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**Testimony Before the Texas Senate Criminal Justice Committee on SB1909  
April 3, 2007, 1:30 P.M., E1.016**

- **“As a physician, I believe that we ought to be doing drug treatment rather than incarceration”**  
*U.S. Senator Tom Coburn (R-Oklahoma)*
- California made this policy change in 2000 when over 60 percent of voters passed Proposition 36. According to a UCLA study, this measure has **saved the state 1.4 billion over five years**, dramatically reducing incarceration costs for minor drug offenders whose only crime was addiction.<sup>1</sup> Outpatient drug treatment in Texas costs an average of \$1,080 for 90 days while intensive inpatient treatment costs \$6,210 for 90 days, compared to \$18,031 per year of incarceration, which excludes prison construction costs. In 2002, TCADA found drug abuse costs Texas \$9.6 billion per year.
- **The fiscal note indicates that SB1909 will produce net savings of \$112.3 million to the state this biennium, \$243.1 million in the 2010-11 biennium, and \$493.5 million through 2012.** The fiscal note also determined that this bill would divert 7,693 low level drug possession offenders who have not previously committed another type of felony every year from prison into intensive treatment and probation. That is more than enough to both eliminate any need for new prisons that would cost \$1 billion to build and operate over a decade and stop leasing beds from county jails at a cost of hundreds of millions.
- Treatment works. In Arizona which also implemented this policy more than a decade ago, a study by the **Arizona Supreme Court found that 77 percent of drug offenders got clean as a result of the treatment.**<sup>2</sup> The national Drug Abuse Treatment Outcome Survey of 10,000 participants found that residential treatment resulted in a 50 percent reduction in drug use and 61 percent reduction in crime while outpatient treatment resulted in a 50 percent reduction in drug use and 37 percent reduction in crime.<sup>3</sup> Dr. Nora Volkow, Director of the National Institute on Drug Abuse (NIDA), stated, “Research findings show unequivocally that drug treatment works and that this is true even for individuals who enter treatment under legal mandate.”<sup>4</sup> Community-based treatment is most effective because a family and support network is often present, and offenders can be reintegrated into productive educational and employment opportunities.
- **This bill excludes drug delivery**, which accounts for about 10,000 incarcerated offenders. It applies up to either a third degree felony drug possession offense – that is small quantities such as up to 4 grams of cocaine or heroin. Another provision requires that it only be for personal use. Also, a judge who finds the offender poses a danger to public safety or is unlikely to benefit from treatment

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<sup>1</sup> See <http://www.prop36.org/pr040606.html>.

<sup>2</sup> See <http://www.justicepolicy.org/article.php?id=24>.

<sup>3</sup> See <http://www.oregon.gov/DHS/addiction/outcome-flyer.pdf>.

<sup>4</sup> See <http://www.nida.nih.gov/Testimony/2-8-06Testimony.html>.

could impose a prison sentence and, even without such findings, judges could use SAFP (6 month prison program with treatment), ISFs (maximum of 2 years), and shock nights in county jail.

- This bill will help children of drug offenders, who are victims of what some mistakenly call a victimless crime. Some 70 percent of Texas prisoners, and 80 percent of women prisoners, have children. After two years of incarceration, they must lose their parental rights by law, and they can lose their rights much earlier. **Children of incarcerated parents are 6 to 8 times more likely to go to prison. Texas prisoners owe \$2.5 billion in child support and earn nothing in prison.** Through treatment and probation services such as Project RIO, these drug possession offenders diverted from prison can be productive and support their children.
- **SB1909 expressly includes faith-based drug rehabilitation programs provided that they meet the same state licensing criteria for chemical dependency counseling.** Many people succumb to drugs because of a sense of hopelessness in their lives, which is reinforced by the prison environment, but can be counteracted by treatment, including treatment with a faith-based component that fills the spiritual void in an offender's life.
- **Only 15 percent of Texas prisoners who need drug treatment receive it in prison.** Drug use continues in prison. Although Texas does not test inmates, a British study found that half of all inmates tested positive for drugs, including a third for heroin.<sup>5</sup>
- **The fiscal note was based on excluding offenders who had been previously convicted of another felony, which the LBB estimated was 39 percent of the 12,612 prison admissions for third degree or lower drug possession. Actually, as currently worded, SB1909 excludes all drug possession offenders with a previous conviction for any offense other than drug possession or a fine only traffic offense.** We recommend slightly loosening the restriction on prior convictions to exclude all Class C misdemeanors and most Class A and B misdemeanors, at least for only one prior conviction. I am submitting to the committee a list of those Class A and B misdemeanors that could be disqualifiers, but the others really should not be.
- **However, even if 2,000 of the 7,693 diversions were excluded due to prior misdemeanors, that is still 5,693 diversions per year, enough to wipe out the need for new prisons and curtail the leasing of county jail beds.** The target for avoiding new prison construction is another 3,500 diversions a year, which from 2008 to 2012 means a total of 17,500 fewer prisoners over that time. That is the number of new beds the LBB projects would otherwise be needed by 2012.
- **This legislation would dovetail well with the thousands of new treatment and intermediate sanctions beds that are funded in the current appropriations bills in both chambers (some 6,100 in the Senate at a cost of \$205 million),** as the drug possession offenders put on probation and into treatment as a result of this bill could be managed using these resources to effectively protect public safety and ensure that they are drug-free, productive citizens.
- "I believe we can take an approach to crime that is both tough and smart....[T]here are thousands of non-violent offenders in the system whose future we cannot ignore. Let's focus more resources on rehabilitating those offenders so we can ultimately spend less money locking them up again."  
*Texas Governor Rick Perry, 2007 State of the State Address*
- "Conservatives should support four policies: improved follow-up, better drug treatment, in-prison work programs, and faith-based rehabilitation."  
*Eli Lehrer, Visiting Fellow at the Heritage Foundation writing in the National Review*

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<sup>5</sup> See <http://thescotsman.scotsman.com/scotland.cfm?id=428522005>.