

SUBJECT: Street-time credit after one year on parole and technical parole violation

COMMITTEE: Corrections — favorable, without amendment

VOTE: 6 ayes — Madden, Allen, Cain, Perry, White, Workman

0 nays

3 absent — Hunter, Marquez, Parker

WITNESSES: For — Doots Dufour, Diocese of Austin; Erica Surprenant, Texas Criminal Justice Coalition; Clifford Gay; (*Registered, but did not testify*: Yannis Banks, Texas NAACP; Thomas Guevara, Bexar County Commissioners Court; Frank Knaack, American Civil Liberties Union of Texas)

Against — Kevin Petroff, Harris County District Attorney's Office

On — Shannon Edmonds, Texas District and County Attorneys Association; Marc Levin, Texas Public Policy Foundation/Center for Effective Justice

BACKGROUND: Under Government Code, sec. 508.283, certain offenders who have their parole or mandatory supervision revoked can be given credit toward their sentences for the "street time" they spend on parole.

Certain provisions apply to categories of nonviolent offenders who have served more than half of their supervision period before the issuance of a warrant that leads to the revocation of parole. For example, assume that a person given a 10-year sentence was released on parole after serving four years in prison. If this person's parole was revoked after five years, the remaining portion of the sentence would be one year after the person received five years of street credit.

However, for two groups of offenders, these provisions do not apply. An offender whose remaining sentence portion is greater than his release time would be sent back to prison for the remainder of his sentence.

In addition, street-time provisions do not apply to offenders convicted of certain serious and violent crimes listed in Government Code, sec. 508.149(a) or those with previous offenses for the same serious and violent crimes. If these offenders have their parole revoked, they are sent back to prison for the full remainder of their sentence. Sec. 508.149(a) includes 16 felony offenses plus offenses involving a deadly weapon.

Administrative parole violations, also called technical parole violations, involve breaking a condition of release such as violating a curfew or not participating in treatment programs, but not a new offense.

DIGEST:

HB 1477 would require that all persons released on parole, mandatory supervision, or a conditional pardon for crimes other than those listed in Government Code sec. 508.149(a) be given street-time credit if their parole was revoked and:

- they had been on parole, mandatory supervision, or release for a conditional pardon for at least one year before the process of revocation began; and
- the parole, mandatory supervision, or conditional pardon was being revoked solely for an administrative violation of a condition of parole.

The bill would take effect September 1, 2011, and apply only to persons who had their parole, mandatory supervision, or conditional pardons revoked on or after that date.

**SUPPORTERS
SAY:**

HB 1477 would help the state prioritize its criminal justice resources without harming public safety. Currently, in some cases, the penalty for a technical parole violation can be too onerous and can result in some nonviolent offenders spending an inappropriately long time under state supervision when they are sent back to prison without credit for the time they successfully spent on parole. HB 1477 would address this by establishing narrowly tailored, appropriate criteria for awarding street time to nonviolent offenders.

Requiring the group of offenders described by the bill to serve the rest of their sentence without credit for their street time is costly, contributes to prison and jail crowding, and diverts resources from more appropriate uses. The bill's criminal justice impact statement estimates a decrease of

331 in demand for prison beds, and the fiscal note estimates that it would have a positive impact of about \$11.6 million in fiscal 2012-13.

It is appropriate to allow the nonviolent offenders who meet the requirements of HB 1477 to get credit for their street time. Offenders' street time represents time that they were successful under state supervision and followed their parole requirements. While the bill may result in a shorter prison stay upon revocation for some offenders, their total time under state supervision on parole and in prison would not be changed.

HB 1477 would establish fitting criteria for crediting street time. Offenders would have to spend at least one successful year on parole. In addition, offenders' parole could be revoked only for a technical parole violation – not a new criminal offense. Technical violations can include things such as missing a curfew or checking in late with a parole violator, which do not signal a threat to the public. Any absconder who qualified under HB 1477 would get street-time credit only for the time they were successful on parole.

HB 1477 would not harm public safety. The bill would exclude offenders guilty of the serious and violent felonies listed in Government Code, sec. 508.149. Public safety would be enhanced because the state's resources could be used for serious, violent offenders instead of nonviolent parole violators.

HB 1477 would not be tantamount to letting parolees get away with violating their parole. The parolees described by the bill would have their parole revoked and be punished by being sent back to prison.

The current discretion in the parole decision-making process would remain, and it would ensure that safety, not cost, is a priority. HB 1477 could make some offenders eligible for parole or mandatory supervision sooner than they would be under current law, but the Board of Pardons and Paroles retains the authority to decide about releasing such offenders under these programs. Under both programs, the parole board has authority to deny release to offenders who would endanger the public safety.

OPPONENTS
SAY:

HB 1477 could harm public safety. The bill would result in some offenders whose parole was revoked serving shorter sentences because of street-time credit, and therefore being released earlier from prison, either because they finished their sentence or because they qualified sooner for parole or mandatory supervision. Speeding up the release of some offenders would reward those who failed their parole and who should have to serve their sentence in prison, both to ensure an appropriate punishment and to keep them off of the street.

By requiring street-time credit for everyone who meets the very minimal requirements in HB 1477, the bill would remove the current appropriate distinction between two groups of parolees – those who have successfully served at least half their sentences and those who have not. This distinction allows those parolees who have successfully served at least half their time on parole before being revoked to have their street-time credited against their sentence. This is appropriate because these offenders have proven themselves for at least half of the time they had left on their sentences and deserve a break in their remaining sentence. The law that allowed street-time credit for these offenders was designed as a reward limited to those who deserved it and an incentive to do well on parole.

However, current law requires that those who have not proven themselves by successfully serving at least half of their sentence to serve their time in prison after a revocation without credit for their street time. This requirement serves to punish those who have demonstrated that they cannot keep their agreement with the state and are not good candidates for parole.

HB 1477 would set too low of a hurdle to obtain street-time credit for both groups of offenders. It would require that offenders serve only one year on parole, even if they had many years left on their parole term. Offenders with longer terms on parole should have to prove themselves successful on parole for a longer amount of time before being rewarded with street time.

The second criterion, that offenders only be revoked for a technical violation, fails to take into account the varying seriousness of technical violations. These can include serious and dangerous behavior such as absconding and not staying away from a victim. Not all technical violators who have served one year on parole deserve street-time credit.

The state should not let concerns about costs drive decisions to enact policies that lead to the early release of inmates. Texas has tried this in the past with sometimes tragic results, and other states also have had bad experiences with early-release policies.