

GOVERNMENT CODE

CHAPTER 492. TEXAS BOARD OF CRIMINAL JUSTICE: GENERAL DUTIES;
MEMBERSHIP

Sec. 492.001. CONTROL OVER DEPARTMENT. The board governs the department.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991.

Sec. 492.002. COMPOSITION OF BOARD; COMPENSATION OF MEMBERS. (a) The board is composed of nine members appointed by the governor with the advice and consent of the senate. The governor may not appoint more than two members who reside in an area encompassed by the same administrative judicial region, as determined by Section 74.042.

(b) Members serve staggered six-year terms with the terms of three members expiring February 1 of each odd-numbered year.

(c) A member of the board is not entitled to compensation but is entitled to reimbursement for actual and necessary expenses as provided by the General Appropriations Act.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991.

Sec. 492.003. ELIGIBILITY FOR MEMBERSHIP; REMOVAL. (a) Each member of the board must be representative of the general public. A person is not eligible for appointment as member if the person or the person's spouse:

(1) is a person, other than a judge participating in the management of a community supervision and corrections department, who is employed by or participates in the management of a business entity or other organization regulated by the department or receiving funds from the department;

(2) owns, or controls directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by the department or receiving funds from the department; or

(3) uses or receives a substantial amount of tangible goods, services, or funds from the department, other than compensation or reimbursement authorized by law for board membership, attendance, or expenses.

(b) In this section, "Texas trade association" means a cooperative and voluntarily joined association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interests.

(c) A person may not be a member of the board and may not be a department employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.) and its subsequent amendments, if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of criminal justice; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of criminal justice.

(d) A person who is required to register as a lobbyist under Chapter 305 because of the person's activities for compensation in or on behalf of a profession related to the operation of the board may not serve as a member of the board or act as the general counsel to the board or the department.

(e) Appointments to the board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

(f) It is a ground for removal from the board if a member:

(1) does not have at the time of taking office the qualifications required by Subsection (a) for appointment to the board;

(2) does not maintain during the member's service on the board the qualifications required by Subsection (a) for appointment to the board;

(3) is ineligible for membership under Subsection (c) or (d);

(4) is unable to discharge the member's duties for a

substantial part of the term for which the member was appointed because of illness or disability; or

(5) is absent from more than half of the regularly scheduled board meetings that the member is eligible to attend during each calendar year or is absent from more than two consecutive regularly scheduled board meetings that the member is eligible to attend, except when the absence is excused by majority vote of the board.

(g) The validity of an action of the board is not affected by the fact that it was taken when a ground for removal of a member of the board existed.

(h) If the executive director has knowledge that a potential ground for removal exists, the director shall notify the chairman of the board of the ground. The chairman shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the chairman, the executive director shall notify the next highest ranking officer of the board, who shall then notify the governor and the attorney general that a potential ground for removal exists.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991; Acts 1999, 76th Leg., ch. 1188, Sec. 1.01, eff. Sept. 1, 1999.

Sec. 492.0031. TRAINING PROGRAM FOR MEMBERS. (a) A person who is appointed to and qualifies for office as a member of the board may not vote, deliberate, or be counted as a member in attendance at a meeting of the board until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

(1) the legislation that created the department and the board;

(2) the programs operated by the department;

(3) the role and functions of the department;

(4) the rules of the department, with an emphasis on the rules that relate to disciplinary and investigatory authority;

(5) the current budget for the department;

(6) the results of the most recent formal audit of the department;

(7) the requirements of:

(A) the open meetings law, Chapter 551;

(B) the public information law, Chapter 552;

(C) the administrative procedure law, Chapter 2001; and

(D) other laws relating to public officials, including conflict of interest laws; and

(8) any applicable ethics policies adopted by the department or the Texas Ethics Commission.

(c) A person appointed to the board is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

Added by Acts 1999, 76th Leg., ch. 1188, Sec. 1.02, eff. Sept. 1, 1999.

Sec. 492.004. NOTICE OF QUALIFICATIONS, RESPONSIBILITIES. The executive director or the executive director's designee shall provide to members of the board and to agency employees, as often as necessary, information regarding requirements for office or employment under this subtitle, including information regarding a person's responsibilities under applicable law relating to standards of conduct for state officers or employees.

Added by Acts. 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991; Acts 1999, 76th Leg., ch. 1188, Sec. 1.03, eff. Sept. 1, 1999.

Sec. 492.005. ORGANIZATION OF BOARD. (a) At the beginning of a governor's term, the governor shall designate one member of the board as chairman of the board. That member shall serve as chairman at the pleasure of the governor.

(b) The board shall elect a vice-chairman of the board from among its members and may appoint committees to accomplish the duties of the board.

(c) The board may employ clerical assistance as necessary to

discharge the board's duties.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991.

Sec. 492.006. BOARD MEETINGS. (a) The board shall meet at least once in each quarter of the calendar year at a site determined by the chairman.

(b) The board may meet at other times at the call of the chairman or as provided by the rules of the board.

(c) At each regularly scheduled meeting of the board, the board shall allow:

(1) the presiding officer of the Board of Pardons and Paroles or a designee of the presiding officer to present to the board any item relating to the operation of the parole system determined by the presiding officer to require the board's consideration; and

(2) the chairman of the judicial advisory council to the community justice assistance division and to the board to present to the board any item relating to the operation of the community justice system determined by the chairman to require the board's consideration.

Added by Acts 1989, 71st Leg. ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991; Acts 1993, 73rd Leg., ch. 268, Sec. 46(2), eff. Sept. 1, 1993; Acts 1999, 76th Leg., ch. 1188, Sec. 1.04, eff. Sept. 1, 1999.

Sec. 492.007. OPPORTUNITY FOR PUBLIC TO APPEAR BEFORE BOARD. The board by rule shall provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the jurisdiction of the board.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991.

Sec. 492.008. OATHS; EXAMINATION OF WITNESSES; INQUIRIES. Each member of the board and the executive director, in the discharge of a duty, may administer oaths, summon and examine witnesses, and take other actions necessary to determine the truth of a matter about which the member or executive director is entitled to inquire.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991.

Sec. 492.009. SEAL. (a) The board shall use an official seal to attest to official acts of the board.

(b) The official seal must contain an engraved, five-pointed star in the center with the words "Texas Board of Criminal Justice" around the margin.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991.

Sec. 492.010. SUITS BY BOARD. (a) The board may sue for the collection and enforcement of demands and debts owed to the department. The venue of a suit authorized by this section is in Travis County. The attorney general shall represent the board.

(b) In a suit brought against the board or a member of the board for acts made in an official capacity other than a suit brought by the state, the board or a member of the board may not be required to supply any form of security, including:

(1) a bond for costs;

(2) an appeal bond;

(3) a supersedeas bond; and

(4) a writ of error bond.

(c) This section does not authorize a civil suit against the board or a member of the board, but does not prohibit a claim that is an offset or counterclaim to an action originally brought by the board.

(d) The executive director is the only person authorized to receive service on behalf of the board, department, or any division of the department.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991.

Sec. 492.011. ANNUAL FISCAL REPORT. The board shall file annually with the governor and the presiding officer of each house of the legislature a complete and detailed written report

accounting for all funds received and disbursed by the board during the preceding fiscal year. The form of the annual report and the reporting time are as provided in the General Appropriations Act. Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991.

Sec. 492.012. SUNSET PROVISION. The Texas Board of Criminal Justice and the Texas Department of Criminal Justice are subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board and the department are abolished September 1, 2007.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991; Acts 1991, 72nd Leg., 1st C.S., ch. 17, Sec. 3.01, eff. Nov. 12, 1991; Acts 1995, 74th Leg., ch. 321, Sec. 1.112, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1188, Sec. 1.05, eff. Sept. 1, 1999; Acts 2005, 79th Leg., ch. 1227, Sec. 1.01, eff. Sept. 1, 2005.

Sec. 492.013. GENERAL POWERS AND DUTIES OF BOARD. (a) The board may adopt rules as necessary for its own procedures and for operation of the department.

(b) The board shall employ an executive director. The board shall supervise the executive director's administration of the department.

(c) The board shall approve the operating budget of the department and the department's request for appropriations.

(d) The board shall appoint the members of any advisory committees to the department.

(e) The board shall develop and implement policies that clearly separate the policymaking responsibilities of the board and the management responsibilities of the executive director and the staff of the department.

(f) The board may apply for and accept gifts or grants from any public or private source for use in maintaining and improving correctional programs and services.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1999, 76th Leg., ch. 1188, Sec. 1.06, eff. Sept. 1, 1999.

Sec. 492.0131. PAROLE RULES, POLICIES, PROCEDURES. The board and the presiding officer of the Board of Pardons and Paroles shall jointly review all rules, policies, and procedures of the department and the Board of Pardons and Paroles that relate to or affect the operation of the parole process. The board and the presiding officer of the Board of Pardons and Paroles shall identify areas of inconsistency between the department and the Board of Pardons and Paroles and shall amend rules or change policies and procedures as necessary for consistent operation of the parole process.

Added by Acts 1999, 76th Leg., ch. 1188, Sec. 1.07, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., 3rd C.S., ch. 3, Sec. 11.01, eff. Jan. 11, 2004.

Sec. 492.014. HEADQUARTERS. (a) The board shall maintain headquarters in Austin.

(b) The department shall maintain dual headquarters in Austin and Huntsville. The institutional division shall maintain its headquarters in Huntsville and may not assign more than 15 personnel to Austin. The board shall attempt to locate all Austin offices in one building or in buildings that are in close proximity to one another.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991.