

1-1 By: Allen (Senate Sponsor - Ellis) H.B. No. 2649
1-2 (In the Senate - Received from the House May 13, 2011;
1-3 May 13, 2011, read first time and referred to Committee on Criminal
1-4 Justice; May 21, 2011, reported favorably by the following vote:
1-5 Yeas 6, Nays 0; May 21, 2011, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the award of diligent participation credit to
1-9 defendants confined in a state jail felony facility.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Section 15(h), Article 42.12, Code of Criminal
1-12 Procedure, is amended by amending Subdivision (1) and adding
1-13 Subdivisions (4), (5), and (6) to read as follows:

1-14 (1) A defendant confined in a state jail felony
1-15 facility does not earn good conduct time for time served in the
1-16 facility but may be awarded diligent participation credit in
1-17 accordance with Subdivision (6).

1-18 (4) For purposes of Subdivisions (5) and (6),
1-19 "diligent participation" includes:

1-20 (A) successful completion of an educational,
1-21 vocational, or treatment program;

1-22 (B) progress toward successful completion of an
1-23 educational, vocational, or treatment program that was interrupted
1-24 by illness, injury, or another circumstance outside the control of
1-25 the defendant; and

1-26 (C) active involvement in a work program.

1-27 (5) For a defendant who has participated in an
1-28 educational, vocational, treatment, or work program while confined
1-29 in a state jail felony facility, not later than the 30th day before
1-30 the date on which the defendant will have served 80 percent of the
1-31 defendant's sentence, the Texas Department of Criminal Justice
1-32 shall report to the sentencing court the number of days during which
1-33 the defendant diligently participated in any educational,
1-34 vocational, treatment, or work program. The contents of a report
1-35 submitted under this subdivision are not subject to challenge by a
1-36 defendant.

1-37 (6) A judge, based on the report received under
1-38 Subdivision (5), may credit against any time a defendant is
1-39 required to serve in a state jail felony facility additional time
1-40 for each day the defendant actually served in the facility while
1-41 diligently participating in an educational, vocational, treatment,
1-42 or work program. A time credit under this subdivision may not
1-43 exceed one-fifth of the amount of time the defendant is originally
1-44 required to serve in the facility. A defendant may not be awarded a
1-45 credit under this subdivision for any period during which the
1-46 defendant is subject to disciplinary action. A time credit under
1-47 this subdivision is a privilege and not a right.

1-48 SECTION 2. The change in law made by this Act applies only
1-49 to a person confined in a state jail felony facility for an offense
1-50 committed on or after the effective date of this Act. A person
1-51 confined in a state jail felony facility for an offense committed
1-52 before the effective date of this Act is covered by the law in
1-53 effect when the offense was committed, and the former law is
1-54 continued in effect for that purpose. For purposes of this section,
1-55 an offense was committed before the effective date of this Act if
1-56 any element of the offense occurred before that date.

1-57 SECTION 3. This Act takes effect September 1, 2011.

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