

SUBJECT: Requiring minimum prison term for intoxication manslaughter

COMMITTEE: Corrections — favorable, without amendment

VOTE: 7 ayes — Murr, Allen, Burrows, Rodriguez, Sherman, Slaton, White
0 nays
2 absent — Bailes, Martinez Fischer

WITNESSES: For — Troy Benthall; Tammy Benthall; Susan Davis; (*Registered, but did not testify*: M. Paige Williams, for Dallas County Criminal District Attorney John Creuzot; James Parnell, Dallas Police Association; Jason Vaughn, Texas Young Republicans; John Wilkerson, Texas Municipal Police Association; Michael Farrington)

Against — (*Registered, but did not testify*: Shea Place, Texas Criminal Defense Lawyers Association)

On — Jorge Renaud, Latino Justice

BACKGROUND: Penal Code sec. 49.08 makes intoxication manslaughter a criminal offense. It is an offense to operate a motor vehicle in a public place, operate an aircraft, watercraft, or amusement ride, or to assemble a mobile amusement ride and be intoxicated and by reason of that intoxication cause the death of another by accident or mistake. Offenses are second-degree felonies (two to 20 years in prison and an optional fine of up to \$10,000).

Code of Criminal Procedure art. 42A.401 establishes minimum terms of confinement when a judge grants community supervision to individuals convicted of offenses under Penal Code ch. 49. Under art. 42A.401(a)(5), for convictions of intoxication manslaughter, judges must require a term of confinement of not less than 120 days.

Under Government Code sec. 508.145, in general, individuals are eligible

for release on parole when their actual calendar time served plus good conduct time equals one-fourth of their sentence imposed or 15 years, whichever is less.

Government Code sec. 508.147 requires parole panels to release an individual serving a prison term to a program called mandatory supervision if the individual has not been released on parole to when the actual calendar time the individual has served plus any accrued good conduct time equals the sentence. An individual released on mandatory supervision is considered to be released on parole. Under Government Code sec. 508.149(b) individuals may not be released to mandatory supervision if a parole panel determines that the inmate's accrued good conduct time is not an accurate reflection of the inmate's potential for rehabilitation, and the inmate's release would endanger the public.

Concerns have been raised that terms of confinement in some intoxication manslaughter cases have not been long enough to reflect the seriousness of this crime.

DIGEST:

HB 3598 would require a minimum term of five years in prison for intoxication manslaughter. If a judge granted an individual community supervision for intoxication manslaughter, the judge would have to impose a sentence of at least five years in prison. Judges granting community supervision would be authorized to reduce the five-year term to a minimum term of at least two years if the judge made a finding that the best interest of the community would be served and the public would not be harmed by the reduction. The finding would have to be entered in the record.

An individual serving a sentence in prison for intoxication manslaughter would not be eligible for release on parole or mandatory supervision until the actual calendar time served, without consideration of good conduct time, equaled five years.

The bill would take effect September 1, 2021, and would apply to offenses committed on or after that date.

