



### SUCCESSFUL JUVENILE AND CRIMINAL JUSTICE POLICIES 2017 TEXAS LEGISLATIVE SESSION

#### YOUTH JUSTICE

- **HB 932 (Authors: Jarvis Johnson, Wu, Giddings | Sponsor: West)**, *Relating to the collection of information concerning the number of juvenile offenders committed to the Texas Juvenile Justice Department who have been in foster care.* Within 18 months after aging out of foster care, approximately 54% of young men and 25% of young women will have been incarcerated. These outcomes carry a high price for Texas, where each former foster youth who is incarcerated costs Texas an average of \$22,495 per year. In order to effectively intervene to prevent juvenile delinquency, it is critical that stakeholders understand the number of youth who are moving between the foster care system and the juvenile justice system. HB 932 takes a step in the right direction by collecting information on the number of youth who are committed to the Texas Juvenile Justice Department and who have been in foster care. - **Signed by the Governor; effective on 9/1/17.**
- **HB 1521 (Author: White | Sponsor: Whitmire)**, *Relating to the exchange of certain information between the Department of Family and Protective Services or certain foster care services contractors and a state or local juvenile justice agency.* The Department of Family and Protective Services and the Texas Juvenile Justice Department have not previously coordinated efforts related to the services each organization provides to dual-system youth. HB 1521 promotes communication between these agencies by requiring each agency, on request, to share information relating to dual-system youth; the goal is to encourage these agencies to identify and coordinate the provision of services, thus enhancing rehabilitation and improving and maintaining community safety. - **Signed by the Governor; effective immediately (6/15/17).**
- **SB 1304 (Author: Perry | Sponsor: White)**, *Relating to confidentiality, sharing, sealing, and destruction of juvenile records.* Despite the confidentiality protections afforded under state law for juvenile records, technological advancements and the expanded number of persons and entities with access to juvenile records have diminished the assurance of confidentiality of those

records and increased the long-term consequences of a juvenile's delinquency history. SB 1304 requires automatic record sealing or permanent record destruction in certain circumstances, a strongly progressive measure that will better ensure record confidentiality and reduce future barriers to education, employment, housing, and other services. - **Signed by the Governor; effective on 9/1/17.**

- **SB 1548 (Author: Menéndez | Sponsor: Minjarez)**, *Relating to post-discharge services offered by a juvenile board or juvenile probation department to a child after the child's probation period ends.* A youth is at the highest risk of recidivism in the first six months following discharge from the juvenile justice system. Because support services are essential during this period, SB 1548 allows counties to offer post-discharge services to a child who has completed probation, regardless of the child's age. By allowing juvenile probation departments to voluntarily offer aftercare services – including behavioral health care, mental health care, substance abuse treatment, education assistance, mentoring, and job training – SB 1548 will increase the chances that these youth will succeed in the community and not return to the juvenile or criminal justice systems. - **Signed by the Governor; effective on 9/1/17.**

#### POLICING & COMMUNITY SAFETY

- **HB 34 (Authors: Smithee, Moody, Canales | Sponsor: Perry)**, *Relating to measures to prevent wrongful convictions.* The conviction and incarceration of innocent people ruins lives, destroys public trust in our justice system, harms public safety as guilty culprits remain free, and denies victims justice. HB 34 takes various steps to address and prevent wrongful convictions, including by requiring interrogations to be recorded for certain major felonies; improving standards for eyewitness identification; requiring information about a "snitch's" history of snitching and what he or she was given to be shared with the defense attorney; creating a study on unreliable drug field tests used by police officers at "investigatory" traffic stops, potentially leading to a significant reduction in investigatory stops if the study reveals strong findings of unreliability; and creating a

study on police crime scene investigatory techniques, which could lead to a new round of innocence reforms. - **Signed by the Governor; effective on 9/1/17.**

- **HB 245 (Authors: Eric Johnson, Price, Senfronia Thompson, White, Phillips | Sponsor: Whitmire),** *Relating to certain reporting requirements for law enforcement agencies and to the creation of a criminal justice web portal by the office of the attorney general; providing a civil penalty.* Some Texas law enforcement agencies are failing to report officer-involved injuries and deaths as required by law. HB 245 requires the Attorney General to investigate an agency’s failure to comply with reporting requirements, and it levies a civil penalty on the law enforcement agency for failure to comply after notification from the Attorney General. The bill also creates a criminal justice web portal for submission of criminal justice reports. - **Signed by the Governor; effective on 9/1/17.**
- **HB 3051 (Author: Phil King | Sponsor: Hinojosa),** *Relating to the categories used to record the race or ethnicity of persons stopped for or convicted of traffic offenses.* Under Texas law, law enforcement agencies must report on the race/ethnicity of drivers they stop and search; however, that race/ethnicity data does not align with categories in use by other states, by the National Law Enforcement Telecommunications System, or by the Criminal Justice Information System. HB 3051 brings those categories into alignment as they relate to people stopped for or convicted of traffic offenses, which will improve data analysis efforts. - **Signed by the Governor; effective on 9/1/17.**
- **SB 1849 (Author: Whitmire | Sponsors: Coleman, Senfronia Thompson, Moody, Hunter, White),** *Relating to interactions between law enforcement and individuals detained or arrested on suspicion of the commission of criminal offenses, to the confinement, conviction, or release of those individuals, and to grants supporting populations that are more likely to interact frequently with law enforcement.* This is the Sandra Bland Act, filed in response to Ms. Bland’s death in a Texas jail after an arrest at a traffic stop in 2015. The Act calls for potential diversion from jail into treatment for misdemeanants suffering from mental health or substance abuse issues (provided local treatment beds exist, but to be supported by the formation or expansion of community collaboratives); better access to mental health treatment in jail (including through prescription drug continuity and jail personnel training); stronger reporting on in-jail

deaths or suicides, and independent investigations into in-jail deaths; de-escalation training for law enforcement; and more detailed information collection at traffic stops, including about warning stops, as well as whether law enforcement used force and whether contraband was found during a search. - **Signed by the Governor; effective on 9/1/17 (with provisions related to mental health training effective on 1/1/18).**

**PRETRIAL & DEFENSE**

- **HB 1442 (Authors: Wu, Senfronia Thompson, Moody, Phillips | Sponsor: Burton),** *Relating to the release of certain defendants pending a motion for new trial or an appeal from a misdemeanor conviction.* Some individuals who complete a jail sentence for a misdemeanor conviction remain in jail upon the filing of a motion for a new trial or an appeal. HB 1442 allows such individuals to be released on personal bond pending the determination of the motion. - **Signed by the Governor; effective on 9/1/17.**
- **HB 3165 (Author: Moody | Sponsor: Rodríguez),** *Relating to certain pretrial procedures in criminal cases.* HB 3165 revises the reporting requirements for personal bond pretrial release offices, limiting reporting on cases where the defendant failed to appear for court or committed a new offense during the pretrial period within the same county. The bill also allows for videoconferencing of magistration hearings to help counties meet the 48-hour deadline by which a defendant must see a magistrate. Furthermore, HB 3165 requires release on personal bond when an individual is arrested on a warrant issued by another county if that county fails to take charge of the defendant by the 11<sup>th</sup> day after he or she is booked into jail. - **Signed by the Governor; effective on 9/1/17.**
- **HB 4102 (Authors: Neave, Mary González, Villalba, Minjarez, Blanco | Sponsor: Garcia),** *Relating to establishing and funding a grant program for testing evidence collected in relation to sexual assaults or other sex offenses; authorizing voluntary contributions.* Thousands of rape kits in Texas have gone untested, in part due to lack of funding. HB 4102 requires the Texas Department of Motor Vehicles to provide drivers the opportunity to contribute to the evidence testing grant program when they register their car or renew their car registration. The bill also requires the Governor’s Criminal Justice Division to establish and administer a

grant program using the contributions collected during the vehicle registration process to help certain law enforcement agencies test evidence collected for sexual assault or other sex offenses. - **Signed by the Governor; effective on 9/1/17.**

- **SB 291 (Author: Whitmire | Sponsor: Alvarado)**, *Relating to the issuance of a writ of attachment for certain witnesses.* Criminal courts in Texas have been permitted to issue a writ of attachment for a witness to a crime, which could result in the witness being ordered to county jail without legal representation or due process. A particularly glaring case occurred in Harris County: A sexual assault victim was subject to a writ of attachment to ensure she provided testimony; she was ordered into the custody of the county jail, where she was re-victimized. SB 291 requires crime witnesses to be appointed counsel, and it ensures that if a writ of attachment is granted, a bond must be provided and, if the witness cannot post bond, that a personal bond must be issued. - **Signed by the Governor; effective on 9/1/17.**

**ALTERNATIVES TO INCARCERATION AND DEBTORS' PRISONS & IMPROVED ACCESS TO REHABILITATIVE SERVICES**

- **HB 351 (Authors: Canales, White, Collier, Leach, Murr | Sponsor: Hinojosa)**, *Relating to the administrative, civil, and criminal consequences, including fines, fees, and costs, imposed on persons arrested for, charged with, or convicted of certain criminal offenses and to the creation of a commission to review certain penal laws of this state; increasing a criminal penalty.* This bill achieves various purposes related to debtors' prisons and includes three key amendments. The primary bill language allows a judge to make a determination upon conviction that a person cannot pay fines and fees associated with the conviction, and to instead substitute community service or waive the fines and fees. It also requires a judge to have notified a person by mail – before issuing a warrant for failure to appear – about alternatives to payment (including waivers) if that person cannot afford the fine. And it requires a judge to allow personal bond for municipal court cases unless the judge makes an affirmative finding that a person can afford bail and that bail (vs. a personal bond) is necessary to secure appearance in court. Amendments to the bill reduce most check forgery penalties from a felony to a misdemeanor, thus applying recently updated property

thresholds to check forgery cases [SB 1824]; allow pretrial services to access drug treatment beds for pretrial diversion, which was previously limited to drug courts, post-conviction, and which may encourage people not to choose a state jail term [SB 1399]; and continue the work of a previously established commission tasked with reviewing criminal penalties outside the Penal Code for possible reduction or elimination [SB 1822]. - **Signed by the Governor; effective on 9/1/17.**

- **HB 1486 (Authors: Price, Greg Bonnen, Coleman, Collier, Sheffield | Sponsor: Schwertner)**, *Relating to peer specialists, peer services, and the provision of those services under the medical assistance program.* Peer specialists help people with mental health or substance use disorders manage their illness by focusing on recovery, responsibility, and independent living. HB 1486 requires the Health and Human Services Commission to develop and adopt rules related to peer specialists and peer services, provide for such specialists and services, and ensure they are covered by Medicaid. - **Signed by the Governor; effective immediately (6/15/17) if a specific appropriation for the implementation of the Act is provided in a general appropriations act of the 85<sup>th</sup> Legislature.**

- **SB 27 (Author: Campbell | Sponsor: Blanco)**, *Relating to the mental health program for veterans and to the authority to establish a trauma affected veterans clinical care and research center at The University of Texas Health Science Center at San Antonio.* In certain Texas communities there are few professionals with the appropriate licensure to provide mental health services to veterans. SB 27 broadens eligibility for providing services in the Veterans Mental Health Program and includes training and technical assistance for peer service coordinators and licensed mental health professionals. SB 27 also authorizes the University of Texas (UT) System Board of Regents to establish the National Center for Warrior Resiliency at UT's Health Science Center at San Antonio. - **Signed by the Governor; effective on 9/1/17.**

- **SB 578 (Author: Lucio | Sponsors: Gutierrez, Blanco)**, *Relating to the creation by the Health and Human Services Commission of a veteran suicide prevention action plan.* Veterans frequently suffer from Post-Traumatic Stress Disorder, Traumatic Brain Injury, and other combat-related disorders, requiring specialized mental health treatment, as well as treatment specific to suicide. SB 578 requires the Texas Health and Human

Services Commission to create a Veteran Suicide Prevention Action Plan, which must identify opportunities to prevent veteran suicide and improve access to mental health services. - **Signed by the Governor; effective immediately (6/9/17).**

- **SB 613 (Author: Whitmire | Sponsor: Sarah Davis),** *Relating to services provided by the Health and Human Services Commission to sexually violent offenders who are incompetent to attend sex offender treatment.* The Texas Civil Commitment Office (TCCO) provides for the treatment and supervision of civilly committed sex offenders. Many sexually violent predators (SVPs) are unable to complete TCCO’s sex offender treatment program due to the severity of their mental illness. SB 613 requires the Health and Human Services Commission to provide inpatient mental health services for this population, who will now have the opportunity to receive mental health treatment at state mental health hospitals until they are able to participate in the TCCO sex offender treatment program. - **Signed by the Governor; effective on 9/1/17.**
- **SB 1584 (Author: Garcia | Sponsors: Allen, White),** *Relating to the conditions of community supervision.* In many probation cases, courts set 30 or more conditions, irrespective of whether each condition serves a rehabilitative or public safety purpose. This has caused many low-risk probationers to violate the terms of probation because the excessive conditions – combined with work and parenting obligations – become impossible to meet. SB 1584 codifies best practices in community supervision, requiring courts to consider the results of a validated risk and needs assessment prior to setting probation conditions; conditions can range from drug treatment placement to a specified curfew. Ultimately, this bill ensures that courts consider individual circumstances prior to setting conditions, and will also significantly reduce the likelihood that courts revoke low-risk defendants or send them to expensive prison-based treatment programs. - **Signed by the Governor; effective on 9/1/17.**
- **SB 1913 (Author: Zaffirini | Sponsors: Senfronia Thompson, Wu, Canales, White),** *Relating to the administrative, civil, and criminal consequences, including fines, fees, and costs, imposed on persons arrested for, charged with, or convicted of certain criminal offenses.* This bill is similar to HB 351 above, although it does not include the three amendments. It provides opportunities for low-income defendants to

satisfy fine-only citations through community supervision instead of jail time. It requires a determination of the defendant’s ability to pay a fine prior to imposition of such a fine at the punishment stage. Defendants who are serving time in jail to satisfy fines will receive \$100 per day rather than \$50 per day credit towards court costs. Similarly, the bill sets a rate of \$100 per eight hours of work when community service is ordered in lieu of a fine. The bill limits the ability of a judge to issue an arrest warrant for failure to pay a fine, requiring courts to first provide notice by phone or mail. - **Signed by the Governor; effective on 9/1/17.**

**CONDITIONS OF CONFINEMENT**

- **HB 239 (Authors: Hernandez, White | Sponsor: Whitmire),** *Relating to a report regarding the confinement of pregnant inmates by the Texas Department of Criminal Justice.* Texas county jails are required to comply with health care standards related to pregnant inmates, as well as provide information related to care and relevant procedures. HB 239 requires similar information from pregnant inmates in the state corrections system, requiring the Texas Department of Criminal Justice (TDCJ) to report on health care, nutritional standards, work assignments, housing conditions, physical restraints, and miscarriages experienced by pregnant inmates while confined in a TDCJ or contract facility. - **Signed by the Governor; effective on 9/1/17.**

**PAROLE & REENTRY**

- **HB 322 (Authors: Canales, Miller, Wilson, Shine, Blanco | Sponsor: Hinojosa),** *Relating to the expunction of arrest records and files for certain veterans and the waiver of fees and costs charged for the expunction and to the eligibility of certain victims of trafficking of persons for an order of nondisclosure.* After a veteran has successfully completed a veterans’ court program in Texas, he or she has been eligible to file for an expunction. HB 322 authorizes the *automatic* expunction of arrest records and files – without requiring the veteran to pay a fee or charge – after successfully completing a veterans’ court program and the case being dismissed. - **Signed by the Governor; effective on 9/1/17.**
- **HB 553 (Authors: White, Rose, Jarvis Johnson, Biedermann | Sponsor: Miles),** *Relating to the creation*

*of a task force to identify opportunities for academic credit and industry recognition for inmates of the Texas Department of Criminal Justice.* Over 70,000 people leave Texas prisons every year. Various barriers – including to employment – prevent many people from successfully transitioning to the community. HB 553 requires the Windham School District, which provides vocational training to incarcerated individuals, to create a task force to identify opportunities to award academic credit or industry recognition for work or other productive activities, and to submit a report of findings by 2021. - **Signed by the Governor; effective on 9/1/17.**

- **HB 557 (Authors: Collier, Minjarez, Senfronia Thompson, Rose | Sponsor: Burton),** *Relating to the expunction of arrest records and files for certain persons and to the return of certain fees to a person whose criminal record has been expunged; authorizing a fee.* A criminal record can cause significant barriers to reentry for people seeking to become productive, self-sufficient members of the community – even if the person was never convicted of the offense, or convicted of only a minor offense. HB 557 allows a district attorney to apply for an expunction on behalf of a person acquitted of a charge. It also allows a justice or municipal court to expunge all records and files related to the arrest of a person for an offense punishable by fine only, provided the person pays \$100. - **Signed by the Governor; effective on 9/1/17.**
- **HB 681 (Authors: Wu, Senfronia Thompson, Moody | Sponsor: Zaffirini),** *Relating to restricting access to certain information that relates to a person convicted of or granted a dismissal after deferral of disposition for a fine-only misdemeanor offense.* Criminal records – even for fine-only misdemeanors – can pose significant barriers to employment, education, and housing. HB 681 makes all records, files, and similar information related to such low-level violations confidential on the fifth anniversary of the conviction or dismissal. Records may be open to inspection in certain circumstances: by judges or court staff, a criminal justice agency, the Department of Public Safety, the district attorney, or the defendant’s counsel; if the offense is a traffic offense, by an insurance company or surety company authorized to write motor vehicle liability insurance in Texas; or if needed to comply with federal law. - **Signed by the Governor; effective on 9/1/17.**
- **HB 1507 (Authors: Giddings, Hernandez | Sponsor: West),** *Relating to the rights of certain defendants who successfully complete a term of community supervision.*

HB 1507 seeks to increase the use of judicial clemency, permitting those on community supervision to have their convictions set aside at the court’s discretion, thereby relieving such individuals of the penalties and disqualifications that arise from a criminal conviction. Before accepting a plea from a defendant, the judge must inform him or her in writing of the possibility of the set-aside, incentivizing defendants to request judicial clemency upon satisfactory completion of probation. - **Signed by the Governor; effective on 9/1/17.**

- **HB 1508 (Author: Giddings | Sponsor: West),** *Relating to notice to applicants to and enrollees in certain educational programs regarding the consequences of a criminal conviction on eligibility for an occupational license.* Previously incarcerated individuals who are employed are much less likely to re-offend than those who are unemployed; however, occupational licenses can be prohibited for those with a criminal record. HB 1508 requires entities that provide educational programs in preparation for licensed positions to notify applicants or program enrollees of the impact of a criminal conviction on license eligibility, as well as of other factors used by licensing authorities to determine license eligibility. This bill also ensures that program applicants or participants are notified of their right to request a criminal history evaluation letter. An entity’s failure to adhere to the notification requirements may result in a refund of program tuition, application fees, or examination fees to a person later denied an occupational license for having a criminal conviction. - **Signed by the Governor; effective on 9/1/17.**
- **HB 2888 (Authors: Romero, Jr., Jarvis Johnson, Dutton, Thierry, White | Sponsor: Whitmire),** *Relating to an inmate’s completion of classes or programs before being released on parole.* The Texas Department of Criminal Justice (TDCJ) develops an individualized treatment plan for each person sentenced to prison or state jail, and TDCJ personnel must review progress on the plan every 12 months. However, incarcerated individuals are seldom counseled about their individualized plans, and it is not uncommon for people to learn of treatment requirements *after* their first parole review. HB 2888 improves on efforts to identify the rehabilitative needs of incarcerated individuals, requiring TDCJ to make reasonable efforts to enroll them in the classes or programs that address the factors identified on their individualized treatment plan prior to their first parole review. - **Signed by the Governor; effective on 9/1/17.**

□ **HB 3016 (Authors: Senfronia Thompson, Alonzo Workman, Collier, White | Sponsor: Hughes)**, *Relating to the eligibility of a criminal defendant for an order of nondisclosure of criminal history record information.* Criminal records can pose significant barriers to employment, education, and housing. HB 3016 expands the circumstances in which people with first-time offenses can be eligible for an order of nondisclosure. Under the bill, a person convicted of a state jail felony for possession of certain controlled substances may be eligible without first having to be incarcerated. Also, individuals with DWI offenses are eligible, provided they have met all other conditions (including waiting requirements) and payments. Furthermore, it makes the bill (and previous, similar legislation) retroactive. - **Signed by the Governor; effective on 9/1/17.**

□ **HB 3130 (Authors: Parker, White, Rose, Zerwas, Dennis Bonnen | Sponsor: Huffman)**, *Relating to the establishment of an educational and vocational training pilot program for certain state jail felony defendants.* Texas’ state jail system, created in 1993, was originally intended to divert certain individuals from crowded prisons and provide them rehabilitative assistance. However, people sentenced to state jail facilities have extremely limited access to treatment and programming

options, and typically have no post-release supervision, resulting in high rates of re-arrest and re-incarceration among returning populations. HB 3130 authorizes the creation of a pilot program wherein certain individuals convicted of state jail felony offenses may be sentenced to 90 days, followed by placement for approximately 180 days in a community-based program providing educational and vocational training, employment, and reentry services. Participants will be required to fulfill all conditions of community supervision. The pilot programs are authorized in up to four locations throughout the state and will help more individuals with state jail felonies successfully transition back into Texas communities. - **Signed by the Governor; effective on 9/1/17.**

□ **HB 3147 (Author: White | Sponsor: Menéndez)**, *Relating to the entitlement to expunction for certain persons who are arrested solely as a result of inaccurate identifying information.* The arrest and conviction of an innocent person can have significant consequences, including on future employment and housing. HB 3147 seeks to have identifying information in a person’s record or files related to a wrongful arrest expunged more quickly, provided that inaccurate information was due to a clerical error or mistaken identity. - **Signed by the Governor; effective on 9/1/17.**

