

**SUBJECT:** Delayed parole eligibility for evading arrest for certain offenses

**COMMITTEE:** Criminal Jurisprudence — committee substitute recommended

**VOTE:** 7 ayes — Gallego, Fletcher, Kent, Miklos, Moody, Pierson, Riddle  
0 nays  
4 absent — Christian, Hodge, Vaught, Vo

**WITNESSES:** For — Richard Cervera; (*Registered, but did not testify:* Tom Gaylor and Keith Oakley, Texas Municipal Police Association  
  
Against — None  
  
On — Allen Place, Texas Criminal Defense Lawyers Association

**BACKGROUND:** Under Government Code, sec. 508.145(d), persons convicted of certain serious and violent crimes listed in Code of Criminal Procedure, art. 42.12, sec. 3g, have restrictions on when they become eligible for parole. These crimes are referred to as “3g offenses” and include murder, aggravated sexual assault, and sexual assault.  
  
These “3g” offenders are ineligible for parole until their time served, without consideration of good conduct time, equals one-half of their sentence or 30 years, whichever is less, and a minimum of two years.

**DIGEST:** CSHB 221 would delay parole eligibility dates for offenders convicted of murder, sexual assault, and aggravated sexual assault who evaded arrest after being indicted.  
  
The bill would require judges in these cases to make an affirmative finding, upon a motion of the prosecutor, about the number of months that elapsed between the date of arrest warrant after an indictment and the date the defendant was arrested. For every 12 months that elapsed between the date an arrest warrant was issued following the indictment and the date of arrest, the offender’s parole eligibility date would be delayed by three years.

The bill would take effect September 1, 2009, and would apply only to parole eligibility for inmates who commit offenses on or after that date.

**SUPPORTERS  
SAY:**

CSHB 221 is necessary to adequately punish those who evade arrest for serious crimes for an extended amount of time. Current law makes no distinction in punishment when a person evades arrest for years after a serious crime. Someone who evades arrest for one year, five years, or 20 years now faces the same eligibility for parole as someone who did not evade arrest.

The longer that dangerous offenders are on the street in the cases of murder, sexual assault, or aggravated sexual assault, the greater the public risk. When offenders who have committed these crimes evade arrest, they continue to put the public in danger of additional crimes. This is especially hard on victims and their families who know that a dangerous criminal is on the loose.

In cases of murder, sexual assault, and aggravated sexual assault, CSHB 221 would deter the evading of arrest and punish those who did so with delayed parole eligibility. Under the bill, the longer someone guilty of one of these crimes stayed on the run, the more of their sentence they would serve before being eligible for parole, and the minimum amount of time they stayed in prison and off the streets would be increased.

Although current law does require these offenders to serve long terms before being eligible for parole, it does not increase the time they must serve based on evading arrest. This addition to current law would hold these offenders accountable for the time they evaded arrest.

The priority for our criminal justice resources should be keeping dangerous offenders in prison and keeping the public safe.

**OPPONENTS  
SAY:**

Current law is adequate to punish persons convicted of murder, sexual assault, and aggravated sexual assault and to ensure that they spend an appropriate amount of time in prison. These offenders often receive long sentences and are ineligible for parole until their time served, without consideration of good conduct time, equals one-half of their sentence or 30 years, whichever is less, and a minimum of two years.

Once they meet these stringent criteria, these offenders are only eligible for parole consideration, not released. In many cases, these offenders are

not approved for parole and spend a large part of their sentences in prison. It would be best to continue to let the parole board evaluate these offenders on a case-by-case basis when they are eligible for parole under current law, rather than to mandate a delay of their parole eligibility. The state should be cautious about mandates that could strain the resources of the criminal justice system.

OTHER  
OPPONENTS  
SAY:

CSHB 221 would not be provide any deterrent in the cases in which defendants were not indicted, something that sometimes happens in murder and certain aggravated sexual assault cases because there is no statute of limitations.

NOTES:

The committee substitute differs from the bill as filed by eliminating a provision in the original bill that would have delayed parole eligibility longer if a victim of sexual assault or aggravated sexual assault was younger than 14 and adding the requirement for a judge to make an affirmative finding about the number of years that a defendant had evaded arrest.