

SUBJECT: Bond for some parolees in jail on blue warrant for technical violation

COMMITTEE: Corrections — favorable, without amendment

VOTE: 6 ayes — Murphy, Allen, Keough, Krause, Schubert, Tinderholt

0 nays

1 absent — J. White

SENATE VOTE: On final passage, April 9 — 31-0

WITNESSES: (*On House companion bill, HB 3239*)

For — A.J. Louderback, Sheriffs' Association of Texas; (*Registered, but did not testify*: Matt Simpson, ACLU of Texas; Seth Mitchell, Bexar County Commissioners Court; Jim Allison, County Judges and Commissioners Association of Texas; Donna Warndorf, Harris County; R. Glenn Smith and Dennis D. Wilson, Sheriffs' Association of Texas; Mark Mendez, Tarrant County Commissioners Court; Laura Nicholes, Texas Association of Counties; Donald Lee, Texas Conference of Urban Counties; Patricia Cummings, Texas Criminal Defense Lawyers Association; Douglas Smith, Texas Criminal Justice Coalition; Roy Boyd, Victoria County Sheriff's Office)

Against — (*Registered, but did not testify*: Ross Kurtz, Wharton County District Attorney's Office)

On — (*Registered, but did not testify*: Stuart Jenkins, Texas Department of Criminal Justice-Parole Division)

BACKGROUND: The parole division of the Texas Department of Criminal Justice (TDCJ) may issue an arrest warrant for a parolee who is accused of an administrative violation of parole or of committing a new offense. These warrants are sometimes 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 in custody pending a hearing on charges of violating parole remain confined.

Government Code, sec. 508.251 allows TDCJ, under certain circumstances, to issue a summons, instead of a warrant, to persons accused of violating the conditions of parole.

DIGEST: SB 790 would allow parolees being held in county jails on a warrant based only on an administrative violation of parole to be released on bond pending their parole revocation hearing, under certain circumstances.

A magistrate would have to find that a parolee was not a threat to society, and the parole division of the Texas Department of Criminal Justice (TDCJ) would have to include on the warrant notice that the person was eligible for release on bond. Offenders would be eligible if they did not have previous convictions for robbery offenses, felony offenses against persons, or family violence offenses. TDCJ would have to determine that offenders were not on intensive or super-intensive supervision, not absconders, and not a threat to public safety.

Other legal provisions dealing with bail and bail forfeiture would apply to persons released under the provisions of the bill, except that their release on bail would be conditioned on appearance at a parole revocation hearing.

The bill would revise current procedures for holding parole revocation hearings when TDCJ has issued a summons to a parolee. The current requirement that sheriffs provide a place at the county jail for the hearing would be eliminated. An arrest warrant could be issued by the parole division for the offender's arrest after a final determination by the parole board, rather than having an arrest warrant issued while the parole board's determination is pending.

The bill would take effect September 1, 2015, and would apply to persons charged with parole violations on or after that date.

**SUPPORTERS
SAY:**

SB 790 would give judges and counties another tool to manage county jail populations without jeopardizing public safety, allowing them to better focus their resources on pressing needs.

Currently, parolees accused of violating a condition of their parole, even those accused of technical violations, are housed in county jails while awaiting their parole revocation hearing. Offenders can sit in jail during the 40 days that TDCJ has to dispose of the warrant that was issued for the offender's arrest, putting a strain on the capacity of some jails. Often after a parole revocation hearing for a technical violation, parolees simply are released and not returned to TDCJ. This means that the county could bear the expense of housing an offender, currently for an average of about 37 days, only to have the offender released.

The bill would address this situation by allowing a small group of parole violators to be eligible for release on bond. The bill would apply to those accused only of administrative violations of their parole. Administrative parole violations, also called technical violations, include such violations as failure to report to a parole officer, non-participation in treatment programs, or violating a curfew.

The bill would not require any parolee to be bonded out, leaving that decision to the judge. The bill has several features that would protect public safety and ensure that only appropriate offenders would be eligible for release on bond, including only being used in cases in which a parolee was not a threat to public safety, was not an absconder, and did not commit certain offenses. The bill would benefit offenders and society because these parolees could continue to work and support their families.

Cases in which a parolee had been released on bond and failed to appear at a hearing could be handled similar to the way situations are handled when someone fails to appear after a summons.

The change in procedures for parole revocation hearings would ease the burden on county jails with no threat to public safety or burden to TDCJ.

OPPONENTS
SAY:

Current law appropriately prohibits the release on bond for parolees awaiting a revocation hearing, even if for a technical violation of parole. These parolees could be a flight risk because they can be returned to prison if found guilty or can have other sanctions imposed on them. The lowest risk offenders may already be handled through the summons process.

OTHER
OPPONENTS
SAY:

TDCJ currently may issue a summons, rather than an arrest warrant, to an offender accused of an administrative parole violation. Encouraging this process would be a better approach than changing the law concerning bail. It is unclear how SB 790 would work if a parolee released on bond failed to appear at a parole revocation hearing since the parole board officials would not have authority to revoke the bond, something that is under the authority of the courts.

NOTES:

The House companion bill, HB 3239 by Fletcher, was placed for second-reading consideration on the General State Calendar for May 12 but was not considered.