

SUBJECT: Persons arrested under warrants for a new offense and parole violation

COMMITTEE: Corrections — favorable, without amendment

VOTE: 4 ayes — Madden, Hochberg, Haggerty, Jones
0 nays
3 absent — McReynolds, Dunnam, Oliveira

SENATE VOTE: On final passage, May 7 — 31-0

WITNESSES: For — (*Registered, but did not testify:* Tracey Hayes, ACLU)
Against — None
On — Bryan Collier, Texas Department of Criminal Justice

BACKGROUND: Code of Criminal Procedure Art. 15.18 details the procedures for handling someone arrested under a warrant that alleges a crime occurred in a county different from the one in which the person was arrested.

Under Art. 15.18, if the accused is not released on bail, the accused must be jailed in the county where the arrest took place. The magistrate is required to immediately notify the sheriff of the county in which the alleged offense took place. Under Art. 15.20 the sheriff receiving this notice is required to go or send for the accused and have the accused brought to the proper court in the sheriff's county.

Under Art. 15.21, if the county where the offense is alleged to have been committed does not take the accused within 10 days from the day the accused is committed, the prisoner must be released from custody.

Under Government Code 508.251, the parole division of the Texas Department of Criminal Justice (TDCJ) may issue an arrest warrant for a parolee who is accused of a technical violation of parole or of committing a new offense. These warrants sometimes are called "blue warrants" due to the color of paper on which they are printed. Parolees arrested under a

blue warrant are held in county jails pending a hearing to determine if their parole will be revoked. Government Code, sec. 508.254(c) requires that persons who are in custody pending a hearing on charges of violating their parole must remain confined.

Government Code sec. 508.282 establishes deadlines for TDCJ to dispose of charges made against parole violators who are in jail due to a blue warrant alleging only technical violations of parole, not new criminal charges.

DIGEST:

SB 1428 would establish procedures for handling persons detained under both an arrest warrant for a new offense and a blue warrant for a parole violation by a county other than the one that issued the arrest warrant.

SB 1428 would require that when magistrates notify another county that a person has been arrested under a warrant issued from the other county, the magistrates would have to inform the other county of whether the accused person also was arrested under a warrant issued because of a parole violation. Sheriffs who received such notice would be required to have the arrested person brought to court in their county within 10 days of the date that the person was jailed in the county where the arrest was made. These prisoners now would fall under current law which allows the county housing them to release them if they are not taken by the other county within 10 days.

The bill would take effect September 1, 2007, and would apply to only to person arrested under a warrant after that date, regardless of when the warrant was issued.

**SUPPORTERS
SAY:**

SB 1428 is needed to keep counties from having to house certain parole violators indefinitely. Although there may not be many cases that fall under SB 1428 for individual counties, many of which are facing crowded jails, so even one additional prisoner can have a significant impact.

A problem occurs when a person is arrested, for example, in Travis County on an arrest warrant issued for an alleged offense in Harris County. Under current law, if Harris County does not pick up the offender within 10 days, Travis County can release the person. However, if the person was a parolee who also had a blue warrant out for arrest due to the new charges, Travis County would not be able to release the parolee who Harris County did not pick up. The parolee would have to stay in Travis

County under the blue warrant, and this stay could be indefinite because TDCJ typically would not remove the blue warrant until the charges in Harris County were resolved. Current law deadlines for TDCJ to deal with parolees in jail under blue warrants apply only to offenders in custody due solely to technical parole violations, not those in custody because of an alleged new offense. So the offender, who is wanted in Harris County but was not picked up by Harris County, stays in the Travis County jail under the blue warrant.

SB 1428 would resolve this problem by requiring that sheriffs be notified that a person also was arrested on a blue warrant. Sheriffs would be responsible for picking up those offenders within 10 days, and if they were not picked up, the parolee could be released. This would treat all offenders arrested for offenses committed in other counties equally. It would give the responsibility for deciding whether the person would be picked up or released to the county in which an alleged new offense took place, since that county is in the best position to analyze what should be done. It is appropriate for the county where the offense occurred to take responsibility since in virtually all of the cases that would fall under SB 1428 there would not have been a blue warrant except for the new criminal charges. The county with pending charges should be responsible for disposing of the case since its actions are necessary for disposal of the blue warrant.

**OPPONENTS
SAY:**

The situations that would fall under SB 1428 are so few that they do not warrant this change in law. It could result in a parolee who has arrest warrant for a new criminal charge in another county and a blue warrant out for both the new charge and a technical parole violation being released from custody. Technical violations, such as absconding, can be serious, and it might be inappropriate for some parolees to be released even though the county in which the alleged new offense occurred did not take custody.

It would be better to have the counties and TDCJ work together on the small number of individual cases that fit this scenario than to make a change, which could result in someone going free who should remain in custody.