



TEXAS CRIMINAL  
JUSTICE COALITION

## HOUSE BILL 1205 82ND LEGISLATIVE SESSION

### A "HOW TO" IMPLEMENTATION BRIEF



**H.B. 1205 (REPRESENTATIVES TURNER, ALLEN, ALISEDA, EDDIE RODRIGUEZ, AND GALLEGU; SENATOR ELLIS):** *Relating to the procedures for reducing or terminating community supervision and the establishment of certain time credits through which a defendant's period of community supervision is reduced.*

#### **INTENTION**

H.B. 1205 aims to give probationers positive incentives (time credits) for compliance with conditions of probation, while maintaining traditional sanctions for non-compliance. Probationers receiving time credits can reduce their time spent under community supervision, both encouraging positive behavior on their part and freeing up Community Supervision and Corrections Departments (CSCDs) to focus supervision resources on individuals with more serious and risky offenses. According to the bill author's statement of intent, "evidence suggests that positive reinforcements that are administered four times as often as negative reinforcements are optimal for promoting behavior changes," and that "probation supervisors should make every effort to employ this 4:1 ratio to best ensure that individuals serving a term of community supervision successfully meet the conditions of the community supervision." To that end, a judge should have the authority to award credit toward the completion of a community supervision term for the fulfillment of certain specified court-ordered obligations.



#### **IMPLEMENTATION**

H.B. 1205 applies only to individuals placed on probation or deferred adjudication for state jail and 3rd degree felonies, excluding those convicted of:

- Alcohol-related offenses under Chapter 49 of the Penal Code.
- Offenses involving family violence as defined by Section 71.004 of the Family Code.
- An offense included as a reportable conviction or adjudication under the sex offender registration program.

In FY 2010, excluding those categories, H.B. 1205 would still potentially affect more than 89% of people placed on probation for state jail felony and 3rd degree felonies, or nearly 20,000 individuals placed on probation that year.

That said, individuals are only eligible for time credits if the judge ordered as a condition of probation that they:

- Earn a high school equivalency certificate, high school diploma, or associate's degree;
- Pay certain court costs, fines, attorney's fees, and/or restitution; and/or
- Complete a certain treatment or rehabilitation program.



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For probationers eligible to receive time credits, below are the credits to be awarded:

- Obtaining high school diploma or GED: 90 days
- Obtaining associate's degree: 120 days
- Court costs paid: 15 days
- Fines paid: 30 days
- Attorney's fees paid: 30 days
- Restitution paid: 60 days
- Completion of alcohol or substance abuse counseling or treatment: 90 days
- Completion of vocational, technical, or career education training program: 60 days
- Completion of parenting class or parental responsibility program: 30 days
- Completion of anger management program: 30 days
- Completion of life skills training program: 30 days

H.B. 1205 denies time credits to otherwise eligible individuals if they are "delinquent in paying required fines, costs, or fees," or if they have failed to fully satisfy "any order to pay restitution to a victim."

The defendant's community supervision officer (CSO) must notify the convicting court when earned credits make a defendant eligible for the judge to conduct a review of his or her community supervision status for possible early termination.

On receipt of the notice from the CSO, the court must contact the defendant's attorney and then conduct a review to determine if the new calculation makes the defendant eligible for reduction or termination of community supervision under Section 20 of Chapter 42.12 of the Code of Criminal Procedure. Under existing law (and re-stated in the bill), judges may perform such a review after "the lesser of one-third of the original community supervision period or two years of community supervision," and they shall conduct such a review after "the greater of one-half of the original community supervision period or two years of community supervision." Even if the judge does not grant a reduction or termination of supervision after that review, the time credits still reduce the overall time probationers will be required to remain under supervision.

Probationer time credits may be forfeited for failure to follow community supervision rules and conditions. If, after credits are awarded (but while the probationer is still under supervision), a court holds a community supervision revocation hearing under Sec. 21 of CCP 42.12 and finds that a defendant violated one or more terms of community supervision, the court "may order that some or all of the credit to which a defendant is entitled ... be forfeited," whether or not probation is revoked.

#### ANTICIPATED OUTCOMES

H.B. 1205 creates incentives for compliance with certain probation conditions by awarding time credits for common conditions of supervision. It is anticipated that more individuals will complete their education, pay fines, fees, and court costs, and participate in various treatment and behavior modification programs commonly offered by Texas CSCDs as a result of this new law.

In addition, reducing supervision lengths for successful probationers frees up CSCD resources to focus on higher-risk probationers. Eligible probationers will have their overall probation terms reduced upon meeting the requirements in the new law and become eligible more quickly for a court to review their case for possible early termination of supervision. We highly encourage the utilization of this tool for better public safety outcomes.