

BILL ANALYSIS

C.S.H.B. 541
By: Martinez Fischer
Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently, county jails are overcrowded with defendants awaiting a probation revocation hearing and possible transfer to a state facility (blue warrants). County jails are faced with having these state inmates remanded to a county facility for excessive periods pending a parole hearing. The increase of the blue warrant population in many county jails has increased operating costs and contributed to a raise in the overall jail population.

C.S.H.B. 541 would allow for certain persons charged with certain violations of conditional release from the Texas Department of Criminal Justice (TDCJ) on parole or mandatory supervision to post bond pending their revocation hearing.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 541 amends the Government Code to allow the custodial county magistrate to release a person held in custody on bond pending a hearing if the person is arrested or held in custody only on a charge that the person committed an administrative violation of a condition of release or violated a condition of release by committing a new offense for which the person is eligible for release on bond. In conjunction, in order for the custodial county magistrate to release the person on bond pending a hearing, the pardons and paroles division, in accordance with certain requirements, is required to include notice on the warrant for the person's arrest that the person is eligible for release on bond, and the magistrate must have determined that the person is not a threat to public safety. A person is not eligible to be released if the person violated a condition of release by committing a new offense for which the person is eligible for release on bond if the offense is punishable as a felony, punishable as a Class B or Class A misdemeanor under the Intoxication and Alcoholic Beverage Offenses chapter of the Penal Code, or involving family violence, as defined by Section 71.004, Family Code. The bill makes appropriate conforming changes.

C.S.H.B. 541 states that the pardons and paroles division must include a notice on the arrest warrant that the person is eligible for release on bond in accordance with this bill if the division determines that the person:

- has not been previously convicted of robbery, felony criminal homicide, felony kidnapping, felony unlawful restraint, felony trafficking of persons, felony sexual offenses, felony assault, and family violence as defined by Section 71.004, Family Code;
- is not on intensive supervision or super-intensive supervision;
- is not an absconder; and
- is not a threat to public safety.

The bill also provides that the provisions of the Code of Criminal Procedure involving bail and the forfeiture of bail apply to a person released on a bond in accordance with this bill in the same way as those provisions apply to a person released pending an appearance before a court or magistrate, except that the release is conditioned on the person's appearance at a hearing under the Warrants subchapter of the Government Code.

The change in law made by this Act applies only to a person who on or after the effective date of this Act is charged with a violation of the person's release on parole or mandatory supervision. A person who before the effective date of this Act was charged with a violation of release is governed by the law in effect when the violation was charged, and the former law is continued in effect for that purpose.

EFFECTIVE DATE

September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute adds the words "certain new offenses or" to the caption to read "relating to procedures for certain persons charged with certain new offenses or an administrative violation of a condition of release from the Texas Department of Criminal Justice on parole or mandatory supervision.

The committee substitute provides that a person may be released on bond if the person was arrested or held in custody on a charge that he or she violated a condition of release by committing a new offense for which the person is eligible for release on bond, other than an offense punishable as a felony, an offense punishable as a Class B or Class A misdemeanor under the Intoxication and Alcoholic Beverage Offenses chapter of the Penal Code, or an offense involving family violence, as defined by Section 71.004, Family Code. The substitute also provides that in order for the custodial county magistrate to release the person on bond pending a hearing, the pardons and paroles division, in accordance with certain requirements, is required to include notice on the warrant for the person's arrest that the person is eligible for release on bond, and the magistrate must have determined that the person is not a threat to public safety. The original stated that in order for a custodial county magistrate to release the person on bond pending the hearing, the person can be arrested only on a charge that the person committed an administrative violation of a condition of release and the person has not been previously convicted of certain offenses punishable as a felony or an offense involving family violence, as defined by Section 71.004, Family Code.

The substitute provides that the pardons and paroles division must include a notice on the arrest warrant that the person is eligible for release on bond in accordance with this bill if the division determines that the person:

- has not been previously convicted of robbery, felony criminal homicide, felony kidnapping, felony unlawful restraint, felony trafficking of persons, felony sexual offenses, felony assault, and family violence as defined by Section 71.004, Family Code;
- is not on intensive supervision or super-intensive supervision;
- is not an absconder; and
- is not a threat to public safety.

The original did not contain any provisions regarding notice on the arrest warrant.

The substitute removes the timeframe change of when a parole panel, a designee of the board, or the department is required to dispose of the charges against certain inmates or person from the original to keep this timeframe status quo.

The substitute also keeps Section 508.284, Government Code, status quo; whereas, the original provided that the community supervision and corrections department is required to authorize a facility that is otherwise required to detain an inmate to transfer the inmate to a correctional facility operated by the department if the facility to which the inmate or person is to be transferred is located not more than 50 miles from the facility. The original also removed the provision stating that the department has to determine that adequate space is available in the facility to which the inmate is to be transferred for the application of the transfer pending a revocation hearing; the substitute left the statute in the current form.