

BILL ANALYSIS

C.S.H.B. 2938
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Corrections
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The Texas prison capacity problem is being exacerbated because the Texas Department of Criminal Justice (TDCJ) is not releasing certain inmates who have been approved for parole. Inmates who have been approved for parole, but do not have a home to return to or are waiting for a treatment bed remain incarcerated until TDCJ makes specific arrangements for them.

HB 2938 seeks to rectify this problem by requiring a parole panel to release certain inmates to parole not later than the 45th day after the date the panel determines that arrangements have been made for the inmate's employment or maintenance and care, the inmate is able and willing to fulfill the obligations of a law-abiding citizen, the inmate has completed any program requirements imposed by the parole panel as a condition of release, and any applicable release date specified by the panel has been met.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

CSHB 2938 takes certain criteria that under current law must be met before a parole panel may release an inmate on parole, expands upon that criteria, and then amends the Government Code to provide that a parole panel shall issue an order that releases an inmate, other than an inmate that is ineligible for mandatory supervision, not later than the 45th day after the date that the panel determines all four criteria have been met. The criteria that under current law must be met before a parole panel may release an inmate on parole include: (1) arrangements have been made for the inmate's employment or for the inmate's maintenance and care; and (2) the parole panel believes that the inmate is able and willing to fulfill the obligations of a law abiding citizen. CSHB 2938 alters the second criteria by providing that the parole panel determines that the inmate is able and willing to fulfill the obligations of a law abiding citizen rather than "believes that" an inmate is willing to fulfill the obligations of a law abiding citizen. The expanded criteria include: (3) the inmate has completed any program requirements imposed by the parole panel as a condition of release; and (4) any applicable release date specified by the panel has been met.

CSHB 2938 removes current statutory language in the Government Code which states that before releasing an inmate on parole, a parole panel may have the inmate appear before the panel and interview the inmate.

CSHB 2938 also removes language in the Government Code which states that a parole panel may release an inmate on parole during the parole month established for the inmate if the panel determines that the inmate's release will not increase the likelihood of harm to the public.

CSHB 2938 amends the Government Code to require that the Texas Department of Criminal Justice (TDCJ) submit an annual report containing the number of releases and describing the justification for the releases of inmates to parole later than the date described by Subsection (b), Section 508.141, Government Code. The report shall be submitted to the lieutenant governor, the speaker of the house of representatives, the presiding officers of the standing committees in the senate and house of representatives that are primarily responsible for criminal justice, and, if applicable, the Criminal Justice Legislative Oversight Committee.

The change in law made by this Act applies to any inmate who is confined in a facility operated by or under contract with TDCJ on or after September 1, 2007, regardless of when the inmate's period of confinement began.

EFFECTIVE DATE

September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The original bill provides an exception to Subsection (e), Section 508.141, Government Code to provide that a parole panel that considers for release on parole an inmate described by Subsection (a), Section 508.141, Government Code, and that determines the inmate is able and willing to fulfill the obligations of a law-abiding citizen shall, not later than the 45th day after making that determination, issue an order releasing the inmate on parole.

The substitute takes certain criteria that under current law and in the original bill must be met before a parole panel may release an inmate on parole, expands upon that criteria, and then amends the Government Code to provide that a parole panel shall issue an order that releases an inmate, other than an inmate that is ineligible for mandatory supervision, not later than the 45th day after the date that the panel determines all four criteria have been met. The criteria that under current law, and in the original bill, must be met before a parole panel may release an inmate on parole include: (1) arrangements have been made for the inmate's employment or for the inmate's maintenance and care; and (2) the parole panel believes that the inmate is able and willing to fulfill the obligation of a law abiding citizen. CSHB 2938 alters the second criteria by providing that the parole panel determines that the inmate is able and willing to fulfill the obligations of a law abiding citizen rather than "believes that" an inmate is willing to fulfill the obligations of a law abiding citizen. The expanded criteria in the substitute include: (3) the inmate has completed any program requirements imposed by the parole panel as a condition of release; and (4) any applicable release date specified by the panel has been met.

Unlike the original bill, the substitute removes current statutory language in the Government Code which states that before releasing an inmate on parole, a parole panel may have the inmate appear before the panel and interview the inmate. The substitute also removes language in the Government Code which states that a parole panel may release an inmate on parole during the parole month established for the inmate if the panel determines that the inmate's release will not increase the likelihood of harm to the public.

CSHB 2938 adds language not in the original bill that requires the Texas Department of Criminal Justice (TDCJ) to submit an annual report containing the number of releases and describing the justification for the releases of inmates to parole later than the date described by Subsection (b), Section 508.141, Government Code. The substitute also provides that the report shall be submitted to the lieutenant governor, the speaker of the house of representatives, the presiding officers of the standing committees in the senate and house of representatives that are primarily responsible for criminal justice, and, if applicable, the Criminal Justice Legislative Oversight Committee.