Summaries of Selected Legislation Passed by the 84th Legislature

TIFA did some very good work this last session working with other groups such as the Texas Criminal Justice Coalition, Grassroots Leadership and others to bring attention to things that needed to be changed in the Texas criminal justice system. Of course, there was both good and bad this last session and there is always next session. Below is an excerpt from The Houston Chronicle editorial board that partially sums up the session:

*Like practically every other issue confronted by the Legislature, criminal justice reformers ended up with a mixed bag of moderate accomplishments, watered-down deals and failed bills. They even drew a veto from Gov. Greg Abbott, who struck down a Good Samaritan bill that would have protected people from prosecution if they call 911 to report a drug overdose. Apparently saving lives isn't as important as being tough at any cost. And that's a cost that adds up. On average, Texans pay $51 a day to keep someone in a state prison and $59 to keep someone in jail, according to the Texas Criminal Justice Coalition. In contrast, it is only $1.56 to supervise a probationer. So while U.S. Sen. John Cornyn is working at the federal level to pass legislation that would allow low-risk prisoners to spend more time in home confinement instead of in prison, state legislators have kicked that can down the road.*

*Despite pre-session hype, legislators failed to pass legislation that would lower penalties for nonviolent offenders, notably state Rep. Joe Moody's bill to decriminalize marijuana. No wonder the Department of Criminal Justice general revenue budget grew by nearly half a billion dollars for the next biennium. All that money does little to actually reform prisoners and help them become productive members of society. Legislators even ignored some of the lowest-hanging fruit among criminal justice fixes: Treat 17-year-olds as juveniles rather than adults. Intensive juvenile detention and probation programs can put kids back on the right track, and federal law compels Texas to change this standard. But apparently, legislators are content plucking teenagers out of society just as they approach adulthood and surrounding them with hardened criminals.

Texas doesn't make it easy when people leave prison, either. A bill to "ban the box," which would prevent state agencies from asking about one's criminal history on job applications, passed the state House but not the Senate. Supported by the Center for American Progress, a progressive think tank, and the conservative Koch Brothers, this initiative is supposed to help convicted felons get their foot in the door for job interviews before having to reveal their records. As Houston Police Chief Charles McClelland said in a radio interview last year, there's "a lot of young men who are minorities, in their early 20s, have a felony conviction on their résumé, and now they're unemployable."*

Below are summaries of selected legislation passed by the 84th Legislature. It is only a partial list.

HB 10 by Thompson–makes multiple changes related to the criminal and civil consequences of trafficking of persons and compelling prostitution and other related offenses and requires the Office of the Governor to establish the Child Sex Trafficking Prevention Unit within the Criminal Justice Division. The bill also requires the Texas Education Agency to receive reports related to trafficking of a child. Each school district and open-enrollment charter school will be required to report. (Effective 9/1/15)

HB 48 by McClendon – creates the Timothy Cole Exoneration Review Commission to examine all cases in this state in which an innocent defendant was convicted and then, on or after January 1, 2010, was exonerated, and include all findings and make recommendations to the Legislature to prevent future wrongful convictions. (Effective immediately)

HB 189 by Thompson – extends the statute of limitations for which a person may bring a civil suit for personal injury suffered during certain sex crimes. The bill also eliminates the statute of limitations for prosecuting sexual assault if probable cause exists that the defendant committed the same or similar sexual offense against 5 or more victims. (Effective 9/1/15)

HB 372 by Riddle – Requires as a condition of community supervision prohibiting certain defendants who must register as a sex offender and who have a numeric risk level of two or three from being able to access the internet for certain purposes. The bill also requires the defendant to submit to regular inspection or monitoring of each electronic device used by the defendant to access the internet to insure compliance. (Effective 9/1/15)

[HB 441](http://TexasCJC.us9.list-manage1.com/track/click?u=57b9a61235bb2a9156edbaaed&id=c64e549c76&e=83312dcd45" \t "_blank)by Gonzales **–** Amends the Transportation Code to extend the period during which a person awaiting issuance of an occupational driver’s license may use a copy of a court order specifying the judge’s findings and restrictions in granting the license as a restricted occupational driver’s license. (Effective 9/1/15)

[HB 549](http://TexasCJC.us9.list-manage.com/track/click?u=57b9a61235bb2a9156edbaaed&id=545ef6413c&e=83312dcd45" \t "_blank) by Johnson - Requires the Commission on Jail Standards (CJS) to establish minimum standards for prisoner visitation for county jail prisoners. Counties that have incurred significant costs prior to 9/1/15 for providing visitation that does not comply with the new rule are not affected by the new rule. Also prohibits a CJS rule that would restrict a county jail from limiting prisoner visitation for disciplinary reasons. (Effective 9/1/15)

HB 583 by Larson – allows a judge to order a defendant, in lieu of performing a specified number of community work hours, to make a donation to a charitable organization engaged primarily in performing functions for veterans. In a county with a population less than 50,000, the donation may be made to another nonprofit organization engaged in providing services or assistance to needy individuals or families in the community (Effective 9/1/15)

HB 634 by Metcalf – requires TDCJ and the Commission on Jail Standards to establish reasonable rules, procedures and policies regarding visitation of an offender by a court appointed guardian at a TDCJ correctional institution or a county jail. (Effective 9/1/15)

HB 710 by Turner, Sylvester – currently, the Parole Division is required to issue a summons rather than a pre-revocation warrant for parolees (other than sex offenders, those on the super-intensive supervision program (SISP), absconders or those considered a threat to public safety) who have committed technical violations and who have been on parole supervision for at least three years. The bill changes three years to one year. The bill also permits the Parole Division to issue a summons, rather than a pre-revocation warrant, for certain parolees who commit a new criminal offense if the offense is not greater than a Class B misdemeanor and is not against a child or a family violence offense. The parolee must have maintained stable employment and residence for at least one year; not been previously charged with an offense since being released; and not be a registered sex offender, on SISP, an absconder or a threat to public safety. The bill also provides for the release of an offender subsequent to the hearing, pending a decision by the Board of Pardons and Paroles.This will save counties significant funds that are needlessly spent to incarcerate people who are not a threat to public safety. (Effective 9/1/15)

HB 875 by Farias - requires TDCJ, during the intake process, to record an inmate’s military history on intake documents and verify an inmate’s veteran status. This information is also to be used to help veterans apply for federal benefits or compensation for which the inmate may be eligible. The bill also adds a similar requirement for county jail facilities. (Effective 9/1/15)

HB 904 by Smith - requires all defendants convicted of a felony and sentenced to death, life or who are ineligible for release on bail pending appeal, and who give notice of appeal, to be transferred to TDCJ. Currently, the law only requires defendants convicted of a felony and sentenced to death, life or a term of more than 10 years to be transferred to TDCJ pending appeal. (Effective 9/1/15)

HB 941 by Hernandez – requires creation of a DNA record upon conviction of certain offenses to include enticing a child and no longer requires DNA samples from those placed on deferred adjudication for public lewdness or indecent exposure. The bill also expands the category of cases to which a $50 court cost for DNA testing would apply upon conviction. The bill provides that 90 percent of the $50 fee currently collected for convictions of the crimes of public lewdness and indecent exposure, and the additional fees that will be collected for the expanded category of cases, will be credited to the Department of Public Safety to help defray the cost of collecting and analyzing DNA samples. (Effective 9/1/15)

[HB 943](http://TexasCJC.us9.list-manage2.com/track/click?u=57b9a61235bb2a9156edbaaed&id=d644310c6f&e=83312dcd45" \t "_blank) by Thompson - requires judges to view incarceration as a financial hardship before establishing child support orders.  The legislation removes the automatic presumption of earned income while a parent is incarcerated, thereby promoting family reunification and decreasing child support collection costs incurred by the state.  This will lead to quicker restoration of regular child support payments as formerly incarcerated parents begin new lives. (Effective 9/1/15)

HB 1083 by Marquez – requires an appropriate medical or mental health professional to perform a mental health assessment on an inmate prior to placement in administrative segregation. TDCJ may not proceed with the placement if the assessment determines administrative segregation would not be proper based on the inmate’s medical or mental health. (Effective 9/1/15)

[HB 1140](http://TexasCJC.us9.list-manage1.com/track/click?u=57b9a61235bb2a9156edbaaed&id=22a2bfe05e&e=83312dcd45" \t "_blank) by Israel – relates to the ability of the Commission on Jail Standards to evaluate adequate health care for pregnant prisoners in county jails throughout Texas. (Effective 9/1/15)

HB 1396 by Workman - codified the rule of lenity, which holds that if there are two reasonable meanings of a criminal statute, then a judge must interpret it in favor of the defendant. It updates property offense “thresholds,” and the dollar ranges corresponding to set penalties so that penalties are more proportionate to the crime committed. HB 1396, also created a commission to study the necessity of criminal penalties for activities outside the penal code, such as oyster harvesting or pecan tree thrashing. The bill also prohibits a peace officer from searching someone’s cell phone without a warrant. (Effective 9/1/15)

HB 1510 by Thompson - eliminates the risk of lawsuits when landlords, leasing agents, and property managers lease property to people with criminal records.

HB 1546 by Allen – currently, following receipt of a report from TDCJ detailing participation, a judge may give state jail offenders credit (up to 20 percent of their sentence) for diligent participation in an industrial, work, agricultural, educational or vocational program.  The bill permits judges to remove themselves from the process and have TDCJ apply the credit and this expedites an early release for those serving state jail sentences. However, if the offender commits a disciplinary infraction, the report must be sent to the judge for a decision. (Effective 9/1/15)

HB 1595 by Murr – requires defendants or confined persons to be tested for communicable diseases if a peace officer, magistrate or correctional employee comes into contact with the person’s bodily fluids during a judicial proceeding or while the defendant is confined after conviction or adjudication resulting from arrest. (Effective immediately)

HB 1908 by Naishtat – requires certain mentally impaired offenders to be identified and qualified for the continuity of care system. (Effective 9/1/15)

HB 1914 by Bonnen, D. – allows a parole panel to “set off” another parole consideration for up to 10 years if the offender is serving time for aggravated sexual assault or a life sentence on a  capital felony. (Effective 9/1/15)

HB 2159 by Moody – revises the method for payment of restitution as a condition of community supervision for offenses involving family violence committed in the presence of children under the age of 15. The bill requires the court to order restitution for the payment of medical, psychiatric and psychological care for the child witness, and to specify the manner of payment.  (Effective 9/1/15)

HB 2189 by Parker – requires TDCJ to establish a safe living environment with specialized programs and treatment for developmentally disabled incarcerated offenders. (Effective 9/1/15)

HB 2398 by White – decriminalizes truancy by repealing the prior Class C misdemeanor and instead creating a new civil offense. This places a greater emphasis on school- and family-based preventive measures will give youths a greater chance to become law-abiding, productive adults. (Effective 9/1/15)

HB 3387 by Krause – requires a parole panel to mandate as a condition of parole or mandatory supervision that a releasee participate in a sex offender treatment program if the releasee was serving a sentence for a sex offense under Chapter 21, of the Penal Code or is required to register as a sex offender under Chapter 62 of the Code of Criminal Procedure and constitutes a threat to society.  (Effective 9/1/15)

SB 200 by Nelson et al - includes a provision to provide essential food assistance to people as they are released from prison, and connects them with employment and training programs to help them get back on their feet.  By promoting financial and employment stability, the reform is likely to reduce overall recidivism rates at no additional cost to the state.

SB 578 by Hinojosa – requires TDCJ to identify organizations that provide reentry and integration resource guides and to collaborate with those organizations to make a resource guide available to all inmates. The resource guide must be made available in WSD libraries, peer educator classrooms, chapels, reintegration specialist offices, and any other area used by TDCJ to provide reentry information. TDCJ must also compile similar packets that are county - specific. Prior to release, TDCJ must provide the information to the inmate for the county designated as the offender’s intended residence. Packets must include contact information for various organizations and information necessary for the inmate to apply for governmental assistance or benefits including food stamps. (Effective 9/1/15)

SB 746 by Whitmire  – changes the name of the Office of Violent Sex Offender Management to the Texas Civil Commitment Office (TCCO) and requires TCCO to develop a tiered supervision and treatment program for civilly committed persons that provides a seamless transition from total confinement to less restrictive housing and eventual release from civil commitment. For a complete list of the amendments, requirements and clarifications visit Texas Legislature Online and search for SB 746. (Effective immediately)

SB 790 by Kolkhorst – allows a magistrate to release on bond certain offenders held on a pre-revocation warrant if both the Parole Division and the magistrate determine that the person is not a threat to public safety. Bail and bail forfeiture provisions apply, except that the release under this bill is conditioned upon the person’s appearance at a hearing. After a summons hearing is conducted, if the Board of Pardons and Paroles determines the person violated their conditions of parole, the Parole Division may then issue a revocation warrant. (Effective 9/1/15)

SB 1024 by Seliger – allows Windham School District to award diplomas to students who meet the requirements. It also allows students to get credit towards graduation for courses completed in the Windham School District educational programs. (Effective immediately)

SB 1630 by Whitmire – limits commitment to the Texas Juvenile Justice Department (TJJD) to those youth who receive determinate sentences, unless the court finds that the youth has behavioral health or other special needs that cannot be addressed within the youth's home community. The bill also requires TJJD to adopt a regionalization plan for keeping adjudicated youth within their home regions, and identify available post-adjudication facility capacity. (Effective 9/1/15)

SB 1697 by Huffman – adds an exception to the Public Information Act that makes confidential the identifying information, including the name, address or other identifying information, of any person who participates in the execution procedure, including a person who uses, supplies or administers a substance during an execution.  The bill also makes confidential the identifying information, including the name, address or other identifying information, of any person or entity that manufactures, compounds, prescribes, dispenses, or provides a substance or supplies used in an execution. (Effective 9/1/15)

SB 1902 by Perry - allows individuals who have been convicted of a low-level misdemeanor to petition the court to seal the record from the public, employers (except in sensitive fields such as education, health care, etc.) and landlords. This legislation gives those who made one mistake and who have shown they can become law-abiding citizens a better opportunity at housing and job prospects, thereby reducing their chance at recidivism. (Effective 9/1/15)

SB 2004 by Eltife – requires the lieutenant governor and the speaker to each appoint three members to a Joint Oversight Committee on Government Facilities to review deferred maintenance plans and receive implementation updates. The bill also creates a deferred maintenance fund for the purpose of receiving appropriations and transfers to address deferred maintenance needs. (Effective immediately)

**Vetoes by the Governor**

[HB 1015](http://TexasCJC.us9.list-manage1.com/track/click?u=57b9a61235bb2a9156edbaaed&id=f24bb045b9&e=83312dcd45" \t "_blank) by Canales -relates to notice provided to a court by TDCJ when certain defendants serving on state jail felonies are eligible for community supervision. (Vetoed by the Governor)

[HB 1855](http://TexasCJC.us9.list-manage.com/track/click?u=57b9a61235bb2a9156edbaaed&id=b367b7a500&e=83312dcd45" \t "_blank) **(Author: Rose | Sponsor: Whitmire)**, Relating to training, continuing education, and weapons proficiency standards for correctional officers employed by the Texas Department of Criminal Justice. Vetoed by the Governor June 20.

HB 3579 by Alonzo - would have provided an incentive for state jail felony offenders, such as those convicted of possessing less than 1 gram of drugs, to accept probation and abide by all supervision conditions. Upon doing so, they could, with the consent of the prosecutor and judge, have their offense reclassified as a Class A misdemeanor. Currently, many of these nonviolent offenders choose short stints in state jail over up to five years of probation, wasting taxpayer dollars and producing 60 percent recidivism rates.

**Did not leave assigned committee**

SB 1083 by Rodriguez – related to the punishment for a capital felony committed by an individual younger than 18 years of age; changing parole eligibility to 25 years. (Bill did not get out of the Senate Criminal Justice Committee)