

SENATE AMENDMENTS

2nd Printing

By: Perry

H.B. No. 1940

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the requirement of a preliminary hearing for certain
3 persons released from the Texas Department of Criminal Justice who
4 are alleged to have violated a condition of release.

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

6 SECTION 1. Section 508.2811, Government Code, is amended to
7 read as follows:

8 Sec. 508.2811. PRELIMINARY HEARING. A parole panel or a
9 designee of the board shall provide within a reasonable time to an
10 inmate or person described by Section 508.281(a) a preliminary
11 hearing to determine whether probable cause or reasonable grounds
12 exist to believe that the inmate or person has committed an act that
13 would constitute a violation of a condition of release, unless the
14 inmate or person:

15 (1) waives the preliminary hearing; or

16 (2) after release:

17 (A) has been charged only with an administrative
18 violation of a condition of release;

19 (B) has been charged with an offense that was
20 committed after release and for which a magistrate has made a
21 finding of probable cause; or

22 (C) [~~B~~] has been adjudicated guilty of or has
23 pleaded guilty or nolo contendere to an offense committed after
24 release, other than an offense punishable by fine only involving

1 the operation of a motor vehicle, regardless of whether the court
2 has deferred disposition of the case, imposed a sentence in the
3 case, or placed the inmate or person on community supervision.

4 SECTION 2. Section 508.282(a), Government Code, is amended
5 to read as follows:

6 (a) Except as provided by Subsection (b), a parole panel, a
7 designee of the board, or the department shall dispose of the
8 charges against an inmate or person described by Section
9 508.281(a):

10 (1) before the 41st day after the date on which:

11 (A) a warrant issued as provided by Section
12 508.251 is executed, if the inmate or person is arrested only on a
13 charge that the inmate or person has committed an administrative
14 violation of a condition of release, and the inmate or person is not
15 charged before the 41st day with the commission of an offense
16 described by Section 508.2811(2)(B) or (C); or

17 (B) the sheriff having custody of an inmate or
18 person alleged to have committed an offense after release notifies
19 the department that:

20 (i) the inmate or person has discharged the
21 sentence for the offense; or

22 (ii) the prosecution of the alleged offense
23 has been dismissed by the attorney representing the state in the
24 manner provided by Article 32.02, Code of Criminal Procedure; or

25 (2) within a reasonable time after the date on which
26 the inmate or person is returned to the custody of the department,
27 if:

1 (A) immediately before the return the inmate or
2 person was in custody in another state or in a federal correctional
3 system; or

4 (B) the inmate or person is transferred to the
5 custody of the department under Section 508.284.

6 SECTION 3. This Act takes effect immediately if it receives
7 a vote of two-thirds of all the members elected to each house, as
8 provided by Section 39, Article III, Texas Constitution. If this
9 Act does not receive the vote necessary for immediate effect, this
10 Act takes effect September 1, 2011.

ADOPTED

MAY 25 2011

Atty. Gen.
Secretary of the Senate

By: *J. Huffman*

H.B. No. 1940

Substitute the following for ___B. No. _____:

By: Huffman

C.S. ___B. No. _____

A BILL TO BE ENTITLED

1 AN ACT

2 relating to certain matters affecting the supervision of persons
3 released from the Texas Department of Criminal Justice and to
4 certain hearings conducted concerning persons released from the
5 Texas Department of Criminal Justice.

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

7 SECTION 1. Section 508.040(a), Government Code, is amended
8 to read as follows:

9 (a) The presiding officer is responsible for the employment
10 and supervision of:

- 11 (1) parole commissioners;
- 12 (2) a general counsel to the board;
- 13 (3) a board administrator to manage the day-to-day
14 activities of the board;
- 15 (4) hearing officers;
- 16 (5) institutional parole officers;
- 17 (6) personnel to assist in clemency and hearing
18 matters; and
- 19 (7) [~~6~~] secretarial or clerical personnel.

20 SECTION 2. Section 508.0441(a), Government Code, is amended
21 to read as follows:

- 22 (a) Board members and parole commissioners shall determine:
- 23 (1) which inmates are to be released on parole or
24 mandatory supervision;

1 (2) ' conditions of parole or mandatory supervision,
2 including special conditions;

3 (3) the modification and withdrawal of conditions of
4 parole or mandatory supervision; and

5 (4) [~~which releasees may be released from supervision~~
6 ~~and reporting, and~~

7 [~~45~~] the continuation, modification, and revocation
8 of parole or mandatory supervision.

9 SECTION 3. Section 508.045, Government Code, is amended by
10 amending Subsection (c) and adding Subsection (d) to read as
11 follows:

12 (c) A parole panel may:

13 (1) grant, deny, or revoke parole;

14 (2) deny release to mandatory supervision, under
15 Section 508.149(b), or revoke mandatory supervision; [~~and~~]

16 (3) conduct parole revocation hearings and mandatory
17 supervision revocation hearings; and

18 (4) conduct hearings concerning whether, as a
19 condition of release on parole or to mandatory supervision, a
20 releasee who does not have a reportable conviction or adjudication,
21 as defined by Article 62.001(5), Code of Criminal Procedure, must
22 comply with any sex offender restrictions, including, if
23 applicable, registering as a sex offender under Chapter 62, Code of
24 Criminal Procedure.

25 (d) A parole panel or a designated agent of the board may
26 conduct a hearing described by Subsection (c)(3) or (4).

27 SECTION 4. Section 508.224, Government Code, is amended to

1 read as follows:

2 Sec. 508.224. SUBSTANCE ABUSE COUNSELING. A parole panel
3 may require as a condition of parole or mandatory supervision that
4 the releasee attend counseling sessions for substance abusers or
5 participate in substance abuse treatment services in a program or
6 facility approved or licensed by the Department of State Health
7 Services [~~Texas Commission on Alcohol and Drug Abuse~~] if:

8 (1) the releasee was sentenced for an offense
9 involving a controlled substance; or

10 (2) the panel determines that the releasee's substance
11 abuse was related to the commission of the offense.

12 SECTION 5. Section 508.283(a), Government Code, is amended
13 to read as follows:

14 (a) If a releasee waives the releasee's right to a hearing
15 or, if a releasee does not waive the releasee's right to a hearing,
16 after [~~After~~] a parole panel or designated agent of the board has
17 held a hearing under Section 508.281, in any manner warranted by the
18 evidence:

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

21 (2) a parole panel may continue, revoke, or modify the
22 parole or mandatory supervision.

23 SECTION 6. This Act takes effect immediately if it receives
24 a vote of two-thirds of all the members elected to each house, as
25 provided by Section 39, Article III, Texas Constitution. If this
26 Act does not receive the vote necessary for immediate effect, this
27 Act takes effect September 1, 2011.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

May 25, 2011

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: HB1940 by Perry (Relating to certain matters affecting the supervision of persons released from the Texas Department of Criminal Justice and to certain hearings conducted concerning persons released from the Texas Department of Criminal Justice.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

The bill would amend various sections of the Government Code with perfecting and clarifying language. The bill would permit the Board of Pardons and Paroles (BPP) to conduct hearings concerning whether, as a condition of release on parole or to mandatory supervision, a releasee who does not have a conviction for a sex offense, but whose offense included certain conditions related to a sex offense, must comply with any sex offender restrictions, including registering as a sex offender.

The Department of Criminal Justice anticipates no significant fiscal impact. The BPP reported a potential cost to conduct the additional hearings. However, since the bill is permissive and not mandatory, no significant fiscal impact to the state is anticipated.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 696 Department of Criminal Justice, 697 Board of Pardons and Paroles

LBB Staff: JOB, SD, ESi, GG, AI

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

May 22, 2011

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: HB1940 by Perry (Relating to certain matters affecting the supervision of persons released from the Texas Department of Criminal Justice and to certain hearings conducted concerning persons released from the Texas Department of Criminal Justice.), **Committee Report 2nd House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend various sections of the Government Code with perfecting and clarifying language. The bill would permit the Board of Pardons and Paroles (BPP) to conduct hearings concerning whether, as a condition of release on parole or to mandatory supervision, a releasee who does not have a conviction for a sex offense, but whose offense included certain conditions related to a sex offense, must comply with any sex offender restrictions, including registering as a sex offender.

The Department of Criminal Justice anticipates no significant fiscal impact. The BPP reported a potential cost to conduct the additional hearings. However, since the bill is permissive and not mandatory, no significant fiscal impact to the state is anticipated.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 696 Department of Criminal Justice, 697 Board of Pardons and Paroles

LBB Staff: JOB, ESi, GG, AI

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

May 19, 2011

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: HB1940 by Perry (Relating to the requirement of a preliminary hearing for certain persons released from the Texas Department of Criminal Justice who are alleged to have violated a condition of release.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would amend the Government Code by removing the requirement of a preliminary probable cause hearing for an offender who committed an offense after release from prison if a magistrate has already made a finding of probable cause. The Department of Criminal Justice anticipates no cost to the state from the bill. The Board of Pardons and Paroles anticipates no significant savings from the passage of the bill as currently multiple preliminary hearings in nearby locations are scheduled in concert in order to minimize travel expenditures.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 696 Department of Criminal Justice, 697 Board of Pardons and Paroles

LBB Staff: JOB, ESi, GG, AI

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

March 15, 2011

TO: Honorable Jerry Madden, Chair, House Committee on Corrections

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: HB1940 by Perry (Relating to the requirement of a preliminary hearing for certain persons released from the Texas Department of Criminal Justice who are alleged to have violated a condition of release.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend the Government Code by removing the requirement of a preliminary probable cause hearing for an offender who committed an offense after release from prison if a magistrate has already made a finding of probable cause. The Department of Criminal Justice anticipates no cost to the state from the bill. The Board of Pardons and Paroles anticipates no significant savings from the passage of the bill as currently multiple preliminary hearings in nearby locations are scheduled in concert in order to minimize travel expenditures.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 696 Department of Criminal Justice, 697 Board of Pardons and Paroles

LBB Staff: JOB, ESi, GG, AI

LEGISLATIVE BUDGET BOARD
Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

82ND LEGISLATIVE REGULAR SESSION

May 22, 2011

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: HB1940 by Perry (Relating to certain matters affecting the supervision of persons released from the Texas Department of Criminal Justice and to certain hearings conducted concerning persons released from the Texas Department of Criminal Justice.), **Committee Report 2nd House, Substituted**

No significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies is anticipated from any provisions of this bill that authorize or require a change in the sanctions applicable to adults convicted of felony crimes.

Source Agencies:

LBB Staff: JOB, GG, LM

LEGISLATIVE BUDGET BOARD
Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

82ND LEGISLATIVE REGULAR SESSION

May 19, 2011

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: HB1940 by Perry (Relating to the requirement of a preliminary hearing for certain persons released from the Texas Department of Criminal Justice who are alleged to have violated a condition of release.), **As Engrossed**

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Source Agencies:

LBB Staff: JOB, ADM, GG, LM

LEGISLATIVE BUDGET BOARD

Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

82ND LEGISLATIVE REGULAR SESSION

March 15, 2011

TO: Honorable Jerry Madden, Chair, House Committee on Corrections

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: HB1940 by Perry (Relating to the requirement of a preliminary hearing for certain persons released from the Texas Department of Criminal Justice who are alleged to have violated a condition of release.), **As Introduced**

No significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies is anticipated from any provisions of this bill that authorize or require a change in the sanctions applicable to adults convicted of felony crimes.

Source Agencies:

LBB Staff: JOB, GG, LM