

SUBJECT: Revising certain jury instructions on good conduct time, parole eligibility

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 7 ayes — Collier, K. Bell, J. González, Hunter, Moody, Murr, Pacheco

0 nays

2 absent — Zedler, P. King

WITNESSES: For — Allen Place, Texas Criminal Defense Lawyers Association; Alycia Speasmaker, Texas Criminal Justice Coalition; (*Registered, but did not testify*: Nicholas Hudson, American Civil Liberties Union of Texas; Cate Graziani, Grassroots Leadership and Texas Advocates for Justice; Kathleen Mitchell, Just Liberty; Will Francis, National Association of Social Workers - Texas Chapter; Emily Gerrick, Texas Fair Defense Project; Texas NAACP; Jason Vaughn, Texas Young Republicans; Chris Harris)

Against — None

BACKGROUND: Code of Criminal Procedure (CCP) Art. 37.07 establishes instructions that courts must give to juries during the sentencing phase for defendants convicted of certain felonies. CCP Art. 37.07 sec. 4(a), (b), and (c) list instructions that must be given for three different groups of felonies listed in the sections.

Under all three sections, courts are required to tell juries that it is possible for defendants to earn time off of a prison term through the awarding of good conduct time. Juries are told they can consider the existence of parole and good conduct time, but not to consider the extent to which good conduct time may be awarded or forfeited to a particular defendant and not to consider the manner in which the parole laws may be applied in the case.

For the serious felonies listed in CCP Art. 37.07, sec. 4(a), the instructions

also describe possible criteria for awarding and taking away of good conduct time and information about whether good conduct time is considered when TDCJ determines an inmate's eligibility for parole for one of these offenses. Juries are told that offenders serving prison terms for the offenses listed in this section are not eligible for parole until their time served equals one-half of their sentences or 30 years, whichever is less, with a minimum of two years, without the consideration of good conduct time. For the two other groups of felonies, good conduct time is considered when determining parole eligibility.

Some suggest the language is misleading and could more accurately reflect the role of good conduct on parole eligibility.

DIGEST:

HB 1279 would revise the instructions on good conduct time and parole eligibility given to juries during the sentencing phase of certain felony trials.

For cases involving the serious felonies listed in CCP Art. 37.07, sec. 4(a), the bill would eliminate references in the jury instructions to possible criteria for awarding and taking away of good conduct time and information about whether good conduct time is considered when determining parole eligibility. Juries in these cases would no longer be told not to consider the extent to which good conduct time could be awarded or forfeited by a particular defendant.

For other felonies, HB 1279 would eliminate references to defendants earning time off of their prison terms through good conduct time and replace them with provisions telling jurors that defendants may earn early parole eligibility through the award of good conduct time.

The bill would take effect September 1, 2019, and would apply to defendants sentenced for an offense on or after that date.