

SUBJECT: Offense for inmate possessing personal information gained at work program

COMMITTEE: Corrections— favorable, without amendment

VOTE: 6 ayes — Hightower, Allen, Edwards, Gray, Hupp, Marchant

0 nays

3 absent — Alexander, Farrar, Serna

SENATE VOTE: On final passage, Local and Uncontested Calendar, February 26 — 31-0

WITNESSES: For — Carlos Carrasco, AFSCME Council 7

Against — None

On — John Benestante, Texas Department of Criminal Justice

BACKGROUND : It is a criminal offense for an inmate of Texas Department of Criminal Justice's (TDCJ) institutional division or a prisoner in a state jail to disclose or use personal information about another person that the inmate or prisoner has access to because of participation in a work program operated by or for the institutional or state jail division if done with intent to obtain a benefit or to harm or defraud another. The offense is a third-degree felony, with a penalty of two to 10 years in prison and an optional fine of up to \$10,000.

DIGEST: SB 188 would expand the current offense of inmate misuse of information gained through a work program to make it an offense for an inmate of TDCJ's institutional division or a state jail prisoner to possess a written document or other tangible item that contains personal information about another person that the inmate or prisoner had access to because of participation in a work program. Possessing the information would have to be done with intent to obtain a benefit or to harm or defraud another. The offense would be a third-degree felony.

SB 188 would take effect September 1, 1997.

SUPPORTERS
SAY:

SB 188 would close a loophole in current law so that prison inmates and state jail prisoners could not possess personal information about another person that they had gained through a work program if they had intent to harm, defraud, or obtain a benefit.

TDCJ inmates and prisoners can come in contact with personal information about others through micro filming and data conversion work done for state agencies and the state's political subdivisions. Entities using TDCJ for this work should be confident that personal information would not be misused.

While current law prohibits inmates from disclosing or using personal information about persons that the inmate gained through a work program, it does not cover an inmate who possesses this kind of information with intent to use it later to harm someone. This loophole came to light when a TDCJ inmate was caught trying to sneak personal information about another person out of a work program. Since the inmate had not disclosed or used the information, the action was not an offense under current law. SB 188 is specific enough to ensure it would apply only when an inmate or prisoner intended to do something criminal and that an inmate or prisoner would have to have a written document or other tangible item with the personal information.

While TDCJ can utilize administrative actions such as revoking good time or restricting the privileges of inmates and prisoners who possess this type of information, the seriousness of this action would be better handled by creating a criminal offense. A criminal offense that carries additional incarceration time for the inmate or prisoner would be the best deterrent to this action. Also, revoking good time or privileges may not mean much to an inmate or prisoner without much good time or many privileges.

OPPONENTS
SAY:

The problem that would be addressed by SB 188 might be better handled through TDCJ administrative action. For example, good time could be revoked or privileges restricted. This might mean more to inmates and prisoners than adding on to their prison sentence.

NOTES:

A similar provision to SB 188 was included in HB 2324 by Allen. This provision would make it an offense for an inmate to possess personal information gained through a work program but would not require that the inmate or prisoner possess a written document or other tangible item. HB 2324 passed the House on May 14 and was reported favorably, without amendment, by the Senate Criminal Justice Committee on May 18.