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FACT SHEET 2013
H.B. 2849

Amend Property Offense Thresholds

Updating Long-Outdated Thresholds Will Improve Efficiency and Fairness in the Justice System

AMENDING PROPERTY OFFENSES WILL DECREASE COSTS AND IMPROVE EQUITY IN THE JUSTICE SYSTEM

Currently, offense thresholds for various property-related crimes are spread throughout the Penal Code. The penalties for property-related offenses (e.g., criminal mischief, graffiti, theft, etc.¹) correspond to a monetary threshold based on the dollar amount lost or damaged. **These thresholds, however, have not been changed since 1993 and therefore fail to reflect nearly two decades of inflation.** For instance, the threshold for a Class A misdemeanor, as set in 1993 and still used today, is \$500 or more but less than \$1,500; if the property value is \$1,500, it becomes a state jail felony. However, due to inflation rates, consumer goods with a value of \$1,500 today were worth less than \$1,000 in 1993.² In other words, **what amounted to a Class A misdemeanor 20 years ago may now constitute a state jail felony—a de facto “criminal inflation.”** Consequently, the penalty grades for many property offenses do not appropriately correspond to the value of the property that has been stolen, damaged, or lost.

This outdated scheme creates excessive costs for Texas taxpayers. Convictions based on these disproportionate offense thresholds can result in incarceration in county jail or state-level correctional facilities, all at a cost that can exceed \$50 per person per day.³ Additionally, at counties' expense, individuals may be detained in a county jail while awaiting indictment or trial. Furthermore, offenses over and including Class B misdemeanors (e.g., theft of \$50 in goods) may require appointment of counsel for indigent defendants, again at taxpayer expense. **Incarcerating these individuals is costly to taxpayers, depletes resources that can be directed toward individuals who pose a high risk to public safety, and further burdens already crowded jails and prisons.** In addition to these costs, **convictions for even low-level crimes can burden individuals with lifelong collateral consequences**, including limited access to housing and employment—often worsening their situation and decreasing the likelihood that they can maintain a legitimate and productive life in the community.

KEY FINDINGS

A Snapshot of Property Crimes in Texas:

- In 2010, larceny theft⁴ alone accounted for slightly more than 10% of the over one million arrests made in Texas that year.⁵
- Property-related crimes comprise over 50% of the population in state jail facilities.⁶ As of August 2012, there were nearly 12,000 individuals on hand in a state jail facility; over 35% were serving time for larceny or burglary, two of the most prevalent offenses in a state jail.⁷ These individuals cost taxpayers nearly \$180,000 per day to incarcerate and almost \$65 million annually.⁸
- More than 5,700 individuals are currently incarcerated in a Texas Department of Criminal Justice (TDCJ) facility for a larceny offense, over 3,000 of whom are in a state jail.⁹ Those individuals in a state jail cost the state over \$130,000 each day.¹⁰

A Snapshot of Property Crimes in Texas (*Continued*):

- The most recent numbers indicate that there are currently 265 people serving time for a criminal mischief offense and 12 individuals serving time for a graffiti offense in a state-level corrections facility.¹¹ These individuals are housed in various facilities run by TDCJ, but even if all were confined in the least expensive institution—state jails—this population still would cost taxpayers nearly \$12,000 per day.¹²
- As of Fiscal Year 2011, over 60,000 individuals were on direct community supervision (probation) for either a misdemeanor or felony property offense.¹³

How Other States Have Adjusted Thresholds to Account for Inflation Rates:

- Alabama passed legislation raising theft thresholds in 2003.¹⁴
- In the last few years, Georgia, Nevada, Ohio, Utah, and the District of Columbia have each enacted laws increasing felony thresholds for various property-related crimes, such as criminal mischief or theft.¹⁵ In Ohio, projected savings were \$1,294,290 annually.¹⁶
- Oregon and Washington raised criminal mischief, theft, and other thresholds in 2009.¹⁷

COST-SAVING AND PUBLIC SAFETY-DRIVEN SOLUTION: SUPPORT H.B. 2849 BY VICE CHAIRMAN WHITE

- ❖ **H.B. 2849 will improve efficiency and create consistency** by consolidating offense thresholds and penalties related to various property offenses into one section of the Penal Code. Creating a single provision of the Penal Code that lays out the thresholds, corresponding offense levels, and related penalties will provide clarity and make it easy for prosecutors, defense attorneys, and judges to determine the appropriate penalty for property-related crimes. Centralizing the penalty amounts will also make it easier to modify in the future to account for future inflation rates.
- ❖ **H.B. 2849 will also save taxpayer dollars and increase fairness in the judicial system** by updating the antiquated value thresholds upon which property offenses are based. This will make penalties more proportional to the offenses committed and avoid wasting valuable resources on prosecution and incarceration for petty crimes.
- ❖ **Please see the attached document for a comparison of the current penalty amounts for each of the property offenses listed here, along with the proposed changes under H.B. 2849.**

Citations

- ¹ Criminal mischief, graffiti, and theft can be found in TEX. PENAL CODE §§ 28.03, 28.08, and 31.03 respectively.
- ² Based on the United States Department of Labor's Consumer Price Index (CPI), goods that were valued at \$50 in 1993 are worth \$80.33 today, and goods valued at \$20,000 in 1993 are now worth \$32,133.70. See United States Department of Labor: Bureau of Labor Statistics, "Databases, Tables & Calculators by Subject," CPI Inflation Calculator, website last accessed 6 April 2013, available at http://www.bls.gov/data/inflation_calculator.htm.
- ³ According to the Legislative Budget Board (LBB), per-day prison costs average \$50.04 per person, while per-day state jail costs average \$42.90 per person; from LBB, "Criminal Justice Uniform Cost Report Fiscal Years 2010-2012," January 2013, p. 8. Also note: According to Brandon Wood, Director of the Texas Commission on Jail Standards (TCJS), per-day county jail costs average \$59 per bed; TCJS presentation at American Bar Association, Criminal Justice Section, Roundtable on Pretrial Detention in Texas, held in Austin, Texas, March 30, 2012.
- ⁴ Larceny theft is distinguishable (i.e., it is a separate offense) from burglary, robbery, and motor vehicle theft.
- ⁵ Texas Department of Public Safety (DPS), Texas Arrest Data: 2010, available at <http://www.txdps.state.tx.us/crimereports/10/citCh9.pdf>.
- ⁶ Texas Department of Criminal Justice (TDCJ), "Fiscal Year 2012: Statistical Report," p. 11, available at http://www.tdcj.state.tx.us/documents/Statistical_Report_FY2012.pdf.
- ⁷ TDCJ, information received via Freedom of Information Request, 16 October 2012. Information available upon request.
- ⁸ Based on LBB, *Uniform Cost Report*, *supra* note 3, at 8.
- ⁹ TDCJ, information received via Freedom of Information Request, January 10, 2013. Information available upon request.
- ¹⁰ Based on LBB, *Uniform Cost Report*, *supra* note 3, at 8. This figure does not include costs of investigation, arrest, detention, or trial.
- ¹¹ TDCJ, information received via Freedom of Information Request, January 10, 2013. Information available upon request.
- ¹² LBB, *Criminal Justice Uniform Cost Report*, January 2011, p. 6. This figure does not include costs of investigation, arrest, detention, or trial.
- ¹³ TDCJ, *Statistical Report*, *supra* note 6, at 6. The cost is significantly less to place a person on probation; community supervision amounts to a fraction of the costs of incarceration.
- ¹⁴ Vera Institute of Justice, "Memorandum to South Carolina Sentencing Commission," June 26, 2009. <http://www.scstatehouse.gov/archives/citizensinterestpage/SentencingReformCommission/RetreatPresentations/WilhelmFinalVersionSRCRetreat.pdf>, 2.
- ¹⁵ National Conference of State Legislators, *State Sentencing and Corrections Legislation*. <http://www.ncsl.org/issues-research/justice/state-sentencing-and-corrections-legislation.aspx>.
- ¹⁶ Vera Institute of Justice, *Memorandum*, *supra* note 37, at 2.
- ¹⁷ National Conference of State Legislators, *Significant State Sentencing and Corrections Legislation in 2009*. <http://www.ncsl.org/issues-research/justice/sentencing-and-corrections-legislation-in-2009.aspx>.