

SUBJECT: Retroactive street time credit for parole revoked before September 1, 2001

COMMITTEE: Corrections — favorable without amendment

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

0 nays

1 absent — Noriega

WITNESSES: For — Joan G. Burnham, TIFA, Inc.; Charles F. Hurt, Texas Justice Network

Against — None

On — Brad Livingston and Brian Collier, Texas Department of Criminal Justice; Michele Connolly, LBB

BACKGROUND: In 2001, the 77th Legislature enacted HB 1649 by Gallego, which allows certain offenders who have their parole or mandatory supervision revoked to be given credit toward their sentences for the “street time” they spend on parole. Prior to the bill, all offenders who were revoked forfeited any time served on supervision. The bill applied to offenders whose probation was revoked on or after September 1, 2001.

HB 1649 applies to certain 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 If this person's parole was revoked after five years, the remaining portion of the sentence would be one year after the person received five years of street credit.

For two groups of offenders, these provisions do not apply. An offender whose remaining portion of sentence 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 or those who have previous offenses for certain serious and

violent crimes. If these offenders have their parole revoked, they are sent back to prison for the full remainder of their sentences.

DIGEST: HB 1896 would extend provisions governing street time credit to the sentences of eligible offenders whose parole was revoked before September 1, 2001, in addition to on or after that date as in current law.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2005.

SUPPORTERS SAY: HB 1896 would not enact any new policy, but simply would extend the current policy about awarding “street time” credits to all eligible offenders, no matter when their parole was revoked. This would ensure that all offenders are treated equitably.

The provisions enacted in 2001 to calculate the remaining terms of nonviolent offenders who had their parole revoked should be applied to all such offenders no matter when their parole was revoked. It is appropriate to allow certain nonviolent offenders to have their sentences recalculated to ensure that the penalty for parole violations is not too onerous. The provisions enacted in 2001 ensure that some nonviolent offenders do not spend more time under supervision than their original sentence, something that can occur if the recalculation provision is not applied when parole is revoked. There is no reason to limit this provision to offenders who parole was revoked after September 1, 2001.

HB 1896 would apply only to a small group of nonviolent offenders, but giving street-time credit in these limited, appropriate situations would create space in the state’s crowded prisons to be filled by dangerous, violent offenders instead of nonviolent parole violators.

OPPONENTS SAY: HB 1896 would extend an unwise policy. Parole is a privilege, and offenders who violate it should have to serve the remainder of their sentences, no matter when their parole was revoked.