

AN ACT

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

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 42, Code of Criminal Procedure, is amended by adding Article 42.0199 to read as follows:

Art. 42.0199. FINDING REGARDING DILIGENT PARTICIPATION CREDIT. If a person is convicted of a state jail felony, the judge shall 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. Section 15(h), Article 42.12, Code of Criminal Procedure, is amended by amending Subdivisions (1), (5), and (6) and adding Subdivisions (7) and (8) to read as follows:

(1) 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) For a defendant who has participated in an educational, vocational, treatment, or work program while confined in a state jail felony facility, [~~not later than the 30th day before the date on which the defendant will have served 80 percent of the defendant's sentence,~~] the Texas Department of Criminal Justice

1 shall record [~~report to the sentencing court~~] the number of days
2 during which the defendant diligently participated in any
3 educational, vocational, treatment, or work program. [~~The contents~~
4 ~~of a report submitted under this subdivision are not subject to~~
5 ~~challenge by a defendant.~~]

6 (6) For a defendant with a judgment that contains a
7 finding under Article 42.0199 that the defendant is presumptively
8 entitled to diligent participation credit and who has not been the
9 subject of disciplinary action while confined in the state jail
10 felony facility, the department shall [~~A judge, based on the report~~
11 ~~received under Subdivision (5), may~~] credit against any time the
12 [a] defendant is required to serve in a state jail felony facility
13 additional time for each day the defendant actually served in the
14 facility while diligently participating in an educational,
15 vocational, treatment, or work program.

16 (7) For a defendant with a judgment that contains a
17 finding under Article 42.0199 that the defendant is not
18 presumptively entitled to diligent participation credit or who has
19 been the subject of disciplinary action while confined in the state
20 jail felony facility, the department shall, not later than the 30th
21 day before the date on which the defendant will have served 80
22 percent of the defendant's sentence, report to the sentencing court
23 the record of the number of days under Subdivision (5). The contents
24 of a report submitted under this subdivision are not subject to
25 challenge by a defendant. A judge, based on the report, may credit
26 against any time a defendant is required to serve in a state jail
27 felony facility additional time for each day the defendant actually

1 served in the facility while diligently participating in an
2 educational, vocational, treatment, or work program.

3 (8) A time credit under Subdivision (6) or (7) [~~this~~
4 ~~subdivision~~] may not exceed one-fifth of the amount of time the
5 defendant is originally required to serve in the facility. A
6 defendant may not be awarded a credit under Subdivision (6) or (7)
7 [~~this subdivision~~] for any period during which the defendant is
8 subject to disciplinary status [~~action~~]. A time credit under
9 Subdivision (6) or (7) [~~this subdivision~~] is a privilege and not a
10 right.

11 SECTION 3. The change in law made by this Act applies only
12 to a person confined in a state jail felony facility for an offense
13 committed on or after the effective date of this Act. A person
14 confined in a state jail felony facility for an offense committed
15 before the effective date of this Act is covered by the law in
16 effect when the offense was committed, and the former law is
17 continued in effect for that purpose. For purposes of this section,
18 an offense was committed before the effective date of this Act if
19 any element of the offense occurred before that date.

20 SECTION 4. This Act takes effect September 1, 2015.

President of the Senate

Speaker of the House

I certify that H.B. No. 1546 was passed by the House on April 15, 2015, by the following vote: Yeas 141, Nays 0, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 1546 on May 18, 2015, by the following vote: Yeas 126, Nays 5, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 1546 was passed by the Senate, with amendments, on May 15, 2015, by the following vote: Yeas 30, Nays 1.

Secretary of the Senate

APPROVED: _____

Date

Governor