

- SUBJECT:** Allowing award of diligent participation credits to state-jail offenders
- COMMITTEE:** Corrections — committee substitute recommended
- VOTE:** 7 ayes — Madden, Allen, Cain, Parker, Perry, White, Workman  
0 nays  
2 absent — Hunter, Marquez
- WITNESSES:** For — Doots Dufour, Diocese of Austin, Texas Catholic Correctional Ministers; Travis Leete, Texas Criminal Justice Coalition; Marc Levin, Texas Public Policy Foundation, Center for Effective Justice; (*Registered, but did not testify*: Bill Hammond, Texas Association of Business; Frank Knaack, American Civil Liberties Union of Texas)  
  
Against — None  
  
On — Shannon Edmonds, Texas District and County Attorneys Association
- BACKGROUND:** Under Penal Code, sec. 12.35, persons found guilty of state-jail felonies can be punished with 180 days to two years in a state jail and an optional fine of up to \$10,000. The state has 20 state jails and, as of the end of March 2011, housed about 11,900 state-jail offenders. Offenders serve time in state jails day-for-day with no credit for good conduct time or similar consideration.
- DIGEST:** CSHB 2649 would authorize the awarding of diligent participation credit to state-jail offenders.  
  
By the 30th day before defendants would have served 80 percent of their sentences, state-jail directors would have to report to the court on offenders' conduct and programmatic progress. The report would have to contain an indication of :
- whether the offender completed a substance abuse treatment program or an industrial, work, agricultural, educational, or vocational program; and

- if the defendant did not fully complete one of these programs but completed at least two-thirds of it, whether he or she diligently participated and did not fully complete it only because of illness, injury, or an emergency circumstance.

Judges would be authorized to use the report to credit — against a defendant's sentence — time for each day the defendant served in the facility for the completion of, or diligent participation in, one of the programs. Time credits could not exceed one-fifth of a defendant's original sentence. Defendants could not be awarded credit for time while they were subject to disciplinary actions.

The bill would take effect September 1, 2011, and would apply to persons confined in state jails on or after that date, regardless of when their offense was committed.

**SUPPORTERS  
SAY:**

CSHB 2649 is needed to give state-jail offenders an incentive to participate in education and rehabilitative programs that would benefit them and the state by reducing recidivism, encouraging good behavior, and saving state funds. Currently, defendants can serve up to two years in state jails with no credit available for good behavior or for participating in programs. Participating in these programs should be encouraged. CSHB 2649 would address this problem by authorizing judges to credit an individual for time spent in state-jail programs.

Originally, state jails were established without provisions for credits for good conduct or participation in programs in part because they were to be used in conjunction with probation. The use of state jails has changed. They now function more like traditional correctional facilities and should be allowed to use credits for participation and good conduct just like the state's prisons.

All state jails have some kind of beneficial program, which can include academic and vocational programs, substance abuse, and work programs. Participating in these programs for any amount of time, even if for a shortened state-jail sentence, should be encouraged because of the benefits that they provide to inmates and to society as a whole.

Several provisions in the bill would ensure that the awarding of credits for participation in programs would occur only in appropriate cases. Decisions about awards would be made by judges and would be based on a report

detailing offenders' participation in programs. Reports would not be sent until an inmate had served most of his or her sentence, and credits would be limited to one-fifth of offenders' sentences. No credit would be awarded for periods subject to disciplinary action. The 20-percent limit on the amount of time that could be credited to a state-jail sentence and the assurance that an offender participated in programming should keep the bill from leading to sentence inflation.

According to the fiscal note, CSHB 2649 could have a positive fiscal impact of about \$49 million for fiscal 2012-13 due to the savings from shorter terms of confinement in state jails.

OPPONENTS  
SAY:

CSHB 2649 would stray too far from the concept of state jails as an appropriate punishment for certain offenders. State jails were established as part of an agreement that reduced sentences for some felonies, but in return they promised truth-in-sentencing for offenders who would have to serve their sentences day-for-day.

Allowing sentences to be reduced could make state-jail terms inappropriately short. Currently, state-jail sentences average about 10 months, and many inmates arrive at state jails with credits for time served in county jails. Reducing these sentences even by one-fifth could reduce some offenders' punishments too much. CSHB 2649 could lead to sentence inflation as law enforcement officials worked to ensure offenders received sentences that — with the credits authorized by the bill — would result in an appropriate amount of time in a facility.

The programs in state jails are too limited and not meaningful enough to be used as a credit against a sentence. There is a limited range and depth of programs due both to inadequate funding and to the short time that offenders spend in state jails. Participation in this type of program should not be worth a reduced sentence.

NOTES:

The committee substitute added to the original bill the provisions requiring the report from the state-jail director and detailing the deadline of the report and its contents.