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FACT SHEET

THE STATE MUST DESIGN POLICIES THAT ARE COST-EFFECTIVE AND IMPROVE PUBLIC SAFETY

ENSURE THAT DRUG ADDICTS RECEIVE TREATMENT RATHER THAN INCARCERATION

WHAT IS THE PROBLEM?

Passed into law in 2003, House Bill 2688 by Rep. Ray Allen mandated that certain first-time drug offenders convicted of a state jail felony receive community supervision (probation) so as to ensure that they receive treatment for their addictions rather than incarceration. However, there are long waiting lists for treatment in most counties, and many of these offenders commit new state jail felony drug offenses before ever receiving treatment. Under current law, the initial state jail conviction precludes these now second-time state jail defendants from mandatory placement on probation.

Some defendants, during the criminal process for their first state jail felony, have been receiving a reduction in punishment to a Class A misdemeanor (which means they are serving time in a county jail, not a state jail). But in many cases, these punishment reductions are not being taken into account during the criminal process for the second state jail conviction; instead, the individual's first (but reduced) state jail felony is still considered to have been a state jail felony, thereby precluding him/her from mandatory placement on probation.

As a result, the incarceration of state jail felony offenders in Harris County's jails increased after the 2003 law by 188% in 2005. Harris County, home to the state's largest urban area, has more than 4 times the number of state jail felony offenders in county jail as Dallas County.

WHAT DOES H.B. 1610 DO?

House Bill 1610 by Chairman Jerry Madden expands community supervision to eligible drug offenders that have a prior state jail felony conviction that was punished as a misdemeanor. In other words, the bill would allow a judge to put low-level drug offenders on probation if their previous felony conviction was reduced to a Class A misdemeanor. This ensures that low-level drug offenders who are convicted of small quantity possession offenses can be diverted to community supervision with drug treatment, even if the offender had to serve time for a prior drug possession conviction.

WHY IS H.B. 1610 NEEDED?

Harris County cannot afford to incarcerate people unnecessarily. A year prior to H.B. 2668's enactment, Houston had an average of 339 state jail felons serving their time in the Harris County jail. In 2006, the *Houston Chronicle* reported that Harris County often houses 1,300 state jail felony inmates. At a cost of \$40 per day per inmate, such an increase in the number inmates in the county jail costs millions of dollars. If the upward trend in the number of state jail felons continues, it will cost Harris County at least \$10 million per year.

There are concerns that H.B. 1610 could increase the Harris County jail population because of offenders being held while awaiting available space in treatment programs or as a result of probation revocations, intermediate sanctions, or "jail therapy." However, the passage of this bill in conjunction with the implementation of effective progressive sanctions programs in state community corrections departments would prevent such a problem from occurring.

Ultimately, alternatives to incarceration for low-level drug offenders work better and at a lower cost to the State. As the number of state jail felons held in county jails rises, the negative effects multiply. Incarceration leads to a higher recidivism rate than treatment, causing an increase in crime. The costs for treatment and supervision are far less (about \$2 per day) and are almost entirely borne by the State (rather than each county). Finally, housing state jail felons exacerbates the overcrowding crisis in Harris County jails. Harris County, which recently failed several jail inspections, must resolve its overcrowding problem, and must comply with the state directive to divert its lowest level offenders. H.B. 1610 will ensure this happens.