

SUBJECT: Allowing credit after parole revocation for time spent on parole

COMMITTEE: Corrections — favorable, without amendment

VOTE: 9 ayes — Haggerty, Farrar, Allen, Hodge, Ellis, Gray, Hopson, Isett, Ritter
0 nays

WITNESSES: For — Gary Cohen, Texas Criminal Defense Lawyers Association
Against — None
On — Victor Rodriguez, Texas Department of Criminal Justice

BACKGROUND: The Texas Constitution, Art. 4, sec. 11 requires the Legislature to establish a Board of Pardons and Paroles. Government Code, sec. 598 establishes an 18-member board appointed by the governor with the advice and consent of the Senate. The board, often working in panels of three, determines which prisoners are released on parole and the conditions of parole and mandatory supervision. The board also makes decisions about revoking parole and mandatory supervision.

Government Code, sec. 508.283 outlines sanctions for parole violators. On the basis of evidence presented in the revocation hearing, the parole panel or designated agent of the Board of Pardons and Paroles may continue, revoke, or modify the parole or mandatory supervision. If revoked, the person may have to serve the remaining portion of the sentence on which he or she was released, without credit for the time from the date of release to the date of revocation. If an arrest warrant for a suspected violator is issued or a summons is issued for a revocation hearing, the sentence time credit may be suspended until a determination is made in the case and may be reinstated if the parole, mandatory supervision, or conditional pardon is continued.

Government Code, sec. 508.149(a) prohibits persons convicted of certain violent offenses from being eligible for mandatory supervision.

DIGEST: HB 1585 would allow some offenders who had their parole revoked to be given credit toward their sentences for the time they spent on parole.

For offenders convicted of specific serious or violent crimes listed in Government Code, sec. 508.149, and those who previously had been convicted of one of these offenses, current law requiring them to serve the remainder of their sentence if their parole is revoked would continue.

Other offenders whose parole was revoked would be divided into two groups. Offenders in one group would continue as under current law. Offenders in the other group could receive credit for some of their time on parole.

If on the date of the issuance of an arrest warrant or summons that initiated the parole revocation process, the offender was subject to a sentence for which the remaining portion was *greater* than the time from their parole release date to the date the warrant or summons was issued (the time spent on parole), the remaining portion of their sentence would be served *without credit for the time the person spent on parole*.

If on the date of issuance of the warrant or summons triggering parole revocation, the offender was subject to a sentence with a remaining portion that was *less* than the time from the parole release date to the date of the warrant's or summon's issuance (the time spent on parole), the remaining portion of the sentence would be served for an amount of time *equal to the portion of the sentence remaining on the date that the arrest warrant or citation was issued*.

The bill would take effect September 1, 2001, and would apply to revocations that occurred on or after that date.

SUPPORTERS
SAY:

Currently, when parole is revoked and offenders are returned to prison, they must serve any time remaining on their sentences that was not served before they were released on parole. This means that a person with a 10-year sentence who served five years in prison and then four years on parole before having his or her parole revoked would be sent back to prison to serve all five years of the sentence without any credit for time spent on parole. This offender could end up spending 14 years under supervision — 10 in prison and four on parole — for a 10-year sentence.

HB 1585 would give the Board of Pardons and Paroles options to deal with nonviolent offenders only. Serious and violent offenders, such as those who commit crimes against people or violate drug laws and those with previous serious, violent offenses who had their parole revoked, would continue to be sent back to prison for the remainder of their terms.

However, other offenders whose parole was revoked and whose remaining sentence was *less* than the amount of time they had spent on parole could have their parole street time count toward their sentences. For example, assume that a person given a 10-year sentence served four years and then was released on parole. That person served five years on parole and then had the parole revoked. The remaining portion of the sentence would be one year. The date from release on parole to the date of the revocation warrant would be five years. That person would receive credit for the time on parole, and the remaining portion of the sentence would be computed as equal to the portion of the sentence remaining on the date the warrant was issued, or one year.

Offenders whose remaining portion of their sentences was *greater* than their release time would continue to be sent back to prison for the remainder of their sentences, just as they are under current law.

It is appropriate to allow certain nonviolent offenders to have their sentences recalculated to ensure that the penalty for parole violations is not too onerous and that some nonviolent offenders do not spend more time under supervision than their original sentence. Giving credit in limited situations for parole street time would allow space in the state's prisons to be used by serious, violent offenders instead of nonviolent parole violators. Over time, this could result in significant reductions in the needed amount of state prison capacity.

OPPONENTS
SAY:

Parole is a privilege, and offenders who violate it should have to serve the remainder of their sentences. Offenders who cannot follow the rules set by the parole board should not be given special breaks and allowed credit toward their sentences for time spent on parole.

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NOTES: HB 1585 is incorporated into CSHB 1649, also set on today's General State Calendar.