

How to realize the state's vision for  
**effective community supervision to**



**STOP**

**THE CYCLE OF  
CRIME**

**ALLIANCE FOR  
SAFETY AND JUSTICE**



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# EXECUTIVE SUMMARY

As an alternative to incarceration, probation allows people convicted of crimes to be held accountable while remaining in the community under supervision as rehabilitative goals are met. By avoiding placement in jail or prison and mandating rehabilitative programs when appropriate, probation can be an effective alternative to incarceration—being both more cost-effective and more successful at stopping future recidivism. By holding people sentenced to probation accountable in a community setting, where they can stabilize or maintain work, housing or education while they participate in treatment for substance use or mental health challenges, probation is associated with better public safety outcomes. An effective system of community supervision also reduces the negative consequences over-incarceration can cause.

Alliance for Safety and Justice (ASJ) conducted an analysis of data related to Texas community supervision practices to help advance data-driven reforms that strengthen the effective use of criminal justice resources, further reduce recidivism and stabilize families. The analysis points to some signs that the probation system is not operating as safely and effectively as it could. Data demonstrates that many thousands of people sentenced to probation fail the terms of their probation and are re-incarcerated, or opt to serve time in jail instead of probation when probation should be the more effective sentence, costing taxpayers millions of dollars. Best practices in community supervision can reduce probation failures and incarceration costs, and more effectively stop the cycle of crime.

## ASJ'S ANALYSIS OF THE DATA SHOWS THE FOLLOWING

### 1. Low level crimes that are often more appropriate for probation are receiving jail sentences. [\(MORE\)](#)

✔ While the state jail felony structure was designed to encourage probation as a sentencing option for low-level offenses, people convicted of theft or drug possession felonies have been directly sentenced to incarceration—in local jail, a state jail or prison—instead of probation.



### 2. For people given an option of serving time in jail or on probation, too frequently, they choose prison or jail. [\(MORE\)](#)

✔ Some defendants are choosing to serve a prison or jail sentence for crimes to avoid all the challenges of the current system. An analysis in one county found that nearly 7,000 cases included a plea agreement that offered community supervision, but about **1 in 3** arrested for crimes opted for incarceration. For taxpayers, this means they'll pay more in prison and jail costs, when a more effective probation system would be far more cost effective.

### 3. Tens of thousands of people sentenced to probation are incarcerated for technical violations, not new crimes. [\(MORE\)](#)

✔ One in six people who entered the Texas prison system did so for a technical violation of their probation, not new crimes.



✔ Fifteen of the state's counties spend more than **\$1 million** in taxpayer money to incarcerate people with technical probation violations. Statewide, this incarceration-response to technical violations **costs Texas taxpayers at least \$85 million.**



## THE DATA UNDERLINE KEY CHALLENGES THE PROBATION SYSTEM FACES TO BE MORE EFFECTIVE



- ✓ **Probation lasts longer than needed to stop the cycle of crime and reduce recidivism.** [\(MORE\)](#)

Research shows probation can help someone change their behavior in **15 months**, but felony probation terms average **4.7 years** and can be extended up to **10 years**.

- ✓ **Inadequate graduated responses and individualized conditions make us less safe.** [\(MORE\)](#)

The most effective and safest practice would be that when someone sentenced to probation has challenges, the system can respond with graduated steps so that someone's behavior improves. But many communities lack the of responses and programs to respond to behavior that would help a probation officer avoid revoking someone, and sending the person to prison or jail. One study showed **1 in 3** people revoked for a technical violation had never been referred to a treatment program while on probation, and more than half of those who had been revoked had not yet completed a treatment program.



- ✓ **The court costs, fines and fee collection processes frustrate rehabilitative goals. Reforms to court costs, fees and fines processes designed to help keep community supervision focused on reducing recidivism do not cover probation supervision fees.** [\(MORE\)](#)

Data shows, of a group of people sentenced to probation who were revoked, **half were behind** on court-ordered fees they were required to pay as part of their sentence.

- ✓ **How supervision is funded makes it harder to use the most effective practices.** [\(MORE\)](#)

Under the current funding structure, a department that follows the research and incentivizes someone to complete programs to reduce recidivism in the first few months, and that sees people successfully end their terms early, loses money.



## HOW TO MAKE THE PROBATION SYSTEM MORE EFFECTIVE

To make the probation system more effective, and more focused on practices that enhance safety and reduce over-incarceration, state government should introduce the following practices:

- ✓ **Incentivize rehabilitation to achieve safety goals.** [\(MORE\)](#)

The state should strengthen judicial review for early termination to ensure that courts review cases of people sentenced to probation who have completed all of their requirements, and allow people sentenced to probation to earn more time off of their sentences for following probation rules and engaging in recidivism reducing programs.



- ✓ **Implement graduated responses statewide.** [\(MORE\)](#)

The state should ensure that treatment and non-incarceration responses that address underlying issues are exhausted before a person is incarcerated or revoked for a violation. The state should examine the existing grants to rural and small counties, and assess availability of responses, programs and incentives, and address this gap in the funding formula. The state should adopt standards limiting revocation and incarceration as a response to technical violations to reduce recidivism.

✔ **Strengthen “ability-to-pay” determination standards.** [\(MORE\)](#)

The state should ensure that the courts have more specific guidance on when to inquire about someone’s ability to pay, and use alternatives if the person is unable to pay. Law policy and practice change need to increase the practice of waiving supervision fees.



**WAIVED**



✔ **Change how probation is funded to maximize effectiveness.** [\(MORE\)](#)

To encourage more people to successfully complete probation, state funding should be based on a per-capita basis, and funding increased at the beginning of a person’s probation sentence. The state should allocate per-capita funding to departments for each person sentenced to probation that the court discharges early.

Many of these changes have been recommended by stakeholders in the past, and [are backed by crime survivors](#) — these changes would make communities safer by promoting more rehabilitation in the probation process.

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## **ABOUT THE RESEARCH AND THE DATA.**

ASJ requested data on all probation placements and releases in Texas between September 1, 2018, and August 31, 2019. ASJ analyzed this data in the context of reports produced by the Texas legislature and information from relevant state agencies and other stakeholders, to identify opportunities for the probation system to better serve public safety and operate more effectively.

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## **ABOUT ASJ.**

Alliance for Safety and Justice (ASJ) is a national organization that aims to win new safety priorities in states across the country, and brings together diverse crime survivors to advance policies that help communities most harmed by crime and violence.



# INTRODUCTION AND BACKGROUND.

As an alternative to incarceration, probation allows people convicted of crimes to be held accountable and rehabilitated while remaining in the community. By avoiding placement in jail or prison and mandating rehabilitative programs when appropriate, community supervision can be an effective alternative to incarceration—being both more cost-effective and more successful at stopping future recidivism. By holding people sentenced to probation accountable in a community setting, where they can stabilize or maintain work, housing or education while they participate in treatment for substance use or mental health challenges, probation is associated with better public safety outcomes. An effective system of community supervision also reduces the negative consequences over-incarceration can cause. In addition, probation is a far more cost-effective sentencing option than jail or prison: Incarceration costs run as high as \$22,000 per person annually; probation, by comparison, can cost as little as \$1,300 per person each year.<sup>1</sup>

The state has long recognized the value of probation for people sentenced for low-level crimes. (See [Appendix 1, State probation reforms](#).) As far back as the early 1990s, when county jails were overcrowded with thousands of people sentenced for low-level drug and property felonies awaiting transfer to state prison,<sup>2</sup> the legislature sought to expand the use of community supervision by creating an intermediate offense category—the state jail felony system. The goal was to reserve costly prison and jail beds for people who were a danger to public safety while also holding people sentenced for low-level drug and property offenses accountable.<sup>3</sup> The new state jail

Incarceration costs run as high as **\$22,000**, but probation can cost as little as **\$1,300** per person each year.



felony category included offenses that were previously low-level 3rd degree felonies and certain Class A misdemeanors.<sup>4</sup>

Recognizing that accountability for those committing crimes was tied to rehabilitation, the original plan required judges to sentence people for state jail felonies to community supervision and treatment in the community.<sup>5</sup> State jail facilities would be short-term backups for sentenced people who were not succeeding in the community, and would offer rich rehabilitation and treatment.<sup>6</sup> But support never materialized for the rehabilitative system the legislature had envisioned for people charged with state jail felonies. Instead, courts have been directly sentencing people convicted of state jail felony offenses to serve full sentences in state jails ill-equipped to offer useful recidivism reducing programming.<sup>7</sup>

Even with state jails lacking treatment options, there are a considerable number of people who just choose to serve their time incarcerated—deciding to sit out their sentence instead of being placed on community supervision. For those that do choose a community option, they face a greater risk of being returned to state jail or prison for breaking conditions of supervision—often without being convicted of a new offense. The result in all such cases is that these individuals will not be exposed to rehabilitative and recidivism reducing programs.

The goal of community supervision is to improve people’s behavior while ensuring that the community

is safe. If there are more people choosing incarceration over treatment or people failing due to rule violations, it appears that there is room for the system to improve on both of these factors.

Although the Texas Department of Criminal Justice keeps and regularly publishes data about the probation system, that data has previously received little scrutiny or evaluation aimed at determining just how well the system is operating.

This report by ASJ seeks to fill that gap. Drawing upon publicly available state data and other resources, it presents an analysis of the Texas probation system.

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## THE DATA BEHIND THE ANALYSIS.

**ASJ requested data on all probation placements and releases in Texas between September 1, 2018 and August 31, 2019. ASJ then analyzed this data in the context of reports produced by the Texas legislature and information from relevant state agencies and other stakeholders, to identify opportunities for the community supervision system to better serve public safety and eliminate waste.**

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# THREE INDICATORS THE TEXAS COMMUNITY SUPERVISION SYSTEM NEEDS UPDATING.

Probation is an alternative to incarceration to impose on individuals charged with low-level offenses, such as drug possession and property crime. It is a sentence that can hold someone accountable and advances public safety by requiring rehabilitation in the community. More people are on community supervision (or supervision by probation, etc) than any other type of sentence: 145,000 people are currently on probation for felony crimes,<sup>8</sup> compared to 121,000 in the Texas prison system.<sup>9</sup>

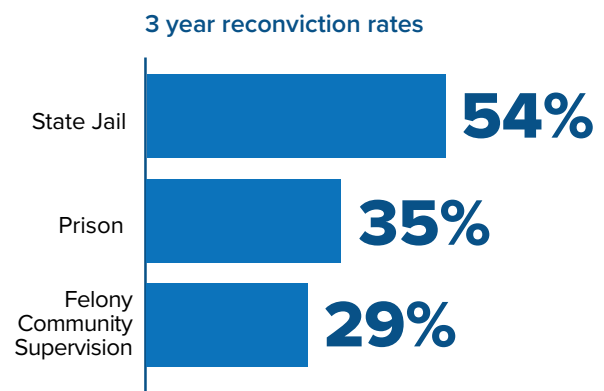
Having probation as a sentencing option also has significant public safety benefits. As Figure 1 shows, even with documented challenges within the system, people sentenced to probation have lower recidivism rates than those released from state jails or prison.

The data shows, however, that this system is not living up to the vision: Too many individuals convicted of minor offenses are ending up incarcerated, where they have diminished access to rehabilitative programs. As a result, they risk becoming a greater threat to public safety.

There are three common ways people sentenced for low-level offenses end up incarcerated instead

FIGURE 1

**PEOPLE SENTENCED TO PROBATION  
HAVE LOWER RECIDIVISM RATES THAN  
THOSE RELEASED FROM STATE JAILS OR  
PRISON.**



Source: Legislative Budget Board (2019). Statewide Criminal and Juvenile Justice Recidivism and Revocation Rates.

of remaining under community supervision with appropriate rehabilitative support: (1) initial sentences to incarceration by the court, (2) revocations to incarceration can often as a result of technical violations,<sup>10</sup> and (3) personal choices to “sit it out” made during plea bargaining.

## 1. Low-level crimes that are often more appropriate for probation are receiving jail or prison sentences.

While the state jail felony structure was designed to encourage community supervision as a sentencing option, courts do sentence people convicted of theft or drug possession felonies directly to confinement rather than to place them on probation or deferred adjudication supervision.<sup>11</sup> A number of people convicted of theft or drug possession felonies were directly sentenced to incarceration—in local jail, a state jail or prison—instead of probation.<sup>12</sup>

## 2. For people given an option of serving time incarcerated or on probation, too frequently they choose prison or jail.

Nearly all sentences are determined through plea deals defendants make with the prosecution, not by a jury or trial.<sup>13</sup> While many people are not offered probation, a significant portion of those who are choosing incarceration instead.<sup>14</sup> An analysis by Travis County found that from June 2018 to December 2019 nearly 7,000 cases included a plea agreement that offered community supervision, but about 1 in 3 defendants opted for incarceration.<sup>15</sup>

For some, taking an incarceration sentence is a logical decision. “Sitting it out”—often for a much shorter stretch of time than they would be on probation—lets someone sentenced to prison or jail for crimes emerge from the system faster, avoid year after year of probation fees, and no longer face the threat of incarceration should they be accused of a technical violation down the road. This choice is borne out by the fact that nearly half (45.6 percent) of those who are sentenced to community supervision for a felony offense do not complete their sentence in the community: They could end up serving out the full incarceration term anyway,<sup>16</sup> in addition to the sometimes years spent under supervision.<sup>17</sup>

The total number of individuals who choose to “sit it out” is an indicator that something is not working. A well-functioning system should expect almost no one to choose incarceration over remaining in the community with access to family, work, education and community-based treatment that reduces recidivism.

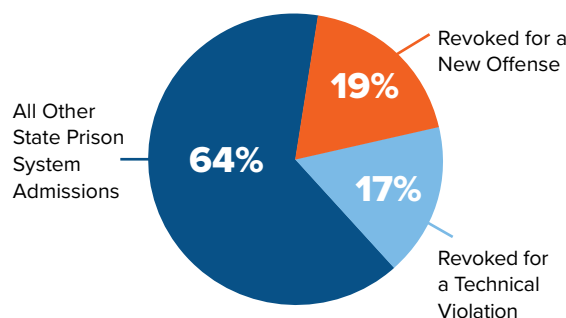
## 3. Tens of thousands of people sentenced to probation are incarcerated for technical violations, not new crimes.

The data also show, once sentenced to probation for crimes, tens of thousands of people are still ending up in a prison or jail, and not succeeding with community supervision.

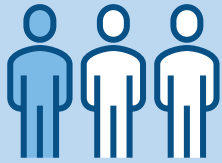
In Fiscal Year 2019, approximately 11,000 people were removed from felony probation and incarcerated due to technical violations of the conditions of their release. These revocations accounted for 1 in 6 people who entered the entire Texas prison system.<sup>18</sup>

Not only had this group—approximately one-quarter of all exits from felony probation<sup>19</sup>—not been arrested for any new crime,<sup>20</sup> but also nearly two-thirds had originally been placed on probation for a drug or property offense.

FIGURE 2  
**ESTIMATED FELONY PROBATION REVOCATION ADMISSIONS AS A PORTION OF PRISON AND STATE JAIL ADMISSIONS 2019**



An analysis by Travis County found that of nearly 7,000 cases included a plea agreement that offered community supervision



ABOUT **1** IN **3** PEOPLE ARRESTED FOR  
CRIMES OPTED FOR INCARCERATION

Rather than setting people up to live law-abiding lives, the current system places people sentenced to probation for crimes in settings that are at cross purposes to the public safety goals community supervision was designed to achieve: If someone serves a sentence for crimes in a prison or jail, they cannot work, attend school or meet family obligations. Those who need programs to address substance use or mental health issues may not see treatment or may have treatment interrupted, which can drive relapse and recidivism. Research shows, moreover, that treatment programs work as well, or better, outside of a facility, without the costs of a prison or jail, allowing the person sentenced for crimes to continue working and paying taxes.<sup>21</sup>

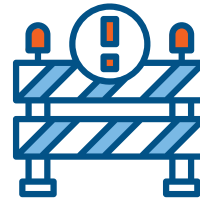
## IMPLICATIONS FOR ACCOUNTABILITY AND PUBLIC SAFETY.



**When someone commits a crime, probation is an option that seeks to balance the values of accountability and public safety in the most effective way possible.**

- ✔ The American Probation and Parole Association defines accountability in case planning as individuals being held accountable for their conduct while also holding supervision staff and their supervisors accountable for their responsibilities to people sentenced to community supervision.<sup>22</sup> In other words, *system accountability* is about whether the goals of supervision are being achieved. If the system around an individual sentenced to probation is not effectively meeting the goal of rehabilitation, accountability has not been achieved.
- ✔ Research shows that unless the right dosage of community supervision is used, people sentenced to probation for crimes who are low risk to commit another crime may actually increase their likelihood of committing future crimes.<sup>23</sup> *Because of this, high rates of revocations, in themselves, are not a measure of accountability.* If a revocation process results in someone on supervision being more likely to commit a new crime than less, not only has accountability not been achieved, but public safety has been compromised.

# BARRIERS TO EFFECTIVE COMMUNITY SUPERVISION.



people who entered the Texas prison system did so for a technical violation of their probation, not new crimes.

A deeper dive into the data and the literature reveals four major challenges in the current system that contribute to the over-incarceration of people convicted of low-level crimes:

### **1. Probation lasts longer than needed to stop the cycle of crime and reduce recidivism—**

far longer than what the data show is the amount of time it takes to change behavior and often longer than if a person would serve sentenced to prisons or jails.

### **2. Inadequate graduated responses and individualized conditions make us less safe—**

without uniform sanctions and programs to respond to behavior, and limits on revocations, the current system makes it more likely new crimes will occur.

### **3. The court costs, fines and fee collection processes frustrate rehabilitative goals—**

rehabilitation and how the court costs, fines and fee collections process works are in conflict with each other.

### **4. How supervision is funded makes it harder to use the most effective practices—**

the safest and most effective probation strategies would prioritize resources for the initial months of supervision, but the way Texas funds Community Supervision and Corrections Departments may prolong supervision.

Each of these challenges is discussed in greater detail below.

### **1. Probation lasts longer than needed to stop the cycle of crime and reduce recidivism.**

Texas puts people on probation longer than most places in the country.<sup>24</sup> Yet studies show that supervising people for more than 15 months is not an effective safety strategy: If people are going to break the law again, most will do so in the first few months of supervision.<sup>25</sup> This means local probation departments in Texas—Community Supervision and Corrections Departments (CSCDs)—supervise people long after they no longer pose a risk to public safety.

The model penal code recommends a maximum 3-year term for felony probation, and recommends releasing individuals who are compliant from supervision after a year.<sup>26</sup> Felony probation terms in Texas average 4.7 years and can extend up to 10 years. ([See Table 1, Average probation terms for people sentenced to felony probation in Texas, Fiscal Year 2019.](#))<sup>27</sup> Similarly,

the recommended limit on misdemeanor probation sentences is 1 year, but misdemeanor probation terms in Texas can be extended up to 5 years.

ASJ found that average probation terms for low-level felonies and misdemeanors typically far exceed incarceration terms. For Class B misdemeanors, the lowest-level offense for which a person may be sentenced to anything more than a fine, probation can last as much as 10 times longer than the maximum jail sentence for the same offense. In FY 2019, nearly 6 in 10 people placed on probation for a state jail felony (57 percent) had a probation term that was at least twice as long as the underlying incarceration sentence.<sup>28</sup>

In addition to long sentences on the front-end, courts frequently extend probation terms.

If a person sentenced to probation has fulfilled all other community supervision requirements yet is behind on their financial obligations, for example, Texas statute authorizes judges and supervision departments to extend active supervision up to 5 years for misdemeanors and up to 10 years for felonies.<sup>29</sup>

Among those who exited probation after completing an extended term:<sup>30</sup>

- Those on felony probation whose terms were extended served on average **2 years longer** than their initial sentence;
- Those on misdemeanor probation whose terms were extended served on average **1.7 years longer** than their initial sentence.



**1 in 5 people sentenced to probation who completed supervision saw their terms extended.**

As [Table 4](#) shows, 1 in 5 people sentenced to probation who completed their supervision saw their terms extended.

Texas does authorize courts to review and consider early termination of most probation cases after a person has completed 50 percent of the term or 2 years, whichever is greater.

But the impact of these reviews is limited: As [Table 5](#) shows, of those who were not revoked and completed their supervision (felony and misdemeanor) without a new offense, fewer than 1 in 7 (12.9 percent) exited early.<sup>31</sup> This low number is a result, in part, of the fact that those who are behind in paying court costs, fines and fees are ineligible for review—even if they have met every other condition. And there is no standardized process for bringing such a person back for review once they can afford payments. Instead, courts rely on supervision officers with large caseloads and other important responsibilities to flag individuals based on subjective criteria.



**OF THOSE WHO WERE NOT REVOKED AND COMPLETED THEIR SUPERVISION WITHOUT A NEW OFFENSE, FEWER THAN 1 IN 7 EXITED EARLY.**

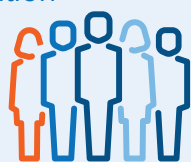
## 2. Inadequate graduated responses and individualized conditions make us less safe.

Research shows swift, certain and commensurate responses are much more effective in helping someone change their behavior, and positive incentives are even more powerful. By adopting a graduated sanctions matrix that matches the sanction with the severity of the violation, the state's probation system can achieve a more uniform application of such sanctions.<sup>33</sup>

If the state's community supervision system were operating in the safest, most effective way possible, the entire system would have multiple responses and programs and would set limits on the use of sanctions, such as revocations.

CSCDs operate a continuum of programs and sanctions, but these vary by department, and implementation practices also vary from court to court, with no statutory guidance on best practices.<sup>34</sup> Stakeholders and lawmakers recognize the need for this guidance: The legislature has supported reforms to move the system in this direction, but these reforms are incomplete and have been piecemeal. (See, [State probation reforms.](#))

About **11,000 people** were removed from felony probation and incarcerated due to technical violations, not new crimes.

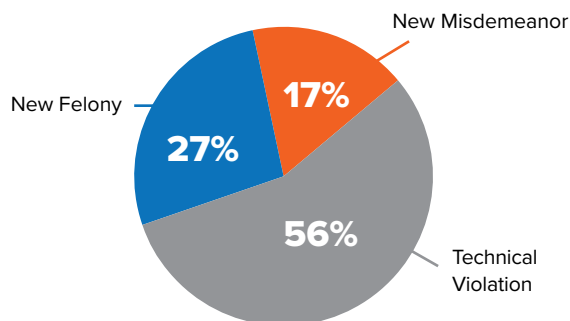


### Tens of thousands of revocations show the system needs more options.

Texas revokes people from probation for technical violations at an alarming rate. In Fiscal Year 2019, nearly half of all felony revocations (49.3 percent), and nearly two-thirds of all misdemeanor revocations (65.7 percent), were for technical violations. (See [Table 2, Types of revocations.](#)) In that year alone, technical

violations accounted for the revocation of nearly 11,190 people on felony probation and 11,013 people on misdemeanor probation.<sup>35</sup>

**FIGURE 3**  
**REVOCATIONS FROM PROBATION 2019:**  
**VIOLATIONS, NEW FELONY, OR NEW**  
**MISDEMEANOR**



Technical violations of probation accounted for 1 in 4 state jail admissions and 1 in 7 prison admissions (more than 1 in 6 admissions to all state-run facilities)<sup>36</sup>—costing the state more than \$85.6 million each year.<sup>37</sup> More than one million dollars is spent by taxpayers to incarcerate technical violators in 15 counties. (See, [Table 6: Felony probation revocations in the 30 most populous counties, in order of highest to lowest technical violation revocation rates \(September 1, 2018 - August 31, 2019\).](#)) Courts sent another 11,820 people to serve time in county jails for probation revocations, incurring additional costs for local governments.

### A third of people revoked had never been referred to a treatment program, and half had not completed a program.

Revocations can occur before a person sentenced to community supervision has had an opportunity to complete, or benefit from programming. There are a significant group of people with a mental health challenge who are sentenced to community supervision.<sup>38</sup> Research shows community-based treatment is more effective than treatment in a prison and jail for most people arrested for crimes, and is far less expensive than providing treatment in prison.<sup>39</sup>

According to a study by the Community Justice Assistance Division, 1 in 3 people revoked for a technical violation in Fiscal Year 2017 (32 percent) had never been referred to a treatment program while on probation, and more than half (54 percent) of those who had been referred had not yet completed a treatment program.<sup>40</sup>

### **Motions to revoke take up resources, and many end with denials.**

State law requires courts to issue an arrest warrant whenever the prosecutor files a motion to revoke—even if the court will ultimately decide to allow the person sentenced to probation to continue to serve their sentence on community supervision.<sup>41</sup>

## **WHAT IS A REVOCATION AND HOW DOES THE PROCESS WORK?**

A person sentenced to probation is able to remain in the community without interruption of everyday activities—work, family responsibilities and education—on the condition that they fulfill certain requirements. These requirements may be tailored to the individual, but they typically include obligations to attend regular meetings with probation officers; stay current with all court costs, fees and fines; avoid contact with people with criminal conviction; and limit travel. During the course of community supervision, courts and CSCDs may impose additional conditions, such as curfews, drug tests, or participation in additional programming. People sentenced to community supervision also have to pay certain fees—for instance, they are typically charged fees for mandated classes and have to pay for drug tests. (See, [The court costs, fines and fee collection process frustrates rehabilitative goals.](#))

Failure to adhere to these conditions—a technical violation of the rules or conditions of release—can result in additional conditions, such as more frequent meetings with the probation officer. It can also lead to a decision by the court or CSCD to recommend removing the person sentenced to probation from the community through a revocation process and place them in either a jail, state jail or prison.

A probation revocation has significant consequences for how public resources are used: A revocation can extend the time someone sentenced to probation is under the supervision of the justice system—time not credited toward the incarceration sentence.<sup>32</sup> So, for example, a person sentenced to probation could spend 4 years on supervision for a state jail felony, get revoked, and then get up to 2 years in state jail: That’s a potential 6-year sentence for something that carries a maximum incarceration term of 2 years, when research shows the supervision terms can generally accomplish public safety and rehabilitative goals within 15 months.

Revocation also expresses a significant shift in system expectations for the future of the individual sentenced to probation. Probation as a system represents a belief that rehabilitation can occur in the community. When people make mistakes that aren’t new offenses, this is not necessarily a signal that they cannot be rehabilitated in the community. People sentenced to probation can grow past a mistake if the system uses swift, certain and proportionate responses.



The data show that half (50.6 percent) of motions to revoke filed with the court in Fiscal Year 2019 were denied.<sup>42</sup> This means that the prosecutor filed a motion, the person sentenced to probation was arrested and may have been jailed, and the court held a hearing but ultimately conceded that the person sentenced to probation could continue on community supervision, perhaps with an extension or modified case plan.

While the legislature has already partially addressed this issue for violations of parole supervision, a different standard exists for violations of probation.

**Other states have been able to expand graduated responses, and structure the use of revocations.**

At least 22 states—including places like Kentucky, Louisiana and Mississippi—have passed laws guiding supervision departments to use proportional and graduated responses short of revocation to hold people sentenced to community supervision accountable for violating the terms of their supervision.<sup>43</sup> Many of these states also encourage positive reinforcement,<sup>44</sup> and research has found that positive incentives should outnumber negative ones to achieve best outcomes.<sup>45</sup>

**Limits on the use of revocations would increase the focus on rehabilitation, and save money.**

The state has no policy guiding or limiting the use of incarceration as a response to a rules violation.

At least 16 states—including places like Alabama, Georgia and Mississippi—have set limits on the number of days for which someone can be returned to a prison or jail for a technical violation of supervision rules. Louisiana reduced the average length of incarceration for revocations by more than 9 months and averted the use of over 2,000 jail and prison beds each year, saving approximately \$17.6 million annually.<sup>46</sup> Meanwhile, the percentage of people revoked for new crimes in Louisiana also decreased.<sup>47</sup>



**HALF OF MOTIONS TO REVOKE FILED WITH THE COURT WERE DENIED**

**3. The court costs, fines and fees collection processes frustrate rehabilitative goals.**

People sentenced to probation tend to have low incomes and a history of challenges in the job market—challenges that will be exacerbated by an arrest or conviction record.<sup>48</sup> Under the current process, past convictions limiting economic opportunities and laws that do not allow for easy changes to the financial obligations that accompany probation can compromise rehabilitative goals and increase recidivism.

**Too little income to pay all court costs, fees and fines.**

The person sentenced to probation may pay monthly supervision fees, fines and restitution as part of the terms of their sentence. People on probation may also be expected to pay for mandated programming associated with their supervision. Cumulatively, these costs can amount to hundreds of dollars every month over the entire length of the probation term—which lasts longer than what the research says is needed to achieve rehabilitation goals.

A 2017 survey of people sentenced to community supervision found that nearly all were expected to pay hundreds of dollars each month and owed thousands in court costs, fees and fines—while roughly half earned less than \$10,000 per year and 8 in 10 earned less than \$30,000 a year.<sup>49</sup> Some respondents reported foregoing food or medical needs to stay up to date on payments. Others described giving up their car so they could afford their probation costs.



**MORE THAN ONE MILLION DOLLARS IS SPENT BY TAXPAYERS TO INCARCERATE TECHNICAL VIOLATORS IN 15 COUNTIES.**



# MELVIN: THE IMPACT OF PROBATION ON A MILITARY VETERAN

When he returned to Houston after serving in the U.S. Navy, Melvin said he had trouble adjusting to civilian life. Like many veterans, he was struggling with unresolved trauma. This led to challenges with addiction and, in time, he faced charges of drug possession.

Melvin hoped to be eligible for the specialty Veterans Court so he could get treatment and support for his addiction through the Veterans Administration (VA). Instead, as his case worked through the courts, he was given a choice of being sentenced to six months in state jail or participating, on probation, in a drug court program that mandated a year of intensive treatment followed by a year of aftercare—for a \$1,000 fee. Melvin indicated he was earning just \$7.25 per hour at the time.

He said he was told a relapse or revocation for any reason would lead to a long sentence in jail. Melvin was sentenced to the longer probation term to stay out of jail, including the conditions of staying up-to-date with fines, fees and court costs.

For a while, he was succeeding. But he relapsed after about a year. Aware of the consequences of his relapse, Melvin stopped reporting to the program. After facing another drug possession charge, he was sentenced to three years in prison.

“In the back of your mind, as you are navigating addiction you understand that you do not have any room to make a mistake,” says Melvin, describing the probation system. “It’s better to just do your time [in jail]—especially if you have drug or alcohol issues, because you may mess up.”

“There is all this pressure on you [on probation]—something made worse because of my mental illness, which I never got appropriate treatment for through the court.”

Melvin says he finally addressed his addiction issues when he got treatment through the VA. He has been clean and sober now for eight years.





The Community Justice Assistance Division found in a study of cases, about **one in three** people revoked for a technical violation had never been referred to a treatment program while on probation.

**The current court costs, fees and fines process may encourage a lack of compliance.**

While a person on probation cannot be revoked solely for nonpayment if the court finds they are unable to pay,<sup>50</sup> someone who may be falling behind on payments may stop attending meetings with their probation officer because they are concerned about the repercussions. This can lead to a failure-to-pay violation turning into a more serious violation, like absconding, which is more likely to lead to a revocation.<sup>51</sup> Someone who cannot afford a mandated class, for example, might stop going to programs or attending meetings with their probation officer because they know they will be asked for money they do not have and fear they may face jail time as a result.<sup>52</sup> This means they also may not get the benefit of these programs or supervision by their probation officer.

**The current court costs, fees and fines process can make it harder for officers to do their job.**

That people behind on fees may avoid their probation officers rather than ask for help makes the officer's job harder. Research shows building a strong officer–client relationship is critical to the behavior change process: Most agencies that are effective at reducing criminal activity, for example, encourage supervision officers to engage with the individual, build coping skills and develop problem-solving strategies.<sup>53</sup>

Officers report that they feel frustrated by the amount of time they spend serving as “bill collectors” rather than focusing on building a relationship with the client, and holding people accountable for completing their rehabilitation plans.<sup>54</sup>

Simply put, two parts of the system—rehabilitation and the collection of court costs, fees and fines—may be in conflict with each other, as the law and the system are currently structured.

This is not a new policy issue for lawmakers. In 2016, the House Committee on Corrections issued a report highlighting the issues of court cost, fees and fines and the conflict between how the system currently works and the goals of rehabilitation.<sup>55</sup>

**State study: Those revoked face challenges with jobs, transportation and payments.**

In 2019, the Community Justice Assistance Division of the Texas Department of Criminal Justice studied a representative sample of people on probation who were revoked in Fiscal Year 2017 for technical violations.

Though failure to pay court costs, fees and fines was never the sole reason for revocation, the study found that:

- **More than half (55 percent)** were behind on court-ordered fees;
- **More than 1 in 10 (42 percent)** did not have access to reliable transportation;
- **More than 7 in 10** did not have a full-time job at the time of revocation—more than half (55 percent) were unemployed.<sup>56</sup>

**Reforms to court costs, fees and fines do not cover probation supervision fees.**

In 2017, the Office of Court Administration supported legislation that has courts assess a person's ability to pay during or immediately after sentencing—rather than waiting for them to default on financial obligations



The way the system is structured, rehabilitation and the collection of court costs, fees and fines may be in conflict with each other.

before assessing ability to pay.<sup>57</sup> The agency has issued updated administrative rules, which provide more detailed guidance for courts on assessing a person's ability to pay and related procedures.<sup>58</sup> And, in 2019, the agency supported legislation that further simplified and consolidated criminal justice fines and fees.<sup>59</sup> The court can reduce fees and fines to an amount the person can pay, waive them, or have the defendant complete community services instead. Also, Texas courts are participating in federal pilot projects to improve their ability to pay determinations.<sup>60</sup>

However, monthly supervision fees and program costs do not clearly fall under these changes. Legislation has also not addressed the need for courts to reassess a person's ability to pay during a supervision term, if the person falls behind on payments owing to changes in financial resources or increases in program costs.<sup>61</sup> It is also unclear whether these changes have been implemented widely.

#### **4. How supervision is funded makes it harder to use the most effective practices.**

Research shows that the safest probation strategies prioritize resources for the initial months of community supervision, when they can be most effective, and use sentence reductions to incentivize people to complete rehabilitation.<sup>62</sup> Frontloading funding in the first years of felony supervision was a key recommendation of a 2016 report by the Texas Department of Criminal Justice's Community Justice Assistance Division.<sup>63</sup>

But the way the state funds CSCDs means departments get the same level of funding for someone sentenced

to probation in their first few months of supervision as they do when that person has been on probation for 4 years and has completed all required programming.

More than one-third of CSCD budgets come from fees and costs paid by people under supervision.<sup>64</sup> Another third comes from state formula funds determined by a per-diem rate for each person under the department's supervision—which remains unchanged for felony probation throughout a person's term.

Under this funding structure, a department that concentrates supervision, rehabilitation and incentives for someone to complete programs in the first few months, and that sees people successfully end their terms early, reduces its key funding stream.

Put another way, the current funding structure serves as a disincentive to the use of the best practice approach of having people sentenced to probation on supervision only as long as needed to achieve safety goals: Under the current funding structure, a shorter probation term means less money for probation departments.

ASJ's analysis of the data shows that the way the system is funded undermines a key safety practice, by penalizing counties that release people who are succeeding on probation sooner. The overwhelming majority of people who exit probation are not terminated early.

The system needs to increase the number of people sentenced to probation who are doing well—paying fees, complying with supervision and exiting supervision early: They are a group that show how effective probation can act as a public safety tool.

## CYNTHIA: A CRIME VICTIM WAS UNABLE TO REUNITE WITH HER FAMILY

Cynthia is a mother of three who lives in the Austin area. She was re-establishing herself after separating from an abusive relationship and working to regain custody of two of her children through Child Protective Services (CPS) when she was sentenced to four years on probation—the result of a conviction arising from a check issued by an account shared with her mother.

Probation required her to have a permanent address—something she lacked since leaving her abuser. Cynthia said she was also confused by the conditions probation placed on her. For example, although she admitted to needing help with substance use, she indicated that she received no support for this issue. Instead, she was required to attend weekly anger management classes—even though she said neither her conviction nor anything else in her life indicated the need for such a class. The classes cost Cynthia more than \$100 a month and could not be reached by public transportation. Cynthia was able to attend the class only through the help of a neighbor who drove her each week. Cynthia also said her sentence required to pay \$1,200 in restitution—a particularly heavy burden for a single mom transitioning out of a domestic violence situation.

When Cynthia sought job placement and training resources from probation, she recalled being told programs did not exist. When pursuing housing assistance from CPS, she was similarly unable to get any referrals.

Cynthia said she was told that she would not get her children back as long as she was on probation, because failing to meet its conditions could put her kids at risk of neglect. So when offered the choice of a sentence with a short period of incarceration instead of a sentence to a longer probation term, she chose the shorter term of imprisonment to be closer to reuniting with her children—it would allow her to serve time and afterwards regain custody, which a continued probation term would deny her.

“They implemented these requirements that had little relationship to my needs, and did not support my rehabilitation and access to treatment,” Cynthia says. “I felt like I was set up to fail.”





# RECOMMENDATIONS

## ON HOW TO BUILD A SAFER AND MORE EFFECTIVE PROBATION SYSTEM.

Texas lawmakers and criminal justice system leaders in the state have been working to improve probation practices for more than a decade. (See, [State probation reforms](#).) But the state needs to push further to fulfill its vision because too many people sentenced to community supervision are not being as successful as they can be.

The Alliance for Safety and Justice has four recommendations on how to make the probation system more effective, and more focused on practices that enhance safety and reduce over-incarceration:

- 1 INCENTIVIZE REHABILITATION TO ACHIEVE SAFETY GOALS;**
- 2 IMPLEMENT GRADUATED RESPONSES STATEWIDE;**
- 3 STRENGTHEN ABILITY-TO-PAY DETERMINATION STANDARDS;**
- 4 CHANGE HOW PROBATION IS FUNDED TO MAXIMIZE EFFECTIVENESS.**

All of these recommendations are consistent with best practice in the probation field, held up by leaders in this field, and offer the best way for community supervision to make the community safer.

A discussion of each of these categories of reform follows, along with specific recommended actions.

## 1. Incentivize rehabilitation to achieve rehabilitative goals.

Research on best practices in probation supervision show the most effective way to help someone who has committed a crime, to change their behavior, would be to incentivize<sup>65</sup> that individual to complete treatment and fulfill only those conditions relevant to their rehabilitation. The hallmark outcome of successful probation is early termination. But the data show few people sentenced to probation are achieving early termination. For people sentenced to probation who are not behind on payments, the credits to incentivize individuals to reduce their terms are small.<sup>66</sup>

Standardizing incentives and the policies that would lead to supervision termination will help people sentenced to supervision complete programs, and help probation officers focus their use of resources.

### RECOMMENDED ACTIONS:

- **Strengthen judicial review for early termination** to ensure that courts review cases of people sentenced to probation who have completed all of their requirements;
- **Allow people sentenced to probation to earn more** time off of their sentences for following probation rules and engaging in required programs;
- **Expand existing time credits.**<sup>67</sup> Add credits for ongoing participation in community- or faith-based programs approved by the court, and allow people convicted of misdemeanors and felonies not currently included to earn these credits;
- **Shorten maximum probation terms.**



**THE STATE HAS NO POLICY GUIDING OR LIMITING THE USE OF INCARCERATION AS A RESPONSE TO A RULES VIOLATION.**

## 2. Implement graduated responses statewide.

The statewide approach to responding to technical violations of probation supervision needs to be revamped. The research shows you can achieve the same, or better, safety goals by responding to violations in the community rather than using incarceration,<sup>68</sup> and in fact over-incarceration may cause more crime.<sup>69</sup>

In response to this research, the probation departments that are shifting to best practices use local and state dollars to fund a broader set of responses to technical violations to reduce the number of people sentenced to probation who fail, and set limits on how long someone who violates could be incarcerated.<sup>70</sup>

There is a similar need to take a second look at the number of conditions people sentenced to probation must follow: Mandating conditions unrelated to behavior change or the offense may actually make public safety outcomes worse for people who don't pose a safety risk.<sup>71</sup>

This evidenced-based approach would see probation conditions have a direct link between probation conditions and objective factors that relate to safety, accountability and rehabilitation.<sup>72</sup>

Relatedly, state law also requires courts to issue an arrest warrant whenever the prosecutor files a motion to revoke—even if the court will ultimately decide to allow the person sentenced to probation to continue to serve their sentence in the community.<sup>73</sup> People are thus arrested and jailed even when the court ultimately decides that revocation is unnecessary. While incarcerated awaiting a revocation, they may lose a job and housing—factors that support public safety. While the legislature has already partially addressed this issue for violations of parole supervision, a different standard exists for violations of probation.



### RECOMMENDED ACTIONS:

- **Adopt standards** limiting revocation and incarceration as a response to technical violations;
- **Ensure that treatment** and non-incarceration sanction options that address underlying causes are exhausted before a defendant may be incarcerated or revoked for a violation;
- **Examine the existing grants** to rural and small counties, and assess availability of sanctions, programs and incentives, and address in the funding formula;
- **Authorize courts to issue a summons** to appear in court instead of an arrest warrant pending a revocation hearing;
- **Use no more conditions than are required** to achieve the goals of supervision.

### 3. Strengthen ability-to-pay determination standards.

While Texas courts are required to consider a defendant's ability to pay probation costs, the law provides limited guidance on this responsibility, or on alternatives the court may offer if a defendant is unable to pay. This is inconsistent with other court costs, fees and fines that may be ordered by the courts, for which courts have more specific guidance on when to inquire about someone's ability to pay and on available alternatives if the person is unable to pay.

When fees and program costs are assessed based on what the person sentenced to probation can actually afford, they are more likely to pay that amount—rather than pay nothing at all because the amount they owe is so beyond what they can afford. As a result, the person sentenced to probation is likely to successfully complete their supervision term.

### RECOMMENDED ACTIONS:

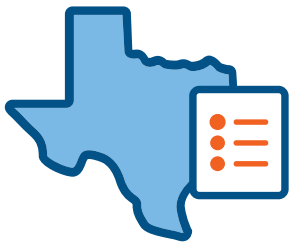
- **Establish a review** of defendants' ability to pay when imposing additional costs, including program costs;
- **Re-review ability to pay** when financial circumstances or required payments change substantially;
- Before a supervised person is revoked, **review their ability to pay to consider the impacts** of fines and fees on the violations;
- **Include people sentenced to probation** who are behind on their fees but are following other rules in the early termination and credit-earning systems;
- Allow judges to waive, **reduce or suspend payments** if a supervised person can no longer afford such payments;
- **Increase the practice** of waiving supervision fees.

### 4. Change how probation is funded to maximize effectiveness.

The research driving the safest, most effective probation practices says the system should concentrate resources and rehabilitation early on in someone's sentence. But the way probation is currently funded frustrates the ability to shift to this safer, more effective practice.

### RECOMMENDED ACTIONS:

- **Give CSCDs per-capita funds based on** the number of people placed on supervision each year;
- **Provide CSCDs increased per-diem funding** at the beginning of a person's probation sentence;
- **Allocate per-capita funding** to CSCDs for each person sentenced to probation that the court discharges early;
- **Incorporate a strengthened system of** performance rewards for reduced revocations.



# CONCLUSIONS

Texas has an admirable, long-standing commitment to building the probation system as an effective alternative to incarceration that allows people convicted of low-level offenses to benefit from support and demonstrate respect for public safety while living in the community.

State data show, however, that more could be done to help realize the vision for the system. Simply put, too many people convicted of low-level offenses are incarcerated, thereby missing out on rehabilitative opportunities and at risk of emerging a greater risk to public safety.

Reasonable reform can address this shortcoming by better aligning state probation policies with best practices. Specifically, Texas should shorten probation terms and empower local departments to focus

supervision requirements and rehabilitative resources on the critically important early months of probation terms. Additionally, lawmakers should re-evaluate probation funding mechanisms so that they better support the use of best practices—for example, by changing the court costs, fees and fines systems that drive some people to choose incarceration over community-based programming and supervision.

As in all facets of the justice system, the top priority for probation must be public safety. By marshaling its resources more effectively—with a focus on rehabilitation and prevention, as recommended by national best practices—Texas could realize better returns on its public safety investment—affording everyone greater levels of safety in their homes and communities. Crime survivors support changes to probation to prevent crimes.



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## CRIME SURVIVORS SUPPORT CHANGES TO PROBATION TO PREVENT CRIMES.

Crime survivors prefer that lawmakers enact the types of probation system policies recommended in this report, and that are best practices in the community supervision field. The following are among a range of policies crime survivors were asked about:<sup>74</sup>

69%

**Incentivize rehabilitation to achieve safety goals.** Nearly **7 in 10 victims (69 percent)** support increasing opportunities for people to earn credits toward an early termination of probation through participation in faith-based or community programs.

74%

**Strengthen ability-to-pay determinations.** More than **7 in 10 victims (74 percent)** support policies that would strengthen the process where a judge can determine someone's ability to pay court costs, fees and fines.

79%

**Implement graduated responses statewide.** Nearly **8 in 10 (79 percent)** of victims support increasing the use of punishments other than jail time for probation violations, like increased meetings with probation officers, and mandatory treatment or attendance at classes.

70%

**Seven in 10 (70 percent) victims support developing a list of low-level technical probation violations**—like missing an appointment, or spending time in a bar—that would not result in an individual on probation being sent to jail.

81%

**Change how probation is funded to maximize effectiveness.** Among victims, **8 in 10 (81 percent)** support changing the way probation is funded so more attention and treatment can be directed at those on probation early on, when they benefit most from rehabilitation programs.

72%

**Among victims, 7 in 10 (72 percent) support providing additional funding for local probation departments** that increase the number of people that complete the terms of their probation early.

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These views hold across party lines and among victims of both property and violent crime, demonstrating the broad bipartisan support for a new approach to safety.<sup>75</sup>



# APPENDIX

## STATE PROBATION REFORMS.

The following changes in the state probation system moved the system to more effective, less wasteful and safer practices.

- **2005 – Diversion Funding, Incentivizing Progressive Sanctions:** The 79th legislature allocated \$55.5 million to CJAD to grant to CSCDs for diversion, with the goal of reducing caseloads and increasing the availability of community-based residential treatment.<sup>76</sup> CJAD was required to prioritize CSCDs that committed to implementing progressive sanctions models.<sup>77</sup> CJAD standards now provide that departments have a continuum of sanctions to respond to violations.<sup>78</sup>
- **2007 – Justice Reinvestment Initiative:** The 80th legislature, in partnership with the Council of State Governments Justice Center, enacted a series of reforms designed to curb community supervision revocations and stem prison growth. Among other reforms, the package reduced maximum probation terms from 10 years to 5 for many drug and property offenses, created new grants for counties to implement progressive sanctions programs, and expanded specialty courts.<sup>79</sup> The legislature also provided funding for CSCD-operated inpatient and outpatient treatment programs, and provided extra funds based on projected population increases.<sup>80</sup>
- **2007 and 2011:** Legislative proposals for CSCD funding reflect best practices. [HB 3200](#), also passed in 2007, sought to restructure the probation funding system. It would have changed the per-capita funding to increase funds during the early years of a person's sentence, given departments per-capita funds for each person who discharges early, deducted funds for technical violation revocations, and included pre-trial supervision in CSCD formula funding allocations. This would have supported probation departments to direct resources to the earliest part of a person's probation term, and to the people who posed the highest risk to public safety. The legislation passed but failed to be enacted.<sup>81</sup>
- In 2011, the 82nd legislature passed [SB 1055](#), designed to provide performance incentives to counties to reduce incarceration. Counties would receive 35%-60% of savings from reduced prison commitments.<sup>82</sup> If a county did not meet its reduction goal, it would have to return a portion of the funds.<sup>83</sup> This bill passed, but the program never got funding, so it has never been implemented.<sup>84</sup>

### Trends after reforms.

Though there was a slight drop in technical violation revocations immediately following the 2005 law changes, the technical and overall revocation rates have remained fairly stable since.<sup>85</sup> CJAD reported in 2011 that CSCDs that had received diversion funding decreased felony revocations by 3.6 percent even as the number of people under supervision increased, while CSCDs that didn't receive funding increased revocations by 9.1% over the same period.<sup>86</sup> In 2019, the number of people revoked to TDCJ was just 5.6% fewer than in 2005.<sup>87</sup>

Following the implementation of diversion initiatives, parole revocations dropped much more significantly – between 2009 and 2018, parole revocation rates dropped by 45%<sup>88</sup> and technical violations accounted for only about 1 in 7 parole revocations in 2019.<sup>89</sup> For community supervision, about half of felony probation revocations are a result of technical violations.

The Texas Department of Criminal Justice’s Community Justice Assistance Division (CJAD) continues to award diversion grants to counties.<sup>90</sup>

The House Committee on Corrections and CJAD have both separately issued reports supporting changes to the funding structure mirroring SB 1055 and HB 3200, respectively.<sup>91</sup> The committees recommended that CSCDs employ progressive sanctions to respond to technical violations.

TABLE 1

**AVERAGE PROBATION TERMS FOR PEOPLE SENTENCED TO PROBATION FELONY, FY 2019**

Offense Degree	Average Probation Term at Placement	Recommended Probation Term according to Model Penal Code
First Degree Felony	7.1 years	1 to 3 years
Second Degree Felony	5.8 years	1 to 3 years
Third Degree Felony	5.0 years	1 to 3 years
State Jail Felony	3.3 years	1 to 3 years
<b>All Felonies</b>	<b>4.7 years</b>	

Source: Analysis of data shared with the Alliance for Safety and Justice by the Texas Department of Criminal Justice, Community Justice Assistance Division.

TABLE 2

**TYPES OF REVOCATIONS**

Felony Probation, FY 2019			Misdemeanor Probation, FY 2019		
Violation of Technical Rule	49.3%	11,190	Violation of Technical Rule	65.7%	11,013
New Misdemeanor	13.6%	3,086	New Misdemeanor	21.5%	3,611
New Felony	37.1%	8,414	New Felony	12.8%	2,135
<b>Total</b>	<b>100%</b>	<b>22,690</b>	<b>Total</b>	<b>100%</b>	<b>22,690</b>

Source: Analysis of data shared with the Alliance for Safety and Justice by the Texas Department of Criminal Justice, Community Justice Assistance Division.

TABLE 3

**EXITS FROM FELONY PROBATION, FY 2019**

Type of Exit	Number	Percent of Total Exits
Expiration (full-term)	19,032	38.2%
Revocation	22,690	45.6%
Violation of Technical Rule	11,190	22.6%
New Misdemeanor	3,086	6.2%
New Felony	8,414	16.8%
Early Discharge/Early Release*	8,073	16.1%
<b>Total</b>	<b>49,975</b>	<b>100%</b>

Source: Analysis of data shared with the Alliance for Safety and Justice by the Texas Department of Criminal Justice, Community Justice Assistance Division.

\*Note: Majority of “early discharge/early release” category includes people released early by judicial discretion at some point after 1/3 or 2-years, whichever is less. Also includes a small number (189) reviewed at a mandatory review date at 50% or 2 years for people who have completed all requirements, whichever is more. And, includes 1135 people who earned a time credit that slightly shortened their sentences.

\*\*In 930 of the cases listed in the dataset as early release/early discharge and included in the figure above the actual days under supervision were actually at least a month longer than the original probation term listed for the case, suggesting that these individuals may have had their terms extended and then been granted early discharge from the extended terms.

TABLE 4

**OF THOSE NOT REVOKED, HOW MANY SERVED AT LEAST 30 DAYS LONGER THAN THEIR ORIGINAL TERM?**

1 in 5 people sentenced to probation who completed supervision saw their terms extended.

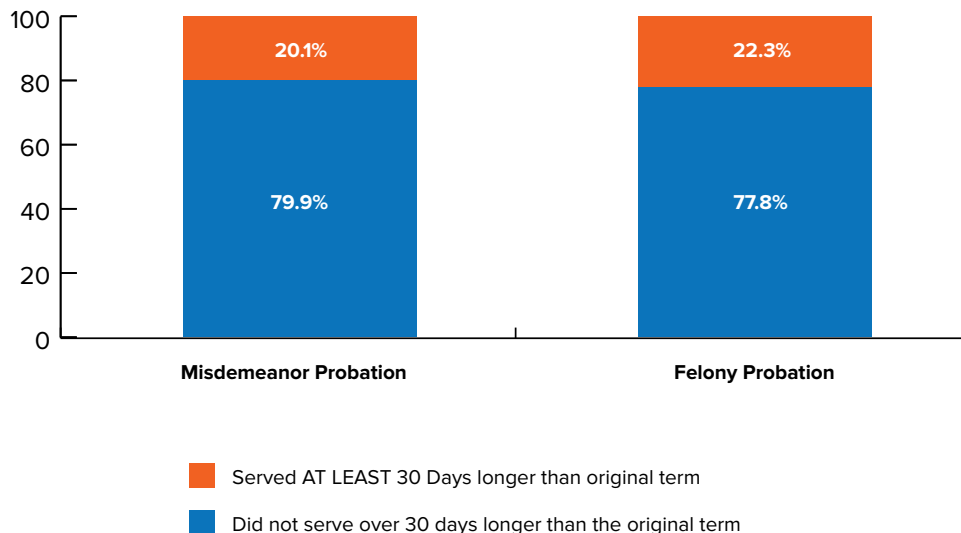


TABLE 5

**OF THOSE NOT REVOKED, HOW MANY WERE RELEASED AT LEAST A MONTH EARLIER THAN THEIR ORIGINAL TERM?**

Fewer than 1 in 7.

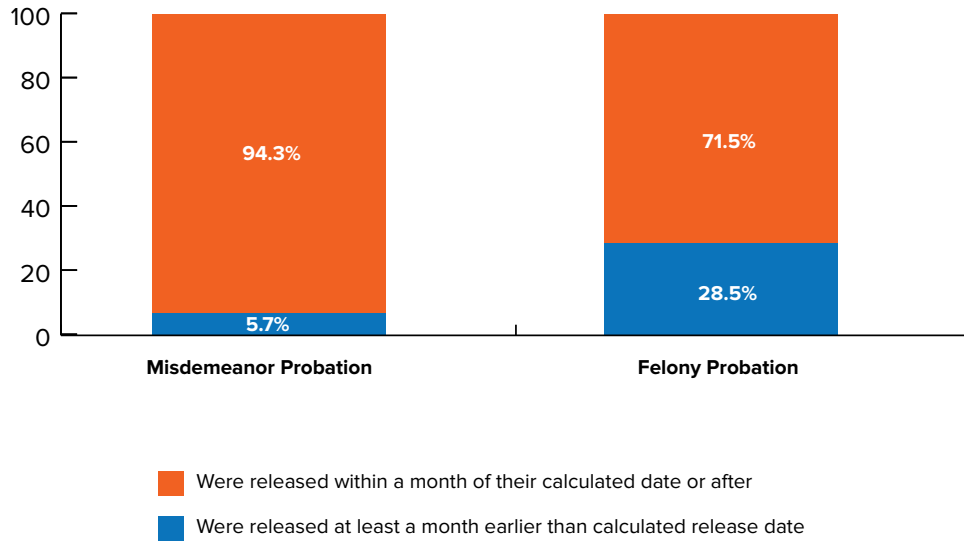


TABLE 6

**FELONY PROBATION REVOCATIONS IN THE 30 MOST POPULOUS COUNTIES,**

in order of highest to lowest technical violation revocation rate (September 1, 2018 - August 31, 2019).

	Number Placed on Felony Probation	Number of Felony Technical Violation Revocations	Felony Technical Violation Revocations as a Percentage of Total Felony Exits from Probation*	Estimated Annual Cost to State of Felony Technical Violation Revocations, in Millions**
Smith	507	211	42.1%	\$1.6
Ector	566	221	38.2%	\$1.7
Tarrant	3,796	870	28.6%	\$6.7
Jefferson	660	195	26.9%	\$1.5
Nueces	959	200	26.8%	\$1.5
Guadalupe	207	49	25.3%	\$0.4
Montgomery	678	169	25.3%	\$1.3
Dallas	4,763	1,275	24.7%	\$9.8
Johnson	481	114	24.6%	\$0.9
Ellis	481	80	23.1%	\$0.6
Midland	628	134	22.7%	\$1.0
Bell	532	104	22.5%	\$0.8
Bexar	4,149	902	22.2%	\$6.9
McLennan	531	124	21.9%	\$0.9
Collin	1,543	244	21.6%	\$1.9
Brazos	413	75	20.5%	\$0.6
Galveston	623	140	20.2%	\$1.1
Brazoria	678	124	18.4%	\$0.9
Denton	756	119	18.3%	\$0.9
Williamson	460	70	18.2%	\$0.5
Harris	5,942	985	17.3%	\$7.5
Hays	386	37	16.9%	\$0.3
Travis	1,321	196	16.0%	\$1.5
El Paso	1,428	174	14.5%	\$1.3
Webb	291	46	14.5%	\$0.4
Lubbock	516	82	13.9%	\$0.6
Hidalgo	1,426	210	13.6%	\$1.6
Comal	274	21	12.7%	\$0.2
Cameron	715	97	11.5%	\$0.7
Fort Bend	537	46	9.4%	\$0.4
<b>30 Counties Subtotal</b>	<b>36,247</b>	<b>7,314</b>	<b>21.3%</b>	<b>\$56.0</b>
<b>Statewide Total</b>	<b>54,299</b>	<b>11,190</b>	<b>22.5%</b>	<b>\$85.7</b>

\*Texas typically calculates revocation rates as the number of revocations in a year over the average probation population in a year. While this is a valid approach, calculating revocation rates this way underestimates the share of people placed on probation who will see their probation terminate in a revocation. ASJ instead calculated revocations as a share of total probation exits, which more accurately approximates the likelihood that someone placed on probation will be revoked during their term.

\*\*Cost estimates calculated using an average marginal cost rate of \$33.42 per-person per-day in TDCJ, assuming an average 309.5 day length of stay in TDCJ for technical violation revocations, and subtracting the average cost of intensive supervision in the community for the same number of days at a rate of \$8.69 per-person per-day.

TABLE 7

### SAMPLE OF RURAL COUNTIES WITH HIGHEST FELONY TECHNICAL REVOCATION RATES, FY 2019

(excluded rural counties with fewer than 10 felony technical revocations)

County	County Population	# of Felony Technical Revocations	Felony Technical Revocations as % of felony exits	Estimated Cost to State
Hamilton	8,461	16	53.3%	\$122,463
Dawson	12,728	16	51.6%	\$122,463
Franklin	10,725	13	48.1%	\$99,501
Wilbarger	12,769	26	46.4%	\$199,002
Trinity	14,651	16	42.1%	\$122,463
Marion	9,854	14	41.2%	\$107,155
Ochiltree	9,836	15	40.5%	\$114,809
Wood	45,539	43	40.2%	\$329,119
Lamar	49,859	77	39.5%	\$589,353
Harrison	66,553	67	39.4%	\$512,814
Comanche	13,635	14	38.9%	\$107,155
Freestone	19,717	15	38.5%	\$114,809
Panola	23,194	28	37.85	\$114,809
Palo Pinto	29,189	47	37.6%	\$359,735
Van Zandt	56,590	64	36.8%	\$489,852
Bee	32,565	17	34.7%	\$130,117
Howard	36,664	33	33.7%	\$252,580
Henderson	82,737	68	33.5%	\$520,468
Bosque	18,685	18	33.3%	\$137,771
Fayette	25,346	23	33.3%	\$176,041
Deaf Smith	18,546	33	33.3%	\$252,580
Childress	7,306	19	32.8%	\$145,425
Reeves	15,976	12	32.4%	\$91,847
Leon	17,404	13	31.7%	\$99,501
Limestone	23,437	19	30.6%	\$145,425
Gonzales	20,837	26	30.6%	\$199,002
Shelby	25,274	18	29.5%	\$137,771
Hutchinson	20,938	12	29.3%	\$91,847
Hopkins	37,084	54	29.3%	\$413,312
Nacogdoches	65,204	41	29.1%	\$313,811
Angelina	86,715	76	28.3%	\$581,699
Hill	36,649	44	27.7%	\$336,773

# ENDNOTES

- 1 Compared to the full rate of \$62.34 for state-operated prisons and state jails in FY18 to \$3.75, average cost of basic community supervision - largely comprised local costs supported by probation fees. Source: Legislative Budget Board (2019). *Criminal and Juvenile Justice Uniform Cost Report: Fiscal Years 2017 and 2018*. Retrieved from [www.lbb.state.tx.us/Documents/Publications/Policy\\_Report/4911\\_Criminal\\_Juvenile\\_Uniform\\_Cost\\_Jan\\_2019.pdf](http://www.lbb.state.tx.us/Documents/Publications/Policy_Report/4911_Criminal_Juvenile_Uniform_Cost_Jan_2019.pdf)
- 2 ABA Justice Kennedy Commission. *Texas Criminal Justice Chronology 1984 to 2004, remarks by Carl V. Reynolds (6 Feb 2004)*. Retrieved from [https://www.americanbar.org/content/dam/aba/publishing/criminal\\_justice\\_section\\_newsletter/crimjust\\_kennedy\\_carlreynolds.authcheckdam.pdf](https://www.americanbar.org/content/dam/aba/publishing/criminal_justice_section_newsletter/crimjust_kennedy_carlreynolds.authcheckdam.pdf) November 11, 2018.; Senate Research Center (1993). *Bill Analysis, Tex. S.B. 1067, 73<sup>rd</sup> Leg., R.S.* Retrieved from [http://www.lrl.state.tx.us/LASDOCS/73R/SB1067/SB1067\\_73R.pdf#page=3833](http://www.lrl.state.tx.us/LASDOCS/73R/SB1067/SB1067_73R.pdf#page=3833)
- 3 Senate Research Center (1993). *Bill Analysis, Tex. S.B. 1067, 73<sup>rd</sup> Leg., R.S.* Retrieved from [www.lrl.state.tx.us/LASDOCS/73R/SB1067/SB1067\\_73R.pdf#page=3833](http://www.lrl.state.tx.us/LASDOCS/73R/SB1067/SB1067_73R.pdf#page=3833)
- 4 Texas Department of Criminal Justice (2012). *Agency Strategic Plan, Fiscal Years 2013-2017*. Retrieved from <https://texashistory.unt.edu/ark:/67531/metaph531950/m1/1/>
- 5 ABA Justice Kennedy Commission. *Texas Criminal Justice Chronology 1984 to 2004, remarks by Carl V. Reynolds (6 Feb 2004)*. Retrieved from [https://www.americanbar.org/content/dam/aba/publishing/criminal\\_justice\\_section\\_newsletter/crimjust\\_kennedy\\_carlreynolds.authcheckdam.pdf](https://www.americanbar.org/content/dam/aba/publishing/criminal_justice_section_newsletter/crimjust_kennedy_carlreynolds.authcheckdam.pdf); Senate Research Center (1993). *Bill Analysis, Tex. S.B. 1067, 73<sup>rd</sup> Leg., R.S.* Retrieved from [http://www.lrl.state.tx.us/LASDOCS/73R/SB1067/SB1067\\_73R.pdf#page=3833](http://www.lrl.state.tx.us/LASDOCS/73R/SB1067/SB1067_73R.pdf#page=3833)
- 6 Texas Criminal Justice Coalition (nd). *Talking Points: Safe Alternatives to State Jails Will Increase Cost Savings, Public Safety, and Personal Responsibility*. Retrieved from <https://www.texascjc.org/system/files/publications/State%20Jail%20Talking%20Points.pdf>
- 7 Texas Criminal Justice Coalition (nd). *Talking Points: Safe Alternatives to State Jails Will Increase Cost Savings, Public Safety, and Personal Responsibility*. Retrieved from <https://www.texascjc.org/system/files/publications/State%20Jail%20Talking%20Points.pdf>
- 8 As of August, 2020. Legislative Budget Board (September 2020). Adult and Juvenile Correctional Populations: Monthly Report.
- 9 As of August, 2020. Legislative Budget Board (September 2020). Adult and Juvenile Correctional Populations: Monthly Report.
- 10 Technical violations can include: the illegal use of controlled substances, marijuana, cannabinoids or excessive consumption of any alcoholic beverage; avoiding persons and places of disreputable or harmful character; not providing support for one's dependents; not being able to work faithfully at suitable employment and furnishing proof of employment to their supervision office; not paying fees, fines, court costs, restitution if assessed. For an example, see, "What are conditions of community supervision?" [www.tarrantcounty.com/en/community-supervision-corrections/about-us/FAQs.html](http://www.tarrantcounty.com/en/community-supervision-corrections/about-us/FAQs.html)
- 11 Alliance for Safety and Justice analysis of Office of Court Administration (2019). *District and Statutory County Courts, Felony Case Activity Detail, September 1, 2018 to August 31, 2019*. Retrieved from Texas Office of Court Administration.
- 12 Annual Statistical Report for the Texas Judiciary – Fiscal Year 2019 (2020). <https://www.txcourts.gov/statistics/annual-statistical-reports/https://www.txcourts.gov/media/1445760/fy-19-annual-statistical-report.pdf>. Page 119 indicates that there were 36,273 persons sentenced for a felony theft or felony drug possession case, and of those persons 29,940 (82.5%) were sentenced to state prison, state jail or county jail. If deferred adjudications were included as non-incarceration sentences (there were 22,653), 50% were still initially sentenced directly to incarceration (see page 120).
- 13 Ninety-five percent of felony convictions in FY 2019 were through guilty or nolo contendere pleas. *Annual Statistical Report for the Texas Judiciary Fiscal Year 2019*. Retrieved from Texas Department of Criminal Justice, Community Justice Assistance Division <https://www.texascjc.org/system/files/publications/A%20Failure%20in%20the%20Fourth%20Degree%20Report.pdf> Page 120 indicates that there were 102,544 felony convictions; 97,429 were a result of a plea or nolo contendere.
- 14 Texas House Committee on Corrections (2016). *Interim Report to the 85<sup>th</sup> Legislature*. Retrieved from Texas House Committee on Corrections; Texas Criminal Justice Coalition (2018). *A Failure in the Fourth Degree: Reforming the State Jail Felony System in Texas*. Retrieved from [www.texascjc.org/system/files/publications/A%20Failure%20in%20the%20Fourth%20Degree%20Report.pdf](http://www.texascjc.org/system/files/publications/A%20Failure%20in%20the%20Fourth%20Degree%20Report.pdf)
- 15 In July, 2020, Travis County Courts provided analysis of 6,952 plea offers in FY 19 which included supervision, and 1,544 took county jail, 298 took prison, and 199 took state jail—29% elected to be confined. Source: M. Montford, First Assistant District Attorney, Travis County (personal communication, July 24, 2020).
- 16 Forty Six percent of people exiting felony probation were revoked in FY 2019. This is not a perfect measure of someone's likelihood of revocation, but is a closer approximation than looking at the share revoked in a given year as most people on probation are serving multi-year terms.
- 17 For a recent analysis of some of these issues based on interviews with people in state jail, see: Texas Criminal Justice Coalition (2018). *A Failure in the Fourth Degree: Reforming the State Jail Felony System in Texas*. Retrieved from [www.texascjc.org/system/files/publications/A%20Failure%20in%20the%20Fourth%20Degree%20Report.pdf](http://www.texascjc.org/system/files/publications/A%20Failure%20in%20the%20Fourth%20Degree%20Report.pdf)



18 According to the Texas Department of Criminal Justice, 59,434 people were committed to state jails or prisons in FY 2018. Of the 11,190 people revoked from felony probation, 10,383 were revoked to state jail or prison. This represents 17.4% of the prison system commitment figure. According to Office of Court Administration data, sentences to prison and state jail dropped slightly but not significantly from FY 18 to FY 19, indicating using FY 2018 admissions as the denominator produces a conservative estimate. Sources:

Texas Department of Criminal Justice (2019). *Annual Statistical Report for the Texas Judiciary Fiscal Year 2019*. Retrieved from Texas Department of Criminal Justice, Community Justice Assistance Division [www.txcourts.gov/media/1445760/fy-19-annual-statistical-report.pdf](http://www.txcourts.gov/media/1445760/fy-19-annual-statistical-report.pdf); Texas Department of Criminal Justice (2019). *FY 2018 Statistical Report*. Retrieved from Texas Department of Criminal Justice, Community Justice Assistance Division [www.tdcj.texas.gov/documents/Statistical\\_Report\\_FY2018.pdf](http://www.tdcj.texas.gov/documents/Statistical_Report_FY2018.pdf); Alliance for Safety and Justice analysis of Texas Office of Court Administration (2020). *District and Statutory County Court Activity Detail - September 1, 2017 to August 31, 2018 and September 1, 2018 to August 31, 2019*. Retrieved from Texas Office of Court Administration.

19 Texas Department of Criminal Justice (2019). *Annual Statistical Report for the Texas Judiciary Fiscal Year 2019*. Retrieved from Texas Department of Criminal Justice, Community Justice Assistance Division <https://www.txcourts.gov/media/1445760/fy-19-annual-statistical-report.pdf>.

20 11,190 people were revoked from felony probation for a reason other than a subsequent arrest or new offense, and 10,383 of these went to state jail or prison. Nearly all of the remaining defendants went to county jail. Source: Texas Department of Criminal Justice (2019). *Annual Statistical Report for the Texas Judiciary Fiscal Year 2019*. Retrieved from Texas Department of Criminal Justice, Community Justice Assistance Division [www.txcourts.gov/media/1445760/fy-19-annual-statistical-report.pdf](http://www.txcourts.gov/media/1445760/fy-19-annual-statistical-report.pdf).

21 Wanner, P. (2018). *Inventory of evidence-based, research-based, and promising programs for adult corrections* (Document Number 18-02-1901). Olympia: Washington State Institute for Public Policy.

22 Among their six key components to successful case planning, the American Probation and Parole Association writes, “*accountability systems: create a process to hold individuals accountable for their conduct while also holding supervision staff and their superiors accountable for their responsibilities to people under supervision.*” M. Carey et al., “Field Service Case Plans: Bane or Gain?” *Perspectives* 24, no. 2 (2000), <https://www.cpod.org/sites/main/files/file-attachments/caseplans.pdf?1501715708>

23 Latessa, E.J., Lowenkamp, C. (2006). *What Works in Reducing Recidivism?* Retrieved from University of St. Thomas Law Journal <https://ir.stthomas.edu/cgi/viewcontent.cgi?article=1095&context=ustlj>; Casey, P.M, Warren, R.K., Elek, J.K. (2011). *Using Risk and Needs Assessment at Sentencing*. Retrieved from National Center for State Courts [http://www.pacenterofexcellence.pitt.edu/documents/Using\\_Risk\\_Needs\\_Assessment\\_at\\_Sentencing\\_Lessons\\_from\\_Ten\\_Jurisdictions.pdf](http://www.pacenterofexcellence.pitt.edu/documents/Using_Risk_Needs_Assessment_at_Sentencing_Lessons_from_Ten_Jurisdictions.pdf).

24 Watts, Alexis L. *Probation In-Depth: The Length of Probation Sentences*. Retrieved from Robina Institute of Criminal Law and Criminal Justice (2014) [https://robinainstitute.umn.edu/sites/robinainstitute.umn.edu/files/probation-in-depth\\_final.pdf](https://robinainstitute.umn.edu/sites/robinainstitute.umn.edu/files/probation-in-depth_final.pdf)

25 The Pew Center on the States (2009). *Maximum Impact: Targeting Supervision on Higher-Risk People, Places, and Times*. Retrieved from [www.pewtrusts.org/-/media/legacy/uploadedfiles/pcs\\_assets/2009/maximumimpactwebpdf.pdf](http://www.pewtrusts.org/-/media/legacy/uploadedfiles/pcs_assets/2009/maximumimpactwebpdf.pdf)

26 The American Law Institute. *Model Penal Code: Sentencing (Am. Law Inst., Proposed Final Draft, 2017)*. Retrieved from [https://robinainstitute.umn.edu/sites/robinainstitute.umn.edu/files/mpcs\\_proposed\\_final\\_draft.pdf](https://robinainstitute.umn.edu/sites/robinainstitute.umn.edu/files/mpcs_proposed_final_draft.pdf)

27 Analysis of data shared with the Alliance for Safety and Justice by the Texas Department of Criminal Justice, Community Justice Assistance Division.

28 When a person is convicted and placed on probation, they are sentenced to an incarceration term, but that term is suspended pending successful completion of probation. When courts place defendants on deferred adjudication supervision, defendants are not finally convicted and not serving a suspended term, but instead serving a deferred term pending successful completion. CJAD provided Alliance for Safety and Justice data on probation terms for all people placed on probation, including deferred adjudication supervision. The data presented comparing term lengths though only includes a subset of people placed on probation - those convicted - for whom there is data on probation term lengths and underlying sentence lengths. Average probation term lengths presented in these data differ slightly from average term lengths presented elsewhere in this report for this reason. Source: Texas Department of Criminal Justice (2019). *Annual Statistical Report for the Texas Judiciary Fiscal Year 2019*. Retrieved from Texas Department of Criminal Justice, Community Justice Assistance Division [www.txcourts.gov/media/1445760/fy-19-annual-statistical-report.pdf](http://www.txcourts.gov/media/1445760/fy-19-annual-statistical-report.pdf).

29 Texas Probation Association. Tex. CCP § 42A.753. Retrieved from <https://statutes.capitol.texas.gov/Docs/CR/htm/CR.42A.htm>

30 Alliance for Safety and Justice analysis utilized “at least 30 days” to examine those who had their probation term extended or were released early, as there can be administrative and record keeping reasons why the original term may vary slightly from the actual served term in the person’s record; this allowed for a reasonable cushion in the assumption, and likely creates a low or at least conservative estimate of persons being extended beyond or released prior to their original term of probation.

31 Nearly 1 in 20 people exiting misdemeanor probation that were not revoked had it shortened (5.7 percent), and less than 1 in 3 people exiting felony probation that were not revoked had it shortened (28.5 percent). Analysis defines “early” as completing the probation term at least 30 days earlier than the initial sentence.

32 Texas Probation Association. *Texas CCP Art. 42A.755*. Retrieved from <https://statutes.capitol.texas.gov/Docs/CR/htm/CR.42A.htm>

33 *Graduated Sanctions: Stepping into Accountable Systems and Offenders* (June 1999) *The Prison Journal* 79(2):182-204 [https://www.researchgate.net/publication/249707451\\_Graduated\\_Sanctions\\_Stepping\\_into\\_Accountable\\_Systems\\_and\\_Offenders](https://www.researchgate.net/publication/249707451_Graduated_Sanctions_Stepping_into_Accountable_Systems_and_Offenders)

34 Texas Probation Association (2009). Texas CCP § 42A.001. Retrieved from <https://statutes.capitol.texas.gov/Docs/CR/htm/CR.42A.htm>

35 Analysis of data shared with the Alliance for Safety and Justice by the Texas Department of Criminal Justice, Community Justice Assistance Division.

36 According to the Texas Department of Criminal Justice, 42,438 people were committed to state prisons and 16,996 were committed to state jails in FY 2018. The 4,519 people revoked to state jail represents 26.6% (1 in 4) of jail admissions and the 5,864 people revoked to state prison represents 13.8% (1 in 7) of prison admissions. According to Office of Court Administration data, sentences to prison and state jail dropped slightly but not significantly from FY 18 to FY 19, indicating using FY2018 admissions as the denominator produces a conservative estimate. Sources: Texas Department of Criminal Justice (2019). *Annual Statistical Report for the Texas Judiciary Fiscal Year 2019*. Retrieved from Texas Department of Criminal Justice, Community Justice.; Texas Department of Criminal Justice (2018). *FY 2017 Statistical Report*. Retrieved from Texas Department of Criminal Justice.

37 Systemwide cost per-person per-day was \$61.63, but this includes fixed costs to operate a facility that would not necessarily be affected by the addition or subtraction of a group of people, unless the state is able to close facilities as a result. The Legislative Budget Board (LBB) estimated the marginal cost per-person is \$33.25 (but this is likely higher now because it was for people incarcerated 2007-2011). The LBB also found that people revoked for technical violations spent on average 309.5 days in TDCJ. This would mean for the 11,190 people revoked to TDCJ in FY 2019, the most conservative estimate is that this costs the state \$115.7 million. Basic supervision in its place would cost \$3.42/day divided between state and local sources, and treatment alternatives to incarceration would cost \$8.69/day, and if everyone received that instead a total of \$30.1 million. That would make the net cost, assuming otherwise providing intensive treatment in the community, upwards of \$85.6 million. Given that we used a slightly outdated marginal cost rate and not the full cost, and compared to intensive community supervision instead of basic supervision, this number is very conservative and likely underestimates the actual cost to the state. Sources: Legislative Budget Board (2017). *Staff Reports: Estimated Net Costs of Technical Violations from Community Supervision and Parole*. Retrieved from [www.lbb.state.tx.us/Documents/Publications/Staff\\_Report/3729\\_LBB\\_Staff\\_Reports.pdf](http://www.lbb.state.tx.us/Documents/Publications/Staff_Report/3729_LBB_Staff_Reports.pdf); Legislative Budget Board (2017). *Criminal and Juvenile Justice Uniform Cost Report, Fiscal Years 2015 and 2016*. Retrieved from [www.lbb.state.tx.us/Documents/Publications/Policy\\_Report/3137\\_UniformCosts\\_2017.pdf](http://www.lbb.state.tx.us/Documents/Publications/Policy_Report/3137_UniformCosts_2017.pdf); Analysis of data shared with the Alliance for Safety and Justice by the Texas Department of Criminal Justice, Community Justice Assistance Division.

38 B. Bogue et al., "Implementing Evidence-Based Practice in Community Corrections: The Principles of Effective Intervention" (Crime and Justice Institute, 2004).

39 See, Adult criminal justice, benefit cost result, Washington State Institute for Public Policy (2020) [www.wsipp.wa.gov/BenefitCost](http://www.wsipp.wa.gov/BenefitCost)

40 Texas Department of Criminal Justice, Community Justice Assistance Division (2019). *Technical Revocations Among Felons: Unraveling the Process*. Retrieved from Texas Department of Criminal Justice.

41 Texas Probation Association. Texas Code of Crim. Proc. § 42A.751. Retrieved from <https://statutes.capitol.texas.gov/Docs/CR/htm/CR.42A.htm>

42 In FY 2019, in motions to revoke, 28,985 were approved/revoked and 29,305 were denied/continued. Source: State of Texas Judicial Branch (2020). *Annual Statistical Report for the Texas Judiciary Fiscal Year 2019*. Page 119. Retrieved from: <https://www.txcourts.gov/statistics/annual-statistical-reports/>

43 Gelb, A. and Utada, C. (2017, Aug 25). *For Better Results, Cut Correctional Populations: State Reforms Help Safely Reduce Offenders' Time on Probation, Parole*. Received from <https://www.pewtrusts.org/en/research-and-analysis/articles/2017/08/25/for-better-results-cut-correctional-populations>

44 Gelb, A. and Utada, C. (2017, Aug 25). *For Better Results, Cut Correctional Populations: State Reforms Help Safely Reduce Offenders' Time on Probation, Parole*. Received from [www.pewtrusts.org/en/research-and-analysis/articles/2017/08/25/for-better-results-cut-correctional-populations](http://www.pewtrusts.org/en/research-and-analysis/articles/2017/08/25/for-better-results-cut-correctional-populations)

45 Guevara, M., and Solomon, E. (2009). *Implementing Evidence-Based Policy and Practice in Community Corrections*. Retrieved from [https://www.crj.org/assets/2017/07/Community\\_Corrections\\_BoxSet\\_Oct09.pdf](https://www.crj.org/assets/2017/07/Community_Corrections_BoxSet_Oct09.pdf)

46 The Pew Charitable Trusts (2014). *Reducing Incarceration for Technical Violations in Louisiana*. Received from [www.pewtrusts.org/-/media/assets/2014/11/psppreducingincarcerationfortechnicalviolationsinlouisiana.pdf](http://www.pewtrusts.org/-/media/assets/2014/11/psppreducingincarcerationfortechnicalviolationsinlouisiana.pdf)

47 The Pew Charitable Trusts (2014). *Reducing Incarceration for Technical Violations in Louisiana*. Received from [www.pewtrusts.org/-/media/assets/2014/11/psppreducingincarcerationfortechnicalviolationsinlouisiana.pdf](http://www.pewtrusts.org/-/media/assets/2014/11/psppreducingincarcerationfortechnicalviolationsinlouisiana.pdf)

48 Robina Institute (2016). *Exploring Supervision Fees in Four Probation Jurisdictions in Texas*. Retrieved from [https://robinainstitute.umn.edu/sites/robinainstitute.umn.edu/files/robina\\_fee\\_summary\\_report\\_web4.pdf](https://robinainstitute.umn.edu/sites/robinainstitute.umn.edu/files/robina_fee_summary_report_web4.pdf); Johnson, Dustin (2019). *Technical Revocations Among Felons: Unraveling the Process*. Retrieved from Texas Department of Criminal Justice.

49 Robina Institute (2016). *Exploring Supervision Fees in Four Probation Jurisdictions in Texas*. Retrieved from [https://robinainstitute.umn.edu/sites/robinainstitute.umn.edu/files/robina\\_fee\\_summary\\_report\\_web4.pdf](https://robinainstitute.umn.edu/sites/robinainstitute.umn.edu/files/robina_fee_summary_report_web4.pdf)

50 Code of Crim Proc § Art. 42A.751(i).

51 Texas House Committee on Corrections (2016). *Interim Report to the 85<sup>th</sup> Legislature*. Retrieved from Texas House Committee on Corrections.; Robina Institute (2016). *Exploring Supervision Fees in Four Probation Jurisdictions in Texas*. Retrieved from [https://robinainstitute.umn.edu/sites/robinainstitute.umn.edu/files/robina\\_fee\\_summary\\_report\\_web4.pdf](https://robinainstitute.umn.edu/sites/robinainstitute.umn.edu/files/robina_fee_summary_report_web4.pdf)

52 In the Robina Institute study, and in conversations Alliance for Safety and Justice has had, probation officers rarely report jailing people just because they are behind on their fees. But, the Robina Institute study did find that probation officers regularly cautioned clients that if they didn't pay, they could be jailed or revoked, and people on probation felt that these threats were genuine, and acted accordingly. Technically, if someone is unable to pay, it is illegal to incarcerate someone just because they have not paid if they do not have the ability to pay, but ability to pay determinations are inconsistent, and often nonpayment is listed as one of several violations in motions to revoke. One officer told the Robina Institute: Robina Institute (2016). *Exploring Supervision Fees in Four Probation Jurisdictions in Texas*. Retrieved from [https://robinainstitute.umn.edu/sites/robinainstitute.umn.edu/files/robina\\_fee\\_summary\\_report\\_web4.pdf](https://robinainstitute.umn.edu/sites/robinainstitute.umn.edu/files/robina_fee_summary_report_web4.pdf)

53 N. Chadwick, A. Dewolf, and R. Serin, "Effectively Training Community Supervision Officers," *Criminal Justice and Behavior* 42, no. 10

(2015): 977-89, <https://www.semanticscholar.org/paper/Effectively-Training-Community-Supervision-Officers-Chadwick-Dewolf/1025696afbe49708f060ec636838bbcafe0fbf06>

54 Texas House Committee on Corrections (2016). *Interim Report to the 85<sup>th</sup> Legislature*. Retrieved from Texas House Committee on Corrections.; Robina Institute (2016). *Exploring Supervision Fees in Four Probation Jurisdictions in Texas*. Retrieved from [https://robinainstitute.umn.edu/sites/robinainstitute.umn.edu/files/robina\\_fee\\_summary\\_report\\_web4.pdf](https://robinainstitute.umn.edu/sites/robinainstitute.umn.edu/files/robina_fee_summary_report_web4.pdf)

55 Texas House Committee on Corrections (2016). *Interim Report to the 85<sup>th</sup> Legislature*. Retrieved from Texas House Committee on Corrections.; Texas Department of Criminal Justice, Community Justice Assistance Division (2016). *Community Supervision and Corrections Department Funding: Review and Recommendations*. Retrieved from [https://www.tdcj.texas.gov/documents/cjad/CSCD\\_Funding\\_Review\\_and\\_Recommendations\\_2016.pdf](https://www.tdcj.texas.gov/documents/cjad/CSCD_Funding_Review_and_Recommendations_2016.pdf)

56 Texas Department of Criminal Justice, Community Justice Assistance Division (2019). *Technical Revocations Among Felons: Unraveling the Process*. Retrieved from Texas Department of Criminal Justice.

57 Texas Office of Court Administration. *Bench Card for Judicial Processes Relating to the Collection of Fines and Costs*. Retrieved from [www.txcourts.gov/media/1440389/sb-1913-district-county-court.pdf](http://www.txcourts.gov/media/1440389/sb-1913-district-county-court.pdf)

58 Texas Office of Court Administration. *I TAC 175*. Retrieved from <https://finesandfeesjusticecenter.org/content/uploads/2018/12/2018-texas-collections-court-improvement-program-rules.pdf>

59 Texas Legislature, 86th Regular Session. SB 346.

60 The Office of Court Administration (OCA) within the Texas Judicial Branch received funds through the US Department of Justice "Price of Justice" grant program, designed to support states implementing improvements in ability to pay determinations and court cost collections. The agency is using the funds to build tools that will help judges gather information and make decisions about a defendant's ability to pay, and to improve access for defendants to information about fines and fees. U.S. Commission on Civil Rights (2017). *Targeted Fines and Fees Against Communities of Color: Civil Rights and Constitutional Implications*. Retrieved from [www.usccr.gov/pubs/2017/Statutory\\_Enforcement\\_Report2017.pdf](http://www.usccr.gov/pubs/2017/Statutory_Enforcement_Report2017.pdf)

61 Texas Office of Court Administration. *I TAC 175*. Retrieved from <https://finesandfeesjusticecenter.org/content/uploads/2018/12/2018-texas-collections-court-improvement-program-rules.pdf>

62 Texas Department of Criminal Justice, Community Justice Assistance Division (2019). *Community Supervision in Texas*. Retrieved from: [https://www.tdcj.texas.gov/documents/cjad/CJAD\\_Community\\_Supervision\\_in\\_TX\\_Fact\\_Sheet.pdf](https://www.tdcj.texas.gov/documents/cjad/CJAD_Community_Supervision_in_TX_Fact_Sheet.pdf)

63 Texas Department of Criminal Justice, Community Justice Assistance Division (2016). *Community Supervision and Corrections Department Funding Review and Recommendations*. Retrieved from [www.tdcj.texas.gov/documents/cjad/CSCD\\_Funding\\_Review\\_and\\_Recommendations\\_2016.pdf](http://www.tdcj.texas.gov/documents/cjad/CSCD_Funding_Review_and_Recommendations_2016.pdf)

64 Texas Department of Criminal Justice, Community Justice Assistance Division (2019). *Community Supervision in Texas*. Retrieved from: [www.tdcj.texas.gov/documents/cjad/CJAD\\_Community\\_Supervision\\_in\\_TX\\_Fact\\_Sheet.pdf](http://www.tdcj.texas.gov/documents/cjad/CJAD_Community_Supervision_in_TX_Fact_Sheet.pdf)

65 Research shows that people sentenced to probation who serve shorter terms with incentives to complete treatment and other rehabilitative benchmarks with an opportunity to end supervision sooner at lower rates than similarly situated people serving longer probation terms. Baber, L.M. and Johnson, J.L. (2013). *Early termination of Supervision No Compromise to Community Safety*. Retrieved from [www.uscourts.gov/sites/default/files/77\\_2\\_2\\_0.pdf](http://www.uscourts.gov/sites/default/files/77_2_2_0.pdf); The Pew Charitable Trusts (2016). *Missouri Policy Shortens Probation and Parole Terms, Protects Public Safety*. Retrieved from [www.pewtrusts.org/-/media/assets/2016/08/missouri\\_policy\\_shortens\\_probation\\_and\\_parole\\_terms\\_protects\\_public\\_safety.pdf](http://www.pewtrusts.org/-/media/assets/2016/08/missouri_policy_shortens_probation_and_parole_terms_protects_public_safety.pdf)

66 For example, a 15-day credit may be earned for paying off all court costs, a 30-day credit is available for completing a parenting class and completing vocational programming can lead to a 60-day credit. However, given that the average probation sentence in 2019 for state jail and third degree felonies was over 4-years; these modest credits provide minimal incentive. Also see, National Conference of State Legislatures (2015). *Making Sense of Sentencing: State Systems and Policies*. Retrieved from [www.ncsl.org/documents/cj/sentencing.pdf](http://www.ncsl.org/documents/cj/sentencing.pdf) and The Pew Charitable Trusts (2016). *Missouri Policy Shortens Probation and Parole Terms, Protects Public Safety*. Retrieved from [www.pewtrusts.org/-/media/assets/2016/08/missouri\\_policy\\_shortens\\_probation\\_and\\_parole\\_terms\\_protects\\_public\\_safety.pdf](http://www.pewtrusts.org/-/media/assets/2016/08/missouri_policy_shortens_probation_and_parole_terms_protects_public_safety.pdf)

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