

BILL ANALYSIS

C.S.S.B. 991
By: West
Corrections
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Questions have been raised in recent years regarding why seriously ill and incapacitated offenders remain behind prison bars, when conceivably, because of their deteriorated health, they no longer pose a legitimate threat to public safety. Interested parties note that providing medical care for these seriously ill offenders can cause the state to incur enormous medical costs. Certain offenders who are terminally ill, mentally ill, physically disabled, elderly, or who are in need of long-term medical care can be considered for release on medically recommended intensive supervision. Their release is contingent on a parole panel's decision that the offender no longer poses a threat to public safety based on the offender's condition and a medical evaluation. C.S.S.B. 991 seeks to modify the types of offenders who may be considered for release on medically recommended intensive supervision in order to allow the state to save on medical costs while also continuing to ensure public safety.

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

C.S.S.B. 991 amends the Government Code to require the pardons and paroles division of the Texas Department of Criminal Justice (TDCJ), not later than the 11th day before the date a parole panel orders the release of an inmate on medically recommended intensive supervision, to notify certain criminal justice officials in the county in which the inmate was convicted and the county to which the inmate is released that a parole panel is considering that release. The bill requires such notice to include, among other information, information relating to the inmate's physical or mental health condition.

C.S.S.B. 991 removes language restricting consideration for release on medically recommended intensive supervision of an inmate with an instant offense for which a judge is prohibited from ordering community supervision or of an inmate who has a reportable conviction or adjudication requiring the person's registration under the sex offender registration program to consideration for such release only under circumstances in which a medical condition of terminal illness or long-term care has been diagnosed by a physician. The bill instead restricts consideration for release on medically recommended intensive supervision of any inmate other than an inmate who is serving a sentence of death or life without parole to consideration for such release only under circumstances in which a medical condition of terminal illness has been diagnosed by a physician. The bill defines "terminal illness" as an incurable illness or condition diagnosed by a physician that requires skilled nursing care, hospice care, or home health care, and is expected to result in death in six months or less regardless of life-sustaining care. The bill revises the types of identifications that the Texas Correctional Office on Offenders with Medical or Mental Impairments, in cooperation with the Correctional Managed Health Care Committee, must make regarding an inmate for the inmate to be eligible for release on medically recommended intensive supervision.

C.S.S.B. 991 changes the composition of a three-member parole panel authorized to make determinations regarding the release of inmates on medically recommended intensive supervision or of inmates released pending deportation by removing the presiding officer of the Board of Pardons and Paroles and increasing from two to three the number of members appointed to the panel by the presiding officer.

C.S.S.B. 991 removes language restricting the release of an inmate who is not a United States citizen and who is not under a sentence of death or life without parole to immigration authorities pending deportation to the release of an inmate who does not have a reportable conviction or adjudication of an offense requiring the person's registration under the sex offender registration program or of an instant offense that renders a defendant ineligible for placement on community supervision.

C.S.S.B. 991, in a temporary provision set to expire January 1, 2015, requires TDCJ, the Department of Aging and Disability Services, and the Health and Human Services Commission jointly to conduct a study regarding the feasibility of contracting with a private entity to house inmates released on medically recommended intensive supervision who require skilled nursing services or 24-hour care. The bill requires TDCJ, not later than December 1, 2014, to report the results of the study to the governor, the lieutenant governor, the speaker of the house of representatives, and the standing committees of the house of representatives and the senate with primary jurisdiction over criminal justice matters.

EFFECTIVE DATE

September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.S.B. 991 may differ from the engrossed version in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the engrossed and committee substitute versions of the bill.

SENATE ENGROSSED

SECTION 1. Subsections (a) and (d), Section 508.115, Government Code, are amended to read as follows:

(a) Not later than the 11th day before the date a parole panel orders the release of an inmate on parole or medically recommended intensive supervision [~~of an inmate~~] or not later than the 11th day after the date the board recommends that the governor grant executive clemency, the division shall notify the sheriffs, each chief of police, the prosecuting attorneys, and the district judges in the county in which the inmate was convicted and the county to which the inmate is released that a parole panel is considering release on parole or medically recommended intensive supervision or the governor is considering clemency.

(d) The notice must include [~~state~~]:

- (1) the inmate's name;
- (2) the county in which the inmate was

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Subsections (a) and (d), Section 508.115, Government Code, are amended to read as follows:

(a) Not later than the 11th day before the date a parole panel orders the release of an inmate on parole or medically recommended intensive supervision [~~of an inmate~~] or not later than the 11th day after the date the board recommends that the governor grant executive clemency, the division shall notify the sheriffs, each chief of police, the prosecuting attorneys, and the district judges in the county in which the inmate was convicted and the county to which the inmate is released that a parole panel is considering release on parole or medically recommended intensive supervision or the governor is considering clemency.

(d) The notice must include [~~state~~]:

- (1) the inmate's name;
- (2) the county in which the inmate was

convicted; ~~and~~]

(3) the offense for which the inmate was convicted; and

(4) to the extent permitted by federal law, information relating to the inmate's physical or mental health condition if the inmate is being considered for release on medically recommended intensive supervision under Section 508.146.

SECTION 2. Section 508.146, Government Code, is amended by amending Subsections (a), (e), and (f) and adding Subsection (g) to read as follows:

(a) An inmate other than an inmate who is serving a sentence of death or life without parole may be released on medically recommended intensive supervision on a date designated by a parole panel described by Subsection (e) ~~[-except that an inmate with an instant offense that is an offense described in Section 3g, Article 42.12, Code of Criminal Procedure, or an inmate who has a reportable conviction or adjudication under Chapter 62, Code of Criminal Procedure, may only be considered if a medical condition of terminal illness or long-term care has been diagnosed by a physician,]~~ if:

(1) the Texas Correctional Office on Offenders with Medical or Mental Impairments, in cooperation with the Correctional Managed Health Care Committee, identifies the inmate as ~~[being]~~:

(A) ~~[elderly, physically disabled, mentally ill, terminally ill, or mentally retarded or having a condition]~~ requiring permanent long-term care, having a terminal illness, or being a person with a severe and persistent mental illness or intellectual and developmental disability, if the inmate is an inmate who does not have a reportable conviction or adjudication under Chapter 62, Code of Criminal Procedure ~~[with an instant offense that is described in Section 3g, Article 42.12, Code of Criminal Procedure]~~; or

(B) being in a persistent vegetative state or being a person with an organic brain syndrome with significant to total mobility impairment, if the inmate is an inmate who has a reportable conviction or adjudication

convicted; ~~and~~]

(3) the offense for which the inmate was convicted; and

(4) information relating to the inmate's physical or mental health condition if the inmate is being considered for release on medically recommended intensive supervision under Section 508.146.

SECTION 2. Section 508.146, Government Code, is amended by amending Subsections (a), (e), and (f) and adding Subsection (g) to read as follows:

(a) An inmate other than an inmate who is serving a sentence of death or life without parole may be released on medically recommended intensive supervision only if a medical condition of terminal illness has been diagnosed by a physician on a date designated by a parole panel described by Subsection (e) ~~[-except that an inmate with an instant offense that is an offense described in Section 3g, Article 42.12, Code of Criminal Procedure, or an inmate who has a reportable conviction or adjudication under Chapter 62, Code of Criminal Procedure, may only be considered if a medical condition of terminal illness or long-term care has been diagnosed by a physician,]~~ if:

(1) the Texas Correctional Office on Offenders with Medical or Mental Impairments, in cooperation with the Correctional Managed Health Care Committee, identifies the inmate as ~~[being]~~:

(A) ~~[elderly, physically disabled, mentally ill, terminally ill, or mentally retarded or having a condition]~~ requiring permanent long-term care, having a terminal illness, or being a person with a severe and persistent mental illness or intellectual and developmental disability, if the inmate is an inmate who does not have a reportable conviction or adjudication under Chapter 62, Code of Criminal Procedure ~~[with an instant offense that is described in Section 3g, Article 42.12, Code of Criminal Procedure]~~; or

(B) being in a persistent vegetative state or being a person with an organic brain syndrome with significant to total mobility impairment, if the inmate is an inmate who has a reportable conviction or adjudication

under Chapter 62, Code of Criminal Procedure;

(2) the parole panel determines that, based on the inmate's condition and a medical evaluation, the inmate does not constitute a threat to public safety; and

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

(e) Only a parole panel [~~panels~~] composed of three [~~the presiding officer of the board and two~~] members appointed to the panel by the presiding officer may make determinations regarding the release of inmates on medically recommended intensive supervision under Subsection (a) or of inmates released pending deportation. If the Texas Correctional Office [~~Council~~] on Offenders with Medical or Mental Impairments identifies an inmate as a candidate for release under the guidelines established by Subsection (a)(1), the office [~~council~~] shall present to a parole panel described by this subsection relevant information concerning the inmate and the inmate's potential for release under this section.

(f) An inmate who is not a citizen of the United States, as defined by federal law, and who is not under a sentence of death or life without parole[, ~~and who does not have a reportable conviction or adjudication under Chapter 62, Code of Criminal Procedure, or an instant offense described in Section 3g, Article 42.12, Code of Criminal Procedure,~~] may be released to immigration authorities pending deportation on a date designated by a parole panel described by Subsection (e) if the parole panel determines that on release the inmate would be deported to another country and that the inmate does not constitute a threat to public safety in the other country or this country and is unlikely to reenter this country illegally.

(g) For purposes of Subsection (a), "terminal illness" means an incurable illness or condition that requires skilled nursing care, hospice care, or home health care, and

under Chapter 62, Code of Criminal Procedure;

(2) the parole panel determines that, based on the inmate's condition and a medical evaluation, the inmate does not constitute a threat to public safety; and

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

(e) Only a parole panel [~~panels~~] composed of three [~~the presiding officer of the board and two~~] members appointed to the panel by the presiding officer may make determinations regarding the release of inmates on medically recommended intensive supervision under Subsection (a) or of inmates released pending deportation. If the Texas Correctional Office [~~Council~~] on Offenders with Medical or Mental Impairments identifies an inmate as a candidate for release under the guidelines established by Subsection (a)(1), the office [~~council~~] shall present to a parole panel described by this subsection relevant information concerning the inmate and the inmate's potential for release under this section.

(f) An inmate who is not a citizen of the United States, as defined by federal law, and who is not under a sentence of death or life without parole[, ~~and who does not have a reportable conviction or adjudication under Chapter 62, Code of Criminal Procedure, or an instant offense described in Section 3g, Article 42.12, Code of Criminal Procedure,~~] may be released to immigration authorities pending deportation on a date designated by a parole panel described by Subsection (e) if the parole panel determines that on release the inmate would be deported to another country and that the inmate does not constitute a threat to public safety in the other country or this country and is unlikely to reenter this country illegally.

(g) For purposes of Subsection (a), "terminal illness" means an incurable illness or condition diagnosed by a physician that requires skilled nursing care, hospice care,

is expected to result in death in **one year** or less regardless of life-sustaining treatment.

or home health care, and is expected to result in death in **six months** or less regardless of life-sustaining treatment.

SECTION 3. (a) The Texas Department of Criminal Justice, the Department of Aging and Disability Services, and the Health and Human Services Commission jointly shall conduct a study regarding the feasibility of contracting with a private entity to house inmates released on medically recommended intensive supervision under Section 508.146, Government Code, as amended by this Act, who require skilled nursing services or 24-hour care.

(b) Not later than December 1, 2014, the Texas Department of Criminal Justice shall report the results of the study conducted under this section to the governor, the lieutenant governor, the speaker of the house of representatives, and the standing committees of the house of representatives and the senate with primary jurisdiction over criminal justice matters.

(c) This section expires January 1, 2015.

SECTION 3. Same as engrossed version.

SECTION 4. This Act takes effect September 1, 2013.

SECTION 4. Same as engrossed version.