

Justice Reinvestment Texas: A Case Study



This report describes how policymakers in Texas employed a data-driven strategy called justice reinvestment to reduce spending on corrections, increase public safety, and invest in strategies to improve outcomes for people released from prison.

Texas has long been regarded as a state with some of the toughest criminal justice policies in the nation. During the early 1990s, policymakers enacted laws increasing the time serious, violent offenders serve in prison. With those and other changes to state law, the incarceration rate in Texas increased significantly, and today, it has the second-highest incarceration rate in the United States.

Between 1985 and 2005, the prison population grew 300 percent, forcing the state to build tens of thousands of prison beds. From 1983 to 1997, the state added 108,000 beds to its system at a cost of \$2.3 billion. Less than ten years later, the prison population exceeded the

capacity of the state's prisons by 3,000 and was projected to continue growing. An official state projection released in January 2007 forecasted that the prison population would increase by 14,000 people within five years.

Faced with an impending prison overcrowding crisis, policymakers had to decide whether spending \$523 million to build and operate additional prisons was the best way to increase public safety and reduce recidivism. With bipartisan leadership, and the assistance of the Council of State Governments Justice Center, Bureau of Justice Assistance, and the Public Safety Performance Project of the Pew Center on the States, policymakers in Texas identified and enacted strategies to expand the capacity of treatment programs and residential facilities that are projected to increase public safety and avert the projected growth in the prison population at a net savings to the state.

The Challenge

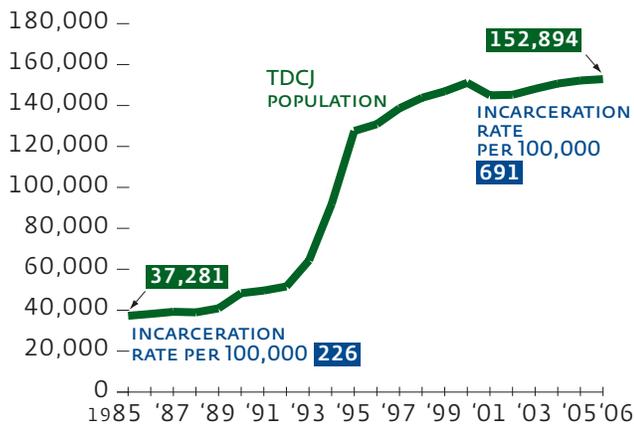
Since the 1980s, the number of people incarcerated in Texas has increased significantly.

- From 1985 to 2005, the state prison population increased 310 percent while the incarceration rate increased 205 percent.
- By December 2006, with the Texas Department of Criminal Justice (TDCJ) nearing capacity—and with state law restricting Texas prisons from operating above 100 percent of capacity—TDCJ officials contracted with local jails to provide temporary capacity at an annual cost of \$27.5 million.

The Legislative Budget Board (LBB) released a prison population projection in January 2007 forecasting that, by 2012, the prison population would grow by 14,317 prisoners, an increase of 9.3 percent.¹

- Based on these projections, the state would need to expand its prison capacity significantly, or experience a shortfall of 17,332 beds by 2012.
- By fiscal year 2009, the annual cost to operate the prison system in Texas would total an estimated \$2.8 billion.²

FIGURE 1
TDCJ Population, Texas Incarceration Rate (1985–2005) and State Resident Population Growth (1980–2005)



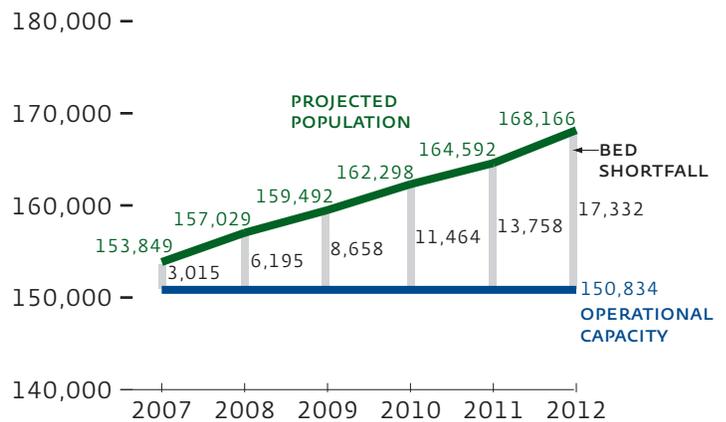
+61%
State Resident Population
1980–2005

+310%
TDCJ Population
1985–2006

+205%
Incarceration Rate
1985–2006

Sources: CJPC tables 1985–1998; LBB tables, 1998 to 2006; Incarceration rate as reported by the US Department of Justice, Bureau of Justice Statistics (Prisoners in US).

FIGURE 2
Projected TDCJ Population and Capacity 2007–2012, January 2007 LBB Projection



Source: Legislative Budget Board, June 06 and January 07 (Adult and Juvenile Correctional Population Projections). The LBB report with the official projections for this legislative session can be found at: http://www.lbb.state.tx.us/PubSafety_CrimJustice/3_Reports/Projections_Reports_2007.pdf.

¹ Legislative Budget Board, "Adult and Juvenile Correctional Population Projections, FY 07–12." January 2007. The Legislative Budget Board (LBB) is the legislative committee which develops budget and policy

recommendations for state government. LBB publications can be found at: <http://www.lbb.state.tx.us/>.

² Legislative Budget Board, Historical Statistical tables for TDCJ Population and Capacity.

The Growth Factors

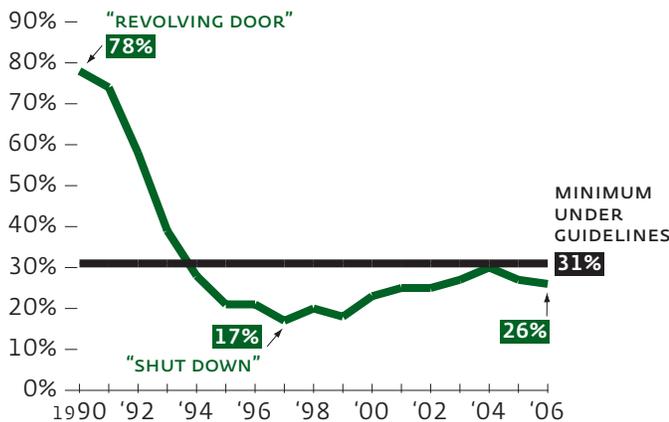
Neither the growth of the state’s resident population nor changes in the state’s crime rates explained the recent and projected increase in the state’s prison population.

- The growth of the prison population between 1980 and 2005 (over 300 percent) exceeded the 61 percent increase in the state’s resident population during the same time period.³
- Between 2000 and 2005, the crime rate in Texas declined 1.9 percent. Preliminary crime statistics released by the Texas Department of Public Safety in May 2007 reflected a continued decline in crime: in 2006, the crime rate dropped 5.3 percent, with violent crime declining by 2.3 percent.⁴

The key factors driving the growth were increased probation revocations to prison, lack of in-prison and community-based treatment and diversion programs, and low parole grant rates.

- Between 1997 and 2006, the number of probation revocations to prison increased 18 percent, despite a three percent decline in the total number of persons under community supervision.⁵
- Cuts in funding for community-based substance abuse and mental health services reduced the number of treatment beds in the community. Over 2,000 people were eligible for release, pending the availability of space in in-prison and community-based treatment programs or facilities.⁶
- The state parole guidelines set a target grant rate for low risk offenders of 51 percent. The actual grant rates in 2005 failed to meet this threshold, however, and, as a result, 2,252 persons that would have otherwise been released remained incarcerated.⁷

FIGURE 3
Parole Approval Rates, 1990–2006



88,000
inmates, or 66% of the prison population, are eligible for discretionary release

55%
of those eligible have a "non-violent" offense of record

3 Ibid, Historical Statistical tables for TDCJ Population and Capacity.

4 Texas Department of Public Safety, "Crime in Texas, 2005." Press Release. May 2006. http://www.txdps.state.tx.us/director_staff/public_information/pr050907.pdf. Coinciding with this drop in crime was a 29 percent increase in the number of felony convictions, although with no data easily available to fully explain the increase in felony convictions, a likely explanation is a judicial system that has become more efficient in processing criminal cases. See

population figures from the US Census and convictions figures from the Texas Office of Court Administration, Annual Reports, <http://www.courts.state.tx.us/oca/>.

5 Texas Department of Criminal Justice, Community Justice Assistance Division, Statistical Tables, December 2006.

6 Memorandum from Deanne Breckenridge, Texas Department of Criminal Justice, December 7, 2006. As of December 2006, there were 1,386 offenders awaiting space in a Transitional Treatment Center, 823 offenders were in county jails awaiting

treatment space in a Substance Abuse Felony Punishment (SAFP) facility, 174 were in prison awaiting in-prison therapeutic treatment and there were 1,206 fewer therapeutic treatment beds in State Jails as these were eliminated in prior budget cuts.

7 Sunset Advisory Commission, "Texas Department of Criminal Justice, Board of Pardons and Paroles, Correctional Managed Health Care Committee Staff Report," October 2006.

The Strategy

To address the existing shortfall of prison beds, which the growth projected for the system would exacerbate, TDCJ officials submitted a budget request that included the construction of new prisons.

- For the 2008–2009 biennium, TDCJ requested \$899 million above the \$2.5 billion operating budget for the previous biennium. This request, however, was based on an earlier LBB projection. It did not account for recent adjustments in January 2007 to this projection, which added 2,602 beds to the projection upon which TDCJ was basing its request.⁸
- The \$899 million request included \$440.6 million for 5,080 beds in new correctional facilities, \$173.9 million for 7,328 beds in temporary contracted facilities, and \$284.8 million for additional operational expenses and on-going construction projects.
- TDCJ’s budget request reflected new dollars to increase funding for treatment and diversion program capacity. This increased funding, however, was not sufficient to erase the backlog that had accumulated since 2003 of people in prison or on probation in need of community-based substance abuse and/or mental health treatment to comply with their conditions of release.

In January 2007, the Texas Senate Criminal Justice Committee and the House Committee on Corrections convened a rare joint hearing to review all factors contributing to the increase in the prison population.

- At the invitation of legislative leaders, the Council of State Governments Justice Center (“Justice Center”) and its expert consultant Dr. Tony Fabelo presented a set of policy options that included expanding in-prison and community-based substance abuse and mental health treatment capacity, enhancing the use of parole and diversion programs, and, to provide a nearly immediate increase in prison capacity, transferring two Texas Youth Commission (TYC) facilities to the TDCJ.
- According to the analysis presented by Dr. Fabelo, increasing the capacity of treatment and diversion programs would reduce revocations to prison, lowering prison admissions. Increasing the capacity of these programs would also enhance the use of parole. As a result, TDCJ could operate at capacity—without a bed shortfall by 2012.

The TDCJ’s request for new funds included \$123.3 million for electricity, fuel and natural gas rate increases as well as overtime pay to address the staff shortfall. By contrast, \$96.7 million was requested for the expansion of in-prison and community-based substance abuse treatment programs, mental health services, halfway houses and probation services.

⁸ Texas Department of Criminal Justice, “Fiscal Year 2007 Operating Budget and FY 08–09 Legislative Appropriations Request”, August 18, 2006; Legislative

Budget Board, “Adult and Juvenile Correctional Population Projections, FY 07–11.” June 2006.

Following the hearing, legislative leaders developed a plan to increase the capacity of treatment and diversion programs and adopted policy measures to improve the efficiency of community supervision services.

- Based on the analysis and policy options from the Justice Center and the recommendations of the state Sunset Advisory Commission, State Senator John Whitmire (D, Chair, Criminal Justice Committee) and State Representative Jerry Madden (R, Chair, Corrections Committee) crafted the Whitmire/Madden Correctional Treatment and Diversion Plan (“Whitmire/Madden Plan”), which included new funding for expanded in-prison substance abuse treatment programs, existing diversion programs, and community-based substance abuse and mental health treatment programs.

State policymakers and community-based organizations provided bipartisan support for the Whitmire/Madden plan.

- The Governor, Lt. Governor, and Speaker of the House worked with leaders in the Senate Finance Committee and the House Criminal Justice Appropriation Subcommittee to review and amend the plan.

- The Texas Criminal Justice Coalition, working in partnership with the Texas Public Policy Foundation, publicly endorsed several elements of the Whitmire/Madden plan.

Bills advanced in the House and Senate modified the Whitmire/Madden Plan and incorporated several elements of the TDCJ budget request.

- Legislators in the House amended the plan to reduce the number of treatment and diversion beds originally proposed in the Whitmire/Madden Plan, and they zeroed out funding for the new prisons that were proposed by TDCJ. Members of the Senate, on the other hand, advanced legislation that provided bonding authorization for the construction of three smaller prisons than originally proposed by TDCJ, should such construction become necessary.
- In support of the Whitmire/Madden plan, legislative leaders introduced legislative packages and developed riders in the appropriation bill to direct the implementation process for the expansion of the treatment and diversion programs.⁹

“If we don’t change the course now, we will be building prisons forever and ever—prisons we can’t afford.”

— Senator John Whitmire, D-Houston, Chair, Senate Criminal Justice Committee, Austin-American Statesman, January 31, 2007

“We are trying to do some things we believe will change the course of Texas in ways that will make this a better state.”

— Representative Jerry Madden, R-Plano, Chair of the House Corrections Committee, The Dallas Morning News, Under the Dome, January 31, 2007

⁹ For a discussion of the Senate and House versions of the state appropriations, see “Mid Legislative Session Report: Funding Correctional Treatment and Diver-

sion Initiatives in Texas”, Council of State Governments Justice Center, May 2007 at <http://justicereinvestment.org/states/texas/pubmaps-tx/>.

The Results

In May 2007, the House and Senate enacted a legislative package that many policymakers agree represents the most significant change in state corrections policy since the early 1990s.

- The new policies included an expansion of treatment and diversion programs:
 - 800 new beds in a residential program for people on probation supervision with substance abuse needs;
 - 3,000 slots for outpatient substance abuse treatment for people on probation supervision;
 - 1,400 new beds in intermediate sanction facilities to divert probation and parole technical violators from prison;
 - 300 new beds in halfway house facilities for people under parole supervision;
 - 500 beds in a new facility for an in-prison treatment unit targeting people with DWI offenses;
 - 1,500 new beds for an in-prison intensive substance abuse treatment program; and
 - 1,200 slots for intensive substance abuse treatment programs in the state jail system;
- The new policies also enhanced parole and probation policies and procedures:
 - established a maximum limit for parole caseloads to ensure adequate supervision;¹⁰
 - reduced probation terms for drug and property offenders from a maximum of ten years to a maximum of five years to ensure that they receive treatment and supervision during the years when they are most likely to re-offend;¹¹
 - provided grant funding for counties that establish progressive sanctioning models

for probation officers to respond effectively to violations of supervision;¹² and

- expanded drug courts and other specialty courts to place offenders that commit less severe crimes in treatment programs that will reduce their likelihood to re-offend.¹³
- To fund the expansion of the in-prison and community-based diversion and treatment programs, the legislature appropriated \$241.0 million (as depicted in Figure 4) and adopted implementation riders to give direction and flexibility to TDCJ in the implementation of the diversion and treatment plan (Figure 8).
- Policymakers also authorized bond funding for the construction of three new prisons—an addition of 3,990 beds. But, construction for these institutions can proceed only if the new policies and programs are not implemented effectively and the LBB deems such construction necessary.

The policies enacted during the 2007 legislative session are expected to eliminate the prison bed shortfall based on the assumption that the expanded set of treatment programs result in a parole grant rate of 28 percent adopted by the Appropriation Conference Committee (Figure 6).

- By increasing the capacity of treatment and residential facilities at a lower cost than TDCJ's original budget request for additional prison capacity, the state has already saved \$210.5 million for the 2008–2009 fiscal biennium. Assuming that no additional prisons are constructed, the state will save an additional \$233.4 million during the 2008–2009 fiscal biennium (Figure 7).¹⁴

¹⁰ Texas Legislature, House Bill 3736, "An Act Relating to Establishing Parole Officer Maximum Caseloads", enacted 2007.

¹¹ Texas Legislature, House Bill 1678, "An Act Relating to the Operation of a System of Community Supervision", enacted 2007.

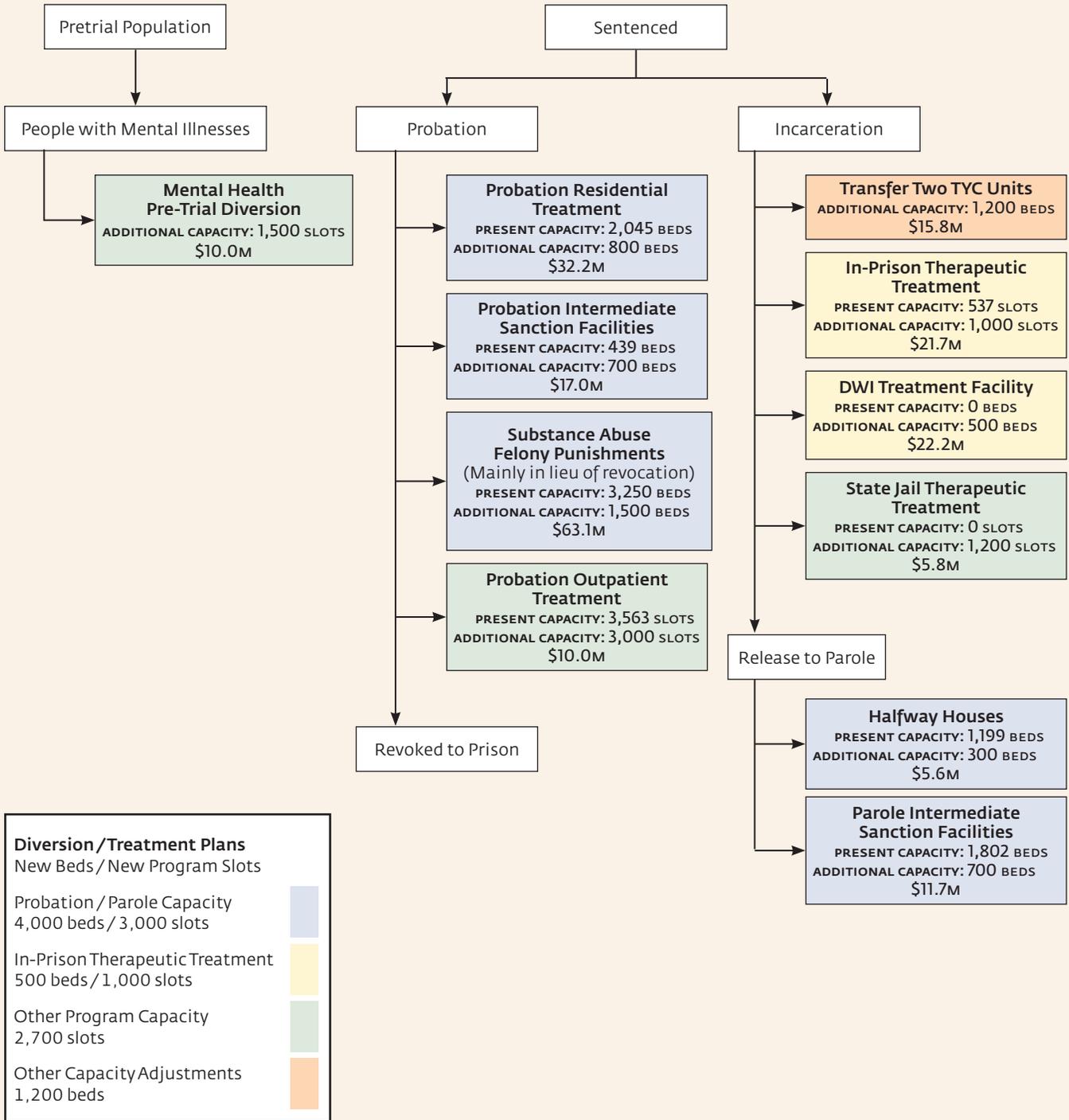
¹² Texas Legislature, Senate Bill 166, "An Act Relating to a Prison Diversion Progressive Sanctions Program", enacted 2007.

¹³ Texas Legislature, House Bill 530, "An Act Relating to the Operations and Funding of Drug Court Programs", enacted 2007.

¹⁴ The savings represent the difference between the original request for appropriations by the administration and the final adopted plan and do not consider potential future savings or cost-avoidance due to the impact of the plan on the projected prison bed shortfall and reductions in recidivism.

FIGURE 4
Elements of Adopted Diversion/Treatment Plans
Organized by Key Events in the Criminal Justice System

Note: The diagram below does not represent the existing programs, facilities, or strategies that affect criminal justice populations other than those that are identified in the legislative plans to manage the growth of the prison population.



**FIGURE 5
MAJOR REFORM BILLS ADOPTED BY
THE TEXAS LEGISLATURE IN 2007**

■ **Sunset Reforms of Texas Department of Criminal Justice**

SB 909 by Rep. Madden and Senator Whitmire

Reauthorizes Texas Department of Criminal Justice (TDCJ) to continue operations until 2011, when the department will be subject to another Sunset review; requires the TDCJ to use a dynamic risk assessment tool to assign a risk level to sex offenders before their release; prevents the department from prohibiting inmate participation in treatment programs as mandated by the parole board; requires the parole board to review and update the parole guidelines and provide progress reports to the Legislature; requires the department's parole division to identify eligible, low-risk offenders and establishes a process for releasing them from supervision early; and establishes a permanent Criminal Justice Legislative Oversight Committee to oversee the reforms and determine the long-term needs of the criminal justice system.

FISCAL IMPACT:
\$15.7 million implementation cost for 2008–2012

■ **Probation Terms Reduction**

HB 1678 by Rep. Madden and Senator Whitmire

Reduces probation terms for Third Degree property and drug offenders; encourages early discharge from probation for successful probationers; requires that a judge give credit to a probationer being revoked to prison or state jail for the time served in a substance abuse treatment facility; and provides judicial discretion to assign community service as a condition of community supervision.

FISCAL IMPACT:
Savings of \$41.3 million by 2012

■ **Probation Progressive Sanctions**

SB 166 by Senator West and Rep. Madden

Codifies administrative provisions related to the preference for probation diversion funding for those departments that have adopted progressive sanction models. The legislation also identifies the components that have to be in a progressive sanction plan for the local department to receive a

FISCAL IMPACT:
No fiscal impact estimated

grant, including an evidence-based assessment process, reduced and specialized caseloads, increased monitoring, shortened terms of probation, and graduated sanctions and incentives.

■ **Drug and Specialty Court Expansion**

HB 530 by Rep. Madden and Senator Seliger

Expands required drug courts to 12 additional counties for a total of 21, sets new court fee to fund the courts, and expands definition to include other specialty courts, including DWI courts.

FISCAL IMPACT:
Cost of \$10.1 million for 2008–2012 offset by the same revenue estimated from the new fee

■ **Probation Revocation Restrictions**

HB 312 by Rep. Turner and Senator Whitmire

Requires state to prove by preponderance of evidence that a probationer was able to pay court imposed fees and did not, in order to revoke probation for nonpayment of fines.

FISCAL IMPACT:
No fiscal impact estimated

■ **Expansion of Probation Options**

HB 1610 by Rep. Madden and Senator Whitmire

Allows the judge to release low-level drug offenders to community supervision whose punishments for a previous felony conviction was reduced to the confinement permissible for a Class A Misdemeanor.

FISCAL IMPACT:
No fiscal impact estimated

■ **Parole Minimum Caseloads**

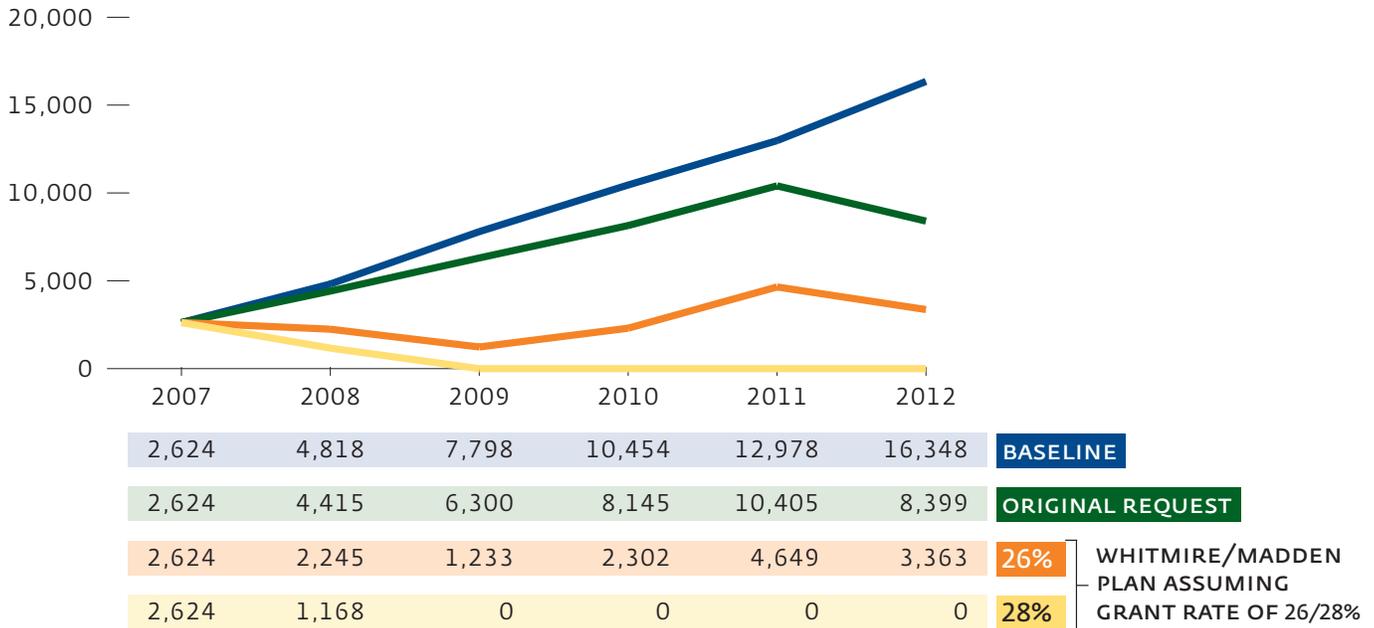
HB 3736 by Rep. McReynolds and Senator Hinojosa

Establishes a minimum caseload for each parole officer and changes the present caseload ratios for regular supervision from 75:1 to 60:1; for special needs offender from 45:1 to 35:1; for substance abuse caseloads from 75:1 to 35:1; and, for sex offender caseloads from 30:1 to 24:1. The bill also directs the TDCJ to submit a report to the Legislative Budget Board at the end of each fiscal year in which the maximum caseload is not met, stating the amount of money needed to meet the guidelines.

FISCAL IMPACT:
Fiscal impact: 625 new staff at a cost of \$51.2 million total for 2008–2009 fiscal years.

Note: Fiscal impact estimated by the Legislative Budget Board.

FIGURE 6
Comparison of Projected Prison Bed Shortfall
TDCJ Original Request
(Average Number of Projected Beds Short for the Year)



Source: Legislative Budget Board, January 07 (Adult and Juvenile Correctional Population Projections). The LBB report with the official projections for this legislative session can be found at: http://www.lbb.state.tx.us/PubSafety_CrimJustice/3_Reports/Projections_Reports_2007.pdf. Projection for other scenarios not published in web site (Scenario 5 and Conference Committee Scenarios).

Note: Beginning in September 2007, calculation of the Texas Department of Criminal Justice (TDCJ) system capacity will include beds and people in Pre-Parole Transfer (PPT) and Work Program facilities. People assigned to a PPT or Work Program facility are sentenced to the prison system, but assigned to those facilities through an administrative decision from the TDCJ. Prior to September 2007, the PPT and Work Program populations were shown in the agency's statistical report as a footnote, but were not included in the reported system population and capacity totals. Consequently, TDCJ's inmate population and system capacity will be approximately 2,800 higher after September 2007 than shown in reports prepared prior to this date. The increase in the population is a result of a change in the methodology for calculations and not an increase in the actual population.

“ Much of the substantial increase [in funding for TDCJ] will support probation, parole and substance abuse treatment. To the extent this funding reaches our non-violent offenders and reduces recidivism, I support it because it will reduce the future prison populations.”

— Governor Rick Perry, R, veto proclamation of \$40.1 million in TDCJ funds for contracted capacity and other support services not related to the plan

FIGURE 7

Comparison of Requested New Funding (Exceptional Items) in Texas Department of Criminal Justice Original Request for Appropriations and Final State Appropriation (HB 1, Fiscal Years 2008–2009)

	TDCJ REQUEST FOR APPROPRIATIONS	FINAL STATE APPROPRIATION, HB 1
Improving Public Safety and Managing the Growth of the Prison Population		
Probation/Parole Capacity	\$28,135,448 650 beds	\$129,734,638
• Probation Residential Treatment		800 new beds
• Substance Abuse Felony Punishments		1,500 new beds
• Parole Halfway Houses		300 new beds
• Intermediate Sanction Facilities		1,400 new beds
In-Prison Substance Abuse Treatment	\$20,154,609 700 beds	\$43,951,050
• In-Prison Therapeutic Treatment		1,000 beds/slots
• DWI Treatment and Operational Cost		500 beds/new center
Other Program Capacity	\$48,436,000	\$25,800,000
• Mental Health Pre-Trial Diversion Services		1,500 new clients per year
• Probation Outpatient Treatment Programs & Probation Funding Formula		3,000 new clients per year
• State Jail Therapeutic Treatment		1,200 offenders
Other Plan Costs	(\$1,369,392)	\$15,891,698
• Transfer of TYC Units and Operational Cost		1,200 beds
• Additional Probation/Parole Funding Formula		\$25,666,063
SUB-TOTAL (Items related to Whitmire/Madden plan)	\$95,356,665	\$241,043,449
Prison Expansion & Contracted Capacity		
Temporary Contracted Capacity for Backlog Governor's Veto	\$184,485,360	\$66,089,360 -\$29,249,240
Debt Service for New Prisons*	\$55,840,099 4,080 beds	\$4,916,438 3,990 beds
Other Operational Cost Above Baseline Governor's Veto	\$187,359,311	\$184,907,557 -\$10,918,309
TOTAL FY2008–2009 OPERATIONAL COSTS ABOVE BASELINE	\$523,041,435	\$456,789,255
Bonds for New Prisons	\$377,700,000	\$233,400,000 (if need arise, pending approval)
TOTAL INCLUDING NEW PRISONS	\$900,741,435	\$690,189,255
Averted Costs in Comparison to TDCJ Request for Appropriations	–	\$210,552,180 (if new prisons are approved) \$443,952,180 (if new prisons are not approved)
Projected Prison Bed Shortfall by 2012	8,399 beds	0
The TDCJ request for appropriations and projection assumes that the parole rate will continue at FY 2006 level of 26% while the Final Bill assumes the rate will increase to 28% due to additional in-prison treatment capacity and no new prison construction.		

10 * During the 2007 legislative session, the Texas legislature provided \$4.9 million to the TDCJ in estimated expenses for debt services. If new prisons are constructed, the debt service may be higher than this amount. However, TDCJ is allowed to "spend forward" funds to cover correctional expenses and can do so to cover a higher debt service cost. During the next legislative session, legislators will then allocate the funds to the TDCJ so that the department does not experience a budget shortfall.

- These savings included \$40.1 million vetoed by the Governor in “contracted temporary capacity” and “other support services” line items for the TDCJ.¹⁵
- If the new treatment and diversion programs are implemented effectively, the state of Texas will divert 5,129 persons from prison a year to the new alternative sanctions when these become fully operational.

Additional legislative proposals, which would have reformed the criminal justice system further, did not attract sufficient support from either the legislature or governor and ultimately died.

- Legislative proposals that failed to muster sufficient support included bills with the following provisions:
 - require probation and treatment for people convicted of drug possession offenses,¹⁶
 - prohibit the revocation of parolees to prison for technical violations—the enacted legislation instead allowed parolees to be sanctioned in intermediate sanction facilities for up to a year,¹⁷
 - reduce barriers to acquire occupational licenses for people released from prison,¹⁸ and
 - establish a new probation funding formula to provide more intensive supervision upfront to reduce technical revocations.¹⁹

\$5.6 billion

The TDCJ appropriation for FY 2008–2009 was \$5.6 billion in all funds.

Bond proceeds are used to construct prisons and at the time of appropriation are usually seen as “not counting” against the General Revenue expenditures in the appropriations bill. However, the bond debt service is paid using General Revenues funds. For 2008–2009 Texas will have to pay \$555.5 million in General Revenues for debt service, representing 10% of the TDCJ General Revenue appropriation.

The state legislature also appropriated \$82 million for Community Mental Health Crisis Services in the Department of State Health Services. This initiative was not part of the prison diversion and treatment plan but will provide additional resources to divert mentally ill offenders from incarceration. The services will include psychiatric emergency services, mobile outreach, children crisis outpatient services, and a hotline. One of the performance measures for the program is the reduction of recidivism rates for clients receiving crisis services.

HB 1, Department of State Health Services, Goal B2.3 and Rider 69

¹⁵ See veto proclamation, <http://www.governor.state.tx.us/divisions/press/proclamations/proclamation.2007-06-15>.

¹⁶ Texas Legislature, Senate Bill 1909, “An Act Relating to Community Supervision”, introduced 2007.

¹⁷ Texas Legislature, Senate Bill 838, “An Act Relating to the Revocation or Modification

of a Person’s Parole”, introduced 2007.

¹⁸ Texas Legislature, Senate Bill 1750, “An Act Relating to the Issuance of an Occupational License”, introduced 2007.

¹⁹ This legislation—House Bill 3200—passed the legislature but was vetoed by the Governor due to lack of clarity regarding what constitutes a technical violation

and lack of statutory guidance. See Texas Legislature, House Bill 3200, “An Act Relating to Funding for Community Supervision and Corrections Departments”, enacted 2007. See veto proclamation, http://www.governor.state.tx.us/divisions/press/bills/veto_statements/message-hb3200.

**FIGURE 8
RIDERS AND PROVISIONS IN THE
APPROPRIATIONS BILL RELATED TO
IMPLEMENTATION OF REFORMS**

TDCJ APPROPRIATION

- **Rider 70 Residential Treatment and Sanction Beds Funding:** Gives preference for probation residential treatment funding to those probation departments with the highest rates of revocations
- **Rider 73 Contracted Temporary Capacity:** Provides procedural guidelines to re-direct contracted capacity funds if the prison population declines and merits a reduction in temporary contracted capacity.
- **Rider 75 Mental Health Services:** Directs the expenditures of at least \$31 million from the diversion and special needs project line item for mental health programs, in particular, specialized mental health caseloads and case management and mental health services for adult and juvenile offenders.
- **Rider 79 Progressive Sanction Model:** Gives preference in the distribution of probation diversion funds to those probation departments using the progressive sanctions community supervision model.

- **Rider 83 Annual Parole Supervision:** Directs the TDCJ to utilize funds from the parole supervision line item to develop a minimal supervision program to monitor nonviolent, low-risk offenders.
- **Rider 84 Diversion Initiatives:** Specifies the goals and funding for each item in the new diversion initiative.
- **Rider 85 Withholding of Funds:** Permits the TDCJ to withhold diversion funds from probation departments that fail to comply with the department's data reporting requirements.
- **Rider 86 Diversion Plan:** Requires the TDCJ to submit to the oversight legislative committee by September 30, 2007 a plan to utilize diversion funding dollars and identify the most appropriate offenders to participate and complete programs before parole eligibility.

ARTICLE IX

- **Sec. 19.71 Contingency for Senate Joint Resolution and Senate Bill 2033:** Authorizes \$1 billion in general obligation bonds, including \$223 million for the construction of three new 1,330 bed Hobby-prototype prison facilities as approved by the Legislative Budget Board.

“ We’re in the process of sharply turning the ship—not an easy process—to focus more on treatment of people’s problems so they can do their time and return to society as productive citizens. . . In 10 years, we may look back on this as one of the most significant changes we’ve made.”

— **Representative Jerry Madden**, Austin-American Statesman, May 22, 2007

“ The Legislature seems to have caught on to what the public has been saying for some time: Let’s try to rehabilitate, rather than just lock everyone up. That way, we will have more space to keep violent offenders off our streets for longer periods.”

— **Senator John Whitmire**, Austin-American Statesman, May 22, 2007

The Next Steps

Successful implementation of the enacted policies and expanded programs will depend in part on a thoughtful oversight and evaluation strategy.

- TDCJ will need to oversee the development of the new treatment and diversion facilities to ensure that construction remains on or near the established timelines (see Figure 9). The department will also be responsible for providing rationale and solutions for any unexpected delays.
- The Parole Board will need to review and update their parole guidelines to ensure that

they utilize a consistent parole policy that takes into consideration risk assessments and the successful completion of programs.

The legislature established an agency to monitor the implementation of the new criminal justice policies and programs enacted this legislative session and to evaluate their impact on the state prison population.

- The Criminal Justice Legislative Oversight Committee, comprising the chairs of two legislative committees, two designees of the Senate and

FIGURE 9
Timeline for Program Capacity Implementation as Adopted in Legislative Appropriations Process



Lieutenant Governor, and two designees of the House of Representatives, will conduct the oversight.

- Recommended strategic areas that are critical to the successful implementation of the new policies and expanded programs are shown in Figure 10.

“...we have embarked on a bold initiative to rehabilitate non-violent felons to leave room to incarcerate the violent.”

— Senator Steve Ogden, R-Bryan, Chairman, Senate Finance Committee, Editorial, Austin-American Statesman, June 18, 2007

FIGURE 10 STRATEGIC OVERSIGHT AREAS FOR INTERIM REVIEW

■ **General Oversight:**

Legislative Policy Oversight Indicator Report

TASK: Development of a quarterly report that will: (a) identify key population dynamic trends in the adult and juvenile correctional systems; (b) identify performance or descriptive measures impacting prison population dynamics; and (c) update prison projection scenario based on quarterly trends (in comparison with the last official projection).

GOAL: Provide the Criminal Justice Legislative Oversight Committee with the capacity to independently monitor trends and provide oversight of the Texas Department of Criminal Justice (TDCJ) and the Texas Youth Commission.

■ **In-Prison Program Implementation:**

Review Implementation of In-Prison Program Selection and Parole Decision Making

TASK: Review the process changes needed for the TDCJ and Board of Pardons and Parole (BPP) to coordinate in-prison program participation to match a presumptive parole date based on risk and severity of need; determine which programs are better suited for a system that assumes release to parole upon completion of programs; and simulate the impact of more efficient in-prison program placement and parole decisions on population flow.

GOAL: A system that can improve the efficiency of the parole process, reduce costs, and improve in-prison program performance.

■ **Prison Security:**

Review of Trends and Issues That May Negatively Impact Prison Security

TASK: Study the impact of staff shortages, turnover and use of overtime on unit security indicators, including number of unit incidents, number of unit lockdowns, and use of force.

GOAL: Develop policies to respond to issues found to negatively impact staff and inmate security.

■ **Parole:**

Review and Update of Parole Guidelines

TASK: Review and update the parole guidelines as required by Senate Bill 909 and assist the parole board with utilizing the guidelines.

GOAL: Determine accuracy of guideline assessment and parole decision policies and continue to improve the guidelines as a meaningful tool for the parole board to maintain a consistent parole policy that maximizes public safety and stabilizes the growth of the prison population.

■ **Probation:**

Evidence-Based Practices

TASK: Set an agenda to: (a) identify successful strategies for probation departments to adopt evidence-based diagnosis tools; (b) utilize progressive sanctions guidelines; and (c) monitor the quality of diversion and treatment programs.

GOAL: Work with the Texas Department of Criminal Justice and the Texas Judiciary to develop a cohesive approach to reform probation departments that allows for the effective utilization of the diversion and treatment programs.

■ **Probation, Parole and Prison: Program Effectiveness**

TASK: Identify major rehabilitation and diversion programs, develop a “key quality process indicator” system, and develop the databases needed to measure the impact of the programs on recidivism.

GOAL: Certify programs for grant funding as part of identified contracting and monitoring strategies and develop a system of accountability as a critical step in the long-term sustainability of the diversion and treatment plan.

■ **Rehabilitation Programs:**

Training and Personnel Quality

TASK: Review workforce issues that negatively impact the quality of personnel providing rehabilitation services.

GOAL: Develop a policy agenda to enhance the workforce quality, in turn sustaining the effectiveness of the diversion and treatment plan.

For More Information

To learn more about the justice reinvestment strategy in Texas and other states, please visit: <http://justicereinvestment.org>.

To learn more about the Public Safety Performance Project of the Pew Center on the States, please visit: <http://www.pewpublicsafety.org/>.

To learn more about the Bureau of Justice Assistance, please visit: <http://www.ojp.usdoj.gov/BJA/>.

About this Case Study

The Council of State Governments Justice Center is a national nonprofit organization that serves policymakers at the local, state, and federal levels from all branches of government. The Justice Center provides practical, nonpartisan advice and consensus driven strategies, informed by available evidence, to increase public safety and strengthen communities.

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