

JUSTICE  CENTER
 THE COUNCIL OF STATE GOVERNMENTS
Collaborative Approaches to Public Safety

Playing the Long Game: Improving Criminal Justice in Texas

Since the enactment of justice reinvestment legislation in 2007, Texas has closed three correctional facilities and averted/saved billions of dollars. Texas has deservedly received applause for these measures, but what is less discussed is the myriad reforms the Texas legislature has steadily enacted, and agencies and courts have implemented, over the past three decades. Several themes emerged in a recent review of the state’s criminal justice system reforms that have been enacted since 1983: shaping policy through data analysis; focusing on people with mental disorders in the justice system; and periodic attention to improvements in the distinct components of the system, from indigent defense to parole. The statutory language associated with the policies referenced below can be found at: <http://www.statutes.legis.state.tx.us/?link=CR>.

Theme	Topic	Policy and Code	Year
Data-Driven Policy	Interagency guidance and analysis	Created the Criminal Justice Policy Council (CJPC) to provide an independent source for data analysis of criminal justice system trends, costs, and performance See Chapter 413, in particular Section 413.009, Government Code	1983
	Population projections	Required CJPC to “make population computations for use in planning for the long-range needs of the criminal justice system” See Chapter 413, in particular Section 413.009, Government Code	1983
		Required existing Legislative Budget Board to provide population projections after the CJPC budget was vetoed	2004

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		See population projections and other LBB justice publications at: http://www.lbb.state.tx.us/FunctionalArea.aspx?Subject=Justice	
	Cost-per-day data	Required CJPC to “make computations of daily costs and compare interagency costs on services provided by agencies that are a part of the criminal justice system” See Sec. 413.009, Government Code	1983
	Statewide data	Created a computerized criminal history system and a corrections tracking system, required them to be linked, and required the CJPC to advise the operational agencies—state police and corrections in particular—on the design and implementation of the two systems See Chapter 60, Code of Criminal Procedure	1989
		Required state police to audit local arrest and disposition reporting See Art. 60.021, Code of Criminal Procedure	2001
		Required felony judgments to include the unique State Identification Number for case tracking See Art. 42.01, Code of Criminal Procedure as amended by HB 967 (also requiring use of uniform felony judgment form, see under sentencing)	2005
Identification of People with Mental Disorders	Interagency council	Created an interagency council, now known as Texas Correctional Office on Offenders with Medical or Mental Impairments (TCOMMI), to improve diversion and treatment	1983

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		See Chapter 614, Health & Safety Code	
	Identify in jail	Required sheriffs to notify magistrate within 72 hours if defendant has a mental disorder See Art. 16.22, Code of Criminal Procedure	1993
	Release for treatment	Required magistrates to release defendants with a mental disorder on personal bond (with exceptions for people convicted of violent offenses) and to require treatment as a condition of release See Art. 17.032, Code of Criminal Procedure	1993
	Information exchange	Allowed exchange of information between law enforcement and human services agencies to promote continuity of mental health care See Sec. 614.017, Health & Safety Code	1995
	Cross-systems data matching	Allowed the magistrate not to order a mental health examination when there is a recent record of treatment as shown by a database match with the state mental health system See Art. 16.22, Code of Criminal Procedure	1997
	Jail compliance	Directed the Commission on Jail Standards to require jails to conduct a database match against the state mental health system database to identify detainees who may have a mental disorder See SB I, Art. V, Commission on Jail Standards, Rider #2; Sec. 511.009(a)(17), Government Code	2005
	Jail Standards Commission compliance	Required the Texas Commission on Jail Standards to report to TCOOMMI on jails' compliance with	2009

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		database-matching requirement See Sec. 511.009(a)(17), Government Code	
Sentencing	“State jail” reform of 1993	Required a study and rewrite of the penal code and felony sentencing laws, which resulted in a new 4th degree of felonies called “state jail felonies,” subject to a determinate sentence of up to two years in a state jail facility constructed for this population See S.B. 1067 and SB 532, 73rd R.S.	1993
	Uniform felony judgment	Required Office of Court Administration to promulgate a standardized felony judgment form to be used by courts entering a felony judgment See Art. 42.01(4), Code of Criminal Procedure, first enacted in 1985 (SB 845) and amended 2005 (HB 967); forms at http://www.txcourts.gov/rules-forms/forms.aspx	1985 and 2005
	Entitlement to counsel	Created statewide policy for determining indigence that permitted waiver of counsel, and partial payment of cost of defense by defendants See Art. 1.051, Code of Criminal Procedure	1987
Indigent Defense	Statewide commission	Created funding and authority to set standards and monitor local implementation of indigent defense See SB 7, 77 th R.S., the Fair Defense Act; Indigent Defense Commission now governed by Chapter 79, Government Code, after HB 1754, 82 nd R.S.	2001 and 2011
	Timely appointment	Required judges to appoint counsel as soon as possible and no later than the end of the third working day	2001

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	of counsel	<p>after the date on which the court or the courts' designee receives the defendant's request for appointment of counsel, in counties with a population under 250,000. In a county with a population of 250,000 or more, required judges to appoint council no later than the end of the first working day after request is received.</p> <p>See Art. 1.051(c), Code of Criminal Procedure as amended by the Fair Defense Act, SB 7, 77th R.S.</p>	
	Procedures for appointing counsel	<p>Required each county to maintain a plan for appointing counsel, and specified qualifications necessary for appointment as counsel</p> <p>See Art. 26.04, Code of Criminal Procedure, as amended by the Fair Defense Act, SB 7, 77th R.S.</p>	2001
	Authority to create a public defender office	<p>Provided statutory authority for local creation of a public defender office(s), instead of depending on county-specific statutes to be enacted</p> <p>See Art. 26.044, Code of Criminal Procedure, as amended by the Fair Defense Act, SB 7, 77th R.S</p>	2001
	Defendant's waiver of the right to counsel	<p>Prohibited prosecution from encouraging the defendant to waive the right to counsel</p> <p>See Art. 26.044, Code of Criminal Procedure, as amended by the Fair Defense Act, SB 7, 77th R.S as amended by HB 1178</p>	2007
	Managed assigned counsel system	<p>Provided authority for new type of indigent defense program operated by a government entity, nonprofit corporation, or bar association under</p>	2011

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		a written agreement with a governmental entity See Art. 26.047, Code of Criminal Procedure	
Legal Financial Obligations (LFO)	Inmate trust funds	Established statutory priorities for court-ordered withdrawals from inmate trust funds for child support, restitution, fines, and court costs See Sec. 501.014, Government Code as amended by HB 2111, 73 rd R.S.	1993
	Collection improvement	Required Office of Court Administration to work with counties of more than 50,000 people to use a model program to improve collections See Art. 103.0033, Code of Criminal Procedure; see also 1 Texas Administrative Code 175.1 et seq.	2005
	Study of LFOs	Required Office of Court Administration to comprehensively assess court fees and costs, e.g., the 143 distinct criminal court costs, to “determine whether each identified fee or cost is necessary to accomplish the stated statutory purpose” See SB 1908, 83 rd R.S.	2013
Probation	Progressive sanctions	Provided grant funding and authority for implementation of a system of progressive sanctions designed to reduce the revocation rate See Sec. 509.016, Government Code	2007
	Commitment reduction	Promoted plans to reduce prison commitments and revocations with state funding See Sec. 509.0071, Government Code	2011

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	Risk assessment	Required use of risk and needs assessments at time of placement on supervision See Sec. 509.0041, Government Code	2013
Corrections	Prison Capacity Increases	Defined in statute the current capacity of prison units and provided a process to evaluate the ability to add capacity to an existing unit See Sec. 499.101 et seq., Government Code, referred to as "HB 124"	1991
	Duty to accept	Established the state's commitment to receive sentenced inmates into prison from counties within 45 days of having complete documentation for admission See Sec. 499.121, Government Code	1991
	Drug treatment	Created and funded "Substance Abuse Felony Punishment Facilities" with highly structured work, education, and treatment schedules See Sec. 493.009, Government Code	1991
	Rehabilitation Tier Programs	Required Texas Board of Criminal Justice (the governing board of the state corrections agency) to designate programs that are intended for the primary purpose of rehabilitation, such as cognitive behavioral treatment, so they could be measured and held accountable for reducing recidivism See Sec. 493.0053, Government Code	1997
	Evaluation	Required CJPC to measure the success of each program or service determined by the Texas Board of Criminal Justice to be designed for	1997

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		the primary purpose of rehabilitation See Sec. 413.022, Government Code	
		Required that there be a program evaluation capability within TDCJ to be independent of program providers See Sec. 493.0083, Government Code	1997
	Sunset review	Reinforced legislative oversight by increasing the frequency with which the state corrections agency has been the subject of review by the Sunset Advisory Commission (the legislative agency charged with periodic reviews of all agencies) See SB 365, 76 th R.S., SB 909, 80 th R.S., SB 213, 83 rd R.S.	1999 2007 2013
	Reentry	Required the corrections agency to develop a comprehensive plan to reduce recidivism and ensure successful reentry and reintegration into the community for people released from incarceration See Sec. 501.092, Government Code	2009
Parole	Parole guidelines	Required the adoption of parole guidelines, and required CJPC to report on the use of the guidelines by each member of the parole board See Sec. 508.144, Government Code	1997
	Reporting	Required the parole board to issue an annual report comparing individual parole board members' recommended approval rates to their actual approval rates See Sec. 508.1445, Government Code	2007
	Risk	Required corrections agency to adopt	2007

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	assessment	a standardized instrument to assess the risks and needs of each person being considered for parole See Sec. 501.0921, Government Code	