

## **BILL ANALYSIS**

Senate Research Center  
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C.S.H.B. 1546  
By: Allen (Rodríguez)  
Criminal Justice  
5/6/2015  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

H.B. 2649, 82nd Legislature, Regular Session, 2011, created an opportunity for individuals in state jails to earn time toward early release by allowing them to receive diligent participation credit for every day they participate in educational, vocational, treatment, or work programs. Currently, the Texas Department of Criminal Justice (TDCJ) records participation, sends a report to the judge of the sentencing court, and waits for the judge to issue an order for early release. Inmates are only eligible for program credits until the 30th day before they have completed 80 percent of their sentences. However, the system for approving the credit limits the effectiveness of the program. The responsibilities split between TDCJ and judges are complex and inefficient, and judges are not currently required to respond to applications for credit. While 73 percent of credit applications that receive a response from the judge are granted, 56 percent of the applications never receive a response.

H.B. 1546 streamlines the process involved in awarding diligent participation credits to those participating in education, vocational, treatment, or work programs in state jails by authorizing TDCJ to automatically grant credits in certain circumstances. Doing so will allow credit to be applied as soon as it is earned, which will provide an ongoing incentive to participate in rehabilitative programs throughout the duration of the sentence while allowing the state to conserve judicial resources. (Original Author's/Sponsor's Statement of Intent)

C.S.H.B. 1546 amends current law relating to the award of diligent participation credit to defendants confined in a state jail felony facility.

### **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 Chapter 42, Code of Criminal Procedure, by adding Article 42.0199, as follows:

Art. 42.0199. FINDING REGARDING DILIGENT PARTICIPATION CREDIT. Requires the judge, if a person is convicted of a state jail felony, to make a finding and enter the finding in the judgment of the case regarding whether the person is presumptively entitled to diligent participation credit in accordance with Section 15(h), Article 42.12.

SECTION 2. Amends Sections 15(h), Article 42.12, Code of Criminal Procedure, by amending Subdivisions (1), (5), and (6) and adding Subdivisions (7) and (8), as follows:

(1) Provides that a defendant confined in a state jail felony facility does not earn good conduct time for time served in the facility but may be awarded diligent participation credit in accordance with Subdivision (6) or (7).

(5) Requires the Texas Department of Criminal Justice (TDCJ), for a defendant who has participated in an educational, vocational, treatment, or work program while confined in a

state jail felony facility, to record the number of days during which the defendant diligently participated in any educational, vocational, treatment, or work program.

Deletes existing text requiring TDCJ, for a defendant who has participated in an educational, vocational, treatment, or work program while confined in a state jail felony facility, to report to the sentencing court the number of days during which the defendant diligently participated in any educational, vocational, treatment, or work program not later than the 30th day before the date on which the defendant will have served 80 percent of the defendant's sentence. Deletes existing text providing that the contents of a report submitted under this subdivision are not subject to challenge by a defendant.

(6) Requires TDCJ, for a defendant with a judgment that contains a finding under Article 42.0199 that the defendant is presumptively entitled to diligent participation credit and who has not been the subject of disciplinary action while in the state jail felony facility, to credit against any time the defendant is required to serve in a state jail felony facility additional time for each day the defendant actually served in the facility while diligently participating in an educational, vocational, treatment, or work program. Makes a nonsubstantive change.

Deletes existing text authorizing a judge, based on the report received under Subdivision (5), to credit against any time a defendant is required to serve in a state jail felony facility additional time for each day the defendant actually served in the facility while diligently participating in an educational, vocational, treatment, or work program.

(7) Requires TDCJ, for a defendant with a judgment that contains a finding under Article 42.0199 that the defendant is not presumptively entitled to diligent participation credit or who has been the subject of disciplinary action while confined in the state jail felony facility, to report to the sentencing court, not later than the 30th day before the date on which the defendant will have served 80 percent of the defendant's sentence, the record of the number of days under Subdivision (5). Provides that the contents of a report submitted under this subdivision are not subject to challenge by a defendant. Authorizes a judge, based on the report, to credit against any time a defendant is required to serve in a state jail felony facility additional time for each day the defendant actually served in the facility while diligently participating in an educational, vocational, treatment, or work program.

(8) Prohibits a time credit under Subdivision (6) or (7), rather than under this subdivision, from exceeding one-fifth of the amount of time the defendant is originally required to serve in the facility. Prohibits a defendant from being awarded a credit under Subdivision (6) or (7), rather than under this subdivision, for any period during which the defendant is subject to disciplinary status, rather than subject to disciplinary action. Provides that a time credit under Subdivision (6) or (7), rather than under this subdivision, is a privilege and not a right.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2015.