

# State basic supervision funding computation for local probation departments

HB 3200 by Madden (Whitmire)

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**DIGEST:** HB 3200 would have altered the computations for determining state basic supervision funding for local probation departments for felony defendants placed on probation. Instead of having the per capita funding for felons based on those directly supervised by local probation departments, funding would have been based on each felony defendant placed on probation and on each felony defendant participating in pretrial programs.

The Criminal Justice Assistance Division (CJAD) of the Texas Department of Criminal Justice (TDCJ) would have been required annually to establish a per capita funding formula that included:

- higher per capita rates for felony probationers who are serving the early years of their probation terms than for those who are serving the end of their terms;
- penalties in per capita funding for each felony probationer whose probation is revoked due to a technical violation of probation; and
- awards of per capita funding for each felony defendant who was discharged due to an early termination of probation.

The TDCJ board would have been authorized to adopt a policy limiting the percentage of benefit or loss that a department could realize under the new formula.

## GOVERNOR'S REASON FOR VETO:

“House Bill No. 3200 would revise the funding formula that the Texas Department of Criminal Justice uses to fund community supervision and correction (probation) departments. This bill is problematic because the revised funding formula provides penalties for each felony defendant whose community supervision is revoked due to a ‘technical violation.’ Yet, there is no statutory definition of what constitutes a ‘technical violation.’ Just as important, there is no guidance in the bill as to how much of a funding penalty should be applied for these technical violations. Thus, we risk creating a system that has perverse financial incentives which undermine the purpose of probation itself.

“I encourage both the Legislature and the Board of Criminal Justice to continue looking at ways we can improve the probation funding formula.”

**RESPONSE:** Rep. Jerry Madden, the bill’s author, said: “HB 3200 was developed over the last two years in close cooperation with the Texas Department of Criminal Justice-CJAD, the Texas Probation Association, and the Texas Public Policy Foundation, and several other interested groups and individuals. As Chairman of the House Committee on Corrections, I am particularly interested in reducing the large number of probation revocations that are causing our prison numbers to swell.

“HB 3200 was intended to provide additional money and support to probation departments while also providing a structure that would decrease the number of persons on probation as well as the number of probationers sent to our state prisons. I spoke with many probation officials throughout the interim regarding my ideas of frontloading funding formulas and providing incentives and disincentives for department performance. This strategy, laid out in HB 3200, was widely accepted across the state.

“In your veto proclamation, you mention that there is no statutory definition of what constitutes a ‘technical violation.’ This is true, but not a sufficient reason to veto this bill since ‘technical violation’ is a well understood term in the criminal justice and probation fields. It is a term that has been used for many years, and thousands of probationers and parolees are sent to TDCJ for technical violations every year. If the term is standard enough to be used to take away people’s liberty by incarcerating them in our prisons, it is certainly well enough defined for use in our probation formula funding.

“My office worked with your staff this session to address prison overcrowding and probation reform. I was surprised, and continue to be disappointed in your decision to veto this very important bill. However, I look forward to working with you and your staff in the future so that we can develop a similar probation funding mechanism that will benefit Texas probation departments, TDCJ, and the citizens on this state.”

Sen. John Whitmire, the Senate sponsor, had no comment.

NOTES: HB 3200 was analyzed in Part Two of the May 4 *Daily Floor Report*.