

BILL ANALYSIS

Senate Research Center
79R8506 MFC-D

H.B. 1681
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Criminal Justice
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Engrossed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Current law provides that an inmate may not be held past a statutory release date if the inmate fails or refuses to provide a blood sample, but allows the Texas Department of Criminal Justice (TDCJ) to take other lawful administrative action against the inmate. Consequently, in cases where an inmate refuses to provide a blood sample, TDCJ will take away good time credits through the inmate disciplinary process. Regardless of whether or not the sample has been provided the inmate is released after discharging the sentence.

In a recent decision, the United States District Court for the Western District of Texas ruled that the term "statutory release date" included a mandatory release date, which is calculated through a combination of calendar time and good time credits. Consequently, TDCJ cannot withhold good time credits from an inmate who refuses to provide a sample because it would impact the inmate's statutory release date.

H.B. 1681 amends state law to clearly state that TDCJ may take away good time credits from an inmate who refuses to provide a blood sample. Regardless of whether or not the sample has been provided, the inmate would still be released after discharging (completing) the sentence.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Reenacts and amends Section 411.148, Government Code, as amended by Chapters 211 and 1509, Acts of the 77th Legislature, 2001, as follows:

Sec. 411.148. DNA RECORDS OF CERTAIN INMATES. (a) Makes no changes to this subsection.

(b) Makes no changes to this subsection.

(c) Makes no changes to this subsection.

(d) Prohibits an inmate from being held past the inmate's statutory release date if the inmate fails or refuses to provide a blood sample or other specimen under this section. Authorizes a penal institution to take lawful administrative action, rather than other lawful administrative action, including disciplinary action resulting in the loss of good conduct time, against an inmate who refuses to provide a blood sample or other specimen under this section.

(e) Requires the institutional division to notify the public safety director that an inmate serving a sentence for a felony in the institutional division is to be released from the institutional division not earlier than the 120th day before the inmate's statutory release date and not later than the 90th day before the inmate's statutory release date. Defines "statutory release date" in this subsection and Subsection (d).

(f) Makes no changes to this subsection.

(g) Makes no changes to this subsection.

(h) Makes no changes to this subsection.

(i) Makes no changes to this subsection.

SECTION 2. Effective date: September 1, 2005.