

TALKING POINTS ON HB 3702

Background

- In 1995, the Legislature abolished mandatory supervision (MS), which automatically released inmates after their calendar time served and good time equaled the sentence. It was replaced with discretionary mandatory supervision (DMS).
- The total DMS rate has declined from 60.02 percent in 2001 to 52.35 percent in 2005. The DMS approval rate in 2005 for nonviolent offenders was only 58.19 percent, meaning that 6,274 were approved out of 10,781.¹
- The Sunset Commission staff report for the 80th Legislature noted that in 2003 and 2004, TBPP released more high-risk, high offense severity offenders with the lowest three scores than would have been released under the maximum guideline rate.² The Sunset Commission report on TDCJ recommended that more low-risk offenders be placed on mandatory supervision and found that “TDCJ does not use its statutory authority” to accomplish this.³

What HB3702 Does and Doesn't Do

- This legislation would restore mandatory supervision (MS) solely for nonviolent third degree drug possession felony offenders under Sections 481.115, 481.1151, 481.116, 481.117, 481.118, 481.121, or 481.129(c)(2) of the Health and Safety Code.
- For Penalty Group 1, the most common source of drug possession convictions which is governed by 481.1151, a third degree felony is between one and four grams of cocaine, heroin, or methamphetamine.
- The bill would not affect offenders convicted of drug delivery (dealing) nor would it affect third degree property offenders. Additionally, inmates incarcerated for drug possession who previously committed a 3(g) offense, such as murder, rape, aggravated robbery, aggravated kidnapping, etc., would be ineligible for MS just as they are currently ineligible for DMS.

Timeline for Inmate Sentenced to Four Years in Prison for Drug Possession Who Earns Good Time for Behaving Well

| Eligible for Parole | Eligible for DMS | Released with No Supervision |
|---------------------|------------------|------------------------------|
| 6 months | 2 years | 4 years |

HB3702 Will Improve Offender Outcomes, Allow Focus on Violent & Sex Offenders

¹ Texas Board of Pardons and Paroles 2005 Annual Report, available at: <http://www.tdcj.state.tx.us/bpp/publications/AR%202005.pdf>.

² Texas Sunset Commission Staff Report on TDCJ to the 80th Legislature, available at <http://www.sunset.state.tx.us/80threports/tdcj/tdcj.pdf>.

³ *Id.*

- Long prison sentences to address the problem of substance abuse are tantamount to throwing coins in the ocean. Nationally, half of all high school students have tried illegal drugs. **Someone who has already served several years in prison for drug possession is unlikely to benefit from several more years, especially since only 15 percent of Texas prisoners who need drug treatment receive it in prison.**
- Texas prisoners owe \$2.5 billion in child support. By placing nonviolent low-level drug possession offenders on mandatory supervision earlier, they will have a longer time to benefit from parole services, such as treatment and job placement so that they can become productive members of society and meet the obligations to their children.
- **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,** as the drug possession offenders paroled 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.

HB3702 Will Relieve Prison Crowding Crisis, Save Taxpayers Hundreds of Millions

- This bill will result in the **earlier** release of 1,503 drug possession offenders, assuming that half of the nonviolent offenders denied DMS are drug offenders (a third of which are assumed to be ineligible drug delivery offenders based on the ratio of possession to delivery offenders within TDCJ) and the other half are property offenders, who would not be affected by this legislation.
- In 2008, the release of 1,503 offenders would translate into \$27.1 million in incarceration savings, \$1.7 additional parole costs, and \$3.9 million in incarceration costs for the 14.3 percent of parolees who are revoked. Accordingly, **estimated net operational savings in 2008 would be \$21.5 million.**
- Freeing up 1,503 beds, this would ameliorate the purported need to build more prisons. Specifically, TDCJ requested \$420 million to construct 4,000 new prison beds. Based on this figure, **this legislation would avoid \$157.8 million in new prison construction costs, plus hundreds of millions over the next decade to operate such new prisons.**

HB3702 Will Allow Parole Board to Spend More Time on the Hardest Cases Involving Violent and Sex Offenders

- Although it was not included in their report, the Sunset Commission determined that the Board of Pardons and Paroles is only able to spend one minute and twenty seconds reviewing each parole and DMS file. This bill would allow them to spend more time reviewing the files of violent, sex, and property offenders, promoting better decisionmaking.