

**SUBJECT:** Allowing TDCJ to restore good conduct time

**COMMITTEE:** Corrections — favorable, without amendment

**VOTE:** 6 ayes — Madden, Hochberg, McReynolds, Dunnam, Haggerty, Jones  
0 nays  
1 absent — Oliveira

**WITNESSES:** For — Allen Place, Texas Criminal Defense Lawyers Association; Nicole Porter, American Civil Liberties Union of Texas; Clifford Gay;  
(*Registered but did not testify:* Monica M. Beckford; Darilynn McClure)  
  
Against — (*Registered but did not testify:* Kelly Blackburn, Harris County District Attorney’s Office; William “Rusty” Hubbarth, Justice for All)

**BACKGROUND:** Government Code, sec. 498.004(a) prohibits the Texas Department of Criminal Justice (TDCJ) from restoring to offenders good conduct time that has been forfeited due to an offense or a violation of agency rules.

**DIGEST:** HB 44 would authorize TDCJ to restore good conduct time forfeited due to an offense or a violation of agency rules.  
  
The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2007.

**SUPPORTERS SAY:** HB 44 would help TDCJ manage the prison population by returning to the agency its ability to restore good conduct time. The awarding and restoring of good conduct time is a powerful prison management tool, and TDCJ’s ability to fully use this tool is hampered by current law.  
  
An inmate’s behavior can be significantly influenced by good conduct time, and taking it away can serve as a wake-up call to inmates that they must change their behavior. Being able to restore good conduct time when warranted would strengthen this behavioral tool and give inmates an even stronger incentive to alter their conduct after forfeiting time due to bad behavior. The restoration of good conduct time would not be automatic.

Inmates would have to earn the restoration by improving their behavior.

HB 44 is permissive and would not require TDCJ to restore any good conduct time to any inmate. The agency would be able to craft a policy to restore the time under whatever circumstances it deemed appropriate. The agency even could decide to reinstate its policy of not restoring the time that was in effect before the 1995 law that prohibited the restoration of good conduct time. Such decisions are best made by corrections professionals, and HB 44 would facilitate this.

HB 44 could have a direct effect on parole rates because good conduct time is used to calculate parole eligibility and release dates under the discretionary mandatory supervision program and the mandatory supervision program. This could result in more offenders being released by the parole board to parole supervision, which would free more beds for incoming offenders. This is especially important now that the state is operating at capacity and leasing beds from counties.

HB 44 also could reduce the number of grievance cases filed by inmates about the taking of good conduct time because they would know that they could earn the time back without having to file a grievance. Reducing grievance cases would reduce the burden placed on prison staff to investigate and rule on them.

HB 44 could be especially important to an inmate who had earned a lot of good conduct time only to lose it following one disciplinary infraction. For example, if two inmates involved in a fight had good time taken away and it was later discovered that one had been defending himself, the bill would allow that inmate potentially to earn back his good time.

While good conduct time does affect parole eligibility, eligible offenders are not released automatically by the parole board. Even if TDCJ decided to restore an inmate's good conduct time, the parole board would know the full story of the inmate's behavioral record because the disciplinary case resulting in the taking of time still would be noted in the inmate's file. Further, this policy would not affect the most serious and violent offenders, who are required to serve long sentences with no consideration of good conduct time before becoming eligible for parole.

Changes in law and prison management would ensure that the prison system did not return to the situation in which good conduct time was used as a capacity management tool to help inmates secure release on parole.

OPPONENTS  
SAY:

Current law ensures that good conduct time has meaning by prohibiting its restoration, and this policy should not change. Good conduct time should be used as a reward for good behavior and hard work and should be revoked when an inmate violates a rule or commits an offense. Allowing the restoration of good conduct time would dilute its usefulness as a prison management tool.

In the past, liberal good time policies were adopted to help deal with an overcrowded prison system, which sometimes allowed the release of violent offenders who served only fractions of their sentences. HB 44 might allow this to happen again because the prison system is operating at capacity, and there could be pressure to release inmates to make room for new prisoners.

Current law prohibiting the restoration of good conduct time does not infringe on the TDCJ board's authority. The Legislature signals its intent by setting numerous policies in statute to ensure that they are not changed by agency officials.