

- SUBJECT:** Bond for certain parolees in jail awaiting parole revocation hearing
- COMMITTEE:** Corrections — favorable, without amendment
- VOTE:** 10 ayes — McReynolds, Madden, England, Hodge, Kolkhorst, Marquez, Martinez, S. Miller, Ortiz, Sheffield
- 0 nays
- 1 absent — Dutton
- WITNESSES:** For — Maxey Cerliano and Chris Kirk, Sheriffs' Association of Texas; Adrian Garcia, Harris County Jail; Donald Lee, Texas Conference of Urban Counties; Craig Pardue, Dallas County; Dennis Wilson, Limestone County; (*Registered, but did not testify:* Jim Allison, County Judges and Commissioners Association of Texas; Yannis Banks, Texas NAACP; Anthony Betterton, Sheriffs' Association of Texas; Mark Borskey, Professional Bondsmen of Texas; Beverly Elam; Greg Hamilton and James Sylvester, Travis County Sheriff's Office; Amanda Marzullo, Texas Fair Defense Project; Mark Mendez, Tarrant County; Laura Nicholes, Texas Association of Counties; Amadeo Ortiz, Bexar County Sheriff's Office; Cindy Segovia, Bexar County; Matthew Simpson, ACLU of Texas; Ana Yañez-Correa, Texas Criminal Justice Coalition; Robert Bridges, Red River County Sheriff's Office)
- Against — None
- On — Stuart Jenkins, Texas Department of Criminal Justice; (*Registered, but did not testify:* Allison Taylor, Council on Sex Offender Treatment)
- 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 county jails pending a hearing to determine if their parole will be revoked.
- Government Code, sec. 508.254(c) requires that persons in custody pending a hearing on charges of violating parole must remain confined.

DIGEST:

HB 2100 would allow certain parolees 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 a new offense that was eligible for release on bond, with some exceptions. Persons on parole for robbery offenses, felony offenses against persons, and family violence offenses would be ineligible for release on bond.

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 on the blue warrant notice 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 was not:

- on intensive or super-intensive supervision;
- an absconder; and
- a threat to public safety.

Other legal provisions dealing with bail and bail forfeiture would apply to persons released under the provisions of the bill.

The bill would take effect September 1, 2009, and would apply to persons charged with parole violations on or after that date.

SUPPORTERS
SAY:

HB 2100 would give judges and counties another tool to manage county jail populations without jeopardizing public safety, allowing them to focus their resources more on dangerous offenders. Currently, parolees accused of violating 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 county jails are facing crowded conditions. HB 2100 would address this situation by allowing some parole violators to be released on bond.

In some cases, the parole violators housed in county jails 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 could be used to house more serious offenders who are a greater threat to public safety. Administrative parole violations, also called technical violations,

include such violations as failure to report to a parole officer, non-participation in treatment programs, or violating a curfew.

Offenders can sit in the jail during the entire 40 days that TDCJ has to dispose of a warrant, putting a strain on the capacity of many county jails. Often after a parole revocation hearing for a technical violation, parolees simply are released and not returned to TDCJ. This means that the county has to bear the expense of housing the offender for over a month only to have them released. As of April 1, 2009, county jails in Texas housed 2,474 parolees accused solely of administrative violations, plus 2,792 parolees accused of new crimes. This places a burden on both small and large counties. Dallas County estimates that it has about 425 blue warrant offenders in its jail on any given day, and that about 150 to 200 of those would qualify for a potential release under the bill. Their release could save the county \$5,000 to \$7,000 per day.

The bill has several features that would protect public safety and ensure that only appropriate offenders would be eligible for release on bond. Judges would know if the parolee were an absconder and could present a flight risk. The bill would not require any parolee to be bonded out, leaving that decision to the judge.

The bill 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 HB 2100 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 or can have other sanctions imposed on them. This is true for offenders found guilty of technical parole violations as well as new offenses. HB 1200 could result in magistrates allowing parolees who may technically meet the criteria in the bill, but may still be a risk to abscond, out on bond because of crowding pressure in some county facilities.

OTHER
OPPONENTS
SAY:

TDCJ currently may issue a summons, rather than an arrest warrant, to an offender accused of an administrative parole violation, and a summons also may be used to notify 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:

During the 2007 regular session, the 80th Legislature enacted a similar bill, HB 541 by Martinez Fischer, which was vetoed by the governor.