

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

March 20, 2019

TO: Honorable James White, Chair, House Committee on Corrections

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB3296 by Allen (Relating to the award of diligent participation credit to defendants serving a sentence for a state jail felony offense.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3296, As Introduced: a positive impact of \$24,171,484 through the biennium ending August 31, 2021.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2020	\$12,169,547
2021	\$12,001,937
2022	\$11,800,862
2023	\$11,635,483
2024	\$11,442,216

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from General Revenue Fund
2020	\$12,169,547
2021	\$12,001,937
2022	\$11,800,862
2023	\$11,635,483
2024	\$11,442,216

Fiscal Analysis

The bill would amend the Code of Criminal Procedure as it relates to awarding diligent participation credit to individuals serving a term of confinement for a state jail felony offense. Under the provisions of the bill, an individual serving a sentence for a state jail felony offense

would, in certain cases, earn time credit for diligently participating in an educational, vocational, treatment, or work programs while confined in a county jail prior to transfer to a state jail facility.

Methodology

Under current statute, the Texas Department of Criminal Justice (TDCJ) awards diligent participation credit to those confined in state jail facilities for each day individuals diligently participate in educational, vocational, treatment, or work programs. These individuals are able to receive credit for a maximum of 20 percent of their sentence length. For some individuals, a judgment can contain a finding that the incarcerated individual is presumptively entitled to diligent participation credit. For those without presumptive findings, when the individual has served almost 80 percent of the sentence, TDCJ reports to the sentencing court about an individual's program participation and the judge may credit additional time. In fiscal year 2018, 52.2 percent (8,876) of state jail releases received some amount of diligent participation credit with an average of 20.8 days awarded.

To calculate the additional diligent participation credit that could be awarded to those with state jail offenses within state jails, we analyzed those with concurrent state jail felony sentences released from state jails in fiscal year 2018. We assumed that all individuals have the potential while in county jails to meet the programmatic requirements to earn diligent participation credit. For individuals with a presumptive finding, we assumed they would be credited the maximum possible additional time spent in county jail (20 percent). For those without a presumptive finding but awarded a portion of the total diligent participation time credit available, we assumed these individuals would receive the same proportion of the maximum possible additional time based on the proportions awarded historically. For those who did not receive or earn any diligent participation credit, we assumed they would not earn any under the provisions of this bill. Based on information from TDCJ, the time spent in county jail was estimated by subtracting the time spent in a state jail facility from the sentence length (sentence length - (released date - received date)). After calculating the total number of bed days awarded for time spent in county jail, bed days were converted into the number of beds available per year and adjusted based on the projections published in the *January 2019 Adult and Juvenile Correctional Population Projections* report.

Savings are estimated based on the state costs per bed per day for adults in the state-operated state jail facilities (\$52.46). This cost per day is reported in the *January 2019 Criminal and Juvenile Justice Uniform Cost Report*. These estimates are based on the assumption that sentencing patterns and release policies not addressed in this bill remain constant.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 696 Department of Criminal Justice

LBB Staff: WP, LBO, LM, SPa, kvel, AF