

PROBATION, PAROLE, & RE-ENTRY

THE ISSUE

Approximately 450,000 Texans are on probation. Revoked probationers account for 37 percent of prison intakes, resulting in \$547 million in incarceration costs. Although three times as many Texans are on probation as in prison, 10 state dollars are spent on the prison system for every dollar spent on probation.

Since 2005, \$55 million in state probation funding has been incentive-based. Departments are eligible if they adopt progressive sanctions and pledge to reduce their technical revocations. Progressive sanctions involve utilizing graduated measures such as increased reporting, community service, curfews, electronic monitoring, mandatory treatment, and shock-nights in jail prior to revoking a probationer to prison for technical violations.

Most probation departments have participated in the incentive funding, and these departments have reduced their technical revocations by 16 percent while non-participating departments increased technical revocations by 8 percent. Had all departments increased their revocations by 8 percent, another 2,640 probationers would have been revoked at a cost of \$119 million, not including prison construction. Departments receiving the funding used most of it to reduce caseloads from 150 to about 110 probationers per officer.

Approximately 76,000 Texans are on parole. The parole revocation rate is 11 percent, including both new offenses and technical revocations. Parole costs \$3.51 a day compared with \$49.40 for prison.

Each year over 50,000 former prisoners re-enter Texas neighborhoods. While employed ex-offenders are much less likely to re-offend, Texas statutes and regulations restrict ex-offenders from obtaining more than 150 occupational licenses, and employers can face negligent hiring lawsuits for giving ex-offenders second chances.

THE FACTS

- ★ To help avoid spending over a billion dollars on building and operating new prisons, the 80th Legislature added 1,400 beds at probation and parole intermediate sanctions facilities. These facilities are typically located in urban areas, such as one across from Minute Maid Park; have average stays of 60 days; and primarily house probationers and parolees who would otherwise be revoked for technical violations or misdemeanors.
- ★ Texas has 121 probation departments and 40 percent of their budgets come from probationers' fees.

TEXAS PUBLIC POLICY FOUNDATION

- ★ In 2006, the Department of Public Safety's Private Security Bureau denied 10,000 Texans the opportunity to work in the 16 occupations it regulates, including locksmiths and alarm salespeople, due to a prior offense, many of which were petty crimes that had occurred 10 or 20 years ago.

RECOMMENDATIONS

- ★ Institute system-wide performance-based probation funding. Given the success of the voluntary 2005 incentive funding initiative, this approach should be expanded. HB 3200 from last session, which would have linked a share of probation funding to technical revocations and early terminations, should be broadened to include weights for probationer risk levels, new offenses and their seriousness, employment rate, educational and vocational degrees and certificates earned, and restitution and child support paid.
- ★ Streamline parole decision making. A common reason for denying parole is the "nature of the offense," a factor that never changes. Consequently, it is redundant for different parole panels to continually consider this every year. Also, inmates cannot be accurately prioritized for pre-release programs since there is no way to anticipate parole decisions. By determining upon entry into the system whether parole-eligible inmates should ever be paroled and, if so, setting a date, which would be dependent on an inmate's good behavior and completion of work and treatment programs, efficiencies can be achieved while also incentivizing inmates.
- ★ Allow nonviolent ex-offenders to obtain provisional licenses for most occupations. Provisional licenses provide a second chance for ex-offenders to earn a living while enabling the agency to summarily revoke their license if they violate any occupational rule or the terms of their probation or parole. SB 1750 in the 80th session would have authorized such provisional licenses.
- ★ Limit employer's civil liability for hiring nonviolent ex-offenders. HB 2537 last session would have immunized employers from liability simply based on hiring nonviolent ex-offenders except for the following circumstances:
 - ★ Sex offenders in jobs involving children or home visits
 - ★ Employees who manage funds as a fiduciary with convictions for offenses related to misappropriation of funds.
- ★ At the least, punitive damages against employers should be disallowed, since there is a public policy interest in promoting the employment of ex-offenders.

RESOURCES

- *Working with Conviction: Criminal Offenses as Barriers to Entering Licensed Occupations in Texas* by Marc Levin, Texas Public Policy Foundation (Nov. 2007) <http://www.texaspolicy.com/pdf/2007-11-PP28-licensing-ml.pdf>.
- *The Role of Parole in Solving the Texas Prison Crowding Crisis* by Marc Levin, Texas Public Policy Foundation (Nov. 2006) <http://www.texaspolicy.com/pdf/2006-10-PP-parole-ml.pdf>.
- *Laying the Foundation for Better Probation* by Marc Levin, Texas Public Policy Foundation (June 2006) <http://www.texaspolicy.com/pdf/2006-06-PP-probationreform-ml.pdf>.

