

- SUBJECT:** Forfeiture of offenders' good-conduct time for frivolous lawsuits
- COMMITTEE:** Corrections — favorable, without amendment
- VOTE:** 5 ayes — Haggerty, Allen, Culberson, Ellis, Lengefeld
0 nays
4 absent — Staples, Farrar, Gray, Longoria
- WITNESSES:** None
- BACKGROUND:** In 1995, the Legislature authorized the Texas Department of Criminal Justice (TDCJ) to take away state prisoners' good-conduct time if they file repeat frivolous lawsuits. The second time a court dismisses a lawsuit as frivolous, TDCJ must take away 60 days of good-conduct time. Upon the dismissal of a third suit, TDCJ must take away 120 days, and after four or more suits, 180 days. Good-conduct time is used to calculate an inmate's eligibility for release on parole or mandatory supervision.
- DIGEST:** HB 261 would require TDCJ to take away an inmate's good-conduct time upon receiving a notice from a county jail that the inmate filed a frivolous or malicious lawsuit while awaiting transfer to a state facility. Counties transferring defendants to TDCJ could deliver to TDCJ a certified copy of a court order that dismissed as frivolous or malicious a lawsuit brought by the inmate while the inmate was awaiting transfer to a state facility. The copy of the court order could be delivered when the inmate was transferred or any time after that.
- The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. It would apply only to a lawsuit filed on or after the effective date.
- SUPPORTERS SAY:** HB 261 would help reduce the number of frivolous lawsuits filed by prisoners by extending current law allowing the state to take away good-conduct time to apply to some suits filed while offenders are in county jails. Current law applies only to suits filed while offenders are in state facilities.

HB 261 would expand the law to cover suits filed once the defendant has been convicted and is a state prisoner awaiting transfer to a state facility. At this point, offenders can earn good-conduct time that transfers with them to TDCJ, so it is only fair that they also be held to the same standards regarding frivolous lawsuits as would apply if they were living in a state facility. Prisoners are well aware of the point at which they are subject to state good-time rules.

As under current law, an offender would not be punished for the first frivolous suit. Only upon a second or subsequent suit would good time be forfeited. Courts, not TDCJ, determine whether a suit is frivolous.

HB 261 would not apply to county jail prisoners who had not been convicted or who were serving time for misdemeanors.

**OPPONENTS
SAY:**

It could be unfair to punish offenders in county jails as if they were in state facilities because they might not recognize the point at which their status shifted from county to state prisoners. This could have a further chilling effect on the right of a prisoner to a day in court for grievances that could arise during confinement.

NOTES:

A related bill, HB 117 by Keel, Allen, et al., which would allow sheriffs to take away good-conduct time for frivolous or malicious lawsuits brought while a defendant was in the sheriff's custody, was reported favorably by the County Affairs Committee on March 24.