

## **Republican Party of Texas Criminal Justice Reform Resolutions**

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## **Resolution relating to the "Sandra Bland Bill" or Jail for Non-jailable Offenses**

BE IT RESOLVED, that the Republican Party of Texas calls upon the Texas Legislature to end the practice of arresting and jailing individuals for offenses for which jail is not an allowable consequence under the law.

BE IT FURTHER RESOLVED, that this resolution be adopted as a Legislative Priority by the Republican Party of Texas.

Adopted this \_\_\_\_ day of \_\_\_\_\_, 2020, at the \_\_\_\_\_ County Republican Party Precinct Convention #\_\_\_\_\_.

### **Background:**

- The Republican Party of Texas is committed to due process and securing our Constitutionally protected rights.
- Currently, a magistrate can not sentence someone to jail for violating traffic laws and certain other minor offenses because the law says the punishment for these violations is a fine.
- However, because of a loophole in our state penal code, police officers who pull someone over for such violations can arrest and book them nonetheless - leading to jail time for non-jailable offenses.
- Once an arrest has been made for the minor offense, an officer may search a vehicle without any probable cause or a warrant- a clear violation and workaround of the 4th Amendment.
- Officers have abused that discretion in many high profile cases, including in the arrest of Sandra Bland.
- Texans jailed for infractions that do not have jail as an allowable consequence spend hours and sometimes days in jail, with incalculable harm to themselves and their families.
- A study of arrests in Harris Co. (Texas Criminal Justice Coalition) found that 11% of all arrests were for Class C misdemeanors punishable by fine only, mostly traffic violations.
- An unnecessary arrest for something as minor as a traffic infraction takes officers off the road for hours, prevents them from investigating more serious crimes, costs taxpayers a steep price in booking and magistration, and makes traffic stops less safe for both officers and drivers.
- In the 2019 legislative session, the Sandra Bland Bill was filed by Republican Representative James White and nearly passed in the House but was ultimately killed by Democrats who did not want a black Republican to be able to take credit for passing a serious criminal justice reform bill.



## **Resolution relating to Bail Reform**

BE IT RESOLVED, that the Republican Party of Texas calls upon the Texas Legislature to ensure bail in Texas should be based only on a person's danger to society and risk of flight, not that person's ability to pay.

Adopted this \_\_\_\_ day of \_\_\_\_\_, 2020, at the \_\_\_\_\_ County Republican Party Precinct Convention #\_\_\_\_\_.

### **Background:**

- Every person has a presumption of innocence.
- Historically, Texas counties use money bail to determine who stays in jail and who is released while a criminal case is pending trial.
- Money bail allows dangerous people with resources, like Robert Durst, to be released and flee to commit more crimes.
- Tens of thousands of Texans who are not a public safety threat are jailed for months or even years just because their families do not have money for bail.
- Keeping people who do not need to be jailed in jail costs Texas millions of dollars in jail expenses, lost productivity, tax revenue, and social services.
- Conservative states like Kentucky provide judges with information about the risk of flight or the likelihood of a defendant committing a crime to help make release decisions, which improves public safety and saves taxpayers money.
- A recent Texas A&M study of two urban Texas counties found that the county using a risk assessment tool to help judges decide who to release had fewer defendants who committed violent crimes while on pretrial release and none who committed homicide in the 3.5 years studied.
- In the same study, defendants released because they could afford to pay bail committed 53% more violent felonies while out on bail, including 18 homicides in the 3.5 years studied.
- States with risk-based systems, like Kentucky, maintain a very high rate of court appearances and low rates of re-arrest before trial.

## **Resolution relating to Cell Phone Data Privacy**

BE IT RESOLVED, that the Republican Party of Texas calls upon the Texas Legislature to protect citizens' current and historic technologically available location data by requiring a warrant based on probable cause for governments to request access except in the case of an immediate, life threatening situation; and

BE IT FURTHER RESOLVED, that the Republican party of Texas calls upon the Texas Legislature to require appropriate policies regarding the disclosure of data collection when no criminal case is filed, along with rules for retention, security, and sale of location data.

Adopted this \_\_\_\_ day of \_\_\_\_\_, 2020, at the \_\_\_\_\_ County Republican Party Precinct Convention #\_\_\_\_\_.

### **Background:**

- The 4<sup>th</sup> Amendment of the Constitution protects "the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures" and states "no Warrants shall issue, but upon probable cause."
- Government agencies now use a range of technologies - from license plate readers to war-zone surveillance tools like "stingrays" to a citizen's own cell phone -- to track individuals who are not suspects in a crime.
- The location data available to the government provides a highly intimate picture of our lives - what church we attend, what medical doctor we visit, where we shop, and much more.
- Federal, state, and local governments collect a large volume of highly accurate location data through tens of thousands of <sup>1</sup>requests each year to phone companies, all without a warrant based on probable cause.
- Federal, state, and local governments can retain this detailed information about our daily lives indefinitely without any requirement that a case be filed or that tracking be disclosed.

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<sup>1</sup><https://www.marketwatch.com/story/supreme-court-to-weigh-warrantless-cellphone-and-internet-data-searches-2017-11-29>

## **Resolution relating to Militarization of Police**

BE IT RESOLVED, that the Republican Party of Texas calls upon the Texas Legislature to implement reporting and training standards to disclose how much military-grade material is sent to local law enforcement entities under the Department of Defense's 1033 program and ensure that it is being used appropriately; and

BE IT FURTHER RESOLVED, that the Republican Party of Texas calls upon the Texas Legislature to require a local governing authority over a police force to approve, by vote, an application or grant request prior to the request being made to a federal agency; and

BE IT FURTHER RESOLVED, that the Republican Party of Texas calls upon the Texas Legislature to greatly limit the use of no-knock raids and to increase oversight and reporting on the usage of Special Weapons and Tactics (SWAT).

Adopted this \_\_\_\_ day of \_\_\_\_\_, 2020, at the \_\_\_\_\_ County Republican Party Precinct Convention #\_\_\_\_\_.

### **Background:**

- Law enforcement is a wholly civilian institution tasked with ensuring domestic order and public safety.
- Providing police departments with military-grade weaponry while requiring no additional training creates a dangerous environment for both law enforcement officers and the public.
- Military vehicles and weapons designed for war, where the goal is to maximize harm to enemy combatants, are inappropriate for domestic policing where officers must instead protect the community and respect constitutionally guaranteed individual rights.
- The appearance of police as a military force in a community depersonalizes officers and diminishes trust.
- Under the Department of Defense's 1033 program, hundreds of millions of taxpayer dollars' worth of military weaponry, vehicles, and support equipment have been handed down to local police departments, sheriff's offices, and school districts with inadequate training and oversight.
- Since 9/11, the newly formed Department of Homeland Security has distributed billions in grants, enabling even some small town police departments to buy armored personnel carriers and field their own SWAT teams.
- It is estimated that there are more than 50,000 SWAT raids a year in the United States.

## **Resolution relating to Civil Penalty for Marijuana Offense**

BE IT RESOLVED that the Republican Party of Texas calls upon the Texas Legislature to make possession of marijuana for personal use a civil offense punishable by a fine only, without jail time or the creation of a criminal record.

Adopted this \_\_\_\_ day of \_\_\_\_\_, 2020, at the \_\_\_\_\_ County Republican Party Precinct Convention #\_\_\_\_\_.

### **Background:**

- Enforcement of marijuana prohibition takes law enforcement resources away from more urgent public safety priorities and yet fails to achieve success in reducing marijuana use and availability.
- In 2016, police logged almost 70,000 arrests for simple possession of marijuana - one arrest every 8 minutes<sup>2</sup>.
- Taxpayers pay hundreds of millions each year to arrest, book, magistrate, incarcerate, release, and supervise people for simple marijuana possession<sup>3</sup>.
- Youth are disproportionately arrested for simple possession of marijuana<sup>4</sup>, and the criminal charge can limit that young person's access to jobs, educational loans, and much more.
- A criminal conviction for even small amounts of marijuana can carry a lifetime of collateral consequence. These indirect forms of punishment include hindered access to education and employment. A conviction also triggers an automatic drivers license suspension.

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<sup>2</sup> <http://www.dps.texas.gov/crimereports/16/citCh9.pdf>

<sup>3</sup> American Civil Liberties Union. The War on Marijuana in Black and White. p 178. June 2013. <https://www.aclu.org/files/assets/1114413-mj-report-rfs-rell.pdf>

<sup>4</sup> <http://www.dps.texas.gov/crimereports/16/citCh9.pdf>, p. 75

## **Resolution relating to Medical Cannabis**

BE IT RESOLVED, that the Republican Party of Texas calls upon the Texas Legislature to further improve the Compassionate Use Program by allowing one's personal doctor, not the legislature, to determine the appropriate use of cannabis for their patients; and

BE IT FURTHER RESOLVED, that the patient registry be eliminated; and

BE IT FURTHER RESOLVED, the Department of Public Safety should reduce excessive licensure fees and authorize more companies to enter the market so that medical dispensaries can open and ensure reasonable access for patients all across the state.

Adopted this \_\_\_\_ day of \_\_\_\_\_, 2020, at the \_\_\_\_\_ County Republican Party Precinct Convention #\_\_\_\_\_.

### **Background:**

- The 2018 Republican Party of Texas Platform states: "Health care decisions... should be between a patient and health care professional and should be protected from government intrusion."
- Physicians, in conjunction with their patients, should be allowed to make medical decisions and explore all potential treatment options including medical cannabis/marijuana.
- 33 states have passed medical marijuana freedom laws.
- President Donald Trump has supported and campaigned on medical marijuana being available to all.<sup>[2]</sup>
- The US is facing an unprecedented opiate epidemic. Studies have shown significantly fewer (25%) opioid related deaths in states that allow medical marijuana;<sup>[6]</sup>
- Recent studies have suggested that cannabis use in pain patients has significantly decreased opioid use.<sup>[5]</sup>
- The National Academies of Science, Engineering, and Medicine (NASEM) have found that marijuana helps relieve cancer patients with chemotherapy induced vomiting and nausea,<sup>[11]</sup> while other studies show it can help with chronic pain in adults<sup>[1]</sup> and reduce prescription medication use.<sup>[10]</sup>
- Polling has shown large majority support for medical marijuana including up to 93% support in a recent Quinnipiac poll.<sup>[8]</sup>
- The New England Journal of Medicine found 76% of doctors support medical marijuana.<sup>[9]</sup>



- The Texas Legislature passed the Texas Compassionate Use Program during the 2015 legislative session providing access to low-THC cannabis oil for patients with intractable epilepsy.
- The Department of Public Safety set license fees at \$488,000 per company, and after 43 companies across the state applied, issued only three licenses, all in central Texas.
- This excessive regulation has limited access to the Compassionate Use Program, causing Texas parents to take their children to other states to obtain marijuana to effectively treat epilepsy.

Footnotes:

1. Compassionate Use Act - We call upon the Texas Legislature to improve the 2015 Compassionate Use Act to allow doctors to determine the appropriate use of cannabis to prescribed patients.  
<https://www.texasgop.org/wp-content/uploads/2016/01/PERM-PLATFORM.pdf>
2. "The marijuana thing is such a big thing. I think medical should happen right? Don't we agree? I really think so. And then I believe we should leave it up to the states."  
<https://www.youtube.com/watch?v=FWIOhDbs1q8&authuser=0>
3. <https://www.nap.edu/catalog/24625/the-health-effects-of-cannabis-and-cannabinoids-the-current-state>
4. <https://archive.legion.org/bitstream/handle/123456789/6918/2017N028.pdf?sequence=1&isAllowed=y>
5. <http://ns.umich.edu/new/releases/23622-medical-marijuana-reduces-use-of-opioid-pain-meds-decreases-risk-for-some-with-chronic-pain>
6. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4392651/>
7. <https://www.cbsnews.com/pictures/free-pot-federal-program-ships-marijuana-to-four/>
8. <https://poll.qu.edu/national/release-detail?ReleaseID=2432>
9. <https://www.cbsnews.com/news/survey-76-percent-of-doctors-approve-of-medical-marijuana-use/>
10. <http://content.healthaffairs.org/content/35/7/1230>
11. <http://www8.nationalacademies.org/onpinews/newsitem.aspx?RecordID=24625>
12. [http://www.ncsl.org/documents/standcomm/sccomfc/2016\\_CFI\\_Policies.pdf](http://www.ncsl.org/documents/standcomm/sccomfc/2016_CFI_Policies.pdf)

## **Resolution relating to Civil Asset Forfeiture**

BE IT RESOLVED, that the Republican Party of Texas calls upon the Texas Legislature to abolish civil asset forfeiture and to ensure private property only be forfeited upon a criminal conviction.

Adopted this \_\_\_\_ day of \_\_\_\_\_, 2020, at the \_\_\_\_\_ County Republican Party Precinct Convention #\_\_\_\_\_.

### **Background:**

- The United States is unique in the world both in terms of adherence to the rule of law and due process.
- The people of Texas celebrate a rich history of private property rights and government accountability.
- The practice known as civil asset forfeiture allows the state to permanently take a person's property without so much as an allegation of criminal conduct.
- When the government takes property, a person has to sue in civil court to get it back.
- Most people cannot afford to fight the government in civil court and end up forfeiting their cars, cash, or other property in what is called a "default judgement" against them.
- The total value of assets forfeited directly to government agencies through federal, state, and local civil asset forfeiture is now greater than the value of property stolen in burglaries nationwide.
- Civil asset forfeiture is counter to the most fundamental traditions of our criminal justice system and individual liberties.

## **Resolution relating to Raising the Age of Criminal Responsibility from 17 to 18 years**

BE IT RESOLVED, that the Republican Party of Texas calls upon the Texas Legislature to raise the age of criminal responsibility from 17 to 18 years.

Adopted this \_\_\_\_ day of \_\_\_\_\_, 2020, at the \_\_\_\_\_ County Republican Party Precinct Convention #\_\_\_\_\_.

### **Background:**

- Under Texas law, all 17 year olds are prosecuted as adults when they break the law, regardless of the violation or any extenuating circumstances.
- In all but four other states, teens are prosecuted as adults starting at age 18 or even 19.
- If Texas law does not change, taxpayers must pay for significant renovation of county jails to accommodate 17-year old prisoners under the federal Prison Rape Elimination Act.
- Every parent knows that a junior in high school is not an adult.
- When a 17 year old is arrested, officers are not required to notify his or her parents because the teen is treated as an adult even if still living at home and attending high school.
- We now know that the human brain continues to develop into a person's twenties, particularly the portions of the brain associated with risk assessment and cognitive reasoning.
- Teens prosecuted in the adult system are 34% more likely to violently reoffend than youth in the juvenile justice system.
- Research shows teenagers who commit crimes are far more likely to rehabilitate and age out of crime than older people, but those incarcerated in inappropriate adult facilities can instead become more dangerous by the time of their release.

## **Resolution relating to "Consent" Searches at Traffic Stops**

BE IT RESOLVED, that the Republican Party of Texas calls upon the Texas Legislature to require officers to get written or recorded consent to conduct a search and inform people that they can decline to give such consent.

Adopted this \_\_\_\_ day of \_\_\_\_\_, 2020, at the \_\_\_\_\_ County Republican Party Precinct Convention #\_\_\_\_\_.

### **Background:**

- The 4<sup>th</sup> Amendment of the Constitution protects "the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures" and states "no Warrants shall issue, but upon probable cause."
- Police conduct thousands of "consent" searches of motorists and their cars each year.
- Most people do not understand their rights or do not feel like they can reasonably say "no" when asked for consent to search by an officer at a roadside stop.
- The presence in the car of a gun owned by a licensed gun owner can result in further, more invasive kinds of search "for officer safety" even if there is no probable cause for further investigation of the driver.

## **Resolution relating to Use of Force Reporting**

BE IT RESOLVED, that the Republican Party of Texas calls upon the Texas Legislature to expand current statewide use of force reporting to include all incidents resulting in injury to either a civilian or an officer.

Adopted this \_\_\_\_ day of \_\_\_\_\_, 2020, at the \_\_\_\_\_ County Republican Party Precinct Convention #\_\_\_\_\_.

### **Background:**

- Law enforcement is trusted with the ability to legally use force.
- There have been many recent examples of force being used inappropriately, leading to the escalation of a situation and the loss of life.
- Many of these situations could have been avoided if best practices were in place.
- It is critical to identify departments that are using use-of-force best practices for praise and identify those that need additional training.

## **Resolution related to Our Bloated Prison System**

BE IT RESOLVED that the Republican Party of Texas calls upon the Texas Legislature to direct the Parole Board to parole old, infirm inmates to nursing homes and direct the Texas Department of Criminal Justice (TDCJ) to consolidate inmate populations and close TDCJ and private prisons;

Adopted this \_\_\_\_ day of \_\_\_\_\_, 2020, at the \_\_\_\_\_ County Republican Party Precinct Convention #\_\_\_\_\_.

### **Background:**

- Crime rates have dropped precipitously in the past 20 years, but the prison system remains at nearly its peak size.
- There are thousands of empty beds in the prison system's 109 facilities, which could be consolidated.
- Many facilities are severely short staffed, and the state cannot find people willing to go to these locations for these jobs.
- Understaffed facilities are less safe for both those who work in them and for the surrounding communities.
- The inmate population is aging, and inmate health care now costs about \$250 million per biennium.

## **Resolution to Treat Drug Addiction and Reduce Crime**

BE IT RESOLVED, that the Republican Party of Texas calls upon the Texas Legislature to reclassify possession of very small quantities of addictive drugs from a felony to Class A misdemeanor and use some of the savings to support increased access to drug treatment.

Adopted this \_\_\_\_ day of \_\_\_\_\_, 2020, at the \_\_\_\_\_ County Republican Party Precinct Convention #\_\_\_\_\_.

### **Background:**

- Texas primarily addresses all forms of drug addiction through punishment by felony sentencing and incarceration.
- Oklahoma voters passed an initiative to reduce simple possession of a small quantity of addictive drugs to a misdemeanor in order to better address addiction.
- Other conservative states like Tennessee and South Carolina have moved in the same direction, changing the penalty for simple possession of user quantities of addictive drugs to a misdemeanor for most arrests.
- Texas taxpayers spend more than \$70 million each biennium to repeatedly incarcerate addicts, and the system provides little or no treatment to most inmates.
- Everyone incarcerated for a drug possession offense will be released back into the community, and almost two thirds of them will be re-arrested and cycle back through the system.
- A felony drug possession charge permanently limits people's job prospects, access to education, and much more, making it harder to recover from addiction.
- Addicts are less likely to relapse if they get treatment locally, close to family, church, and the people who care most for them.
- Reduced relapse rates combined with increased job opportunities for people addressing their addiction will significantly reduce the need for prison beds.

## **Resolution to Defend the Rights of Citizens Accused**

BE IT RESOLVED, that the Republican Party of Texas calls upon the Texas Legislature to increase state funding for indigent defense to match county expenditures, create a public defender office for death-penalty appeals, and fully fund the Office of Capital and Forensic Writs.

Adopted this \_\_\_\_ day of \_\_\_\_\_, 2020, at the \_\_\_\_\_ County Republican Party Precinct Convention #\_\_\_\_\_.

### **Background:**

- Every Texan has a right to an attorney in a criminal case, even if he or she cannot pay for one, under the Sixth Amendment of the U.S. Constitution.
- Many law enforcement agencies, from national to local, have engaged in examples of overreach which violate people's constitutional rights and sometimes result in the conviction of innocent people.
- Examples of inappropriate and unjustified witch hunts against conservatives by the government abound, including the attacks on Donald Trump and Rick Perry who were able to afford a strong defense.
- Prosecutors, protected by absolute immunity, have hidden exculpatory evidence and cut deals with shady informants leading to the conviction of innocent people.
- The US Supreme Court has repeatedly overturned otherwise legitimate death-penalty sentences because the convicted person was poor and did not get reasonable representation by a lawyer at trial.
- The Office of Capital and Forensic Writs has helped identify people who might be innocent due to now-invalidate "junk science."
- The due process requirements for capital cases have nearly bankrupted some Texas counties, and a public defender system for such cases would reduce the cost to local property tax payers.
- The Texas Association of Counties cites indigent defense costs as one of the biggest unfunded mandates driving up local property taxes.



## **Resolution to End Debtor's Prison in Texas**

BE IT RESOLVED, that the Republican Party of Texas calls upon the Texas Legislature to enact laws that end the unconstitutional incarceration of individuals because they cannot pay tickets, fines, and fees for minor infractions, including traffic violations; and

Adopted this \_\_\_\_ day of \_\_\_\_\_, 2020, at the \_\_\_\_\_ County Republican Party Precinct Convention #\_\_\_\_\_.

### **Background:**

- There are millions of arrest warrants issued annually in Texas for tickets, fines, and fees.
- Arresting, booking, and jailing people who could not afford to pay a traffic fine takes police officers away from duties related to more serious crime.
- 95 percent of all arrest warrants are for Class C misdemeanors- the lowest level criminal charge for which the maximum punishment is a \$500 fine.<sup>5</sup>
- In 1833 the United States abolished imprisonment for unpaid tickets, fines, and fees, and the Supreme Court declared 100 years later that imprisoning people for being poor was unconstitutional under the Fourteenth Amendment.
- Hundreds of thousands of Texans cannot renew expired licenses until their fines and fees are paid off.
- Many Texans have no choice but to pay fine-only misdemeanor cases in whole or in part with "jail credit," which involves sitting in jail to pay off your tickets, fines, and fees.
- The cost of housing an individual in county jail is an average of \$59/day, and the cost of the "pay or stay" practice is an unnecessary waste of taxpayers' money.
- The money and time spent issuing and magistrating these warrants for low-level misdemeanors is also a needless consumption of taxpayers' money.

## **Resolution to Encourage Community Service**

BE IT RESOLVED, that the Republican Party of Texas calls upon the Texas Legislature to enact laws allowing individuals to fulfill their tickets, fines, and fees for minor infractions through community service at the non-profit of their choice in their community.

Adopted this \_\_\_\_ day of \_\_\_\_\_, 2020, at the \_\_\_\_\_ County Republican Party Precinct Convention #\_\_\_\_\_.

### **Background:**

- Currently, a judge may allow an indigent defendant to pay off their debt through community service but only through the non-profits or government organizations of which only the judge approves.
- Article I, Sec. 3 of the Texas State Constitution states:
  - "EQUAL RIGHTS. All free men, when they form a social compact, have equal rights, and no man, or set of men, is entitled to exclusive separate public emoluments, or privileges, but in consideration of public services.
- All persons, whether indigent or not, should have the ability to serve their communities in lieu of paying fines or fees.
- Limiting the choices of community service to those only approved by the judge will limit the defendant's engagement and commitment to serving.
- Allowing for community service in lieu of paying fines and fees will help prevent onerous revenue-generating laws and ordinances.