

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

COMMITTEE: Corrections — favorable, without amendment

VOTE: 6 ayes — McReynolds, Madden, Hodge, Kolkhorst, Marquez, Sheffield

0 nays

5 absent — Dutton, England, Martinez, Miller, Ortiz

WITNESSES: For — (*Registered, but did not testify*: David Kobierowski, ACLU of Texas; Allen Place, Texas Criminal Defense Lawyers Association; Erica Surprenant, Texas Criminal Justice Coalition)

Against — Bert Graham

On — Bryan Collier, Texas Department of Criminal Justice

BACKGROUND: In 2001, the 77th Legislature enacted HB 1649 by Gallego, which allows certain offenders who have parole or mandatory supervision (a type of release from prison) revoked to receive credit toward their sentences for the “street time” they spend on parole. Before 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 The bill applied to offenders whose probation was revoked on or after September 1, 2001.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 nonviolent offenders who have served more than half their supervision period before issuance of a warrant that leads to revocation of parole. For example, a person with a 10-year sentence who was released on parole after four years in prison would have six years to serve on parole. If parole were revoked after five years, the parolee would receive five years of credit, and the remainder of the sentence would be one year.

These provisions do not apply to two groups of offenders. An offender for whom the remainder of a sentence at the time of revocation was greater than the release time would be sent back to prison for the remainder of the sentence. Street time credit also does not apply to offenders convicted of, or with previous offenses for, certain serious and violent crimes. If these

offenders have parole revoked, they return to prison for the full remainder of their sentences.

**DIGEST:** HB 94 would extend current laws that provide street time credit to the sentences of eligible offenders whose parole was revoked before September 1, 2001.

The bill would take effect September 1, 2010.

**SUPPORTERS SAY:** HB 94 would not enact a new policy but simply extend the current policy of awarding “street time” credit to all eligible offenders, no matter when their parole was revoked. This would ensure that all offenders who met certain eligibility requirements were treated equitably.

HB 94 would apply only to offenders who were not convicted of a serious or violent crime and did not have a previous conviction for one of these offenses. These eligibility provisions, coupled with a previous decision of the parole board to release the offender, would help ensure that those released from supervision under HB 94 were not a public safety threat.

The law enacted in 2001 to calculate the remaining terms of nonviolent offenders whose parole was revoked should apply to all such offenders because the policy makes sense, no matter when an offender’s parole was revoked. The original policy was enacted to ensure that the penalty for a parole violations was not too onerous. It keeps eligible offenders from spending more time under supervision than their original sentence, something that can occur if the recalculation provision is not applied.

HB 94 would apply only to a small group of nonviolent offenders whose parole was revoked before 2001. In 2007, TDCJ estimated that it would apply to about 230 incarcerated offenders and 1,600 offenders on parole, and those numbers would be smaller now. These offenders would have their sentences recalculated to give them credit for their street time spent on parole. 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.

At least part of the reason the original bill was applied prospectively may have been that the agency would have had trouble calculating parole eligibility or releasing so many inmates at one time if it had applied to all offenders. This would not be a problem under HB 94 because of the small

number of inmates who would be affected by the bill and because it would not become effective until 2010, giving the agency time to implement it. Another reason the original the bill was made prospective may have been because criminal laws traditionally are handled that way, but it is not necessary in this case because the bill would not impose a punishment on offenders.

**OPPONENTS  
SAY:**

HB 94 would extend an unwise and potentially dangerous policy to an even larger group of inmates. Parole is a privilege, and offenders who violate it should not be rewarded but should have to serve the remainder of their sentences, no matter when their parole was revoked.

**NOTES:**

An identical bill, HB 1896 by Hodge, was approved by the 79th Legislature in 2005, but was vetoed by the governor.