

CHAPTER 384

H.B. No. 680

AN ACT

relating to the award of good conduct time to inmates and to the eligibility of certain inmates for release on parole or mandatory supervision.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 2, Article 6181-1, Revised Statutes, is amended to read as follows:

Sec. 2. (a) The department shall classify all inmates as soon as practicable upon their arrival at the department and, *subject to the requirements of Subsection (b) of this section*, shall reclassify inmates as circumstances may warrant. All inmates shall be classified according to their conduct, obedience, industry, and prior criminal history. The director shall maintain a record on each inmate showing all classifications and reclassifications with dates and reasons therefor.

(b) *At least annually, the Texas Board of Corrections shall review the department's rules and policies relating to the classification of inmates. The board shall consider in its review whether inmate overcrowding in the department has decreased and whether it is necessary for purposes of decreasing overcrowding to classify prisoners according to the provisions of Subsection (a) of this section. If the board determines that overcrowding in the department has decreased and it is not necessary to classify prisoners according to the provisions of Subsection (a) of this section, the board shall direct the department to classify inmates according to the provisions of Subsection (c) of this section.*

(c) *On the direction of the Texas Board of Corrections, the department shall classify each inmate on his arrival at the department in a time-earning category that does not allow the inmate to earn more than 20 days' good conduct time for each 30 days actually served. The department may not reclassify an inmate to a higher time-earning classification unless the inmate has served 90 or more days at the classification immediately lower than the classification to which he is to be reclassified.*

SECTION 2. Section 1(4), Article 6181-1, Revised Statutes, is amended to read as follows:

(4) "Term" means the maximum term of confinement in the Texas Department of Corrections stated in the sentence of the convicting court. When two or more sentences are to be served consecutively and not concurrently, the *term for purposes of this Article shall be determined as provided in Section 8(b), Article 42.18, Code of Criminal Procedure* [~~aggregate of the several terms shall be considered the term for purposes of this Article~~]. When two or more sentences are to run concurrently, the term with the longest maximum confinement will be considered the term for the purposes of this Article.

SECTION 3. Sections 3(a) and (d), Article 6181-1, Revised Statutes, are amended to read as follows:

(a) Inmates shall accrue good conduct time based upon their classification as follows:

(1) 20 days for each 30 days actually served while the inmate is classified as a Class I inmate;

(2) 10 days for each 30 days actually served while the inmate is classified as a Class II inmate; and

(3) not *more* [~~less~~] than 10 [~~not more than 25~~] additional days, as determined by the director, for each 30 days actually served if the inmate is a trusty.

(d) An inmate shall accrue good conduct time, in an amount determined by the director which shall not exceed 15 days for each 30 days actually served, for *diligent participation in an industrial program or other work program or for participation in an agricultural, educational, or vocational program provided to inmates by the department. For the purposes of this subsection, the term "participation in an educational program" includes the participation of the inmate as a tutor or a pupil in a literacy program authorized by Section 1, Chapter 619, Acts of the 47th Legislature, Regular Session, 1941 (Article 6203b-1, Vernon's Texas Civil Statutes). The department may not award good conduct time under this subsection for participation in a literacy program unless the department determines that the inmate participated in good faith and with diligence as a tutor or pupil.*

SECTION 4. Section 4, Article 6181-1, Revised Statutes, is amended to read as follows:

Sec. 4. Good conduct time applies only to eligibility for parole or mandatory supervision as provided in *Section 8, Article 42.18* [~~Section 15, Article 42.12~~], Code of Criminal Procedure, [~~1965, as amended,~~] and shall not otherwise affect the inmate's term. Good conduct time is a privilege and not a right. *The classification of the inmate notwithstanding, the director may grant good conduct time to an inmate only if the director finds that the inmate is actively engaged in an agricultural, vocational, or educational endeavor, or in an industrial program or other work program, unless the director finds that the inmate is not capable of participating in such an endeavor. If* [~~Consequently, if~~] during the actual term of imprisonment in the department, an inmate commits an offense or violates a rule of the department, all or any part of his accrued good conduct time may be forfeited by the director. The director may, however in his discretion, restore good conduct time forfeited under such circumstances subject to rules and policies to be promulgated by the department. Upon revocation of parole or mandatory supervision, the inmate loses all good conduct time previously accrued, but upon return to the department may accrue new good conduct time for subsequent time served in the department. The director may, however, restore good conduct time forfeited upon revocations not involving new criminal convictions after an inmate has served a reasonable period of good behavior in the department, to be no less than three months, subject to rules and policies promulgated by the department. Within 60 days after the inmate's return to the department, the Board of Pardons and Paroles shall notify the director of the grounds for revocation. *At least annually, the Texas Board of Corrections shall review the department's rules and policies relating to restoration of good conduct time that has been forfeited and in awarding additional good conduct time retroactively to inmates who have been reclassified. The board shall consider in its*

review whether the inmate overcrowding in the department has decreased and whether it is necessary for purposes of decreasing overcrowding to restore good conduct time or award additional good conduct time retroactively to inmates who have been reclassified. If the board determines that overcrowding has decreased and it is not necessary to restore good conduct time or award additional good conduct time, it shall direct the department to discontinue those practices.

SECTION 5. Section 8(b), Article 42.18, Code of Criminal Procedure, as added by Chapter 427, Acts of the 69th Legislature, Regular Session, 1985, is amended to read as follows:

(b)(1) A prisoner under sentence of death is not eligible for parole. If a prisoner is serving a sentence for the offenses listed in Subdivision (1), Subsection (a), Section 3g, Article 42.12 of this code, or if the judgment contains an affirmative finding under Subdivision (2) of Subsection (a) of Section 3g of that article, he is not eligible for release on parole until his actual calendar time served, without consideration of good conduct time, equals *one-fourth* [~~one-third~~] of the maximum sentence or 15 [20] calendar years, whichever is less, but in no event shall he be eligible for release on parole in less than two calendar years. All other prisoners shall be eligible for release on parole when their calendar time served plus good conduct time equals *one-fourth* [~~one-third~~] of the maximum sentence imposed or 15 [20] years, whichever is less.

(2) *If a prisoner is sentenced to consecutive felony sentences under Article 42.08 of this code, the board shall designate during each sentence the date, if any, on which the prisoner would have been eligible for release on parole if the prisoner had been sentenced to serve a single sentence.*

(3) *For the purposes of Article 42.08 of this code, the judgment and sentence of a prisoner sentenced for a felony, other than the last sentence in a series of consecutive sentences, cease to operate:*

(A) *when the actual calendar time served by the prisoner equals the sentence imposed by the court; or*

(B) *on the date the board designates as the date on which the prisoner would have been eligible for release on parole if the prisoner had been sentenced to serve a single sentence.*

(4) *The board may not treat consecutive sentences as a single sentence for purposes of parole and may not release on parole a prisoner sentenced to serve consecutive felony sentences earlier than the date on which the prisoner becomes eligible for release on parole from the last sentence imposed on the prisoner.*

(5) *Calendar time served and good conduct time accrued by a prisoner that are used by the board in determining when a judgment and sentence cease to operate may not be used by the board:*

(A) *for the same purpose in determining that date in a subsequent sentence in the same series of consecutive sentences; or*

(B) *for determining the date on which a prisoner becomes eligible for release on parole from the last sentence in a series of consecutive sentences.*

SECTION 6. Section 8(c), Article 42.18, Code of Criminal Procedure, as added by Chapter 427, Acts of the 69th Legislature, Regular Session, 1985, and amended by Chapter 8, Acts of the 69th Legislature, 3rd Called Session, 1986, to be effective September 1, 1987, is amended to read as follows:

(c) Except as otherwise provided by this subsection, a prisoner who is not on parole [~~except a person under sentence of death,~~] shall be released to mandatory supervision by order of the board when the calendar time he has served plus any accrued good conduct time equal the maximum term to which he was sentenced. [~~If a prisoner is serving a sentence for an offense listed in Subdivision (1) of Subsection (a) of Section 3g of Article 42.12 of this code, or if the judgment for the offense contains an affirmative finding under Subdivision (2) of Subsection (a) of Section 3g of that article, the prisoner may not be released to mandatory supervision.~~] A prisoner released to mandatory supervision shall, upon release, be deemed as if released on parole. To the extent practicable,

arrangements for the prisoner's proper employment, maintenance, and care shall be made prior to his release to mandatory supervision. The period of mandatory supervision shall be for a period equivalent to the maximum term for which the prisoner was sentenced less calendar time actually served on the sentence. The time served on mandatory supervision is calculated as calendar time. Every prisoner while on mandatory supervision shall remain in the legal custody of the *state and* ~~[institution from which he was released but]~~ shall be amenable to *conditions of supervision ordered by* ~~[the orders of]~~ the board. *A prisoner may not be released to mandatory supervision if the prisoner is serving a sentence for an offense and the judgment for the offense contains an affirmative finding under Subdivision (2), Subsection (a), Section 3g, Article 42.12, of this code or if the prisoner is serving a sentence for:*

- (1) *a first degree felony under Section 19.02, Penal Code (Murder);*
- (2) *a capital felony under Section 19.03, Penal Code (Capital Murder);*
- (3) *a first degree felony or a second degree felony under Section 20.04, Penal Code (Aggravated Kidnapping);*
- (4) *a second degree felony under Section 22.011, Penal Code (Sexual Assault);*
- (5) *a second degree or third degree felony under Section 22.02, Penal Code (Aggravated Assault);*
- (6) *a first degree felony under Section 22.021, Penal Code (Aggravated Sexual Assault);*
- (7) *a first degree felony under Section 22.03, Penal Code (Deadly Assault on Law Enforcement or Corrections Officer or Court Participant);*
- (8) *a first degree felony under Section 22.04, Penal Code (Injury to a Child or an Elderly Individual);*
- (9) *a first degree felony under Section 28.02, Penal Code (Arson);*
- (10) *a second degree felony under Section 29.02, Penal Code (Robbery);*
- (11) *a first degree felony under Section 29.03, Penal Code (Aggravated Robbery); or*
- (12) *a first degree felony under Section 30.02, Penal Code (Burglary), if the offense is punished under Subsection (d)(2) or (d)(3) of that section.*

SECTION 7. (a) The change in law made by Section 3 of this Act to Section 3(a), Article 6181-1, Revised Statutes, applies to the maximum amount of good conduct time an inmate may earn only if the defendant is sentenced for an offense committed on or after the effective date of this Act.

(b) If a sentence is for an offense committed before the effective date of this Act, the maximum amount of good conduct time an inmate may earn is covered by the law in effect when the offense was committed, and the former law is continued in effect for this purpose.

(c) For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before the effective date.

SECTION 8. (a) The change in law made by Section 5 of this Act by its amendment adding Subsections (b)(2) through (b)(5) of Section 8, Article 42.18, Code of Criminal Procedure, as added by Chapter 427, Acts of the 69th Legislature, Regular Session, 1985, applies only to a prisoner sentenced to serve consecutive sentences if each sentence in the series is for an offense committed on or after the effective date of this Act. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before the effective date.

(b) If any sentence in the series is for an offense committed before the effective date of this Act, the prisoner's eligibility for parole is covered by the law in effect when that offense was committed, and the former law is continued in effect for this purpose.

SECTION 9. The change in law made by Section 6 of this Act relating to the eligibility for release to mandatory supervision of an inmate applies only to an inmate sentenced to the Texas Department of Corrections for an offense committed on or after the effective date of this Act. An inmate sentenced to the department for an offense committed before

the effective date of this Act is covered by the law in effect when he was sentenced, and the former law is continued in effect for this purpose.

SECTION 10. This Act takes effect September 1, 1987.

SECTION 11. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed by the House on April 15, 1987, by a non-record vote; and that the House concurred in Senate amendments to H.B. No. 680 on May 25, 1987, by a non-record vote. Passed by the Senate, with amendments, on May 22, 1987, by a viva-voce vote.

Approved June 17, 1987.

Effective Sept. 1, 1987.