

BILL ANALYSIS

C.S.H.B. 3239
By: Fletcher
Corrections
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently, some county jails are overcrowded with defendants awaiting a probation revocation hearing and possible transfer to a state facility, otherwise known as a blue warrant. There is concern about the fact that these county jails are faced with housing these state inmates for excessive periods pending a parole hearing. The increase in the blue warrant population in many county jails has led to increased operating costs and contributed to a worrying rise in the overall jail population. C.S.H.B. 3239 seeks to address this issue by revising provisions relating to the detention of a person who is the subject of a warrant.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

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.H.B. 3239 amends the Government Code to authorize the magistrate of a county holding in custody a person released on parole or to mandatory supervision who is the subject of a warrant for the person's return to release the person on bond pending the hearing on the matter if the following conditions exist: the person is arrested or held in custody only on a charge that the person committed an administrative violation of release, the pardons and parole division of the Texas Department of Criminal Justice included notice on the warrant for the person's arrest that the person is eligible for release on bond, and the magistrate determines that the person is not a threat to public safety.

C.S.H.B. 3239 requires the division to include a notice on the warrant for the person's arrest indicating that the person is eligible for release on bond if the division determines that the person is not on intensive supervision or super-intensive supervision, is not an absconder, is not a threat to public safety, and has not been previously convicted of robbery, an offense against the person punishable as a felony, or an offense involving family violence. The bill makes Code of Criminal Procedure provisions relating to bail and the forfeiture of bail applicable to a person released under the bill's provisions in the same manner as those provisions apply to a person released pending an appearance before a court or magistrate, except that the bill conditions the release on the person's appearance at a hearing relating to the warrant.

C.S.H.B. 3239 removes the requirement that the sheriff of the county in which a releasee is required to appear in compliance with a summons for a hearing before a designated agent of the Board of Pardons and Paroles provide the agent with a place at the county jail to hold the hearing and removes the authorization for the issuance of a warrant, immediately on conclusion of a

hearing in which the agent determines a releasee violated a condition of release, requiring the releasee to be held in the county jail pending parole panel action and the releasee's return to the releasing institution. The bill instead requires the agent to notify the board if the agent determines that the releasee has violated a condition of release and authorizes the division, after the board or a parole panel makes a final determination regarding the violation, to issue a warrant requiring the releasee to be held in a county jail pending the releasee's return to the releasing institution.

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3239 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Section 508.254, Government Code, is amended by amending Subsection (c) and adding Subsections (d), (e), and (f) to read as follows:

(c) Except as provided by Subsection (d), pending [~~Pending~~] a hearing on a charge of parole violation, ineligible release, or violation of a condition of mandatory supervision, a person returned to custody shall remain confined.

(d) A magistrate of the county in which the person is held in custody may release the person on bond pending the hearing if:

(1) the person is arrested or held in custody only on a charge that the person:

(A) committed an administrative violation of release; or

(B) violated a condition of release by committing a new offense for which the person is eligible for release on bond, other than:

(i) an offense punishable as a felony;

(ii) an offense under Title 5 or Chapter 49, Penal Code, punishable as a Class B or Class A misdemeanor; or

(iii) an offense involving family violence, as defined by Section 71.004, Family Code;

(2) the division, in accordance with Subsection (e), included notice on the warrant for the person's arrest that the person is eligible for release on bond; and

(3) the magistrate determines that the person is not a threat to public safety.

(e) The division shall include a notice on the warrant for the person's arrest indicating that the person is eligible for release on bond

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 508.254, Government Code, is amended by amending Subsection (c) and adding Subsections (d), (e), and (f) to read as follows:

(c) Except as provided by Subsection (d), pending [~~Pending~~] a hearing on a charge of parole violation, ineligible release, or violation of a condition of mandatory supervision, a person returned to custody shall remain confined.

(d) A magistrate of the county in which the person is held in custody may release the person on bond pending the hearing if:

(1) the person is arrested or held in custody only on a charge that the person committed an administrative violation of release;

(2) the division, in accordance with Subsection (e), included notice on the warrant for the person's arrest that the person is eligible for release on bond; and

(3) the magistrate determines that the person is not a threat to public safety.

(e) The division shall include a notice on the warrant for the person's arrest indicating that the person is eligible for release on bond

under Subsection (d) if the division determines that the person:

(1) has not been previously convicted of:

(A) an offense under Chapter 29, Penal Code;

(B) an offense under Title 5, Penal Code, punishable as a felony; or

(C) an offense involving family violence, as defined by Section 71.004, Family Code;

(2) is not on intensive supervision or super-intensive supervision;

(3) is not an absconder; and

(4) is not a threat to public safety.

(f) The provisions of Chapters 17 and 22, Code of Criminal Procedure, apply to a person released under Subsection (d) in the same manner as those provisions apply to a person released pending an appearance before a court or magistrate, except that the release under that subsection is conditioned on the person's appearance at a hearing under this subchapter.

SECTION 2. Section 508.281(c), Government Code, is amended.

SECTION 3. The change in law made by this Act in amending Section 508.254, Government Code, applies only to a person who on or after the effective date of this Act is charged with a violation of the person's release on parole or mandatory supervision. A person who before the effective date of this Act was charged with a violation of release is governed by the law in effect when the violation was charged, and the former law is continued in effect for that purpose.

SECTION 4. The change in law made by this Act in amending Section 508.281(c), Government Code, applies only to a determination made by a designated agent of the Board of Pardons and Paroles on or after the effective date of this Act. A determination made before the effective date of this Act is governed by the law in effect on the date the determination was made, and the former law is continued in effect for that purpose.

SECTION 5. This Act takes effect September 1, 2015.

under Subsection (d) if the division determines that the person:

(1) has not been previously convicted of:

(A) an offense under Chapter 29, Penal Code;

(B) an offense under Title 5, Penal Code, punishable as a felony; or

(C) an offense involving family violence, as defined by Section 71.004, Family Code;

(2) is not on intensive supervision or super-intensive supervision;

(3) is not an absconder; and

(4) is not a threat to public safety.

(f) The provisions of Chapters 17 and 22, Code of Criminal Procedure, apply to a person released under Subsection (d) in the same manner as those provisions apply to a person released pending an appearance before a court or magistrate, except that the release under that subsection is conditioned on the person's appearance at a hearing under this subchapter.

SECTION 2. Same as introduced version.

SECTION 3. Same as introduced version.

SECTION 4. Same as introduced version.

SECTION 5. Same as introduced version.