

BILL ANALYSIS

C.S.S.B. 838
By: Whitmire
Corrections
Committee Report (Substituted)

BACKGROUND AND PURPOSE

In the absence of a felony allegation, the options available to the Board of Pardons and Parole for handling parole violators include periods of incarceration in either a Substance Abuse Felony Punishment program, a county jail under contract with TDCJ or Intermediate Sanctions Facility (ISF). However, many violations are administrative in nature. As a result, individuals who violate a condition of release do not receive appropriate sanctions that correspond to the severity of the violation. These individuals are returned to prison, which results in an inappropriate length of stay of three to five years on average.

CSSB 838 provides an intermediate sanction process for offenders under parole supervision or mandatory supervision. The bill prohibits the parole panel from revoking a person's parole due to an administrative violation of a condition of release or a violation punishable as a misdemeanor, with exceptions.

The bill also sets out minimum and maximum stays in substance abuse treatment facilities and ISFs for certain persons whose parole or mandatory supervision is modified.

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

SECTION 1. Amends Section 505.283, Government Code, by amending Subsections (a) and (e) and adding Subsections (e-1), (f), (g), and (h), as follows:

(a) Provides an exception (subsection (g)) to a parole panel's authority to continue, revoke, or modify the parole or mandatory supervision in any manner warranted by the evidence, after the parole panel or a designated agent of the board has held a hearing under Section 508.281.

(e) Authorizes the parole panel, rather than the Board of Pardons and Paroles (board), if a person's parole or mandatory supervision is modified after it is established that the person violated conditions of release, to require the releasee to remain under custodial supervision in a county jail for a period of not less than 60 days or more than 180 days. Authorizes the parole panel to require a person to remain under custodial supervision under this subsection each time the board modifies the person's parole or mandatory supervision.

(e-1) Creates this subsection from existing text and makes a conforming change.

(f) Requires that the term of confinement and treatment in a substance abuse treatment facility operated under Section 493.009 be not less than 180 days and not more than one year if the person's parole or mandatory supervision is modified and the parole panel requires such confinement and treatment as a condition of the modification. Provides that this subsection does not apply to a sex offender or an inmate under super-intensive supervision parole under Section 508.317(d).

(g) Prohibits a parole panel from revoking a person's parole or mandatory supervision under this section, except as provided by Subsection (h), if the person committed only an administrative violation of a condition of release, or has been adjudicated guilty of or has pleaded guilty or nolo contendere to a misdemeanor offense committed after release.

(h) Provides that a parole panel may revoke a person's parole or mandatory supervision under this section if the person has failed to report to the parole officer supervising the person for a period of at least one year or is arrested outside of this state on a warrant issued under Section 508.251.

SECTION 2. Amends Subchapter I, Chapter 508, Government Code, by adding Section 508.285, as follows:

Sec. 508.285. SANCTION: CONFINEMENT IN INTERMEDIATE SANCTION FACILITY. (a) Authorizes a parole panel, after a hearing under Section 508.281 (Hearing) , to require the person to remain under custodial supervision in an intermediate sanction facility operated by or under contract with the Texas Department of Criminal Justice (department) for a term of not less than 60 days or more than one year if the parole panel modifies the person's parole or mandatory supervision because the person violated his or her conditions of release. Provides that this subsection does not apply to a sex offender or an inmate under super-intensive supervision parole under Section 508.317(d).

(b) Authorizes a parole panel to require a person to remain under custodial supervision as described under Subsection (a) each time the person's parole or mandatory supervision is modified by the panel.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2007.

EFFECTIVE DATE

September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

CSSB 838 contains language not in the original bill which provides that a parole panel may revoke a person's parole or mandatory supervision under Section 508.283, Government Code, if the person has failed to report to the parole officer supervising the person for a period of at least one year or is arrested outside of this state on a warrant issued under Section 508.251, Government Code. Makes conforming changes accordingly.

CSSB 838 contains a different caption than SB 838.