SUBJECT: Issuing summons to low-risk parolees for possible parole violations

COMMITTEE: Corrections — committee substitute recommended

VOTE: 6 ayes — Allen, Hopson, Stick, Alonzo, Haggerty, Mabry

0 nays

1 absent — Farrar

WITNESSES: For — Donald Lee, Texas Conference of Urban Counties; Seth Mitchell, Bexar County Commissioners Court; Craig Pardue, Dallas County; *(Registered, but did not testify:)* Ann del Llano, American Civil Liberties Union of Texas; Caton Fenz, Harris County Commissioners Court; Elizabeth Joblin, Texas Inmate Families Association; Bob Kamm, Travis County Commissioners Court; Kenneth Malone; Mark Mendez, Tarrant County Commissioners Court; Jay P. Millikin; Ana Yanez-Correa, League of United Latin American Citizens

Against — None

On — Bryan Collier, Texas Department of Criminal Justice - Parole Division; Gary Johnson, Texas Department of Criminal Justice

BACKGROUND: Under sec. 508.251 of the Government Code, a parolee in Texas may be notified of a revocation hearing by summons or by warrant for arrest, commonly known as a "blue warrant." Currently, almost all of the blue warrants in the state are issued by the parole division of the Texas Department of Criminal Justice (TDCJ).

DIGEST: CSHB 1849 would require TDCJ's parole division to issue a summons, instead of a warrant, for a revocation hearing, unless the parolee was on intensive or superintensive supervision, an absconder, or a threat to public safety. The parole division would have the option to issue a summons instead of a warrant for parolees who may not have been eligible for release, had been arrested for another offense, or had violated a condition of release.

After notice by summons when a revocation hearing was scheduled, the county sheriff would have to provide a place at the county jail to hold the hearing. If, during the revocation hearing, a designated agent of the parole board determined that the parolee had violated a condition of release, a warrant could be issued remanding the parolee to county jail pending the action of a parole panel on any recommendation and, if subsequently ordered, the return of the parolee to an institution. The parole division would be required to dispose of the charges on which a warrant was issued within 31 days of the date the warrant was issued, instead of within 61 days under current law.

The bill would take effect September 1, 2003, and would apply to all parolees charged with a violation of release on or after that date.

SUPPORTERS SAY:

By encouraging TDCJ to make use of the summons process, CSHB 1849 would minimize the time that defendants were held in county jails without risking public safety. Individuals, families, and the entire criminal justice system potentially could benefit from this change in the law.

CSHB 1849 would help counties and the state manage county jail populations more effectively without jeopardizing public safety. Only low-risk parolees would be eligible for the summons process. Parolees on intensive supervision that present a high risk of not appearing or perpetrating another offense, or those on superintensive supervision such as predatory sex offenders, still would require warrants. In addition, an absconder or a parolee who was determined by the parole division to be a threat to public safety — which TDCJ could define in policy — would not qualify.

Blue warrants, as they commonly are called, almost always are issued on hearings for technical parole violations. These hearings do not involve new charges against a parolee and usually are for the purpose of revoking or reinstating parole. But county governments have to bear the expense of housing parolees who are brought in with arrest warrants to await a hearing on technical violations. Currently, the parole division can take 45 days or longer to hold a hearing, putting a strain on the capacity of many county jails. At any given time, county jails across Texas house 5,000 potential violators, of which approximately half would qualify under this proposed legislation for

notification of a hearing by summons. This would help relieve the problems of crowding and expense that face many county jails in Texas.

Problems with low-risk parolees sitting in jail waiting for parole hearings go beyond crowding and expense. Those who spend 45 or more days in jail prior to a hearing risk losing jobs and making necessary payments, such as for child support or rent. CSHB 1849, by requiring a summons and by requiring resolution of these matters by the 31st day rather than by the 61st day under current law, would allow these parolees to be productive rather than just marking time in jail.

OPPONENTS SAY:

Parolees generally do not respond to summonses. A warrant is a necessary enforcement tool to ensure a parolee's appearance at revocation hearings.

Current law already provides for issuance of a summons in lieu of a warrant, making this legislation unnecessary. If TDCJ currently is issuing warrants when it should be issuing summonses, this could point to an internal management or policy issue, but would not justify a statutory change.

NOTES:

While the committee substitute removed from the bill as introduced a provision specifying that a designated agent could issue a warrant immediately on conclusion of a hearing in which a parolee was found in violation of the conditions of release, it still provides that a warrant could be issued under these circumstances.

A related bill, HB 1715 by Hodge, has been referred to the Corrections Committee. Under another related bill, SB 918 by Whitmire, the parole division would issue a summons, instead of a warrant, if the person was arrested only on a charge of administrative violation of a release. It would not require county sheriffs to provide a place at the county jail for revocation hearings nor would it require the issuance of a warrant if a designated agent determined a violation. SB 918 has been referred to the Senate Criminal Justice Committee.