

2019-20

LEGISLATOR'S GUIDE to the Issues

Records and Reentry

The Issue

In 2016, 67,603 adult inmates were released from Texas prisons and state jails. Approximately 20% of released state prison inmates and 30% of jail inmates are re-incarcerated within three years, either for a new offense or for violating the rules of their parole supervision.

Many offenders—but not all—who are released are placed on parole. As of May 2018, 83,845 Texans were under active parole supervision. In recent years, the number of parolees convicted of new crimes has been declining. This success may be due to recent strengthening of parole supervision and treatment, as well as graduated sanctions for technical violations.

Before 2011, state jail inmates served a flat sentence of up to two years. In the 82nd Legislature, however, the law was changed to award diligent participation credits to state jail offenders who make progress in educational, vocational, and treatment programs. This was further streamlined by HB 1546 in 2015 that allowed the Texas Department of Criminal Justice to implement these credits, saving judicial time and resources.

Immediately upon reentering society, ex-inmates face challenges such as obtaining employment and housing and establishing positive associations. Evidence shows ex-offenders who are employed are less likely to offend again, and those in higher-paying jobs, which are more likely to be licensed, reoffend at the lowest rate. There are several ways that the reentry process can be aided in order to maximize safety and employment. One key possibility is increasing the use of orders of nondisclosure. Orders of nondisclosure were expanded by the Legislature in 2015 and 2017 for certain offenders after specific periods of time. These orders allow a first-time offender who committed a nonviolent crime to request that their record be sealed after they have completed their sentence and a specified time frame has elapsed. Sealing these records means that these offenders can accurately state that they have not been convicted of a crime on an employment form. However, law enforcement as well as sensitive employers, such as schools and hospitals, are still able to access these records.

Nondisclosure has provided an opportunity for a second chance for those with criminal records, but it is also important that those criminal records be accurate in the first place. Errors or incomplete records in state and local databases can lead to inaccuracies in private companies' aggregated databases and affix innocent citizens with erroneous criminal records for an unknown

amount of time. Further, false positives can result when private databases do not provide sufficient detail to link a record to a name, seemingly giving individuals with common names a record, or when the databases are not updated after an arrest failed to result in charges, or a conviction was overturned.

The Facts

- In 2017, parole cost \$4.39 per day per offender, compared to \$61.63 a day per prison inmate.
- Finding employment after release reduces the likelihood of recidivating by around 20%, according to a study by the Manhattan Institute.
- The FBI criminal database is estimated to have around 600 thousand errors or incomplete records, which are then transferred to private databases, to which employers and landlords often subscribe.

Recommendations

- Continue to strengthen parole supervision and treatment programs that reduce recidivism and revocations.
- Implement HB 3130 passed in the 2017 session that authorizes the creation of a pilot job training and work release program for certain state jail offenders.
- Fully implement HB 722 (2017) that allows most individuals who successfully complete probation for a state jail offense to apply for reclassification of the offense to a misdemeanor.
- Expand orders of nondisclosure to cover first-time convictions for less than a gram of drugs.
- Increase accuracy standards in criminal record-keeping to minimize the number of incomplete records that are disseminated.

Resources

[*The Role of Parole in Texas*](#) by Marc Levin and Vikrant Reddy, Texas Public Policy Foundation (May 2011).

[*Criminal Records, Their Effect on Reentry and Recommendations for Policymakers*](#) by Derek Cohen, Greg Glod, and Dianna Muldrow, Texas Public Policy Foundation (April 2015).

[*Adult Corrections Reform: Lower Crime, Lower Costs*](#) by Marc Levin, Texas Public Policy Foundation (Sept. 2011).

[*Keys to an Effective Parole Policy*](#) by Marc Levin, Texas Public Policy Foundation (May 2009).

