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TESTIMONY 2013

H.B. 167

Dear Members of the Committee,

Thank you for allowing me this opportunity to present testimony in favor of House Bill (H.B.) 167, which will save money, increase public safety, and strengthen communities. H.B. 167 encourages the adoption of victim-offender mediation, an effective practice that holds individuals accountable for their actions while facilitating meaningful resolution for victims, the community, and the individual responsible for the crime.

VICTIM-OFFENDER MEDIATION WILL REDUCE CASELOADS AND RELIEVE THE BURDEN ON COUNTY COURT DOCKETS AND JAILS

Victim-offender mediation is an effective restorative justice practice that has produced successful results in many states.¹ These high success rates are realized because participants are required to take responsibility for their conduct and are then given a chance to understand how their actions directly impact others. This, in turn, **reduces the likelihood that they will commit another crime.** Under certain circumstances, victim-offender mediation is already permissive under Code of Criminal Procedure Article 26(g).

H.B. 167 would allow individuals with no serious criminal history who have been charged with a misdemeanor property offense under Title 7 of the Penal Code to be eligible to participate in pretrial mediation. Rather than be convicted and jailed, individuals meeting specific criteria could participate in a mediation program requiring them to issue an apology and provide compensation and/or community service to redress their actions. The permissive nature of this program allows victims to choose to be involved in the process of correction and rehabilitation, allowing them to discuss the impact of the crime, specify what is needed to make them whole, and obtain closure on unanswered questions. Such programs also **foster a behavioral change in offending participants** by providing them the opportunity to recognize how their actions impacted others, helping them develop a sense of empathy and take responsibility for their actions.

H.B. 167 requires the prosecuting attorney to obtain the victim's consent to participate, and if no agreement is reached, or if a defendant does not complete the terms of the mediation agreement, his or her case will be returned to normal court proceedings.

KEY FINDINGS

Population Figures

- Between February 2012 and January 2013, Texas' county jails housed an average of over 10,000 people charged or convicted of a misdemeanor, accounting for over 15% of the state's total county jail population. At a cost of \$59 per person per day, this population costs taxpayers nearly \$610,000 per day.²

Benefits of Victim-Offender Mediation Programs

- **A widely studied practice, victim-offender mediation reduces recidivism and is cost-effective;** studies show a strong correlation between mediation programs, conducted by a properly trained mediator, and lowered recidivism and costs.³ One meta-analysis that examined 27 victim-offender mediation programs in North America found that 72% of the programs lowered recidivism.⁴
- A multi-site study found that 79% of victims who participated in victim-offender mediation programs were satisfied, compared with 57% of victims who went through the traditional court system.⁵

Continued on reverse.

COST-SAVING AND PUBLIC SAFETY-DRIVEN SOLUTION: SUPPORT H.B. 167 BY CHAIRWOMAN MCCLENDON

- **H.B. 167 creates an opportunity for pretrial defendants charged with low-level property offenses to enter structured victim-offender mediation, in which the charged individual must successfully complete terms of the mediation agreement, based on input from the victim, including compensation and/or community service.** Upon successful completion the prosecuting attorney or defense attorney can motion the court requesting the charges be dismissed. Additionally, one year after a person successfully completes the terms of the mediation agreement, the defendant may obtain an order of non-disclosure regarding the offense for which he or she entered into mediation.

Note: Even with an order of nondisclosure in place, criminal justice agencies can disclose offense-related information to particular entities, including licensing boards; however, such orders better enable individuals to access housing and employment, important to helping them remain law-abiding, productive members of the community.

- **H.B. 167 provides a meaningful response to low-level property crime that reduces recidivism, improves victim satisfaction, and reduces jail overcrowding.** The bill empowers victims by improving their emotional and monetary outcomes. This process will also help an offending participant recognize the harm caused and take responsibility for his or her actions; this will foster a behavioral change in a defendant that can prevent continued criminal actions.

CONCLUSION

Thank you again for allowing me the opportunity to testify in favor of this bill. H.B. 167 will implement an effective tool that will help individuals realize the consequences of their actions, reduce the likelihood that they will commit another offense, and bring resolve to both the community and the victims of crime. The Texas Criminal Justice Coalition strongly urges you to support it.

Citations

¹ Restorative justice methods have garnered a great deal of attention after the New York Times published an article on a high profile case in which this type of victim-offender mediation was employed. See Paul Tullis, "Can Forgiveness Play a Role in Criminal Justice," New York Times, 4 January 2013, available at http://www.nytimes.com/2013/01/06/magazine/can-forgiveness-play-a-role-in-criminal-justice.html?pagewanted=all&_r=0.

² Brandon Wood, Assistant Director of the Texas Commission on Jail Standards (TCJS), e-mail messages to Travis Leete, Texas Criminal Justice Coalition (TCJC), 4, 12, 13, and 16 April 2012; Brandon Wood, Assistant Director of TCJS, telephone conversation with Travis Leete, TCJC, 12 April 2012; Texas Commission on Jail Standards, "Texas County Jail Population," 1 January 2013, available at <http://www.tcjs.state.tx.us/docs/POPSUMCurrent.pdf>. County jails housed an average of 6,645 pretrial misdemeanants and 3,662 convicted misdemeanants. The average local population in county jails since February of 2012 amounts to 56,403 people, the average contracted population is nearly 8,309 people. Taken together this amounts to a total population of 64,712.

³ Marc Levin, "Restorative Justice In Texas: *Past Present & Future*," Texas Public Policy Foundation, 2005, p. 13.

⁴ Latimer, Dowden & Muise, *The Effectiveness of Restorative Justice Practices: A Meta-Analysis*, 2000.

⁵ Umbreit, M., with R. Coates and B. Kalanj. 1994. "Victim Meets Offender: The Impact of Restorative Justice and Mediation. Monsey," N.Y.: Criminal Justice Press.