

# Incentivize People to Participate in Rehabilitative Programming in State Jails to Promote Post-Release Stability

## Policy Background

Thousands of people are annually sent to Texas' state jail system,<sup>1</sup> which predominantly houses those convicted of nonviolent property or drug offenses, like possession of less than a gram of a controlled substance. Unfortunately, state jails have the highest recidivism rate of all correctional programs.<sup>2</sup>

In part, this high rate of re-offending may be attributable to the fact that state jails have fewer rehabilitative services available to people housed in them, and that people sentenced to state jail are not eligible for parole – meaning they must serve each day of their sentence. This reduces people's motivation to engage in the services that are available.

To partially remedy this problem, Texas statute allows judges, on sentencing a person to state jail, to determine if they are “presumptively entitled” to diligent participation credits; then, using information provided by the Texas Department of Criminal Justice (TDCJ), judges can authorize a 20 percent time credit to a person who participates in any available educational, vocational, treatment, or work programs while incarcerated in a state jail. Incarcerated people who have not received a presumptive finding of eligibility must serve nearly 80% of their sentence before becoming eligible for credit. This process slows the awarding of credits; in both scenarios, TDCJ collects the programming information and is capable of determining diligent participation. Expediting release of people from state jails could save Texas \$6 million over the biennium (with more than \$30 million in each successive year),<sup>3</sup> while programming participation will give more people the tools to keep them safe and successful in our communities.

## Proposed Solution

Texas leaders should require TDCJ to grant credit to people who participate in rehabilitative programming in state jails, and eliminate the provision that requires a judge to find a person presumptively eligible for credit.

## Relevant Bills

- **Bill Number:** [HB 1705](#) [Allen]  
**Bill Caption:** Relating to the award of diligent participation credit to defendants confined in a state jail felony facility.  
**TCJE Materials:** [Fact Sheet](#)
- **Bill Number:** [SB 85](#) [Johnson]  
**Bill Caption:** Relating to the award of diligent participation credit to defendants confined in a state jail felony facility.

## Other Materials

- [TCJE fact sheet on HB 953 \(diligent participation\)](#), submitted to the House Corrections Committee [March 2021]

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<sup>1</sup> Texas Department of Criminal Justice, *Statistical Report: Fiscal Year 2021* (6,935 receives into state jail); *Statistical Report 2020* (8,686 receives into state jail); *2019 Statistical Report* (15,362 receives into state jail).

<sup>2</sup> Legislative Budget Board, *Statewide Criminal and Juvenile Justice Recidivism and Revocation Rates*, January 2021, 4.

<sup>3</sup> Legislative Budget Board, *Fiscal Note for HB 953* (Allen), 87th Legislative Regular Session, April 6, 2021.