

BILL ANALYSIS

Senate Research Center
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S.B. 790
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Criminal Justice
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

When a prisoner is released on parole, a judge places conditions on the prisoner's release. If the guidelines are not met, the former prisoner is subject to arrest. A blue warrant is issued when a person who is on parole violates the terms of his or her parole. There is no discretion in issuing these warrants based on the severity of the violation. Some blue warrants are issued for parolees who only violate administrative or technical aspects of their parole agreement. These minor infractions can include crossing a county line without permission or forgetting to pay a fine. The state mandates that all parole violations must result in incarceration until a parole hearing can occur, despite the fact that in many instances there is no intention to ever revoke the offender's parole. Even though the state forces counties to incarcerate these parolees, counties receive no financial assistance in providing for the inmates while in their custody. A 2014 study estimates the cost of housing non-felony blue warrant arrestees exceeds \$31 million annually statewide. Further, the increasing numbers of blue warrant arrestees have led to serious jail overcrowding, to the point where some county sheriffs believe the conditions are verging on unconstitutional.

County officials have advocated to allow county judges to have more discretion in granting bail for parole violators who are non-violent and have only violated a technical or administrative aspect of their parole. Having increased discretion would help decrease the cost to the state and overcrowding occurring in state jails.

S.B. 790 allows a county magistrate to release on bond with parole supervision or mandatory release supervision a person who is arrested for a technical violation on a pre-revocation warrant by the parole division of the Texas Department of Criminal Justice. The bill also requires that the board of paroles or a parole panel make a final determination of a parole violation before issuing a warrant for the parolee's arrest.

As proposed, S.B. 790 amends current law relating to the procedures applicable to the revocation of a person's release on parole or to mandatory supervision.

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 508.254, Government Code, by amending Subsection (c) and adding Subsections (d), (e), and (f), as follows:

- (c) Creates an exception under Subsection (d). Makes a nonsubstantive change.
- (d) Authorizes a magistrate of the county in which the person is held in custody to release the person on bond pending the hearing if:
 - (1) the person is arrested or held in custody only on a charge that the person:
 - (A) committed an administrative violation of release; or

(B) violated a condition of release by committing a new offense for which the person is eligible for release on bond, other than:

(i) an offense punishable as a felony;

(ii) an offense under Title 5 (Offenses Against the Person) or Chapter 49 (Intoxication and Alcoholic Beverages Offenses), Penal Code, punishable as a Class B or Class A misdemeanor; or

(iii) an offense involving family violence, as defined by Section 71.004 (Family Violence), Family Code;

(2) the pardons and paroles division of the Texas Department of Criminal Justice (division), in accordance with Subsection (e), included notice on the warrant for the person's arrest that the person is eligible for release on bond; and

(3) the magistrate determines that the person is not a threat to public safety.

(e) Requires the division to include a notice on the warrant for the person's arrest indicating that the person is eligible for release on bond under Subsection (d) if the division determines that the person:

(1) has not been previously convicted of:

(A) an offense under Chapter 29 (Robbery), Penal Code;

(B) an offense under Title 5, Penal Code, punishable as a felony; or

(C) an offense involving family violence, as defined by Section 71.004, Family Code;

(2) is not on intensive supervision or super-intensive supervision;

(3) is not an absconder; and

(4) is not a threat to public safety.

(f) Provides that the provisions of Chapters 17 (Bail) and 22 (Forfeiture of Bail), Code of Criminal Procedure, apply to a person released under Subsection (d) in the same manner as those provisions apply to a person released pending an appearance before a court or magistrate, except that the release under that subsection is conditioned on the person's appearance at a hearing under this subchapter.

SECTION 2. Amends Section 508.281(c), Government Code, as follows:

(c) Requires an agent to notify the board if a designated agent of the board determines that a releasee who appears in compliance with a summons has violated a condition of release. Authorizes the division, after the board or a parole panel makes a final determination regarding the violation, to issue a warrant requiring the releasee to be held in a county jail pending the return of the releasee to the institution from which the releasee was released.

Deletes existing text requiring the sheriff of the county in which the releasee is required to appear to provide the designated agent with a place at the county jail to hold the hearing if a hearing before a designated agent of the board is held under this section for a releasee who appears in compliance with a summons. Deletes existing text authorizing a warrant to be issued requiring the releasee to be held in the county jail pending the action of a parole panel on any recommendations made by the designated agent, and, if subsequently ordered by the parole panel, the return of the releasee to the institution from which the releasee was released immediately on conclusion of a hearing in which the

designated agent determines that a releasee has violated a condition of release. Makes nonsubstantive changes.

SECTION 3. Makes application of Section 508.254, Government Code, as amended by this Act, prospective.

SECTION 4. Makes application of Section 508.281(c), Government Code, as amended by this Act, prospective.

SECTION 5. Effective date: September 1, 2015.