

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

April 17, 2019

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

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

IN RE: HB4566 by Allen (Relating to the award of diligent participation credit to defendants confined in a state jail felony facility.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB4566, As Introduced: a positive impact of \$63,805,032 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	\$32,123,734
2021	\$31,681,298
2022	\$31,150,522
2023	\$30,713,975
2024	\$30,203,812

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from General Revenue Fund
2020	\$32,123,734
2021	\$31,681,298
2022	\$31,150,522
2023	\$30,713,975
2024	\$30,203,812

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, a judge would no longer be required to find an individual

confined in a state jail facility presumptively eligible for diligent participation credit. Instead, the Texas Department of Criminal Justice (TDCJ) would be required to grant those confined in state jails full diligent participation credit minus any days those confined were in disciplinary status.

Methodology

Under current statute, the TDCJ grants 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 the individual and the judge may credit additional time. In fiscal year 2018, 8,876 (52.2 percent) 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 within state jails, those with state jail felony sentences released from state jail in fiscal year 2018 were analyzed. Individuals with consecutive sentences, presumptive findings to receive diligent participation credit, or those who received the maximum allowed 20 percent of their sentence length were excluded from our analysis. From the remaining individuals, for those whom information about disciplinary status was available, those days for which an individual may not have been eligible from their sentence length were subtracted. The amount of additional time credit days that could be utilized were calculated by subtracting any amount of days an individual may already receive under current statute from the maximum 20 percent. The additional days were adjusted based on the projections published in the *January 2019 Adult and Juvenile Correctional Population Projections* report. This analysis assumes individuals start out receiving the maximum amount allowed. These diligent participation credit days and the resulting savings could be reduced based on the disciplinary status and number of days those confined were ineligible to earn the time credit as outlined in the bill.

Savings are estimated based on the state costs per day for adults in the state-operated state jail facilities (\$52.46). This cost per day per person 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