

**Projected Fiscal Impact**

**\$65.1 million**  
 net savings for the five-year period of 2008–2012

**EXPLANATION:** For the 2008–2009 fiscal year, the LBB projects no savings in General Revenue because of the \$78.9 million cost associated with increasing the number of treatment-oriented beds and services. For the three-year period of 2010–2012, however, the total projected savings is of \$144.1 million as the prison population is reduced from the projected baseline level. This results in a five-year net savings of \$65.1 million. This does not include avoided construction cost of \$377.7 for the construction of new prisons as was proposed by TDCJ as an “exceptional item” to the state appropriations bill.

**FIGURE 4: General Revenue Related Funds, Five-Year Fiscal Impact of Scenario Two (“Increase Availability of Substance Abuse and Mental Health Treatment-Oriented Facilities and Services”)**

FY	Probable Net Positive/(Negative) Impact to General Revenue Funds
2008	(\$58,899,220)
2009	(\$20,074,299)
<b>Subtotal 2008–09</b>	<b>(\$78,973,519)</b>
2010	\$19,672,192
2011	\$46,755,795
2012	\$77,679,739
<b>Subtotal 2010–12</b>	<b>\$144,107,726</b>
<b>Total Net Savings 2008–12</b>	<b>\$65,134,207</b>

1. Projections by the Legislative Budget Board, January 2007 as discussed in the Council of State Governments Justice Center bulletin entitled “Recent and Projected Growth of the Texas Prison Population,” January 2007.
2. Memorandum from John O’Brian, Director of the LBB to Senator John Whitmire, January 23, 2006.
3. The Sunset Advisory Commission is a 12-member body of legislators and public members appointed by the Lieutenant Governor and the Speaker of the House of Representatives to provide the legislature with assessments of an agency’s programs. The Commission convened a review of the Texas Department of Criminal Justice in 2006. In October 2006, the Commission published its staff report entitled “Sunset Advisory Commission: Texas Department of Criminal Justice, Board of Pardons and Paroles, Correctional Managed Health Care Committee Staff Report.”

4. Sunset Advisory Commission: Texas Department of Criminal Justice, Board of Pardons and Paroles, Correctional Managed Health Care Committee Staff Report, October 2006, page 13.
5. For a complete analysis, see The Council of State Governments Justice Center, “Policy Options to Increase Public Safety and to Manage the Growth of the Texas Prison Population,” January 2007.
6. Ibid, Sunset Advisory Commission Staff Report, page 11.
7. Ibid, page 13.
8. Council of State Governments Justice Center, “Policy Options to Increase Public Safety and to Manage the Growth of the Texas Prison Population,” January 2007.

The Council of State Governments Justice Center is a national nonprofit organization that serves policymakers at the local, state, and federal levels from all branches of government. The Center provides practical, nonpartisan advice and consensus-driven strategies, informed by available evidence, to increase public safety and strengthen communities. The board of directors for the center includes, as its vice chairperson, the Honorable Sharon Keller, Presiding Judge of the Texas Court of Criminal Appeals. Representative Jerry Madden, Chair of the Texas House Corrections Committee, also serves on this board. Dr. Tony Fabelo, working with designated agency and legislative staff in Texas, coordinates the project in Texas for the Justice Center.

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**Justice Center**  
**Council of State Governments**  
 100 Wall Street, 20th Floor  
 New York, NY 10005  
 www.justicecenter.csg.org

**PROJECT CONTACT:**  
**LaToya McBean**  
 (646) 383-5721  
 lmcbean@csg.org

# Texas Justice Reinvestment Scenarios



Under the leadership of three key lawmakers, policymakers in Texas are reviewing policies in the state to find ways to increase public safety and to manage corrections spending and growth in the prison population. In 2006, Senator John Whitmire (D, Chair, Criminal Justice Committee), Representative Jerry Madden (R, Chair, Corrections Committee), and Senator Kim Brimer (R, Chair, Sunset Advisory Commission) each convened hearings and commissioned reviews to improve their understanding of why the prison population continues to grow and what is contributing to high rates of failure among people released from prison to the community and people sentenced to probation.

This policy brief, prepared at the direction of Senator Whitmire and Representative Madden, reviews aspects of two possible justice reinvestment scenarios in which policymakers enact policies to address the projected shortfall of over 17,000 prison beds in Texas by 2012.<sup>1</sup> In the first scenario,

policymakers increase tools available to the Parole Board to enhance the use of parole guidelines in the state. In the second scenario, policymakers increase the capacity of treatment-oriented facilities and the availability of substance abuse and mental health services. Although the scenarios each include distinct strategies, there is also some overlap between the two, so the scenarios cannot be combined simply to double the impact on prison beds or on corrections spending.

The fiscal impact projected for each scenario is based upon assumptions regarding cost, timing, and diversion that have been used in prior research. Both these assumptions and the projections described in this brief were developed with the help and approval of Legislative Budget Board staff. Savings were calculated by comparing the cost of each scenario with the status quo (i.e., the budget presented by TDCJ in the General Appropriations Bill, As Introduced, Eightieth Legislative Regular Session, 2007.)<sup>2</sup>

The Justice Center is providing intensive technical assistance to Texas and a limited number of other states that demonstrate a bipartisan interest in justice reinvestment—a data-driven strategy for policymakers to reduce spending on corrections, increase public safety, and improve conditions in the neighborhoods to which most people released from prison return.

**SCENARIO ONE:**

**Increase Tools Available to Parole Board to Enhance Use of Parole**

*Overview*

**1. Make available the following resources to the Parole Board:**

- An additional 1,000 bed unit, with 500 beds dedicated to DWI treatment and 500 beds dedicated to in-prison therapeutic substance abuse treatment (operational September 1, 2008)
- 150 additional parole halfway house beds (operational January 1, 2008).

**2. Maintain the prison population at its current levels by increasing the overall parole release from an average of 26% in FY 2006 to 29% in 2012 and by increasing the Discretionary Mandatory Supervision Release (DMS) from an average of 52% in FY 2006 to an average of 57% in FY 2012.**

**EXPLANATION:** The Sunset Advisory Commission found that the Texas Board of Pardons and Paroles has not adhered in recent years to its parole guidelines, which are based on risk factors and crime severity.<sup>3</sup> Had the Parole Board followed its guidelines, there would have been considerably less growth in the prison population over the past five years. In 2005 alone, an additional 2,252 non-violent offenders would have been released.<sup>4</sup>

To help the Parole Board work within its guidelines, policymakers must ensure that people with substance abuse problems and mental illness who are incarcerated receive the treatment they need. Furthermore, policymakers should reduce the number of people who have been cleared for parole release, but remain incarcerated because appropriate community-based housing and treatment services are not available.

*Projected Impact on Prison Population*

**151,817**  
compared to 168,166 under the baseline projection

**EXPLANATION:** Under this scenario, there would be an average 1,705 additional parole releases for each year of the projection. In addition, there would be an average of 1,567 DMS releases for each year of the projection. As a result, in 2012, TDCJ would be operating at capacity—without a shortage of beds.

These releases are primarily nonviolent offenders, and they are only those offenders whose score reflects low severity of crime and low risk to public safety, according to the Parole Board’s guidelines.

*Projected Fiscal Impact*

**\$99.8 million** for the 2008–09 biennium  
**\$543 million** for the five-year period of 2008–2012

**EXPLANATION:** These projections do not include \$377.7 million in savings that would be associated with avoided construction costs, which were included in TDCJ’s proposed budget (as an “exceptional item” in the introduced bill).

**FIGURE 1: General Revenue Related Funds, Five-Year Fiscal Impact of Scenario One (“Increase Tools Available to Parole Board to Enhance Use of Parole”)**

FY	Probable Net Positive Impact to General Revenue Funds
2008	\$34,677,271
2009	\$65,197,659
<b>Subtotal 2008–09</b>	<b>\$99,874,930</b>
2010	\$109,203,535
2011	\$143,714,570
2012	\$190,268,872
<b>Total 2008–12</b>	<b>\$543,061,907</b>

**SCENARIO TWO:**

**Increase Availability of Substance Abuse and Mental Health Treatment-Oriented Facilities and Services**

*Overview*

**Provide funding to increase the capacity of the following facilities and services:** Intermediate Sanction Facilities (ISF) for probation and parole, Probation Residential Treatment (PRT) facilities, In-Prison Therapeutic Community (IPTC), Substance Abuse Felony Punishment (SAFP), DWI treatment beds and halfway houses.<sup>5</sup>

**EXPLANATION:** The Sunset Advisory Commission and other legislative reviews found a significant shortage of programs for people in prison and people who have violated conditions of release. According to the Sunset Advisory Commission’s report, 59% of prisoners (about 90,000) are chemically dependent, but only 5% of potential program participants are admitted to substance abuse programs each year. Less than 10% of the \$2.5 billion budget for the Texas Department of Criminal Justice “supported offender treatment programs.”<sup>6</sup>

Of the 187,054 offenders on probation whose alcohol and/or substance abuse played a role in their crime, only 9% received residential substance abuse treatment and 19% received outpatient treatment.<sup>7</sup>

**FIGURE 2: Proposed Increases to Substance Abuse and Mental Health Treatment-Oriented Facilities and Services**

Proposed Increases to Capacity	Timetable
2,400 beds in ISF facilities, state operated, available for probation and parole	1,200 in Sept. 1, 2008 1,200 in Sept. 1, 2009
1,600 beds in Probation Residential Treatment (PRT) facilities	800 in Sept. 1, 2009 800 in Sept. 1, 2010
200 IPTC beds	Jan. 1, 2008 with 100 TTC beds support
500 SAFP beds	Jan. 1, 2008 with 250 TTC beds support
500 DWI treatment beds	Sept. 1, 2009
150 halfway houses	Jan. 1, 2008
Transfer to TDCJ of TYC San Saba and Marlin Units*	600 beds each for total of 1,200 beds by Sept. 1 2008

\*This scenario also assumes the transfer of two Texas Youth Commission (TYC) facilities to TDCJ, which is already being considered by state leaders for reasons other than those described in the brief. These facilities were previously adult units that had been converted to juvenile facilities.

*Projected Impact on Prison Population*

**155,616**  
compared to 168,166 under the baseline projection

**EXPLANATION:** The LBB analyzed three possible diversion scenarios for this option. The different scenarios assumed that the increases in treatment-oriented facilities would divert from prison 100%, 75% or 50% of the offenders. Prior research has shown that about 75% diversion can be the expected baseline, and this is assumption used here.<sup>8</sup> The increase in beds and services described in this scenario would translate into 16 percent fewer prison admissions in 2012 than the baseline projection reflects.

**FIGURE 3: Projected Prison Population Impact of Scenario 2/75% Diversion (“Increase Availability of Substance Abuse and Mental Health Treatment-Oriented Facilities and Services”)**

