

## **BILL ANALYSIS**

Senate Research Center  
86R1309 MAW-F

H.B. 1279  
By: Allen (Menéndez)  
Criminal Justice  
5/6/2019  
Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

It has been suggested that the language contained in the instructions provided to the jury for a felony case may be inaccurate and misleading with regard to the applicability of good conduct time credits for a defendant. Concerns have been raised that these instructions may influence jurors to impose a higher sentence to account for what they believe will be various opportunities for an early release from prison. H.B. 1279 seeks to address this by revising the language contained in jury instructions regarding parole eligibility.

H.B. 1279 amends current law relating to jury instructions regarding parole eligibility.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Sections 4(a), (b), and (c), Article 37.07, Code of Criminal Procedure, as follows:

(a) Deletes existing text of a certain written statement a court is required to provide to a jury relating to good conduct time for a defendant. Requires a court, in the penalty phase of the trial of a felony case in which the punishment is to be assessed by the jury rather than the court, if the offense is one of certain listed offenses, to charge the jury in writing with certain statements as follows:

"The length of time for which a defendant is imprisoned may be reduced by the award of parole," rather than "It is also possible that the length of time for which the defendant will be imprisoned might be reduced by the award of parole."

"Under the law applicable in this case, if the defendant is sentenced to a term of imprisonment, the defendant will not become eligible for parole until the actual time served equals one-half of the sentence imposed or 30 years, whichever is less..." rather than "...whichever is less, without consideration of any good conduct time the defendant may earn..."

"It cannot accurately be predicted how the parole law might be applied to this defendant if sentenced to a term of imprisonment, because the application of that law will depend on decisions made by parole authorities," rather than "It cannot accurately be predicted how the parole law and good conduct time might be applied to this defendant if sentenced to a term of imprisonment, because the application of these laws will depend on decisions made by prison and parole authorities."

"You may consider the existence of the parole law. You are not to consider the manner in which the parole law may be applied to this particular defendant," rather than "You may consider the existence of the parole law and good conduct time. However, you are not to consider the extent to which good conduct time

may be awarded to or forfeited by this particular defendant. You are not to consider the manner in which the parole law may be applied to this particular defendant."

(b) Deletes existing text of a certain written statement a court is required to provide to a jury relating to the possibility that the length of time for which the defendant will be imprisoned might be reduced by the award of parole. Requires a court, in the penalty phase of the trial of a felony case in which the punishment is to be assessed by the jury rather than the court, if the offense meets certain criteria, to charge the jury in writing with certain statements as follows:

"The length of time for which a defendant is imprisoned may be reduced by the award of parole."

"Under the law applicable in this case, the defendant, if sentenced to a term of imprisonment, may earn early parole eligibility through the award of good conduct time..., " rather than "Under the law applicable in this case, the defendant, if sentenced to a term of imprisonment, may earn time off the period of incarceration imposed through the award of good conduct time...."

Makes nonsubstantive changes to certain other required statements.

(c) Makes conforming changes to this subsection.

SECTION 2. Provides that the change in law made by this Act applies to a defendant sentenced for an offense on or after the effective date of this Act, regardless of when the offense was committed.

SECTION 3. Effective date: September 1, 2019.