

CORRECTIONS BUDGET & PRISON OPERATIONS

THE ISSUE

Texas has the most prisoners of any state and the second highest incarceration rate. From 1985 to 2006, Texas' incarceration rate ballooned 205 percent. Florida and New York have increased their incarceration rate at less than half that of Texas in the last 25 years, but have achieved greater crime reductions.

Today, Texas has 156,410 inmates, about half of whom are non-violent offenders. Texas has added 13,083 prison beds since 1997 and another 1,200 prison beds were being added in 2008 as two shuttered TYC lockups were converted to adult prisons.

Judges and prosecutors have attributed growing demand for prisons to the lack of capacity at facilities offering less costly alternatives to incarceration for nonviolent offenders. In 2007, the Legislature made historic changes to address this concern and respond to the Legislative Budget Board's (LBB) January 2007 projection that the state would need another 17,000 new prison beds by 2012, which would have cost a billion to build and operate.

The 2007 reforms included increasing the capacity of prison alternatives, like outpatient drug treatment slots and probation and parole treatment beds. These beds cost less per placement because a typical stay is shorter, though more rehabilitative, than it would be in prison.

In lieu of new prisons, the 2008-09 budget added 4,000 new probation and parole treatment beds, 500 in-prison treatment beds, 1,200 halfway house beds, 1,500 mental health pre-trial diversion beds, and 3,000 outpatient drug treatment slots. In February 2008, the LBB released a new forecast showing that no new prison beds will be needed through 2012, due in large part to the projected impact of these new diversion initiatives.

Yet, because the 80th Legislature did not make any major changes in sentencing, there is no assurance that the new diversion capacity will be fully utilized by prosecutors and judges. Also, some regions of the state may continue to overutilize incarceration—for example Harris County accounts for 16 percent of the state's population but more than half of those incarcerated for possessing less than a gram of drugs. While Texas should maintain tough laws that keep violent offenders, sex offenders, drug kingpins, and habitual home burglars in prison for long periods, narrowly tailored policy changes can control future incarceration costs by rerouting nonviolent substance abuse offenders who do not pose a threat to public safety.

TEXAS PUBLIC POLICY FOUNDATION

THE FACTS

- ★ Prisons cost Texas taxpayers \$49.40 per inmate per day, which is \$18,031 per year. This is lower than the national average of \$24,656.
- ★ Each new state prison bed costs more than \$60,000 to build.
- ★ Parole costs the state \$3.51 per inmate per day, which is \$1,281 per year.
- ★ The criminal justice budget has increased from \$793 million in 1990 to \$2.94 billion in 2008.

RECOMMENDATIONS

- ★ *Require probation with mandatory treatment for most low-level drug possession offenders with no prior violent, sex, property, or drug delivery crimes.* SB 1909 as passed by the Senate in 2007 would have made this change, applying only to offenders convicted of possessing less than four grams of drugs. Those convicted of drug delivery were excluded, as were drug possession offenders who had a previous conviction for any offense other than drug possession or a traffic violation. Those covered would be sentenced to—and have to pay for—mandatory probation and treatment. The sentence could include a residential facility or day treatment, or a combination of both, and the bill specifically included faith-based treatment programs that meet state standards. Under SB 1909, an offender could still be initially sent to prison upon a documented judicial finding of danger to the community or revoked to prison for violating probation. The final version of the bill from last session was improved to address concerns of prosecutors by lowering the quantity of hallucinogens to which it would apply and it can be further improved by adding a provision that excludes drug possession offenders where the prosecutor can show intent to distribute by a preponderance of the evidence, even though it is a possession charge. The LBB estimated that SB 1909 would have saved taxpayers \$500 million by 2012, not including potentially avoided prison construction costs.
- ★ *Allow certain state jail confinees to substitute two months of parole for each month of jail time, up to one year of parole.* State jail felons are currently ineligible for parole and serve flat time up to two years. By permitting those with no convictions other than possessing less than a gram of drugs, who have already served at least six months with good behavior and are not identified gang members, to depart up to six months early in exchange for serving a year on parole with a work requirement, space can be freed up for more serious offenders. Also, the parole supervision may reduce recidivism. This would affect about 648 state jail confinees, saving \$4 million and possibly avoiding \$40 million in prison construction costs.
- ★ *Identify costliest infirm inmates who no longer pose a danger.* There are about 200 paraplegics and multiple-limb amputees in prison. The current medical parole program is so strict that less than six percent of eligible offenders are actually released and many die while under consideration. In one year, two elderly infirm prisoners cost the state \$1 million in health care expenses. If these inmates were released, possibly to a nursing facility as a condition of parole, most would be eligible for federal health benefits.
- ★ *Require inmates to watch videos featuring testimonials of crime victims.* While in-person victim-offender dialogue sessions such as the non-profit Bridges to Life program that is in 21 Texas prisons are ideal, they cannot reach most inmates. Video presentations can help fill the gap so that offenders better understand the impact of crime on victims.

RESOURCES

- *Special Legislative Briefing on Criminal Justice* by Marc Levin (May 2007) <http://www.texaspolicy.com/pdf/2007-05-EF-briefinghandout-ml.pdf>.
- *How to Avert Another Texas Prison Crowding Crisis* by Marc Levin, Texas Public Policy Foundation (May 2006).

