

SUBJECT: Allowing courts to commute sentences of certain parolees

COMMITTEE: Corrections — favorable, without amendment

VOTE: 7 ayes — White, Allen, Bailes, Bowers, Dean, Morales, Stephenson
0 nays
2 absent — Neave, Sherman

WITNESSES: For — Marc Levin, Texas Public Policy Foundation; Charlie Malouff;
(*Registered, but did not testify*: Caitlin McClune, Austin Justice Coalition;
Allison Franklin, Texas Criminal Justice Coalition)

Against — None

BACKGROUND: Code of Criminal Procedure art. 42A.701 allows courts to reduce or terminate probation periods for certain persons, sometimes referred to as judicial clemency.

Some have called for judicial clemency for certain persons who have successfully completed a required number of years on parole.

DIGEST: HB 4163 would allow a person released on parole to file a motion with the court in which the person was convicted requesting that the court commute the person's sentence if:

- the person was released on parole at least 10 years before the motion was filed;
- the person's release on parole had not been revoked at any time; and
- the person was not required to register as a sex offender.

The person would have to submit information relevant to the person's rehabilitation, including employment history, any educational or training programs completed while confined or on parole, any volunteer activities,

and letters of support.

On receipt of a motion, the court would be required to notify the prosecutor in the jurisdiction in which the person was convicted and request from the Texas Department of Criminal Justice information related to the person's conduct while on parole.

The court could hold a hearing to consider the motion and take testimony from any person with relevant information. If a hearing were held, the court would have to provide notice to the prosecutor to allow the prosecutor's participation.

Within 180 days after the motion was filed, the court would have to review the motion and provided information and testimony to determine whether the person met the eligibility requirements for commutation. If eligible, the court would issue an order commuting the person's sentence if it was determined to be in the best interest of justice, the public, and the person.

A court's authority under the bill would be limited to commuting a person's sentence to reflect the time served while confined or released on parole as of the order's issue date. The court could not impose conditions on the issuance of the order or otherwise related to the person's release, and a person who received an order of commutation would be considered to have fully discharged the person's sentence.

The bill would apply to a person on parole on or after the bill's effective date.

The bill would take effect December 1, 2019, but only if a constitutional amendment authorizing the Legislature to enact laws providing for a court to grant a commutation of punishment to a person who had successfully served the required number of years on parole was approved by voters. If the amendment was not approved by voters, the bill would have no effect.

NOTES: HB 4163 is the enabling legislation for HJR 130 by S. Thompson, which

was sent to the House Calendars Committee on May 1.