can pursuant to Article 9, Section 14.01 of the General Appropriations Act transfer up to 20 percent of funds between budget items without the approval of the LBB during the interim. Thus, a budget rider is not needed to provide such authority since the agency's authority is more than ample to deal with any of the pending proposals. Accordingly, should the Legislature finally approve any of the bills highlighted below that would substantially reduce the prison population and result in more offenders on probation and/or parole, a provision to the bill should be added that would instruct the agency to use its budget transfer authority to make probation and parole whole at a level that is at least commensurate with the increased number of offenders that will be supervised.

Conclusion

The conference committee budget accomplishes the goal of holding the line on overall corrections spending through continuing Texas' recent emphasis on more cost-effective alternatives to incarceration for many nonviolent offenders. By making the historic decision to close the Central Unit and declining to fund a moderate projected increase in the prison population, the tentative decisions reached by the conference committee also provide a useful impetus for advancing pending legislation that not only saves money but, more important, constitutes good policy.

Furthermore, SB 1055—which passed the Senate unanimously—offers a solution that could greatly alleviate capacity pressures during the coming biennium by better aligning state corrections funding. It creates an incentive funding fiscal partnership between the state and local jurisdictions whose District Attorney and probation department choose to participate. To the extent counties project that they will have more offenders to supervise without a commensurate level of funding, they can take advantage of this incentive funding provision to access the funds needed to preserve, and even strengthen, their level of supervision and programming. Since the incentive funding model is based on diverting nonviolent offenders from prison, the state achieves net savings even after giving a share of funds saved on prisons to the counties. Moreover, because part of the savings are distributed based on probation departments reducing recidivism and increasing the percentage of offenders current on their restitution, this approach incentivizes better results for public safety, victims, and taxpayers. ★

Savings Through Smart Sentencing, Probation & Parole Reforms*

| Bill Number & Description | Estimated Savings & Status | |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>HB 3386 (Madden): Omnibus corrections savings bill.</p> | <p>\$65.39 million (in House Calendars Committee). Fiscal note indicates savings of \$17.26 million. Larger number is based on language stating that eligible illegal aliens should be prioritized for release and deportation. Fiscal note assumes this would not be implemented because language is not clearly mandatory.</p> | <p>Saves \$65.39 million over the biennium through key provisions such as imposing a \$100 health care copayment on financially able inmates; deporting parole-eligible, nonviolent illegal alien inmates who are not members of transnational gangs; reducing subsidies for TDCJ staff housing; and limiting to one year the prison term for probationers revoked for technical violations (not new crimes).</p> |
| <p>SB 976 (Hinojosa) and HB 1299 (Guillen): Allows parole-eligible individuals nearing their full end-of-sentence dates to be released for a period of supervision.</p> | <p>\$33.1 million (SB 976 on Senate Intent Calendar)</p> | <p>SB 976 and HB 1299 address the efficiency recommendations report from the LBB.¹⁶ Individuals must meet statutorily imposed criteria and be parole-eligible to qualify for release under this program. Without this bill that transitions inmates to parole supervision after completing 90% of their sentences behind bars, they would continue to be discharged without supervision. This means they would not have to report to a parole officer, take drug tests, stay away from gang activity and gang members, or otherwise be accountable.</p> |
| <p>CSHB 2352 (Allen): Mandatory supervision for certain low-level and nonviolent offenders when good/earned time plus time served equals the sentence.</p> | <p>\$84.4 million (in House Calendars Committee)</p> | <p>CSHB 2352 creates a transitional reentry mechanism for inmates whose current offense and any prior record involves only specific low-level and/or nonviolent offense categories defined by statute, provided they have behaved well while incarcerated and their time served plus good/earned time equals the sentence. No inmate would be transitioned to supervision prior to their good/earned time plus time served equaling the sentence. Inmates with two or more prior convictions (three strikes provision) are excluded. By creating greater certainty in the process and a clear linkage between an inmate’s behavior and length of stay, this measure will provide a positive incentive for compliance with programming while behind bars and enable TDCJ to better utilize its pre-parole facilities, since there will be a clearer sense of when various inmates should receive pre-release programming that is designed to reduce recidivism.</p> |
| <p>HB 3538 (Thompson): Increases the use of Medically Recommended Intensive Supervision (MRIS) and geriatric release rates.</p> | <p>\$18.46 million (in House Calendars Committee)</p> | <p>HB 3538 streamlines the parole process for inmates who are 65 or older or have a crippling medical condition that renders them incapacitated and safe for release. Currently, some elderly inmates cost the state more than \$1 million in annual health care costs, even though statistics show inmates over 60 have a recidivism rate as low as 3.8%—between 2% and 8% in the case of those over 55.¹⁷ Expanding geriatric role has been recommended by the Legislative Budget Board and by the Texas Conservative Coalition in their blueprint for a balanced budget.</p> |
| <p>SB 1076 (Ellis): Emphasizes community-based solutions such as drug courts and mandatory treatment for low-level, nonviolent substance abuse offenders who do not have a prior violent, sex, or property conviction.</p> | <p>\$51.52 million (in Senate Criminal Justice)</p> | <p>SB 1076 redirects certain low-level drug possession offenders to mandatory treatment, drug courts, probation, and six month substance abuse felony punishment facilities (SAFPFs). This legislation has been endorsed by judges, probation department leaders, and the Texas Association of Business. Kentucky recently passed similar legislation during its legislative session, and the Indiana State Senate voted in favor of similar legislation with the support of Governor Mitch Daniels. This bill is limited to offenders charged with drug possession only (not dealing) and who have no prior other type of offense except a fine only traffic misdemeanor. Also, a judge can sentence covered offenders to up to 10 years in prison if they determine the person is a danger to public safety and can revoke them to prison for the same period if they are not complying with probation and treatment.</p> |

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| <p>HB 1205 (Turner/Allen): Creates incentives for probationers to participate in self-improvement programming.</p> | <p>Positive fiscal impact anticipated. Exact savings cannot be determined. (Passed by House)</p> | <p>HB 1205, which has been adopted as model legislation by the American Legislative Exchange Council (ALEC), encourages positive behavioral changes and personal betterment for probationers through the use of time credit incentives for completion of treatment and programming (e.g., education, vocation, life skills courses). Receipt of credit toward each probationer's sentence would be contingent upon full satisfaction of victim restitution and judicial consent. Encouraging treatment programming and skills training can reduce recidivism by incentivizing life changes while on probation and discouraging criminal behavior.</p> |
| <p>SB 1055 (Carona): Requires community justice plan submissions during even-numbered years; and creates an incentive-based funding program in which counties could voluntarily participate by setting goals to reduce the number of nonviolent prison commitments.</p> | <p>Positive fiscal impact to both the state and counties anticipated. Exact savings depend on level of participation. Texas' juvenile commitment reduction program implemented through a similar 2009 incentive funding budget provision has led to a 36 percent decline in TYC commitments in the last fiscal year even as crime has continued to decline. (Approved by the Senate and by the House Corrections Committee)</p> | <p>This legislation brings fiscal balance to the criminal justice system by giving local jurisdictions the opportunity to receive a share of the state's savings to strengthen local public safety strategies when they send fewer nonviolent offenders to prison and reduce recidivism, increase restitution collections, and increase the percentage of probationers who are employed. Counties could submit a plan to the state whereby they would receive between 35% and 60% of the state's savings on prison costs based on sentencing and revoking fewer nonviolent offenders to prison and reducing recidivism among probationers, increasing the percentage of probationers current on their victim restitution payments, and increasing the percentage of probationers who are employed. Similar legislation adopted in Arizona that became effective in December 2008 led to a 31% decline in new felony convictions among probationers and a 28% decline in revocations of probationers to prison.¹⁸</p> |
| <p>HB 2649 (Allen) and HB 3366 (White): Allows diligent participation credits for state jail felons.</p> | <p>\$48.99 million (HB 2649 Approved by the House)</p> | <p>Unlike state prisons and county jails, individuals in state jail are ineligible for good time credits and must serve their sentence day for day. Under HB 2649 and HB 3366, state jail felons could earn credits of 15 to 20% towards satisfying their sentences through successful completion of self-improvement programming, including work and vocational, educational, and treatment programs. This would encourage personal responsibility, provide wardens a free tool for inmate management, and reduce costs by decreasing recidivism.</p> |
| <p>HB 3764 (Marquez): Amends and improves TDCJ policies regarding the use of administrative segregation, as well as the treatment of individuals confined in administrative segregation.</p> | <p>Positive fiscal impact anticipated. Exact savings cannot be determined at this time, but reducing the nearly 9,000 inmates in administrative segregation would free up savings through the consolidation of cells and prison units. Michigan and Mississippi have recently achieved savings through this approach with no negative impact on prison security. (In House Calendars)</p> | <p>HB 3764 requires TDCJ to perform a review of its use of administrative segregation and report to the Legislature on the results of that review. Current TDCJ policy allows inmates, including those who have committed no institutional offenses, to be placed in segregation as a preventative measure rather than as punishment for misbehavior. This bill encourages the adoption of policies that limit the use of administrative segregation in TDCJ, except in necessary circumstances. The bill also encourages TDCJ to consider more frequent reviews of individuals housed in administrative segregation and eliminate the practice of releasing individuals to the street directly from solitary confinement.</p> |

Note: While the deadline has passed for some of these bills to be enacted, the sponsors are in many cases planning to amend the entire bill or key provisions to other legislation.

* Other bills not in this chart, such as sentencing enhancements, could increase the prison population, but it is anticipated that few, if any, bills with fiscal notes will be enacted this session. While some minor sentencing enhancements may be enacted, these measures typically have no fiscal note. This is because they are specific to relatively uncommon circumstances or else deal solely with misdemeanors. In the latter case, any additional county jail costs would fall on counties, not the state. Additionally, lawmakers are looking at several measures projected to result in operational efficiencies that could free up funds the budget conference committee could allocate to other strategies within corrections, such as diversion programs.

Appendix: Background on Recent Texas Corrections Budget Reforms

Legislative initiatives, beginning in 2005, have expanded capacity in alternatives to incarceration that hold nonviolent offenders accountable and provide effective supervision. Since 2004 Texas has seen a double-digit reduction in crime, reaching its lowest crime rate since 1973.¹⁹ In this same period, the state's adult incarceration rate has fallen 10 percent. Texas, which in 2004 had the nation's second highest incarceration rate, now has the fourth highest.²⁰

The expansion in capacity of alternatives to prison culminated in 2007 with a \$241 million alternative package in place of spending \$2 billion on new prisons. The search for alternatives came in response to statements from judges, prosecutors, and corrections officials, bolstered by data, indicating that increasing numbers of low-level, nonviolent offenders were being directly sentenced, or revoked from probation, to prison. Why? Because of long waiting lists for many alternatives. Furthermore, inmates granted parole often remained in prison because of waiting lists for halfway houses and programs they had to complete before release, a backlog addressed by the 2007 package. Based on the budget conferees' tentative decisions, the 2007 budget package of alternatives survives almost completely intact.

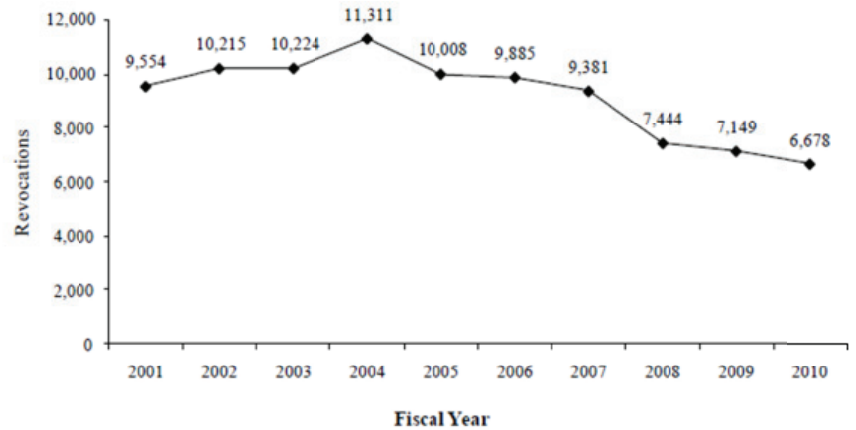
Two key budgetary strategies enabled Texas to avoid building the 17,332 prison beds that would have cost \$2 billion over five years that the Legislative Budget Board (LBB) had projected were needed.

The first strategy involved appropriating \$55 million in 2005 for probation departments that agreed to target 10 percent fewer prison revocations and to implement graduated sanctions—issuing swift, sure, and commensurate sanctions (e.g. increased reporting, extended term, electronic monitoring, weekend in jail, etc.) for rules violations such as missing meetings rather than letting them pile up and then revoking the probationer. Most of the funding went towards reducing caseloads from approximately 125 to 110 probationers per officer in major metropolitan areas, facilitating closer supervision, and the application of such sanctions. The second strategy, enacted in 2007, was the appropriation of \$241 million for a package of prison alternatives that included more intermediate sanctions and substance abuse treatment beds, drug courts, and substance abuse and mental illness treatment slots. Some of the money was also used to clear out the waiting lists of parolees not being released because of waiting lists for in-prison treatment programs and halfway houses.²¹ All told, the 2008-09 budget added 4,000 new probation and parole treatment beds, 500 in-prison treatment beds, 1,200 halfway house beds, 1,500 mental health pre-trial diversion beds, and 3,000 outpatient drug treatment slots.

Texas has more than 170,000 felony probationers—for nearly all of whom probation and prison are options. Sentencing trends, although influenced by many factors such as the crime rates and changes in who holds the District Attorney and judicial offices, may also reflect the confidence that judges and prosecutors have in the effectiveness of probation. Although the LBB has traditionally assumed an annual 6 percent increase in the number of offenders sentenced to prison due to population growth and other factors, sentences to prison actually declined 6 percent in 2009.²² The data also shows that during 2009 more nonviolent offenders were placed on probation.²³

In addition to the impact of sentencing decisions, probation and parole revocations together account for approximately half of the annual prison intakes, and both have declined over the last several years as supervision has been strengthened.²⁴ This illustrates the role that effective supervision can play in controlling the prison population by keeping more offenders on the right track. Also, since fiscal year 2005, the parole rate has also increased from 27.50 to 31.11 percent.²⁵ Parole officials attribute this to more inmates entering and completing treatment programs, thus becoming more attractive candidates for parole.²⁶

Texas Parole Revocations to Prison Fall
By Nearly Half from 2004 to 2010



Sources: Legislative Budget Board; Texas Department of Criminal Justice, Statistical Report.

Endnotes

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