

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

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

**VOTE:** 6 ayes — McReynolds, Madden, Hodge, Kolkhorst, Marquez, Sheffield  
0 nays  
5 absent — Dutton, England, Martinez, S. Miller, Ortiz

**WITNESSES:** For — Erica Surprenant, Texas Criminal Justice Coalition; (*Registered, but did not testify*: David Kobierowski, American Civil Liberties Union of Texas; Allen Place, Texas Criminal Defense Lawyers Association)  
Against — Bert Graham  
On — Bryan Collier, Texas Department of Criminal Justice

**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 93 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, 2009.

**SUPPORTERS SAY:** HB 93 would help TDCJ manage the prison population by returning to the agency the ability to restore good conduct time. Good conduct time is a powerful prison management tool, and TDCJ's ability to use this tool fully is hampered by current law.  
An inmate's behavior can be influenced significantly by good conduct time, and taking it away can serve as a wake-up call to inmates that they must change their behavior. The ability to restore good conduct time when warranted would give inmates an even stronger incentive to alter conduct

after forfeiting time. This could result in safer prisons for inmates and workers.

HB 93 is permissive so would not require TDCJ to restore good conduct time to every inmate. The agency would be able to craft a policy to restore the time under circumstances and in increments it deemed appropriate, including by having inmates earn restoration through their behavior. Such decisions are best made by corrections professionals, and HB 93 would facilitate this.

HB 93 could have an effect on parole rates because good conduct time is used to calculate parole. The bill could result in more offenders being considered for and possibly released to parole supervision, which would free beds for incoming offenders. This is important because the state prison system is operating near its capacity.

While good conduct time does affect parole eligibility, eligible offenders are not released automatically by the parole board, so the bill would pose no danger to the public. 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 that resulted in the revocation of time still would be noted in the inmate's file. Restoring good conduct time would not affect the terms of 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.

HB 93 also could reduce the number of grievance cases filed by inmates about the revocation 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 93 could be especially important to an inmate that had earned good conduct time only to lose it after one disciplinary infraction. For example, if two inmates involved in a fight had good conduct time taken away, and it was later discovered that one had been defending himself, the bill would allow that inmate potentially to earn back time.

Changes made in law and prison management over the past decades ensure that the prison system would not return to the situation where good

conduct time was used as a capacity management tool, helping to parole inmates to free bed space.

**OPPONENTS  
SAY:**

Current law ensures that good conduct time carries 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.

Under current law, TDCJ has ample discretion when it decides the amount of good conduct time that is forfeited. Good conduct time is a useful prison management tool, because even after inmates have some of it taken away, they can begin to earn it again. Allowing the restoration of good conduct time would dilute its usefulness and could allow dangerous inmates to be considered for parole earlier than they should.

In the past, liberal policies on good conduct time were adopted to help deal with an overcrowded prison system, which sometimes allowed the release of violent offenders who had served only a fraction of their sentence. HB 93 could allow the restoration of good conduct time to be used in this manner if, in the future, the prison system became overcrowded and there was pressure to release inmates to make room for new prisoners.

It is important to have prohibitions against the restoration of good conduct time in the statutes to ensure that this important policy is not changed by the TDCJ board. This prohibition does not infringe on the TDCJ board's authority. The Legislature sets numerous policies in statute to ensure that they are not changed by agency officials.

**NOTES:**

An identical bill, HB 44 by Hodge, was approved by the 80th Legislature in 2007, but was vetoed by the governor.