

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

April 6, 2021

TO: Honorable Andrew S. Murr, Chair, House Committee on Corrections

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB953 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 HB953, As Introduced : a positive impact of \$6,431,642 through the biennium ending August 31, 2023.

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:

<i>Fiscal Year</i>	<i>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</i>
2022	\$0
2023	\$6,431,642
2024	\$31,584,745
2025	\$31,484,515
2026	\$31,919,219

All Funds, Five-Year Impact:

<i>Fiscal Year</i>	<i>Probable Savings/(Cost) from General Revenue Fund 1</i>
2022	\$0
2023	\$6,431,642
2024	\$31,584,745
2025	\$31,484,515
2026	\$31,919,219

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 collects information on the diligent participation of those confined in state jail facilities for each day individuals 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 judgement 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 provides the sentencing court with individual level program participation information and the judge may then grant diligent participation time credit. From fiscal years 2018 through 2020, an average of 35.7 percent of people released with state jail felony offense had a presumptive finding. From fiscal years 2018 through 2020, an average of 23.4 diligent participation credit days were awarded.

To calculate the additional diligent participation credit that could be awarded to those within state jails, we analyzed those with state jail felony sentences released from fiscal years 2018 through 2020. 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. We then calculated how many additional time credit days could be utilized by subtracting any amount of days an individual may already receive under existing statute from the 20 percent maximum. The additional days were adjusted based on the projections published in the *January 2021 Adult and Juvenile Correctional Population Projections* report and the average time lag from offense to admission for a state jail felony. This analysis assumes individuals would receive the maximum amount allowed. These diligent 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's provisions.

Savings are estimated based on the state costs per day for adults in the state-operated state jail facilities (\$62.52). This cost per day per person is reported in the *January 2021 Criminal and Juvenile Justice Uniform Cost Report*. These estimates are based on the assumption that arrests, court activity, sentencing, and other criminal justice system processes will return to pre-COVID-19 pandemic functions by the end of fiscal year 2022.

Local Government Impact

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

Source Agencies:

LBB Staff: JMc, DKN, LM, SPA