

By: Marquez

H.B. No. 3763

A BILL TO BE ENTITLED

AN ACT

relating to the release of inmates in the custody of the Texas Department of Criminal Justice on parole or other forms of supervised release.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 508.045(a), Government Code, is amended to read as follows:

(a) Except as provided by Sections [~~Section~~] 508.046 and 508.1451, board members and parole commissioners shall act in panels composed of three in matters of:

- (1) release on parole;
- (2) release to mandatory supervision; and
- (3) revocation of parole or mandatory supervision.

SECTION 2. Chapter 508, Government Code, is amended by adding Section 508.1451 to read as follows:

Sec. 508.1451. RELEASE ON PAROLE OF CERTAIN ELDERLY INMATES. (a) For purposes of this section, "elderly inmate" means an inmate who is 65 years of age or older.

(b) Except as otherwise provided by this section, the department shall release on parole any elderly inmate, other than an inmate ineligible for parole under Section 508.145(a), not later than the inmate's initial parole eligibility date computed under Section 508.145.

(c) The presiding officer shall appoint a six-member panel

1 to determine issues regarding the release on parole of elderly
2 inmates under this section. To deny the release on parole of an
3 elderly inmate under this section, at least four members of the
4 panel must vote against the release.

5 (d) To assist the panel in making appropriate
6 determinations under this section, the board shall contract with a
7 public or private entity to prepare and submit to the board, not
8 later than the 90th day before the inmate's release date under
9 Subsection (b), written recommendations based on the opinions of
10 not less than two licensed physicians regarding the elderly inmate
11 and any health issues affecting the inmate. A member of the panel
12 may vote for or against the inmate's release on parole only after
13 the member has reviewed any written recommendations that are timely
14 submitted to the board under this subsection.

15 (e) The board shall consider an elderly inmate for release
16 on parole under this section not later than the 60th day before the
17 inmate's initial parole eligibility date computed under Section
18 508.145. The board shall adopt a policy establishing the date on
19 which the board may reconsider for release an inmate who has
20 previously been denied release under this section. The policy must
21 require the board to at least annually reconsider the inmate for
22 release as soon as practicable after each anniversary of the date of
23 denial.

24 SECTION 3. Section 508.146(a), Government Code, is amended
25 to read as follows:

26 (a) An inmate other than an inmate who is serving a sentence
27 of death or life without parole may be released on medically

1 recommended intensive supervision on a date designated by a parole
2 panel described by Subsection (e) [~~, except that an inmate with an~~
3 ~~instant offense that is an offense described in Section 3g, Article~~
4 ~~42.12, Code of Criminal Procedure, or an inmate who has a reportable~~
5 ~~conviction or adjudication under Chapter 62, Code of Criminal~~
6 ~~Procedure, may only be considered if a medical condition of~~
7 ~~terminal illness or long term care has been diagnosed by a~~
8 ~~physician,~~] if:

9 (1) the Texas Correctional Office on Offenders with
10 Medical or Mental Impairments, in cooperation with the Correctional
11 Managed Health Care Committee, identifies the inmate as:

12 (A) being~~+~~

13 [~~(A)~~] elderly, having a physical disability or
14 terminal illness, or being a person with a mental illness or mental
15 retardation;

16 (B) [~~physically disabled, mentally ill,~~
17 ~~terminally ill, or mentally retarded or~~] having a medical condition
18 requiring long-term care, if the inmate is an inmate with an instant
19 offense that is described in Section 3g, Article 42.12, Code of
20 Criminal Procedure; or

21 (C) being [~~(B)~~] in a persistent vegetative state
22 or being a person with an organic brain syndrome with significant to
23 total mobility impairment, if the inmate is an inmate who has a
24 reportable conviction or adjudication under Chapter 62, Code of
25 Criminal Procedure;

26 (2) the parole panel determines that, based on the
27 inmate's condition and a medical evaluation, the inmate does not

1 constitute a threat to public safety; and

2 (3) the Texas Correctional Office on Offenders with
3 Medical or Mental Impairments, in cooperation with the pardons and
4 paroles division, has prepared for the inmate a medically
5 recommended intensive supervision plan that requires the inmate to
6 submit to electronic monitoring, places the inmate on
7 super-intensive supervision, or otherwise ensures appropriate
8 supervision of the inmate.

9 SECTION 4. Section 508.149, Government Code, is amended by
10 adding Subsection (b-1) to read as follows:

11 (b-1) Subsection (b) does not apply to an inmate who is
12 serving a sentence for an offense under Chapter 481, Health and
13 Safety Code.

14 SECTION 5. Section 508.283, Government Code, is amended by
15 amending Subsections (a), (c), and (e) and adding Subsections
16 (e-1), (f), (g), and (h) to read as follows:

17 (a) After a parole panel or designated agent of the board
18 has held a hearing under Section 508.281, in any manner warranted by
19 the evidence:

20 (1) the board may recommend to the governor to
21 continue, revoke, or modify the conditional pardon; and

22 (2) except as provided by Subsection (g), a parole
23 panel may continue, revoke, or modify the parole or mandatory
24 supervision.

25 (c) If the parole, mandatory supervision, or conditional
26 pardon of a person [~~other than a person described by Section~~
27 ~~508.149(a)~~] is revoked, the person may be required to serve the

1 remaining portion of the sentence on which the person was released.
2 The [~~For a person who on the date of issuance of a warrant or summons~~
3 ~~initiating the revocation process is subject to a sentence the~~
4 ~~remaining portion of which is greater than the amount of time from~~
5 ~~the date of the person's release to the date of issuance of the~~
6 ~~warrant or summons, the~~] remaining portion of the sentence is to be
7 served with [~~without~~] credit for the time from the date of the
8 person's release to the date of the violation that resulted in the
9 revocation. [~~For a person who on the date of issuance of the warrant~~
10 ~~or summons is subject to a sentence the remaining portion of which~~
11 ~~is less than the amount of time from the date of the person's~~
12 ~~release to the date of issuance of the warrant or summons, the~~
13 ~~remaining portion is to be served without credit for an amount of~~
14 ~~time equal to the remaining portion of the sentence on the date of~~
15 ~~issuance of the warrant or citation.]~~

16 (e) If a person's parole or mandatory supervision is
17 modified after it is established that the person violated
18 conditions of release, the parole panel [~~board~~] may require the
19 releasee to remain under custodial supervision in a county jail for
20 a period of not less than 60 days or more than 180 days. The parole
21 panel may require a person to remain under custodial supervision
22 under this subsection each time the board modifies the person's
23 parole or mandatory supervision.

24 (e-1) A sheriff is required to accept an inmate sanctioned
25 under Subsection (e) [~~this subsection~~] only if the commissioners
26 court of the county in which the sheriff serves and the Texas
27 Department of Criminal Justice have entered into a contract

1 providing for the housing of persons sanctioned under that [~~this~~]
2 subsection.

3 (f) If a person's parole or mandatory supervision is
4 modified and the parole panel requires the person to serve a term of
5 confinement and treatment in a substance abuse treatment facility
6 operated under Section 493.009 as a condition of the modification,
7 the term must be not less than 180 days and not more than one year.
8 This subsection does not apply to a releasee required to register as
9 a sex offender under Chapter 62, Code of Criminal Procedure, or to a
10 releasee in the super-intensive supervision program under Section
11 508.317(d).

12 (g) This subsection applies only to a person released on
13 parole or to mandatory supervision after serving a sentence for an
14 offense other than an offense listed under Section 3g(a)(1),
15 Article 42.12, Code of Criminal Procedure, or an offense the
16 judgment for which contains an affirmative finding under Section
17 3g(a)(2), Article 42.12, Code of Criminal Procedure. A parole
18 panel may not revoke a person's parole or mandatory supervision
19 under this section if the person:

20 (1) committed only an administrative violation of a
21 condition of release; or

22 (2) has been adjudicated guilty of or has pleaded
23 guilty or nolo contendere to an offense punishable as a misdemeanor
24 that is committed after release, other than an offense under
25 Section 545.421, Transportation Code.

26 (h) Notwithstanding Subsection (g) a parole panel may
27 revoke a person's parole or mandatory supervision under this

1 section if the person:

2 (1) has failed to report to the parole officer
3 supervising the person for a period of at least one year; or

4 (2) is arrested outside of this state on a warrant
5 issued under Section 508.251.

6 SECTION 6. Subchapter I, Chapter 508, Government Code, is
7 amended by adding Section 508.2831 to read as follows:

8 Sec. 508.2831. SANCTION: CONFINEMENT IN INTERMEDIATE
9 SANCTION FACILITY. (a) After a hearing under Section 508.281, if
10 a parole panel modifies a person's parole or mandatory supervision
11 because the person violated the person's conditions of release, the
12 panel may require the person to remain under custodial supervision
13 in an intermediate sanction facility operated by or under contract
14 with the department for a term of not less than 60 days or more than
15 one year. This subsection does not apply to a releasee required to
16 register as a sex offender under Chapter 62, Code of Criminal
17 Procedure, or to a releasee in the super-intensive supervision
18 program under Section 508.317(d).

19 (b) A parole panel may require a person to remain under
20 custodial supervision as described by Subsection (a) each time the
21 panel modifies the person's parole or mandatory supervision.

22 SECTION 7. Section 508.283(b), Government Code, is
23 repealed.

24 SECTION 8. Not later than January 1, 2012, the Texas
25 Department of Criminal Justice shall release on parole any elderly
26 inmate, as defined by Section 508.1451, Government Code, as added
27 by this Act, with respect to whom a parole panel has not denied

1 release on parole under that section.

2 SECTION 9. Section 508.146(a), Government Code, as amended
3 by this Act, applies only to the release of an inmate under that
4 section on or after the effective date of this Act, regardless of
5 when the offense for which the inmate is serving a sentence was
6 committed.

7 SECTION 10. Section 508.149(b-1), Government Code, as added
8 by this Act, applies to any inmate serving a term of imprisonment in
9 a facility operated by or under contract with the Texas Department
10 of Criminal Justice on or after the effective date of this Act,
11 regardless of when the inmate was sentenced to serve that term.

12 SECTION 11. Sections 508.283(a) and (e), Government Code,
13 as amended by this Act, and Sections 508.283(e-1), (f), (g), and (h)
14 and 508.2831, Government Code, as added by this Act, apply only to a
15 determination by a parole panel made on or after the effective date
16 of this Act. A determination made before the effective date of this
17 Act is covered by the law in effect on the date the determination
18 was made, and the former law is continued in effect for that
19 purpose.

20 SECTION 12. The change in law made by this Act in amending
21 Section 508.283(c), Government Code, and repealing Section
22 508.283(b), Government Code, applies only to the calculation of the
23 remaining sentence for an inmate whose release on parole, mandatory
24 supervision, or conditional pardon is revoked on or after the
25 effective date of this Act. The calculation of the remaining
26 sentence for an inmate whose release on parole, mandatory
27 supervision, or conditional pardon is revoked before the effective

1 date of this Act is governed by the law in effect immediately before
2 the effective date of this Act, and the former law is continued in
3 effect for that purpose.

4 SECTION 13. This Act takes effect September 1, 2011.