

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 7449
BILL NUMBER: HB 1826

NOTE PREPARED: Feb 8, 2005
BILL AMENDED:

SUBJECT: Credit time.

FIRST AUTHOR: Rep. Austin
FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: State

Summary of Legislation: This bill has the following provisions:

- A. It prohibits an inmate from earning credit time for a degree or diploma if the inmate has already earned a degree or diploma at the same educational level.
- B. It provides that the credit time an inmate earns is subtracted from the term of imprisonment imposed by a court if the inmate has been convicted of certain crimes.
- C. It provides that the maximum amount of credit time an inmate may earn is the lesser of four years or one-third of the period of imprisonment imposed on the person by the sentencing court.
- D. It removes a provision permitting inmates to earn multiple degrees at the same educational level.

Effective Date: July 1, 2005.

Explanation of State Expenditures: Overall, this bill would delay the earliest possible release date for over 600 of 4,310 offenders who are scheduled to be released after July 1, 2005, and who have earned credit time for completing a degree or program offered by the Department of Correction (DOC).

The following shows the number of offenders who have completed classes between 1993 and 2004 and could be released from DOC for each year between CY 2006 and CY 2020 and for all years after CY 2020.

Offenders Who Have Earned Credit Time Scheduled to Be Released from DOC by CY																
2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	after 2020
697	934	541	388	249	227	162	150	98	95	63	75	53	50	48	51	429

The following analysis identifies the number of offenders who would be affected by each of the proposed changes in this bill.

Earning More Than One GED – DOC indicates that credit time is not given for offenders who take and pass the GED more than once. Consequently, this provision would not affect the release dates of offenders who have taken and passed the GED more than once.

Earning a GED and a High School Diploma – DOC allows for an offender to receive earned credit time if the offender first passes the GED and then earns a high school diploma. This provision would affect 20 offenders who have earned GEDs and then high school diplomas.

Offenders Who Have Earned a GED and then a High School Diploma Scheduled to be Released							
	2005	2006	2007	2008	2009	2010	after 2010
Current Law	3	5	2	5	2	2	1
Proposed		3	5	2	5	2	3

Earning More than One Associate Degree – Under current law, DOC offenders may receive earned credit time for earning more than one associate degree. This provision would restrict credit time earned to one associate degree, affecting an estimated 39 offenders. The following shows the change in their release dates.

Offenders Who Have Earned More Than One Associate Degree Scheduled to Be Released												
	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	after 2015
Current Law	4	5	10	5	1	3	1	1	1	2		6
Proposed		4	5	10	5	1	3	1	1	1	2	6

Earning an Associate Degree after Earning a Bachelor’s Degree – Under current law, DOC offenders may receive earned credit time for earning an associate degree after earning a bachelor’s degree. This provision would no longer allow an offender to receive an associate degree after earning a bachelor’s degree. Four offenders have earned in sequence an associate degree, a bachelor’s degree, and then another associate degree. These four offenders are included with the 39 offenders who have earned more than one associate degree.

Earning More than One Bachelor’s Degree – Two court decisions require DOC to allow offenders receiving more than one bachelor’s degree to earn credit time for each degree completed. This provision would restrict offenders to earning credit time for one bachelor’s degree. This provision would affect one offender.

Offenders Incarcerated for Certain Sex Crimes and Crimes Where Children Are Victims – DOC currently applies time cuts against the release date for all offenders. As proposed, offenders who are incarcerated for the following crimes who have earned credit time have their credit time calculated against their period of imprisonment.

These crimes include:

- Rape (IC 35-42-4-1).
- Criminal deviate conduct (IC 35-42-4-2).
- Child molesting (IC 35-42-4-3).
- Child exploitation (IC 35-42-4-4(b)).
- Vicarious sexual gratification (IC 35-42-4-5).
- Child solicitation (IC 35-42-4-6).
- Child seduction (IC 35-42-4-7).
- Sexual misconduct with a minor as a Class A felony, Class B felony, or Class C felony (IC 35-42-4-9).
- Incest (IC 35-46-1-3).
- Sexual battery (IC 35-42-4-8).
- Kidnapping (IC 35-42-3-2), if the victim is less than 18 years of age.
- Criminal confinement (IC 35-42-3-3), if the victim is less than 18 years of age.
- An attempt or a conspiracy to commit any of these crimes

LSA identified 604 offenders who would be affected by this provision. The following shows how their year of release would change by the provisions in this bill.

Year of Release of Offenders Incarcerated for a Sex Crime or Crime Against a Child And Having Earned Credit Time after June 30, 1999, by CY																	
	<u>'05</u>	<u>'06</u>	<u>'0</u> <u>7</u>	<u>'0</u> <u>8</u>	<u>'0</u> <u>9</u>	<u>'1</u> <u>0</u>	<u>'1</u> <u>1</u>	<u>'1</u> <u>2</u>	<u>'1</u> <u>3</u>	<u>'1</u> <u>4</u>	<u>'1</u> <u>5</u>	<u>'1</u> <u>6</u>	<u>'1</u> <u>7</u>	<u>'1</u> <u>8</u>	<u>'1</u> <u>9</u>	<u>'2</u> <u>0</u>	<u>after</u> <u>'20</u>
Current Law	68	125	70	55	33	35	26	33	13	13	10	10	15	10	12	13	63
Proposed	27	105	96	65	44	38	22	36	19	13	11	10	17	6	15	10	70

This bill would also increase the future offender population that is committed to DOC for sex crimes and the offenders complete degrees and programs and earn credit time and subsequent time cuts.

Clarifying That the Maximum Amount of Credit Time an Inmate May Earn Is the Lesser of Four Years or One-third of the Period of Imprisonment Imposed on the Person by the Sentencing Court -- DOC currently interprets "total applicable credit time" to be the period of imprisonment. Consequently, this provision would have no effect on the release dates of offenders and consequently no fiscal impact.

Explanation of State Revenues:

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Department of Correction.

Local Agencies Affected:

Information Sources: Department of Correction Offender Data Base; Moshenek v. Anderson, #46C01-9806-MI-180, Partlow v. Superintendent, Miami Correctional Facility 52-C01-0101-MI-11

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