

SUBJECT: Bond for certain parolees in jail awaiting parole revocation hearing

COMMITTEE: Criminal Jurisprudence — committee substitute recommended

VOTE: 6 ayes — Peña, Vaught, Escobar, Hodge, Mallory Caraway, Talton

0 nays — None

3 absent — Riddle, Moreno, Pierson

WITNESSES: For — Tommy Adkisson, Bexar County Commissioner's Court; Jule G. Brownfield, representing Sheriff Tommy Thomas; Keith Charlton, Bexar County Exec. Director of Criminal Justice & Planning; Chris Kirk, Sheriff's Association of Texas; Ron Stretcher, Dallas County Commissioners Court; Dan Smith; (*Registered, but did not testify*: Greg Hamilton, Travis County Sheriff's Office; Will Harrell, ACLU; Jimmy Johnson, Johnson Co. Sheriff's Office; Donald Lee, Texas Conference of Urban Counties; A. J. Louder back, Texas Sheriffs Association; Mark Mendez, Tarrant County Commissioners Court; Craig Perdue, Dallas County; Charles Wagner, Dennis D. Wilson)

Against — None

On — Michael Billings, Board of Pardons and Paroles; Bryan Collier, Texas Department of Criminal Justice Parole Division; Rosie Owens, Texas Board of Pardons and Paroles; Allen Place, Texas Criminal Defense Lawyers Association; (*Registered but did not testify*: Adam Munoz, Jr., Commission on Jail Standards)

BACKGROUND: The parole division of the Texas Department of Criminal Justice (TDCJ) may issue an arrest warrant for a parolee who is accused of a technical violation of parole or of committing a new offense. These warrants are sometimes called "blue warrants" due to the color of paper on which they are printed. Parolees arrested under a blue warrant are held in a county jails pending a hearing to determine if their parole will be revoked.

Government Code, sec. 508.254(c) requires that persons who are in custody pending a hearing on charges of violating their parole must remain confined.

Penal Code, Title 5 includes offenses against persons and includes murder, kidnapping, trafficking, sex offenses, and assault. Penal Code, ch. 49 lists intoxication and alcoholic beverage offenses.

DIGEST:

CSHB 541 would allow certain parolees who had been arrested and were being held in a county jail to be released on bond pending their parole revocation hearing.

Magistrates could release persons accused of committing an administrative violation of their parole or accused of committing certain misdemeanors. The following types of misdemeanor offenses would make a parolee ineligible for release on bond: family violence offenses and class A or class B misdemeanors that were offenses against persons or intoxication and alcoholic beverage offenses

In addition, a magistrate would have to find that a parolee was not a threat to society, and the parole division of the TDCJ would have to include notice on the blue warrant that the person was eligible for release on bond. TDCJ would have to include this notice on the blue warrant if it determined:

- that the person had not been previously convicted of robbery, a felony offense against a person, or any family violence offense;
- was not on intensive or super-intensive supervision;
- was not an absconder; and
- was not a threat to public safety.

Other legal provisions dealing with bail and bail forfeiture would apply to persons released under CSHB 541.

The bill would take effect September 1, 2007, and would apply to person charged with parole violations on or after that date.

**SUPPORTERS
SAY:**

CSHB 541 would give judges and counties another tool to manage county jail populations without jeopardizing public safety. Currently, parolees accused of violating their parole are housed in county jails while awaiting their parole revocation hearing. This forces counties to bear the cost of housing these offenders while many are facing crowded conditions.

In some cases, these offenders are accused only of technical violations of their parole or very minor offenses, and it may be inappropriate to have

them taking space in a county jail that would be better used to house a more serious offender. Administrative parole violations, also called technical violations, include things such as failure to report to a parole officer, not participating in treatment programs, or violating a curfew. Offenders can sit in the jail during the 40 days TDCJ has to dispose of a warrant, putting strain on the capacity of many county jails. In February county jails across the state house housed almost 2,780 parolees accused solely of administrative violations. Bexar County estimates that it spent about \$5 million in 2006 to house between 230 and 340 technical parole violators every day.

Often after a parole revocation hearing for a technical violation, parolees are simply released and not returned to TDCJ. This means that the county has had to bear the expense of housing the offender for over a month just to have them released.

CSHB 541 would address this problem by making eligible for release on bond a small group of non-violent, low-level parolees. The bill would apply only to a narrow set of offenders and has several features to protect public safety and to ensure that only appropriate offenders would be eligible for release on bond. Judges would know if the parolee were an absconder who might present a flight risk. The bill would not require any parolee to be bonded out, but would leave that decision to a judge, who would be in the best position to evaluate the appropriateness of release on bond.

Having non-violent offenders at home instead of in jail while awaiting a hearing also would benefit offenders and society because these parolees could continue to work and support their families. Under the bill, TDCJ's current process allowing the use of a summons for parole violators would continue, but CSHB 541 also would give judges another option to deal with individual cases.

**OPPONENTS
SAY:**

Current law appropriately prohibits the release on bond for parolees awaiting a revocation hearing. These parolees often are a flight risk because they can be returned to prison if found guilty. This is true for offenders found guilty of technical parole violations as well as new offenses. Because of crowding pressure in some county facilities, CSHB 541 could result in magistrates allowing parolees out on bond who may technically meet the criteria in the bill but still be a risk to abscond to avoid being returned to prison.

OTHER
OPPONENTS
SAY:

Currently, TDCJ may issue a summons rather than an arrest warrant when an offender is accused of an administrative parole violation or to tell a parolee who has been arrested to attend a hearing. Encouraging this process would be a better approach than changing the law concerning bail.

NOTES:

The companion bill, SB 1563 by Hinojosa, has been referred to the Senate Criminal Justice Committee.

The original bill would have applied only to parolees in jail due to administrative violations of their parole and would have shortened the current deadlines for TDCJ to dispose of charges against parolees being held on blue warrants. It also would have required TDCJ to transfer parolees being held on blue warrants to state facilities if there was one within 50 miles of the county jail housing the parolee.