

SUBJECT: Prohibiting revoking parole for technical parole violations, misdemeanors

COMMITTEE: Corrections — committee substitute recommended

VOTE: 4 ayes — Madden, Hochberg, Haggerty, Jones

0 nays

3 absent — McReynolds, Dunnam, Oliveira

SENATE VOTE: On final passage, April 26 — 31-0, on Local and Uncontested Calendar

WITNESSES: For — Marc Levin, Texas Public Policy Foundation Center for Effective Justice; Ken Tran and Ana Yanez-Correa, Texas Criminal Justice Coalition

Against — Terry Breen, 24th Judicial District Attorney's Office

On — Bryan Collier, TDCJ, Texas Department of Criminal Justice; Rissie Owens, Texas Board of Pardons and Paroles

BACKGROUND: Under Government Code sec. 508.283 persons released from prison on parole or mandatory supervision, which is similar to parole, who are accused of violating a condition of their release are entitled to a hearing before a parole panel. After a hearing, the board can continue, revoke, or modify the offender's parole.

If the conditions of a person's parole are modified after a violation, the parole board can require the person to spend between 60 and 180 days in a county jail operated under a contract with the Texas Department of Criminal Justice (TDCJ). Parole panels also can require parolees to serve terms in substance abuse treatment facilities.

DIGEST: CSSB 838 would prohibit parole panels from revoking a person's parole or mandatory supervision if:

- the person committed only an administrative violation of parole; or

- had been found guilty or pled guilty or no contest to a misdemeanor committed while on parole.

A parole panel still could revoke the parole of the persons who had failed to report to their parole officer for at least one year or were arrested outside of Texas on a warrant issued due to an arrest for a new offense or an allegation of a parole violation.

CSSB 838 would establish a 60-day minimum and a one-year maximum for the terms that parole panels could require parolees to spend in an intermediate sanction facility due to a parole violation. This would not apply to sex offenders or offenders under super-intensive supervision parole. Parole panels could send parolees to intermediate sanction facilities each time they modified a person's parole.

The bill also would set minimum and maximum lengths for terms that parole violators could be ordered to spend in a substance abuse treatment facility upon a modification of their parole. The term would have to be at least 180 days and not more than one year. This would not apply to a sex offender or an inmate who was under super-intensive supervision parole.

CSSB 838 would authorize the 60 to 180 day jail sentences that can be imposed under current law by a parole panel modifying parole to be imposed each time a person's parole was modified.

The bill would take effect September 1, 2007, and would apply only to determinations made by parole panels on or after that date.

**SUPPORTERS
SAY:**

CSSB 838 would help Texas establish a more balanced parole system through the use of graduated, appropriate sanctions for parole violations. While it would prohibit some parole revocations, it would ensure public safety and parole board discretion by establishing appropriate options for sending parole violators to other secure facilities when warranted. CSSB 838 would help establish a uniform system for handling certain parole violators that would treat them fairly.

The parole board currently has authority to revoke offenders' parole for administrative, also called technical, violations. Administrative violations are actions that violate a condition that the parole board has required of parolees but are not new crimes. Parolees also can be sent back to prison for committing a misdemeanor offense, which carries only a maximum of

one-year jail time. This means that offenders are sent back to prison for actions that either are not crimes or are crimes that are not eligible for prison time. Some parolees are sent to prison for these actions, and others are not. Last year around 2,000 parolees were revoked to prison and served an average of two years for administrative violations, and almost 2,000 admissions to TDCJ were for new misdemeanors that resulted in a parole revocation.

CSSB 838 would address this situation by prohibiting parolees from being sent back to prison for technical reasons or misdemeanors. This would better match the level of sanctions to the level of violations. However, the parole board would maintain its discretion to handle parole violators in a variety of ways, including sending them to secure facilities. Under the bill, parole violators could be confined in a county jail, intermediate sanction facility, or substance abuse treatment facility. The bill would allow terms of up to one year in intermediate sanction and treatment facilities, which would mirror the maximum jail terms for misdemeanors, and it would allow offenders to be sent to these and to county jails numerous times.

Treating technical and minor parole violators appropriately by diverting them from prison would enhance public safety by reserving prison beds for serious and violent offenders. This could keep them from turning into more hardened criminals who has an even more difficult time reintegrating into society when released. Appropriate sanctions also would be a more efficient use of the state's criminal justice dollars, given that the state prison system is operating at capacity and the state is leasing beds from the counties. Diverting parole violators from prison and into intermediate sanction facilities or substance abuse treatment facility or handling them with other sanctions would have a net positive effect of \$25.4 million, according to the fiscal note.

**OPPONENTS
SAY:**

CSSB 838 would reduce the discretion of the parole board to handle parole violators appropriately. The board currently has the option of imposing a wide range of sanctions — including revoking parole — and their options to impose sanctions should not be reduced. Cutting off the parole board's ability to revoke parole in some cases would limit its ability to appropriately manage offenders, protect the public, and respond to offenders' behavior.

The parole board and the parole division of the TDCJ now use graduated sanctions to handle parole violators, and when parole is revoked for

offenders, it is done for the right reasons. In most cases, before offenders are revoked and sent to prison, they have received other sanctions such as verbal and written reprimands, and could have been sent to an intermediate sanction facility or a substance abuse treatment facility. Many have been sent to an intermediate sanction facility, county jail, or treatment facility more than once. Although offenders may be revoked and sent to prison for a technical reason or for committing a new misdemeanor offense, their record often is more serious than the one offense or violation that results in the revocation.

Under this bill, parolees could continue to commit serious misdemeanor and technical parole violations — including absconding for up to one year — and know that they could not be sent to prison. Technical violations and misdemeanors can be serious and can indicate a need for the serious sanction of parole revocation. For instance while it may be a technical violation for a parolee to go near a victim, it is also a serious violation. Misdemeanors include assault and terroristic threat, which, given a parolee's history and behavior, could warrant a revocation.

Time spent in an intermediate sanction or treatment facility is not equivalent to time spent in prison. The vast majority of intermediate sanction facility beds are lockups with no treatment or rehabilitation programs. Because CSSB 838 would place a one-year limit on the time that parolees could be sent to an intermediate sanction or treatment facility, offenders would know they would simply have to bide their time for one year and then get out. When offenders are revoked to prison, they have an incentive to behave and participate in education and rehabilitation programs so that they would be paroled again instead of having to serve their sentences.

NOTES:

The House committee substitute added the Senate-passed version provisions allowing parole to be revoked if a parolee failed to report to a parole officer for one year or was arrested outside of Texas on a warrant.

Rep. Turner plans to amend the bill to exclude sex offenders from the prohibition on having parole revoked.