HOUSE
RESEARCH
ORGANIZATION bill analysis 3/25/97

HB 156
Driver

SUBJECT: Prohibiting parolees from communicating with victims

COMMITTEE: Corrections — favorable, with amendment

VOTE: 5 ayes — Allen, Gray, Hupp, Marchant, Serna

0 nays

4 absent — Hightower, Alexander, Edwards, Farrar

WITNESSES: For — None

Against — None

On — Melinda Hoyle Bozarth, Raven Kazen, Texas Department of Criminal Justice

DIGEST: HB 156, as amended, would require parole panels to prohibit parolees and persons released to mandatory supervision from communicating directly or indirectly with their victims and from going near a school, job, business or other location frequented by the victim.

Victims could petition parole panels to allow the offender and victim to have contact, subject to reasonable restrictions. Parolees would be able to come in contact with victims as part of the Texas Department of Criminal Justice's (TDCJ) victim-offender mediation program, if requested by the victim or a close relative of a deceased victim.

If these parole conditions conflicted with an existing court order allowing a parolee possession or access to a child, the parole condition prohibiting contact would prevail for a period, up to 90 days, specified by the parole panel.

HB 156 would place a similar requirement in the statute governing parole of persons convicted of stalking. The bill would require parole panels to prohibit parolees and persons released to mandatory supervision who have been convicted of stalking from communicating with their victims or going

near the victim's residence, business or job or the school, day-care or similar facility of a victim's child.

TDCJ's pardon and parole division would be required to cooperate in helping victims or their guardians or close relatives and parolees to participate in TDCJ's victim-offender mediation program, if the division received notice from the victim services office that a victim, guardian or close relative wanted to participate. TDCJ's pardons and parole division would be prohibited from requiring parolees to participate in the program and from rewarding parolees for participating in the program by modifying parole conditions, changing parolees' level of supervision, or other means.

HB 156 would take effect September 1, 1997.

SUPPORTERS SAY:

HB 156 would help crime victims feel secure in knowing that persons who committed crimes against them would not be able to contact them if released on parole or mandatory supervision. It is necessary to mandate a "no contact" parole condition because parole conditions now vary. HB 156 would ensure all victims are afforded this protection.

Victims have a right to feel safe in and around their homes, schools, jobs, businesses and other places they frequent. HB 156 would apply only to places frequented by victims and not to chance encounters that might occur in public places. Any inconvenience to parolees would be outweighed by the greater safety afforded to victims.

Enforcing and abiding by a "no contact" parole condition would be similar to enforcing and abiding by current probation and parole conditions that require certain sex offenders to stay out of "child safety zones." Alleged violations of the "no contact" requirement would be dealt with by the standard procedures used by parole officers and parole panels, which require a hearing and other due process procedures before a parolee is returned to prison.

If victims want contact with the offender, such as a family member, they would be able to petition to have the parole condition changed. If the "no contact" requirement conflicted with a court order giving a parolee possession

or access to a child, the “no contact” requirement would prevail for up to 90 days so the state could remove a child from the situation, if necessary.

Requiring cooperation between the pardons and parole division and TDCJ's victim-offender mediation program would formalize current practice and give added stature to this important program, which began in 1993. The bill would ensure that participation in the program be initiated by the victim and that parolees not be rewarded for participation.

OPPONENTS SAY:

Specific parole conditions should not be mandated for all offenders. This reduces parole panels’ flexibility to deal with individual situations and is unnecessary because parole panels already have broad authority to impose appropriate conditions on parolees.

Parole panels already have authority to prohibit parolees from contacting victims and often do. Sometimes parolees are even prohibited from entering the county where victims live. It is better to leave this decision to parole board members who evaluate each case individually and impose conditions that they deem necessary rather than impose a mandate on all parole releases.

The provision in HB 156 that would bar parolees from going “near” residences, schools, jobs, businesses or other location frequented by the victims is vague and would be unreasonably restrictive and difficult to enforce and abide by. There is no definition of “near,” and offenders would not know how far they must stay from their victims. For example, walking in front a victim's office building or in a mall where a victim worked might violate the parole condition. When judges and parole panels restrict offenders from “child safety zones,” at least they must specify the size of the zone.

Also, there is no definition for “frequents,” and it would be difficult for parolees recently released from prison to know where a victim frequents. Abiding by this provision could be especially difficult in a small town where people are in frequent contact. This kind of broad restriction on parolees could make it difficult for them to reintegrate into society.

Violations of these vague conditions could result in a parolee being sent back to prison, a harsh penalty for being too "near" a person or building. Although parolees would be given a hearing before being returned to prison, they might
have to spend months in jail awaiting a hearing and consequently lose their jobs and personal contacts.

A problem could arise if these conditions were imposed on parolees or persons released under the mandatory supervision law and whose victim was a family member who did not object to contact. Although the victim would be able to petition to have the "no-contact" condition removed, the bill would require that this happen *after* the person has been released from prison. In this situation offenders could be prohibited from staying with their families until the condition is lifted but could have no other place to stay.

NOTES: The committee amendment would remove a requirement that parole panels describe the locations where parolees could not come in contact with their victims.