

BILL ANALYSIS

Senate Research Center
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S.B. 126
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Criminal Justice
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Increasingly, questions have been raised regarding why seriously ill and incapacitated offenders remain behind prison bars, when conceivably, because of their deteriorated health, they may no longer pose a legitimate threat to public safety. In addition, providing medical care for these seriously ill offenders incurs enormous medical costs for the state.

Under the provisions of the Medically Recommended Intensive Supervision (MRIS) program, offenders who are terminally ill, mentally ill, physically debilitated, elderly, or who are in need of long-term medical care can be considered for parole release. Their release is contingent on a decision of the Texas Board of Pardons and Paroles (BPP) that the offender no longer poses a threat to public safety due to the offender's medical or mental health condition.

While the number of referrals for MRIS has consistently increased over time, the number and percentage of offenders actually granted parole release has remained relatively stagnant. There were 1,857 MRIS referrals made to the Texas Correctional Office on Offenders with Medical or Mental Impairments (TCOOMMI) in 2012, 1,362 in 2013, and 1,139 in 2014, according to the Legislative Budget Board (LBB). Of the 1,857 referrals by correctional managed care providers to TCOOMMI in 2012, 491 offenders were statutorily eligible for MRIS consideration. In 2012, the BPP approved 72 MRIS parole releases (14.7 percent). In 2014, 24 percent of MRIS eligible offenders were approved for parole (81 of 332 eligible).

While incarcerated, all costs for medical care are paid by the state. Offenders who are under supervision, but not confined in a penal institution, are eligible for federally funded healthcare assistance through Medicaid. This has been done in other states. While still under Texas Department of Criminal Justice parole supervision, offenders' health care costs could be jointly funded by Medicaid and the state.

As proposed, S.B. 126 amends current law relating to the release of certain inmates on medically recommended intensive supervision.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 508.115(a) and (d), Government Code, as follows:

- (a) Requires the pardons and paroles division (division) of the Texas Department of Criminal Justice (TDCJ) 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 the release of an inmate on parole or medically recommended intensive supervision no later than the 11th day before the date a parole panel orders that release. Requires the division 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 the governor is considering clemency no later than the 11th day after the date the Board of Pardons and Paroles (board) recommends that the governor grant executive clemency.

(d) Requires that the notice include:

- (1) the inmate's name;
- (2) the county in which the inmate was convicted;
- (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 (Medically Recommended Intensive Supervision).

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

(a) Provides that 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) if:

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

(A) 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 (Sex Offender Registration Program), Code of Criminal Procedure. Deletes existing text that refers to those with an instant offense that is described in Section 3g (Limitation on Judge Ordered Community Supervision), 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 (Sex Offender Registration Program), Code of Criminal Procedure;

(2)-(3) Makes no change to these subdivisions.

Deletes text that includes with those inmates allowed to be released on medically recommended intensive supervision an inmate with an instant offense described by Section 3g (Limitation on Judge Ordered Community Supervision), Article 42.12, Code of Criminal Procedure, or an inmate who has a reportable conviction or adjudication under Chapter 62 (Sex Offender Registration Program), Code of Criminal Procedure, that may only be considered if a medical condition of terminal illness or long-term care has been diagnosed by a physician.

(e) Provides that only a parole panel composed of three members, rather than 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. Requires that, if the TCOOMMI, rather than Texas Correctional Office Council, identifies an inmate as a candidate for release under the guidelines established by Subsection (a)(1), TCOOMMI, rather than the council, present to a parole panel information concerning the inmate and the inmate's potential for release under this section.

(f) Provides that 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 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. Deletes existing text that requires that the inmate not have a reportable conviction or adjudication under Chapter 62 (Sex Offender Registration Program), Code of Criminal Procedure, or an instant offense described in Section 3g (Limitation on Judge Ordered Community Supervision), Article 42.12, Code of Criminal Procedure.

(g) Defines "terminal illness" for the purposes of Subsection (a).

SECTION 3. (a) Requires the Texas Department of Criminal Justice (TDCJ), the Department of Aging and Disability Services (DADS), and the Health and Human Services Commission (HHSC) to jointly 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 (Medically Recommended Intensive Supervision), Government Code, as amended by this Act, who require skilled nursing services or 24-hour care.

(b) Requires TDCJ to 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 no later than December 1, 2016.

(c) Provides that this section expires January 1, 2017.

SECTION 4. Effective date: September 1, 2015.