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C.S.S.B. 1076

Dear Members of the Committee,

Thank you for allowing me this opportunity to present testimony in favor of the Substance Abuse Treatment and Crime Prevention Act (C.S.S.B. 1076), an effective corrections policy that will save money, rehabilitate substance abusers, and safely alleviate prison and jail overcrowding. This is truly one of the most smart-on-crime bills we have seen this session.

PROBLEM

Texas must halt the wasteful expenditure of millions of dollars each year on the status quo: incarcerating (and re-incarcerating) low-level, nonviolent drug users. Instead, the State should take steps to aggressively and proactively address drug dependence, and thereby decrease associated crime, by promoting medical and public health responses to this issue. Specifically, policy-makers must support the efforts of judges to effectively handle those suffering from substance abuse by improving and making more widely available tailored community-based rehabilitation and treatment diversion programs.

FACTS

- Treatment programs combined with community supervision cost over five times less than incarceration. According to the Legislative Budget Board, Texas spends \$18,539 per year on each inmate, while community supervision along with drug treatment programs cost \$3,227 per client per year.¹
- In Fiscal Year 2010, more than 22,000 individuals (30.8% of incoming inmates) were received by TDCJ for a drug offense,² and 73% of those individuals were charged with possession, as opposed to delivery or other offenses.³
- Incarceration results in significantly greater levels of re-offending than treatment and other risk-reduction alternatives, which are proven to be more cost-efficient (*see above*), as well as programmatically effective. Specifically, treatment combined with cognitive skills programming can decrease criminal behavior by 44%, while incarceration can increase an individual's inclination towards criminal activity by .07%.⁴
- The Drug Abuse Treatment Outcome Survey of 10,000 treatment participants found that residential treatment reduces criminal behavior, with a 50% reduction in drug use and a 61% reduction in crime. Outpatient treatment resulted in a 50% reduction in drug use and a 37% reduction in crime.⁵
- Drug treatment can also improve employment opportunities and reduce dependence on welfare. The National Treatment Improvement Evaluation Study found that 19% more people received income from employment within 12 months of completing treatment, and 11% fewer people received welfare benefits.⁶
- Legislation similar to S.B. 1076 has been enacted in others states. For example, in February 2011, the Indiana Senate approved a criminal justice reform bill aimed at diverting those with low-level drug offenses to treatment and community corrections rather than prison. The bill also reduces penalties for drug possession offenses.⁷
- New York State implemented drug law reforms in October 2009, which have resulted in 1,400 fewer people going to prison between 2009 and 2010, a 27% decrease.⁸ New York also had 688,796 fewer crimes reported in 2009.⁹
- This year, Kentucky signed H.B. 463 into law, which reduces penalties for low-risk individuals with nonviolent drug offenses who possess a small amount of a controlled substance. The savings accrued are reinvested in drug treatment opportunities. As a direct result of the measure, an estimated \$420 million in savings is expected over a decade.¹⁰

C.S.S.B. 1076 BY SENATOR ELLIS WILL PROVIDE SMART, TAILORED, COST-EFFECTIVE TREATMENT FOR NON-DANGEROUS INDIVIDUALS CONVICTED OF DRUG POSSESSION OFFENSES

- **C.S.S.B. 1076 removes barriers to re-entry by encouraging personal responsibility.** Individuals who have reformed their behavior should be given the opportunity to avoid the stigma of a criminal record and the associated restrictions on housing, employment, and other tools for living responsibly. This bill would ensure that opportunity by allowing individuals to apply for nondisclosure of their record once they have successfully completed their term of community supervision. This bill **also addresses the recidivism problems** posed by individuals who choose incarceration for cost, convenience, or other reasons, over programs that force them to address the illness of addiction. **Note:** C.S.S.B. 1076 would protect public safety in cases where nondisclosure is granted by allowing law enforcement officials and prosecutors to access individuals' records when necessary.
- **C.S.S.B. 1076 applies only to possession – not delivery – offenses.** C.S.S.B. 1076 applies only to those who possess amounts indicative of private consumption with no intent to re-sell. This guarantees that the bill targets those suffering only from addiction, thus alleviating potential concerns that the bill could apply to drug dealers.
- **C.S.S.B. 1076 would save the state money and reinvest savings in community supervision.** As mentioned above, community supervision with treatment is considerably cheaper than prison. In fact, according to the fiscal note attached to state legislation that would have accomplished the outcomes detailed herein, taxpayers would save over \$108 million in the first biennium and \$474 million over 5 years. C.S.S.B. 1076 would also **reinvest 20% of verifiable cost savings** to the state realized under this bill in diversion programs used by local probation departments.
- **C.S.S.B. 1076 would only apply to jurisdictions in which adequate treatment programs are available.** Limiting this policy to jurisdictions with existing treatment resources will ensure the most successful implementation of C.S.S.B. 1076, while also allowing the state to evaluate which areas are in need of funding to properly and responsibly establish and operate a diversion program. Policy-makers who care about community supervision will have the data necessary to make a strong case for resources for the field in the future.
- **C.S.S.B. 1076 provides tools for judges to address individuals' substance abuse treatment needs.** This bill enables judges to place non-dangerous individuals with a low-level drug possession offense on community supervision, then undergo a risk and needs assessment and enter mandated treatment, where necessary. Treatment options include supportive **inpatient or outpatient programming** for the most severe addicts to address the triggers that set off addictive behavior. They also include initiatives for less severe cases, such as **vocational training, family counseling, or literacy training**, which assist each participating individual in understanding how to stay on course and live responsibly. This probation/treatment policy allows judges to choose from these numerous services and particularize them to the individual to better address special detoxification, relapse, or severe dependence issues, while **more efficiently expending resources and maximizing outcomes**.

Under C.S.S.B. 1076, judges would be allowed to incarcerate an individual if s/he determines the person is either a threat to public safety, has a serious criminal history, is a drug dealer, or is not amenable to treatment. Discretion is further preserved by allowing judges to **end treatment upon ineffectiveness or danger to the public**.

- **C.S.S.B. 1076 allows judges to utilize progressive sanctions for probationers who are failing to meet their treatment terms, without unnecessarily revoking those who are non-dangerous.** Penalties aimed at risk-reduction that provide probationers more direct and informative feedback include stronger forms of treatment, intermediate sanctions including placement in Intermediate Sanctions Facilities, and more restrictive conditions, such as participation in behavioral programming and alcohol/drug testing. Progressive sanctions can keep a significant proportion of people from prison or jail while doing more to **increase public safety in the long term**.

Thank you again for allowing me the opportunity to present testimony in favor of C.S.S.B. 1076, ***a best practice guide for dealing with defendants who have substance abuse problems***, which will divert thousands of nonviolent individuals from confinement and save taxpayers millions of dollars in incarceration costs, not including potential savings in prison and jail construction avoidance. I encourage the Committee members to enthusiastically support this policy that can save the lives of many Texans.

NOTES

¹ Legislative Budget Board, “Criminal Justice Uniform Cost Report: Fiscal Years 2008-2010,” January 2011, pgs. 6, 11, 12; using FY 2010 prison inmate costs-per-day of \$50.79; state costs-per-day for community supervision of \$1.30; and state costs-per-day for substance abuse outpatient treatment of \$7.54.

² Texas Department of Criminal Justice (TDCJ), “Statistical Report Fiscal Year 2010,” pg. 2.

³ *Ibid.*, pg. 21.

⁴ Judge Marion F. Edwards, “Reduce Recidivism in DUI Offenders: Add a Cognitive-Behavioral Program Component,” 2006, pg. 3.

⁵ Eric Martin, Roy M. Gabriel, and Steve Gallon, “Oregon Research Brief on Addiction Treatment Effectiveness,” The Association of Alcoholism & Drug Abuse Counselors of Oregon, pg. 1.

⁶ The National Opinion Research Center at the University of Chicago, “The National Treatment Improvement Evaluation Study: Final Report,” submitted to the U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, Center for Substance Abuse Treatment, March 1997, pg. 246 (Table 6.15).

⁷ Brittany Tempest, “Criminal justice reform bill passes Ind. Senate,” *The Indiana Daily Student*, February 28, 2011.

⁸ New York State Division of Criminal Justice Services, “Preliminary impact of 2009 drug law reform, October 2009 – September, 2010,” Drug Law Reform Series, Report No. 3, October 2010, pg. 4.

⁹ New York State Division of Criminal Justice Services, “2009 Drug Law Reform Update,” June 2010, pg. 2;

<http://criminaljustice.state.ny.us/drug-law-reform/documents/drug-law-reform-presentation-print-jun2010.pdf>.

¹⁰ Kentucky Justice & Public Safety Cabinet, “Public Safety & Offender Accountability Act: Gov. Beshear signs landmark corrections reform bill,” 2011; <http://justice.ky.gov/>.