

SUBJECT: Sex offender parole on medically recommended intensive supervision

COMMITTEE: Corrections — favorable, without amendment

VOTE: 6 ayes — Madden, D. Jones, Haggerty, R. Allen, Hochberg, Noriega

0 nays

1 absent — McReynolds

WITNESSES: For — Ann del Llano, ACLU of Texas

Against — None

On — Allen Sapp, Correctional Managed Health Care Committee; Dee Wilson, TDCJ/TCOOMMI; Shaniqua Johnson, Legislative Budget Board

BACKGROUND: Government Code, sec. 508.146, allows the state's prison inmates, except those sentenced to death and those who are required to register as sex offenders upon release, to be released from prison on medically recommended intensive supervision (MRIS) before they would be eligible for regular parole if the following conditions are met:

- the Texas Correctional Office on Offenders with Medical or Mental Impairments (TCOOMMI), in cooperation with the Correctional Managed Health Care Committee (CMHCC), identifies the inmate as being elderly, physically disabled, mentally ill, terminally ill, mentally retarded, or having a condition requiring long-term care;
- the parole panel determines that, based on the inmate's condition and a medical evaluation, the inmate does not constitute a threat to public safety; and
- TCOOMMI, in cooperation with the pardons and paroles division, has prepared a medically recommended intensive supervision plan that requires the inmate to submit to electronic monitoring, places the inmate on super-intensive supervision, or otherwise ensures appropriate supervision of the inmate.

A parole panel must require as a condition of release that the offender remain under the care of a physician and in a medically suitable

placement. At least once each quarter, TCOOMMI must report to the parole panel on the offender's medical and placement status. A parole panel can modify the conditions of release and impose any condition, including a condition that the offender reside in a halfway house or community residential facility, based on TCOOMMI's report.

Offenders convicted of certain serious and violent offenses listed in Code of Criminal Procedure, 42.12 sec. 3g (often called "3g" offenses), can be considered for MRIS under the above conditions only if a medical condition of terminal illness or long-term care has been diagnosed.

Texas=sex offender registration and notification law requires some sex offenders to register with local law enforcement authorities and requires public notification about the whereabouts of some sex offenders.

**DIGEST:** HB 1093 would allow sex offenders to be eligible for release on medically recommended intensive supervision if a medical condition of terminal illness or long-term care had been diagnosed by a physician.

The bill would take effect September 1, 2005.

**SUPPORTERS SAY:** HB 1093 could save taxpayer dollars without compromising public safety by allowing sex offenders who were incapacitated or chronically ill to be part of the pool of offenders eligible for release under the MRIS parole program. Expanding this pool could lead to more inmates being released on MRIS, thereby saving the state the costs of their medical care.

Incarcerated offenders are not eligible for Medicaid, Medicare, or other federally funded programs, which means that the state must pay 100 percent of the costs of caring for chronically ill and incapacitated elderly inmates. Once these offenders are released on parole, they become eligible for Medicaid and other federal programs, which helps defray the state's costs.

To help take advantage of these circumstances, the state created the MRIS program so that chronically ill and incapacitated inmates could be identified and considered for release on parole as long as public safety would not be compromised. However, under current law, sex offenders are ineligible for release on MRIS. This means that the state must carry the entire financial burden of geriatric and chronically ill sex offender inmates. HB 1093 would address this situation by making sex offenders

eligible for MRIS. HB 1093's fiscal note estimates that the bill could have a positive impact of about \$1.2 million in the fiscal 2006-07 biennium.

Texas prisons hold about 23,500 inmates whose offenses of record are sex offenses. These offenders tend to have long sentences and often are not released on regular parole, so many grow old and sick in prison. Some of the inmates with the highest health care costs in recent years have been sex offenders, according to CMHCC.

HB 1093 would not endanger public safety. Parole panels considering sex offenders would have to determine, as with all MRIS decisions, that the inmate did not pose a threat to the public, and the offender would have to submit to intensive supervision. Parole panels effectively could screen sex offenders like any other offender considered for MRIS and ensure that they would not have an opportunity to reoffend. Under the bill, sex offenders would have to meet the additional requirement applied to all 3g offenders that a doctor diagnose them as having a medical condition of terminal illness or long-term care. Furthermore, TCOOMMI would have to give a quarterly report to the parole panel on the offender's status. The panel could modify the conditions of release if necessary or revoke the offender's parole altogether.

The type of critically ill inmates considered for the MRIS program are incapable of causing harm to society if released. In many cases, they either do not have long to live or are on some type of life support that renders them harmless. HB 1093 would not mandate releases but simply would give the state a larger pool of inmates to draw on for MRIS.

HB 1093 could alleviate prison overcrowding. Moving some terminally ill or incapacitated sex offenders out of prison could free up prison beds or resources for other offenders. Assuming that admission and release trends do not change significantly, the LBB projects that demand for prison space will exceed operational capacity some time this year, and the state is planning to lease additional bed space.

HB 1093 would be good for inmate families, who would be able more freely to visit and help care for offenders near the end of their lives. They also would be able to ensure that loved ones were receiving the care and medication they needed, which greatly would reduce stress for relatives of offenders.

OPPONENTS  
SAY:

Sex offenders who were convicted of felonies and sentenced to prison time should serve their sentences, regardless of their age or medical condition. The state has built a thorough system to punish sex offenders, and prohibiting their eligibility for MRIS is a part of those policies. In 2003, the Legislature expanded the MRIS statute to include several types of offenders but specifically decided to exclude sex offenders, and this policy should not be reversed.

Public safety concerns should trump the state's financial concerns. By expanding the net of eligibility to include sex offenders, HB 1093 would allow parole panels to grant MRIS to offenders who could live for many years and possibly commit other crimes. Doctors cannot always accurately predict how dangerous a patient might be in the future.