



Consider Minor Children Before Revoking the Probation of a Primary Caretaker

HB 3303 will prohibit courts from revoking the probation of a person who is pregnant or who is the primary caretaker of a minor child because of low-level probation violations.

The number of women in Texas prisons has grown by nearly 1,000 percent since 1980 (more than twice the rate of men).¹ Texas now **incarcerates more women by sheer number than any other state** in the nation.² A staggering 81 percent of women in Texas prisons are mothers, while nearly 200 women gave birth in the Texas Department of Criminal Justice (TDCJ) in FY 2016. When a child loses a parent to incarceration, it can result in serious mental, physical, and emotional health issues.³

Furthermore, incarcerated parents can permanently lose custody of their children, sending them into the foster care system or into other vulnerable situations, including homelessness.⁴ Primary caretakers are an especially distinct group that deserves attention, given that many of the challenges they face – particularly financially – are intensified upon reentry when a criminal record can impact employment and housing.⁵

Rather than incarcerating a primary caretaker or pregnant woman for a probation violation, judges should modify their probation conditions or consider family-based treatment alternatives to incarceration, which consistently result in lower recidivism⁶ and lead to **improved children's health, family stability, sustained parental sobriety, increased family reunification, and significantly better outcomes for children than foster care placement.**⁷

KEY FINDINGS

- In 2018, more than 23,000 people had their felony probation revoked, with nearly 94 percent sent to prison or state jail.⁸ This comes at significant taxpayer expense: It costs \$52.46 to incarcerate someone in a state jail facility, while it costs only \$1.92 per day to keep a person on probation⁹ – *27 times less than incarceration.*
- Per a 2018 survey of women in Woodman State Jail, 55 percent had been placed on probation but were unable to meet the conditions and had been revoked. The women cited challenges related to probation's costs and conditions that made compliance challenging, especially when also caring for a family.¹⁰
- The majority of incarcerated women in Texas prisons have less extensive criminal histories than incarcerated men, and the majority (64 percent) of women are **incarcerated for nonviolent offenses.**¹¹
- While 81 percent of women in Texas prisons are mothers, 68 percent of men are fathers. Collectively, almost 103,000 people in Texas' state corrections system in FY 2016 had children,¹² at tremendous cost to families and communities.
- Half the children of incarcerated mothers will never be able to visit them during the period of incarceration.¹³ This intensive separation risks the significant benefits derived from the development of a mother-child relationship: **reduced recidivism among women, increased economic stability among women following reentry, and increased interest among women in undertaking rehabilitative efforts.**¹⁴
- **Parental incarceration is formally recognized as an adverse childhood experience (ACE).**¹⁵ ACE's are tied to depression, chronic diseases, certain cancers, and an array of other mental health disorders.¹⁶ The outcomes that are significantly increased for the children of incarcerated individuals include **attachment disorders, substance use disorders, and severe lags in academic performance.**¹⁷

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COST-SAVING AND PUBLIC SAFETY-DRIVEN SOLUTION: SUPPORT HB 3303 BY REPRESENTATIVE BOWERS

HB 3303 prohibits courts from revoking the probation of a person who is pregnant or is the primary caretaker of a minor child or minor children unless the person has been arrested for, charged with, or convicted of an offense that is punishable as a Class B misdemeanor or any higher-level offense. Incarcerating individuals compounds the employment, financial, and housing strains that those with criminal records already face. This practice is especially harmful for pregnant women and primary caregivers, as it limits their ability to effectively provide for their families – risking children’s foster care involvement or homelessness – while isolating parents from their support networks and adding additional stress. Courts should take pregnancy and primary caretaker status into consideration before revoking a person’s probation and sentencing them to incarceration, especially for low-level violations.

Citations

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- ¹ Texas Department of Criminal Justice (TDCJ) data request, 2017.
 - ² Aleks Kajstura, Prison Policy Initiative, in a call with TCJC Policy Attorney Lindsey Linder on September 5, 2017. This refers to all incarcerated women, including immigrant detainees, and is based on 2010 U.S. Census Bureau data.
 - ³ Lindsey Linder, *An Unsupported Population: The Treatment of Women in Texas’ Criminal Justice System*, April 2018, <https://www.texascjc.org/womens-justice>.
 - ⁴ R. Anspach, “What It’s Like to Grow Up With a Parent Behind Bars,” *Teen Vogue*, October 13, 2017, <https://www.teenvogue.com/story/what-its-like-to-have-an-incarcerated-parent>.
 - ⁵ A. Kajstura, “Women’s Incarceration: The Whole Pie 2017,” *Prison Policy Initiative*, 2018, <https://www.prisonpolicy.org/reports/pie2017women.html>.
 - ⁶ A. Thompson, “Releasing Prisoners, Redeeming Communities Reentry, Race, and Politics” *NYU Press*, 2008, 64-65.
See also: Women’s Prison Association, *Mothers, Infants and Imprisonment: A National Look at Prison Nurseries and Community-Based Alternatives*, 2009, https://www.prisonlegalnews.org/media/publications/womens_prison_assoc_report_on_prison_nurseries_and_community_alternatives_2009.pdf
 - ⁷ National Women’s Law Center, *Mothers Behind Bars*, 2010, <https://www.nwlc.org/sites/default/files/pdfs/mothersbehindbars2010.pdf>
 - ⁸ TDCJ, *Report to the Governor and Legislative Budget Board on the Monitoring of Community Supervision Diversion Funds*, December 1, 2018, https://www.tdcj.texas.gov/documents/cjad/CJAD_Monitoring_of_DP_Reports_2018_Report_To_Governor.pdf.
 - ⁹ Legislative Budget Board, *Criminal and Juvenile Justice Uniform Cost Report: Fiscal Years 2017 and 2018*, https://www.lbb.state.tx.us/Documents/Publications/Policy_Report/4911_Criminal_Juvenile_Uniform_Cost_Jan_2019.pdf.
 - ¹⁰ Doug Smith, *A Failure in the Fourth Degree: Reforming the State Jail Felony System in Texas*, Texas Criminal Justice Coalition, October 2018.
 - ¹¹ E. Swavola, K. Riley, R. Subramanian, “Overlooked: Women and Jails in an Era of Reform,” *Vera Institute*, August 2016, <https://www.vera.org/publications/overlooked-women-and-jails-report>.
 - ¹² TDCJ, data request, September 2017.
 - ¹³ S. Phillips, “Mother-Child Programs: Connecting Child Welfare and Corrections Agencies, in Women and Girls in the Criminal Justice System: Policy Issues and Practice Strategies,” *Civic Research Institute*, 2006.
 - ¹⁴ B. Bloom, B. Owen, & S. Covington, “Gender Responsive Strategies: Research, Practice, and Guiding Principles for Women Offenders,” *National Institute of Corrections*, 2003, <https://s3.amazonaws.com/static.nicic.gov/Library/018017.pdf>.
 - ¹⁵ T. Krupat, E. Gaynes, Y. Lincroft, “A Call to Action: Safeguarding New York’s Children of Incarcerated Parents,” *Osborne Association*, 2011, <http://www.osborneny.org/programs-down/strengthening-communities/new-york-initiative-for-children-of-incarcerated-parents/a-call-to-action/>.
 - ¹⁶ Center for Health Care Strategies, *Fact Sheet: Understanding the Effects of Trauma on Health*, June 2017, <https://www.chcs.org/resource/understanding-effects-trauma-health/>.
 - ¹⁷ R. Anspach, *What It’s Like to Grow Up*.