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TESTIMONY 2013

H.B. 2653

Dear Members of the Committee,

Thank you for allowing me this opportunity to present testimony in favor of H.B. 2653, an effective policy that allows judges to adopt a system for progressive sanctions and incentives that will strengthen community supervision. This will lead to greater rehabilitative success among probationers, for long-term reductions in recidivism, cost savings, and stronger communities.

THE CURRENT SYSTEM OFFERS PROBATION OFFICERS AND JUDGES LIMITED TOOLS TO ENCOURAGE COMPLETION OF PROBATION

Judges and probation officers play important roles in reducing recidivism, as they are the gatekeepers of the correctional system. Unfortunately, **the current system offers judges and probation officers limited tools to tailor effective remedies that address the particular needs of individual probationers.** Specifically, the Texas probation system lacks flexibility in its revocation process. For violations of probation conditions, probationers must go before a judge for sentencing. Yet incarceration is not a universal solution to a probation violation.

Texas should allow judges to make individual determinations and fashion alternative sanctioning or incentive mechanisms to keep probationers in the community, which will continue the progress that Texas has made in safely diverting individuals from jails through community-based programming and treatment.

KEY FINDINGS

- On average, probation costs the state \$1.38 per probationer per day.¹
- On the other hand, prison averages \$50.04 per person per day,² while costs for a local jail bed average \$59.00 per day.³ These are each **more than 35 times costlier than probation.**
- In Fiscal Year 2012, felony community supervision revocations accounted for 13,523 of 44,608 prison admissions (30.3%), and they accounted for 9,926 of 23,226 state jail admissions (42.7%).⁴ **50% of probation revocations were for technical violations.**⁵ According to the Legislative Budget Board, "A technical violation is any violation of community supervision conditions other than committing a subsequent new offense (e.g., positive urinalysis or failure to pay court-ordered fees)."⁶
- For the past two fiscal years, revocation rates for community supervision averaged 14.5%. Among individuals released from prison in 2008 and 2009 (measured through 2011 and 2012, respectively), recidivism rates were approximately 22.5%, while they were approximately 30.9% for individuals released from state jail in 2008 and 2009 (measured through 2011 and 2012).⁷
- A recent survey from the Texas Public Policy Foundation found that 80% of respondents favored requiring first-time, low-level probationers to work and pay restitution while on mandatory probation supervision, given how expensive prison is.⁸

Solution offered on reverse.

COST-SAVING AND PUBLIC SAFETY-DRIVEN SOLUTION: SUPPORT H.B. 2653 BY REPRESENTATIVE ALLEN

- **H.B. 2653 allows judges of each judicial district to adopt a single system of progressive intermediate incentives and sanctions for probationers.**
 - » Judges may impose ***sanctions for probation violations***, including for failure to report; failure to participate in a program or service; use of alcohol or a controlled substance; or failure to pay fines, fees, and costs. Sanctions may also target special cases or individuals with high-risk offenses.
 - » Judges may award ***incentives for consistent exemplary conduct***, including earned time credits, reduced reporting, certificates of recognition, and other positive responses to reinforce a pattern of exemplary behavior.

This low-cost approach will encourage rehabilitative progress and law-abiding behavior, thus reducing the future likelihood of re-offending

- **H.B. 2653 allows each judicial district to establish a review process to consider candidates for reduction or early termination of probation.** This safeguard will ensure that probationers who continue to require rehabilitative assistance receive it.
- **H.B. 2653 also contains other critical provisions that will strengthen community supervision, thereby boosting rehabilitative success and reducing costly recidivism:**
 - It requires the Community Justice Assistance Division to establish a model list of intermediate sanctions that judges may use in each judicial district.
 - It authorizes judges to empower probation officers to modify probation conditions to impose a progressive intermediate sanction for a probation violation, unless the violation constituted a felony offense.

Under this provision, a progressive sanction cannot include extending the length of community supervision, increasing a fine, or imposing a period of confinement in a correctional facility.

Furthermore, under this provision, probation officers must notify probationers of their violation and sanction, and must permit an administrative review of the sanction, thus protecting due process.

- It prevents courts from revoking a probationer to incarceration or imposing any other sanction for the same violation after the completion of a progressive intermediate sanction.

CONCLUSION

Thank you again for allowing me the opportunity to present testimony in favor of H.B. 2653. Ultimately, giving judges and probation departments the option of imposing non-custodial, administrative sanctions for probation violations will enable them to place the probationer in more appropriate or intensive treatment or programming as needed. This will more swiftly and effectively prevent further violations and future revocations, as well as prevent criminal behavior down the road. It will also better encourage leniency for the lower-level, nonviolent violators whose offenses do not warrant treatment or programming.

References

¹ Legislative Budget Board (LBB), *Criminal Justice Uniform Cost Report, Fiscal Years 2010 to 2012*, p. 14; available at http://www.lbb.state.tx.us/Public_Safety_Criminal_Justice/Uniform_Cost/Criminal%20Justice%20Uniform%20Cost%20Report%20Fiscal%20Years%202010%20to%202012.pdf.

² *Ibid.*, p. 8.

³ Brandon Wood, Then-Assistant Director of the Texas Commission on Jail Standards, in presentation at American Bar Association, Criminal Justice Section, *Roundtable on Pretrial Detention in Texas*, held in Austin, Texas, March 30, 2012.

⁴ Legislative Budget Board, "Statewide Criminal Justice Recidivism and Revocation Rates," Submitted to the 83rd Texas Legislature, January 2013, p. 19.

⁵ *Ibid.*, p. 11.

⁶ *Ibid.*, p. 19.

⁷ *Ibid.*, pp. 11, 23, 31. This refers to individuals sent or returned to a correctional facility.

⁸ Texas Public Policy Foundation, *Texas Voter Survey: March 20-22, 2011*; available at <http://www.rightoncrime.com/wp-content/uploads/2011/04/TX-Poll-Toplines.pdf>.