

CHAPTER 714

H.B. No. 1307

An Act relating to the manner in which a prisoner is required to appear at a hearing to revoke parole or mandatory supervision and to time limits in which the hearing must be held and a disposition of the prisoner's case made.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 21(a), Article 42.12, Code of Criminal Procedure, 1965, is amended to read as follows:

(a) A warrant for the return of a paroled prisoner, a prisoner released to mandatory supervision, a prisoner released on emergency reprieve or on furlough, or a person released on a conditional pardon to the institution from which he was paroled, released, or pardoned may be issued by the Board in cases of parole or mandatory supervision, or by the Board on order by the Governor in other cases, when there is reason to believe that he has committed an offense against the laws of this State or of the United States, violated a condition of his parole, mandatory supervision, or conditional pardon, or when the circumstances indicate that he poses a danger to society that warrants his immediate return to incarceration. Such warrant shall authorize all officers named therein to take actual custody of the prisoner and, *at the discretion of the Board, detain the prisoner or return him to the institution from which he was released.* Pending hearing, as hereinafter provided, upon any charge of parole violation or violation of the conditions of mandatory supervision, a [the] prisoner returned to custody shall remain incarcerated. *If the Board is otherwise authorized to issue a warrant under this subsection, the Board may instead issue to a prisoner a summons requiring the prisoner to appear before the Board or its designee for a hearing under Section 22 of this article. The summons must state the time, place, date, and purpose of the hearing.*

SECTION 2. Section 22, Article 42.12, Code of Criminal Procedure, 1965, is amended to read as follows:

Sec. 22. Whenever a prisoner or a person granted a conditional pardon is accused of a violation of his parole, mandatory supervision, or conditional pardon on information and complaint by a law enforcement officer or parole officer, he shall be entitled to be heard on such charges before the Board or its designee under such rules and regulations as the Board may adopt; providing, however, said hearing shall be a public hearing and shall be held within 70 [ninety] days of the date of service of a summons by the Board or of arrest under a warrant issued by the Board of Pardons and Paroles or the Governor and at a time and place set by the Board. *The Board may hold the hearing at a date later than the date otherwise required by this section if the Board determines a delay is necessary to assure due process for the person.* When the Board has heard the facts, it may recommend to the Governor that the conditional pardon be continued, or revoked, or modified, or it may continue, revoke, or modify the parole or mandatory supervision, in any manner warranted by the evidence. *The Board must make its recommendation or decision no later than the 30th day after the date of the hearing.* When a person's parole, mandatory supervision, or conditional pardon is revoked, that person may be required to serve the portion remaining of the sentence on which he was released, such portion remaining to be calculated without credit for the time from the date of his release to the date of revocation. When a warrant is issued by the Board of Pardons and Paroles or the Governor charging a violation of release conditions, the sentence time credit shall be suspended until a determination is made by the Board of Pardons and Paroles or the Governor in such case and such suspended time credit may be re-instated by the Board of Pardons and Paroles should such parole, mandatory supervision, or conditional pardon be continued.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed by the House on May 17, 1985, by a non-record vote; passed by the Senate on May 26, 1985, by the following vote: Yeas 31, Nays 0.

Approved: June 14, 1985

Effective: August 26, 1985