

## Department of Planning and Budget 2004 Fiscal Impact Statement

**1. Bill Number** SB 658

<b>House of Origin</b>	<input type="checkbox"/> Introduced	<input type="checkbox"/> Substitute	<input type="checkbox"/> Engrossed
<b>Second House</b>	<input checked="" type="checkbox"/> In Committee	<input type="checkbox"/> Substitute	<input type="checkbox"/> Enrolled

**2. Patron** Quayle

**3. Committee** Militia, Police, and Public Safety

**4. Title** Mandatory parole

**5. Summary/Purpose:**

Generally, offenders in prison for offenses committed prior to January 1, 1995 are eligible for release on parole by the Parole Board prior to their sentences being completed (“discretionary parole”). If the Parole Board has not granted parole to an eligible offender, the law requires that such offender be released on parole six months prior to the date of final release (“mandatory parole”).

Offenders released on mandatory parole who violate the conditions of their parole and have their parole subsequently revoked are not eligible for mandatory parole again and are subject to having any previous “good time” revoked and having to serve the entire unexpired portion of their sentences. On the other hand, offenders released on discretionary parole who violate the conditions of their parole and whose parole is subsequently revoked are still eligible for mandatory parole, but they must have served at least six months from the date of their parole revocation. This last provision would affect any offender released on discretionary parole with less than a year left to serve on his sentence. For example, if an offender with 11 months left to serve were granted parole, violated that parole and had it revoked, he would have to serve six months, rather than five (11 months left on sentence minus six months mandatory parole), before being released on mandatory parole.

The proposed legislation would provide that persons released on discretionary parole, whose parole was subsequently revoked on “technical” grounds, would not have to serve the minimum six months before being released on mandatory parole. Therefore, in the example given above, the offender with 11 months left to serve, who was granted parole, only to have it revoked on technical grounds, would have to serve only five months before being released on mandatory parole. The legislation defines a “technical violation” as a failure to adhere to the conditions of parole that “is not deliberate defiance of those conditions or does not constitute further criminal conduct or both.”

**6. Fiscal Impact:** Preliminary. See Item 8.

**7. Budget amendment necessary:** No.

## **8. Fiscal implications:**

In theory, the proposed legislation could result in some offenders whose parole had been revoked serving a few months less in prison before being released on mandatory parole, thus freeing up some prison beds. The likely practical effect of the legislation, however, is that it will have no impact on prison bed space.

First of all, few offenders would be affected. In 2002, only 71 offenders on discretionary parole had their paroles revoked because of technical violations. Although it is not known how many of these offenders had been granted parole with less than 12 months to serve, and thus would have had less time to serve if the proposed legislation had been in effect, it is not believed to be many.

Furthermore, the proposed legislation would narrow the meaning of “technical violation” so as to exclude most, if not all, of the persons the bill could benefit. Currently, the Department of Corrections regards any offender whose parole is revoked, but who is not charged with a new crime, a technical violator. However, under the terms of the proposed bill, a violation is “technical” only if it is “not deliberate defiance” of the conditions of parole or “does not constitute criminal conduct.” The most common reason cited for parole revocation is failure to pass a drug test for illegal drugs (“dirty urine”). Such a violation would certainly involve criminal conduct and be a deliberate act. Other common reasons cited for parole revocation are failure to appear for appointments with parole officer, moving out of jurisdiction without permission, failure to attend treatment programs as ordered, and failure to get a job. Such violations would not be “deliberate defiance” if an offender simply forgot about appointments or was prevented from complying by circumstances beyond his control. However, it is highly unlikely that a parole officer would seek, and the Parole Board would grant, revocation of an offender’s parole in such a case. In reality, an offender whose parole is revoked under current practices for reasons other than commission of a new crime is one who has repeatedly violated the conditions of his parole and, therefore, would not fit the definition of “technical violator” contained in the proposed legislation.

Despite the likelihood that the exception created by the proposed legislation would not affect any offender, the Department of Corrections would have to incorporate it into its time computation process. Because the automated system used to compute the remaining time for offenders is technically obsolete and the program cannot be modified without serious risk of a major malfunction, any changes to the manner in which time to be served is to be calculated, such as the one proposed, must be manually processed. If the bill were enacted, the department would have to update its manuals to incorporate this change.

## **9. Specific agency or political subdivisions affected:** Department of Corrections

## **10. Technical amendment necessary:** None.

## **11. Other comments:** None.

**Date:** 02/25/04 / rwh

**Document:** G:\LEGIS\Fis-04\SB658s1.Doc Dick Hall-Sizemore

cc: Secretary of Public Safety