

Brief

Testimony on House Bill 2193 to the Senate Criminal Justice Committee *Reforming the Probation System* By Marc Levin

I am pleased to appear before Chairman Whitmire and this distinguished committee.

I am the Director of the Center for Effective Justice at the Texas Public Policy Foundation, a non-profit, non-partisan research institute guided by the core principles of limited government, free markets, private property rights, individual liberty and personal responsibility.

In general, we support the probation reform concepts in this legislation, particularly progressive sanctions, more intensive supervision, and the expansion of drug courts. It is our hope that some of the money saved on incarceration costs through the reduction of probation revocations can be redirected to residential restitution centers and mental illness and drug treatment programs for which there are currently waiting periods as long as six months.

However, we would like to see one change to language in Section 8 that was added in the House Committee Substitute. The sentence we are concerned about states:

“A judge may not refuse to terminate a period of community supervision solely on the ground that the defendant is indigent and unable to pay restitution, fines, costs, or fees.”

This would mean that a judge cannot decline to terminate probation after only two years or one-third of the supervision period, whichever is less, on the basis that the probationer has not paid restitution. Yet, after releasing a probationer from supervision, our leverage for collecting any remaining restitution is likely to be substantially diminished.

We think that making the victim whole is one of the most important obligations that a probationer has. Furthermore, that the probationer is indigent but able-bodied is no excuse given that most probation agreements also require the defendant to find work. At the least, a judge should be able to deny early termination of probation if a defendant is indigent due to his failure to diligently seek work or to exhausting funds on alcohol instead of making restitution payments.

Consequently, we urge you to move forward on this legislation. But before doing so, change this language so we don't tie judges' hands on early termination despite failure to pay restitution due to the probationer's laziness or misplaced priorities.

Thanks very much for your consideration and I would be glad to answer any questions you might have.