

BILL ANALYSIS

C.S.H.B. 403
By: Hodge
Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

In fiscal year 2006 there were 76,791 people under active supervision for either parole, mandatory supervision or discretionary mandatory supervision, while only 1,251 parole officers were employed to supervise them. According to the most recent prison population projections, the adult correctional population will continue to increase, resulting in a predicted prison population of 161,990 in 2011. The Texas Department of Criminal Justice's (TDCJ) operating capacity is currently 150,834. By 2011, the prison population will exceed capacity by 11,156 or 7.4 percent. Between 1998 and 2002, TDCJ admissions grew 78 percent, primarily due to changes in sentencing policies and rising conviction rates. During this period more offenders, especially drug offenders, were arrested and successfully convicted than in previous years. Last year alone, 59 percent of state prisoners were identified as chemically dependent.

C.S.H.B. 403 attempts to alleviate this situation by allowing the Board of Pardons and Paroles (board) to terminate the person's duty to submit to supervision and duty to report if they successfully complete a substance abuse treatment program.

RULEMAKING AUTHORITY

It is the opinion of the author that rulemaking authority is expressly delegated to the Board of Pardons and Paroles in SECTION 1 of this bill.

ANALYSIS

C.S.H.B. 403 amends Subchapter E, Chapter 508, Government Code, by adding Section 508.1551 which requires the Board of Pardons and Paroles (board) to allow a releasee to serve the remainder of their sentence without supervision and without being required to report if the releasee successfully completes a substance abuse treatment program of at least 150 days and submits to their supervising parole officer proof of program completion in the manner required by the board, an application for termination of supervision and reporting, and a one-time nonrefundable supervision termination fee made payable to the pardons and paroles division (division) in the amount of \$500.

The bill requires the board to adopt rules governing the manner by which a person may provide proof of the successful completion of a substance abuse treatment program and prescribe a standard form for use as an application for termination of supervision and reporting under this section. The bill requires a parole officer who receives the requisite materials for a person's early termination to promptly forward the materials to the designated representative within the division for processing. On the receipt of the materials, fee, and verification of proof of program completion, the division is required to immediately notify the board. On receipt of the notification, the board is required to terminate the person's duty to submit to supervision and duty to report. The bill also requires that fees collected to be deposited to the credit of a dedicated account in the general revenue fund. The money in the account may only be used to provide funding for the administration and provision of substance abuse treatment under Section 508.185, Government Code. The bill also allows the board to resubmit a person to supervision and resume reporting at any time if the board determines such actions are in the best interest of the person or the community.

C.S.H.B. 403 amends Section 508.185, Government Code, by detailing the requirements for an offender to participate as a releasee in a substance abuse treatment program approved by the Department of State Health Services. These requirements include the fact that the inmate is not

serving a sentence for or has not been previously convicted of an offense listed in Section 508.149, Government Code, and would not otherwise be considered ineligible for release to mandatory supervision under that section; the inmate successfully completes an in-prison substance abuse treatment program or a program under 493.009, Government Code, or is otherwise identified by the board or department as an appropriate candidate; and the inmate agrees to participate in a program that is at least 150 days either as a resident or outpatient. The bill requires the department, in consultation with the board, to adopt policies to ensure that each releasee agreeing to participate in a substance abuse treatment program is properly assigned to a residential or outpatient program, as appropriate, for that releasee. The bill also provides that the Department of State Health Services is responsible for the certification of residential and outpatient substance abuse treatment programs approved under this section and may charge a nonrefundable fee for certification. The department shall also monitor, coordinate, and provide training to a person who provides a substance abuse treatment program under the section.

This Act applies to a person who is released on parole or to mandatory supervision before, on, or after the effective date of this Act.

EFFECTIVE DATE

September 1, 2008.

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.H.B. 403 amends the language in SECTION 1, subsection (a) by allowing a releasee to serve the remainder of their sentence without supervision and without being required to report if they successfully complete a substance abuse treatment program as opposed to having their parole or mandatory supervision terminated as was the case in H.B. 403.

C.S.H.B. 403 amends the language in SECTION 1, (a) (1) and SECTION 2 (a) by removing the term "residential care" and in SECTION 1, (b) (2) by adding the words "and reporting".

The committee substitute strikes the words "parole or mandatory supervision" in SECTION 1, subsection (c) and replaces them with "duty to submit to supervision and duty to report". It also adds language in SECTION 1, subsection (e) that states that the board may require a person released from supervision and reporting to resubmit to supervision and resume reporting at any time if the board determines such actions are in the best interest of the person or of the community and strikes SECTION 1, subsection (d) of H.B. 403.

C.S.H.B. 403 adds language in SECTION 2, subsection (2) which reads, "successfully completes a substance abuse treatment program under Section 493.009, or is otherwise identified by the board or the department through use of an evidence-based assessment process that includes risk and needs assessment instruments and clinical assessments as an appropriate candidate for treatment; and" and in SECTION 2, subsection (3) strikes the phrase "includes residential care" and replaces it with the phrase "is not less than 150 days in duration either as a resident or outpatient."

The committee substitute adds language in SECTION 2, subsection (3) (b) which reads, "The department, in consultation with the board, shall adopt policies to ensure that each releasee agreeing to participate in a substance abuse treatment program is properly assigned to a residential or outpatient program, as appropriate, for that releasee."

The committee substitute also adds the language "residential and outpatient" in SECTION 2, subsection (c) (1).

C.S.H.B. 403 strikes the language found in SECTION 2, subsection (b) (3) of H.B. 403.

The committee substitute amends SECTION 4 of the bill by changing the effective date to September 1, 2008.

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