

SUBJECT: Parole reconsideration for aggravated sexual assault, capital murder

COMMITTEE: Corrections — favorable, without amendment

VOTE: 6 ayes — Parker, White, Allen, Riddle, J.D. Sheffield, Toth

0 nays

1 absent — Rose

WITNESSES: For — Doots Dufour, Diocese of Austin; Andy Kahan, victim advocate City of Houston; James Dreymala, Linda Drummond, Michelle Wilson; (*Registered, but did not testify*: Mark Clark, Houston Police Officers' Union; Chris Kaiser, Texas Association Against Sexual Assault; James Parnell, Dallas Police Association; Steven Tays, Bexar County Criminal District Attorney's Office; Justin Wood, Harris County District Attorney's Office; Elaine Dreymala)

Against — (*Registered, but did not testify*: Rebecca Bernhardt, Texas Defender Service)

BACKGROUND: Under Government Code, sec. 508.145(d)(1), inmates serving time for certain serious and violent offenses, including aggravated sexual assault are not eligible for parole until their actual calendar time served, without consideration of good conduct time, equals one-half of their sentence, or 30 years, whichever is less, with a minimum of two years. Under sec. 508.145(b), an inmate serving a life sentence for a capital felony is not eligible for release on parole until actual calendar time, without consideration of good conduct time, equals 40 years.

Government Code sec. 508.141(g) requires the Board of Pardons and Paroles to adopt a policy establishing the dates the board may reconsider for release inmates who have been denied release on parole or mandatory supervision. For inmates convicted of aggravated sexual assault and capital murder, the board can reconsider them after an initial denial anytime between one and five years.

Penal Code sec. 22.021 makes aggravated sexual assault a first-degree felony (life in prison or a sentence of five to 99 years and an optional fine

of up to \$10,000).

The current punishment for a capital felony is death or life without parole, except that juveniles certified to stand trial as adult for a capital felony can receive a sentence of life in prison. However, before life-without-parole was established in 2005 as possible punishment for capital felonies, offenders could receive life in prison, which carried with it the possibility of parole.

DIGEST: HB 1337 would allow the Board of Pardons and Paroles to delay reconsideration for parole after an initial denial for up to 10 years for offenders convicted of aggravated sexual assault and offenders serving a life sentence for a capital felony.

The bill would take effect September 1, 2013.

SUPPORTERS SAY: HB 1337 would ensure that a reasonable amount of time elapsed between parole considerations for persons who committed capital felonies and aggravated sexual assault, some of the most the heinous crimes. The need for these changes has been brought to light by the situations being faced by some families of murder victims, including those tragically affected by the 1970s Houston Mass Murders, who every few years have to protest the potential parole of the person involved in the murder of their loved ones.

Under current law, once offenders convicted of aggravated sexual assault and capital murder become eligible for parole and are denied, they must be reconsidered every one to five years. A general practice of the Board of Pardons and Paroles policy is to set off cases, even for egregious offenses, for three years. Because of this, some families have to begin the painful process of protesting potential parole every two-and-a-half years.

Having these offenders come up for parole consideration so frequently can be traumatic and burdensome for victims, who want to weigh in with the parole board on the decision. Victims and their families often relive the crime and feel victimized each time an offender is considered for parole. One family has dealt with this traumatic and heartbreaking situation 20 times since 1974.

HB 1337 would address this injustice by allowing the parole board to set off consideration in these cases for up to 10 years. The bill would apply only to aggravated sexual assault and capital murder, two of the most

egregious, heinous crimes for which parole is an option. Allowing these cases to be considered every 10 years could bring a small measure of peace to the families of victims. A maximum 10-year period between parole considerations would be reasonable given the nature of these horrific crimes, while still holding out the possibility of parole to offenders, giving them an incentive for rehabilitation and good behavior in prison.

The parole board still would have discretion to handle these cases individually and appropriately. The bill would change only the outside limit on how long the board could wait before reconsidering a case, but the board would continue to decide how long a case would be set off before reconsideration. The board could set off a case anywhere from one to 10 years, as it deemed appropriate. When the cases were considered, the board could continue as it does under current law to decide whether to release the offender on parole or to deny release.

Allowing the parole board to set off consideration of appropriate cases for longer periods than under current law would allow the board to focus its resources on other cases.

**OPPONENTS
SAY:**

Current law allowing up to five years between parole consideration creates a fair system of review. Allowing the parole board to delay parole consideration for up to 10 years after an initial decision for some offenders could be too long. Aggravated sexual assault and capital felony offenders now serve multiple decades in prison before being considered for parole the first time. If subsequent parole reviews can be put off for a decade at a time, some offenders could receive very limited, if any, additional chances at parole. Factors affecting parole decisions can change, and being reviewed for possible parole can be an incentive for offenders to work at rehabilitation and to demonstrate good behavior in prison.