

## **BILL ANALYSIS**

Senate Research Center  
82R8269 KCR-D

H.B. 1940  
By: Perry (Huffman)  
Criminal Justice  
5/19/2011  
Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Some interpretations of statutes regarding a parolee who has been arrested on a new offense after release assert that the statutes entitle such a parolee to a preliminary hearing to determine whether probable cause or reasonable grounds exist to believe the parolee violated a condition of release. However, it has not been regular practice to hold a preliminary hearing under these circumstances, and it is estimated that doing so would have a significant impact on the staff and resources of the agencies responsible for holding the hearing.

H.B. 1940 amends current law relating to the requirement of a preliminary hearing for certain persons released from the Texas Department of Criminal Justice who are alleged to have violated a condition of release.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 508.2811, Government Code, as follows:

Sec. 508.2811. PRELIMINARY HEARING. Requires a parole panel or a designee of the Board of Pardons and Paroles (BPP) to provide within a reasonable time to an inmate or person described by Section 508.281(a) (entitling a releasee, a person released although ineligible for release, or a person granted a conditional pardon to a hearing before a parole panel or a designated agent of BPP) a preliminary hearing to determine whether probable cause or reasonable grounds exist to believe that the inmate or person has committed an act that would constitute a violation of a condition of release, unless the inmate or person:

- (1) waives the preliminary hearing; or
- (2) after release:
  - (A) has been charged only with an administrative violation of a condition of release;
  - (B) has been charged with an offense that was committed after release and for which a magistrate has made a finding of probable cause; or
  - (C) has been adjudicated guilty of or has pleaded guilty or nolo contendere to an offense committed after release, other than an offense punishable by fine only involving the operation of a motor vehicle, regardless of whether the court has deferred disposition of the case, imposed a sentence in the case, or placed the inmate or person on community supervision.

SECTION 2. Amends Section 508.282(a), Government Code, as follows:

(a) Requires a parole panel, a designee of BPP, or the Texas Department of Criminal Justice (TDCJ), except as provided by Subsection (b) (providing that the parole panel, a designee of BPP, or TDCJ is not required to dispose of the charges against an inmate or person within the period required by Subsection (a) under certain conditions), to dispose of the charges against an inmate or person described by Section 508.281(a):

(1) before the 41st day after the date on which:

(A) a warrant issued as provided by Section 508.251 (Issuance of Warrant or Summons) is executed, if the inmate or person is arrested only on a charge that the inmate or person has committed an administrative violation of a condition of release, and the inmate or person is not charged before the 41st day with the commission of an offense described by Section 508.2811(2)(B) or (C); or

(B) the sheriff having custody of an inmate or person alleged to have committed an offense after release notifies TDCJ that:

(i) the inmate or person has discharged the sentence for the offense; or

(ii) the prosecution of the alleged offense has been dismissed by the attorney representing the state in the manner provided by Article 32.02 (Dismissal by State's Attorney), Code of Criminal Procedure; or

(2) within a reasonable time after the date on which the inmate or person is returned to the custody of TDCJ, if:

(A) immediately before the return the inmate or person was in custody in another state or in a federal correctional system; or

(B) the inmate or person is transferred to the custody of TDCJ under Section 508.284 (Transfer Pending Revocation Hearing).

SECTION 3. Effective date: upon passage or September 1, 2011.