

By: Allen

H.B. No. 3296

A BILL TO BE ENTITLED

AN ACT

relating to the award of diligent participation credit to defendants serving a sentence for a state jail felony offense.

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

SECTION 1. Article 42A.559, Code of Criminal Procedure, is amended by amending Subsections (b), (f), (g), and (h) and adding Subsection (e-1) to read as follows:

(b) A defendant serving a sentence for ~~[confined in]~~ a state jail felony offense ~~[facility]~~ does not earn good conduct time for time served for the offense ~~[in the facility]~~ but may be awarded diligent participation credit in accordance with Subsection (f) or (g).

(e-1) This subsection applies only to a defendant serving a sentence for a state jail felony offense who is confined in a county jail before being transferred to a state jail felony facility. For purposes of awarding diligent participation credit under Subsection (f) or (g), the sheriff of each county shall:

(1) record the number of days each defendant described by this subsection diligently participated in an educational, vocational, treatment, or work program while confined in the county jail; and

(2) attach a certification of the number of days recorded under Subdivision (1) when transferring the defendant to a state jail felony facility.

1 (f) For a defendant with a judgment that contains a finding
2 under Article 42.0199 that the defendant is presumptively entitled
3 to diligent participation credit and who has not been the subject of
4 disciplinary action while confined for [~~in~~] the state jail felony
5 offense [~~facility~~], the department shall credit against any time
6 the defendant is required to serve for the [~~in a~~] state jail felony
7 offense [~~facility~~] additional time for each day the defendant
8 actually served [~~in the facility~~] while diligently participating in
9 an educational, vocational, treatment, or work program.

10 (g) For a defendant with a judgment that contains a finding
11 under Article 42.0199 that the defendant is not presumptively
12 entitled to diligent participation credit or who has been the
13 subject of disciplinary action while confined for [~~in~~] the state
14 jail felony offense [~~facility~~], the department shall, not later
15 than the 30th day before the date on which the defendant will have
16 served 80 percent of the defendant's sentence, report to the
17 sentencing court the record of the number of days under Subsections
18 [~~Subsection~~] (e) and (e-1), as applicable. The contents of a report
19 submitted under this subsection are not subject to challenge by a
20 defendant. A judge, based on the report, may credit against any time
21 a defendant is required to serve for the [~~in a~~] state jail felony
22 offense [~~facility~~] additional time for each day the defendant
23 actually served [~~in the facility~~] while diligently participating in
24 an educational, vocational, treatment, or work program.

25 (h) A time credit under Subsection (f) or (g) may not exceed
26 one-fifth of the amount of time the defendant is originally
27 required to serve for the state jail felony offense [~~in the~~]

1 ~~facility~~]. A defendant may not be awarded a time credit under
2 Subsection (f) or (g) for any period during which the defendant is
3 subject to disciplinary status. A time credit under Subsection (f)
4 or (g) is a privilege and not a right.

5 SECTION 2. The change in law made by this Act applies only
6 to a person serving a sentence for a state jail felony offense
7 committed on or after the effective date of this Act. A person
8 serving a sentence for a state jail felony offense committed before
9 the effective date of this Act is governed by the law in effect when
10 the offense was committed, and the former law is continued in effect
11 for that purpose. For purposes of this section, an offense was
12 committed before the effective date of this Act if any element of
13 the offense occurred before that date.

14 SECTION 3. This Act takes effect September 1, 2019.