

GOVERNMENT CODE

CHAPTER 493. TEXAS DEPARTMENT OF CRIMINAL JUSTICE: ORGANIZATION

Sec. 493.001. DEPARTMENT MISSION. The mission of the department is to provide public safety, promote positive change in offender behavior, reintegrate offenders into society, and assist victims of crime.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.001, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1188, Sec. 1.08, eff. Sept. 1, 1999.

Sec. 493.002. DIVISIONS. (a) The following divisions are within the department:

- (1) the community justice assistance division;
- (2) the institutional division;
- (3) the pardons and paroles division;
- (4) the state jail division;
- (5) the internal audit division; and
- (6) the programs and services division.

(b) The board may establish additional divisions within the department as it determines is necessary.

(c) Except as provided by Section 493.0052, the executive director shall hire a director for each division in the department, and each director serves at the pleasure of the executive director.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1993, 73rd Leg., ch. 988, Sec. 1.02, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 490, Sec. 2, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1360, Sec. 2, eff. Sept. 1, 1998; Acts 2001, 77th Leg., ch. 1420, Sec. 9.006, eff. Sept. 1, 2001.

Sec. 493.0021. ORGANIZATIONAL FLEXIBILITY. (a) Notwithstanding Sections 493.002, 493.003, 493.004, 493.005, 493.0051, 493.0052, as added by Chapter 1360, Acts of the 75th Legislature, Regular Session, 1997, and 493.0052, as added by Chapter 490, Acts of the 75th Legislature, Regular Session, 1997, the executive director, with the approval of the board, may:

(1) create divisions in addition to those listed in Section 493.002 and assign to the newly created divisions any duties and powers imposed on or granted to an existing division or to the department generally;

(2) eliminate any division listed in Section 493.002 or created under this section and assign any duties or powers previously assigned to the eliminated division to another division listed in Section 493.002 or created under this section; or

(3) eliminate all divisions listed in Section 493.002 or created under this section and reorganize the distribution of powers and duties granted to or imposed on a division in any manner the executive director determines is best for the proper administration of the department.

(b) The executive director may not take an action under this section with potential impact on the administration of community corrections programs by community supervision and corrections departments without requesting and considering comments from the judicial advisory council to the community justice assistance division of the Texas Department of Criminal Justice and the Texas Board of Criminal Justice as to the effect of the proposed action. Added by Acts 1999, 76th Leg., ch. 1188, Sec. 1.09, eff. Sept. 1, 1999.

Sec. 493.003. COMMUNITY JUSTICE ASSISTANCE DIVISION. (a) The community justice assistance division shall:

(1) establish minimum standards for programs, facilities, and services provided by community supervision and corrections departments; and

(2) fund programs, facilities, and services for community supervision and corrections departments.

(b) The chief justice of the Supreme Court of Texas and the presiding judge of the Texas Court of Criminal Appeals shall each appoint six members to serve as the judicial advisory council to the community justice assistance division and the board. The advisory council members serve staggered six-year terms, with the terms of four of the members expiring September 1 of each odd-numbered year. In the event of a vacancy during a term, the appointing authority for the member who vacated the office shall appoint a replacement to fill the unexpired portion of the term. The advisory council shall advise the director of the community justice assistance division and the board on matters of interest to the judiciary, and the director and the board shall carefully consider the advice.

Members of the advisory council are not entitled to compensation but are entitled to reimbursement for actual and necessary expenses in the conduct of their duties, as provided by the General Appropriations Act.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a), eff. Aug. 26, 1991. Amended by Acts 1993, 73rd Leg., ch. 988, Sec. 2.03, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 321, Sec. 1.002(a), eff. Sept. 1, 1995.

Sec. 493.004. INSTITUTIONAL DIVISION. The institutional division shall operate and manage the state prison system.

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

Sec. 493.005. PARDONS AND PAROLES DIVISION. The pardons and paroles division shall supervise and reintegrate felons into society after release from confinement.

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

Sec. 493.0051. STATE JAIL DIVISION. The state jail division shall operate and manage state jails to confine defendants described by Section 507.002.

Added by Acts 1993, 73rd Leg., ch. 988, Sec. 1.03, eff. Sept. 1, 1993.

Sec. 493.0052. INTERNAL AUDIT DIVISION. (a) The board shall hire a director for the internal audit division. The employment of the director may be terminated only with the approval of the board.

(b) The internal audit division shall conduct a program of internal auditing in accordance with Chapter 2102. The program may include internal audits, contract audits, and community supervision and corrections department audits for the department. The division shall:

(1) conduct recurring financial and management audits;

(2) conduct internal audits to evaluate department programs and the economy and efficiency of those programs; and

(3) recommend improvements in management and programs on the basis of evaluations made under this subsection.

(c) The director of the internal audit division shall send reports, audits, evaluations, and recommendations to the board and to the executive director. The director shall report directly to the board at least once a year on:

(1) the activities of the division; and

(2) the response of the department to recommendations made by the division.

(d) The director shall report directly to the board on other matters at the times required by board policy.

(e) Expired.

Added by Acts 1995, 74th Leg., ch. 321, Sec. 1.003. eff. Sept. 1, 1995. Renumbered from V.T.C.A., Government Code Sec. 493.0081 and amended by Acts 1997, 75th Leg., ch. 490, Sec. 3, eff. Sept. 1, 1997.

Sec. 493.0053. PROGRAMS AND SERVICES DIVISION. (a) The programs and services division shall administer those rehabilitation and reintegration programs and services designated by the board under Subsection (b).

(b) The board shall determine which programs and services operating under the authority of the department are designed for the primary purpose of rehabilitating inmates and shall designate those programs and services as programs and services provided under the direction of the programs and services division.

Added by Acts 1997, 75th Leg., ch. 1360, Sec. 3, eff. Sept. 1, 1997. Renumbered from V.T.C.A., Government Code Sec. 493.0052 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(43), eff. Sept. 1, 1999.

Sec. 493.006. EXECUTIVE DIRECTOR. (a) The board shall employ an executive director who possesses the following minimum qualifications:

(1) five years experience in the field of corrections in an administrative capacity;

(2) three years experience in the field of corrections in an administrative capacity and a graduate degree from an institution of higher education in penology or a related field; or

(3) seven years experience in management or administration of a government agency, institution of higher education, or business enterprise of size comparable to the department.

(b) The executive director is responsible for the

administration and enforcement of all laws relating to the department including rules implemented by the department but may delegate those responsibilities as permitted by board rule or general law.

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

Amendment by Acts 1991, 72nd Leg., ch. 599

Acts 1991, 72nd Leg., ch. 16, Sec. 10.01(a) deleted by amendment former Sec. 493.006, eff. Aug. 26, 1991 and Sec. 10.01(c) repealed Acts 1989, 71st Leg., ch. 584, Sec. 82. Acts 1991, 72nd Leg., ch. 599, Sec. 11, eff. Sept. 1, 1991 amended subsec. (c) of former Sec. 493.006. Subsection (c), as so amended reads as follows:

"(c) The financial transactions of the department are subject to audit by the state auditor in accordance with Chapter 321."

Sec. 493.007. PERSONNEL. (a) The executive director shall develop an intraagency career ladder program. The program shall require intraagency postings of all nonentry level positions concurrently with any public postings.

(b) The executive director shall develop a system of annual performance evaluations. All merit pay for department employees must be based on the system established under this subsection.

(c) The executive director or the executive director's designee shall prepare and maintain a written policy statement that implements a program of equal employment opportunity to ensure that all personnel decisions are made without regard to race, color, disability, sex, religion, age, or national origin. The policy statement must include:

(1) personnel policies, including policies related to recruitment, evaluation, selection, training, and promotion of personnel that show the intent of the department to avoid the unlawful employment practices described by Chapter 21, Labor Code; and

(2) an analysis of the extent to which the composition of the department's personnel is in accordance with state and federal law and reasonable methods to achieve compliance with state and federal law.

(d) A policy statement must:

(1) be updated at least annually;

(2) be reviewed by the state Commission on Human Rights for compliance with Subsection (c)(1); and

(3) be filed with the governor's office.

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. 1.10, eff. Sept. 1, 1999.

Sec. 493.0071. EMPLOYEE EXIT INTERVIEWS. (a) The department shall adopt a policy that provides for an exit interview of each institutional division employee who terminates employment with the department. Employee participation in the interview process is voluntary, and the department is not required to conduct an exit interview of an employee who is terminated against the employee's will.

(b) The department shall encourage the employee to state in the employee's own words the reasons for which the employee is terminating employment.

(c) The department shall analyze responses to interviews conducted under this section on the basis of the responding employees' age, gender, race or ethnicity, years of service, rank, and duty locations.

Added by Acts 2001, 77th Leg., ch. 1089, Sec. 1, eff. Sept. 1, 2001.

Sec. 493.008. AUDIT BY STATE AUDITOR. The financial transactions of the department are subject to audit by the state auditor in accordance with Chapter 321, and the state auditor shall include in the audit report a review of the department's employment practices to ensure that they conform with state law and department policies regarding nepotism.

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

Sec. 493.0082. DISPOSITION OF CERTAIN FINANCIAL ASSETS. (a) All money and other financial assets collected or received by the department shall be deposited:

(1) in the general revenue fund of the state treasury;

(2) in trust with the comptroller; or

(3) in a local bank account on approval by the comptroller.

(b) For purposes of this section, a financial asset

collected or received by the department includes:

- (1) an asset held outside the state treasury; or
- (2) an asset held in trust by the department, such as money held in an inmate or employee trust account or in an education and recreation account.

Added by Acts 1997, 75th Leg., ch. 490, Sec. 4, eff. Sept. 1, 1997.

Sec. 493.0083. PROGRAM EVALUATION CAPABILITY. The department shall maintain a program evaluation capability separate from the programs and services division to determine the effectiveness of rehabilitation and reintegration programs and services provided to inmates and other offenders under the jurisdiction of the department.

Added by Acts 1997, 75th Leg., ch. 1360, Sec. 3, eff. Sept. 1, 1997. Renumbered from V.T.C.A., Government Code Sec. 493.0082 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(44), eff. Sept. 1, 1999.

Sec. 493.009. SUBSTANCE ABUSE FELONY PUNISHMENT FACILITIES. (a) The department shall establish a program to confine and treat:

- (1) defendants required to participate in the program under Section 14, Article 42.12, Code of Criminal Procedure; and

- (2) individuals referred for treatment as part of a drug court program established under Chapter 469, Health and Safety Code, or a similar program created under other law.

(a-1) The board by rule may modify requirements imposed by this section and Article 42.12, Code of Criminal Procedure, as necessary to properly treat individuals who are not participating in the program as a condition of community supervision.

(b) The board shall adopt criteria to determine the suitability of candidates for participation in the program. The department and the Texas Commission on Alcohol and Drug Abuse shall jointly develop methods of screening and assessing defendants required to participate in the program under Section 14, Article 42.12, Code of Criminal Procedure, to determine their need for specific types of treatment for alcohol or drug abuse problems.

(c) The program for persons required to participate in the program under Section 14, Article 42.12, Code of Criminal Procedure, must consist of treatment programs that may vary in time from 90 days to 12 months.

(d) The program for persons required to participate in the program under Section 14, Article 42.12, Code of Criminal Procedure, provided under this section must contain highly structured work, education, and treatment schedules, a clearly delineated authority structure, and well-defined goals and guidelines. The department shall establish a graded system of rewards and sanctions for defendants who participate in the program, but a defendant required to participate in the program under Section 14, Article 42.12, Code of Criminal Procedure, is not entitled to earn awards of time for good conduct. A qualified professional, at least every 60 days, must perform an evaluation on a defendant that determines the defendant's treatment progress and institutional behavior. Not later than three days after the date on which a four-month evaluation is performed, the qualified professional shall establish a tentative release date for the defendant, notify the sentencing court of that fact, and include with the notice a copy of the four-month evaluation. The qualified professional immediately shall notify the court if the professional determines the defendant's conduct requires a revision of the tentative release date.

(e) The department shall employ or contract with qualified professionals to implement the program for persons required to participate in the program under Section 14, Article 42.12, Code of Criminal Procedure. For purposes of this subsection, a "qualified professional" is a person who:

- (1) is a licensed chemical dependency counselor;
- (2) is a licensed social worker who has at least two years of experience in chemical dependency counseling; or
- (3) is a licensed professional counselor, physician, or psychologist and who has at least two years of experience in chemical dependency counseling.

(f)(1) The department shall adopt rules of conduct for persons required to participate in the program under Section 14, Article 42.12, Code of Criminal Procedure, or required to participate in the program following modification of community supervision or parole.

- (2) If the qualified professional with primary

responsibility for treating a defendant and the individual in charge of security in the facility in which the defendant is housed jointly determine that the defendant is not complying with the rules or is medically or psychologically unsuitable for the program, they shall notify the department of that fact.

(3) The department, immediately on receiving notice, shall request the sentencing court to reassume custody of the defendant if the defendant was required to participate in the program under Section 14, Article 42.12, Code of Criminal Procedure, or required to participate in the program following modification of community supervision. The court shall reassume custody before the 12th day after the date on which the department notifies the court. If the court revokes the defendant's community supervision, the admission of the defendant to the institutional division is an admission for which the department must account in the scheduled admissions policy established under Section 499.071.

(4) The department, immediately on receiving notice, shall request the pardons and paroles division to reassume custody of the defendant if the defendant was required to participate in the program following modification of parole. The pardons and paroles division shall immediately take action in accordance with established policies and procedures of the Board of Pardons and Paroles to remove the defendant from the program. If a parole panel revokes the defendant's parole, the admission of the defendant to the institutional division is an admission for which the department must account in the scheduled admissions policy established under Section 499.071.

(5) If the defendant was transferred to the facility from a county jail under Subsection (1), the department shall return the defendant to the county jail.

(6) A court's recommendation that a defendant be placed in a program created under this section does not give the court the power to hold the department or any officer or employee of the department in contempt of court for failure to adhere to that recommendation.

(g) The department shall provide beds for the purpose of operating the program for persons required to participate in the program under Section 14, Article 42.12, Code of Criminal Procedure, as amended by Chapter 900, Acts of the 73rd Legislature, Regular Session, 1993, except that the beds may also be used to house the following categories of persons:

(1) persons transferred under Subchapter A, Chapter 499, and Section 508.118;

(2) persons whose community supervision or parole has been modified;

(3) defendants confined in county jails awaiting transfer to the institutional division; and

(4) inmates participating in the program described by Section 501.0931.

(h) On and after the date persons are required under Section 14, Article 42.12, Code of Criminal Procedure, to participate in the program established under this section, the department shall give priority to housing those persons over the categories of persons described by Subsections (g)(1)-(4).

(i) The department shall make quarterly reports to the Legislative Criminal Justice Board that show the ratio of persons in beds reserved under Subsection (g) who have been required to participate in the program under Section 14, Article 42.12, Code of Criminal Procedure, to persons in those beds who have been sent to the facilities by other methods.

(j) The department shall recover from a program participant the cost to the department of providing treatment, to the extent the participant has insurance that covers the treatment or is otherwise able to pay for the treatment.

(k) It is the intent of the legislature that facilities established under this section be used primarily to house persons required to participate in the program under Section 14, Article 42.12, Code of Criminal Procedure, except that if treatment beds are empty, this subsection does not prohibit the department from using those empty beds to treat the categories of persons listed in Subsection (g).

(l) The department shall identify defendants confined in county jails who are awaiting transfer to the institutional division and who because of their need for treatment of drug or alcohol problems require transfer to a substance abuse felony

punishment facility. The department shall provide for the transportation of the defendant to such a facility. If the board finds that a county has failed to fully cooperate with the department in evaluating defendants under this section, the board shall notify the Commission on Jail Standards of that fact. On notice from the board, the commission may reduce or suspend payments under Subchapter F, Chapter 499, or may suspend the certification of the county jail as provided by Section 511.012.

(m) Notwithstanding any other provision of this section, the department is authorized to provide substance abuse felony punishment facilities, not to exceed 500 beds, for newly provided alcohol and drug abuse beds exclusively for persons whose community supervision or parole has been modified.

(n) Except as otherwise provided by this subsection, the department shall separate participants in the program created under this section from inmates of the institutional division, except at times determined necessary by the department for the purpose of transportation or staging or for medical or security reasons. The department may commingle participants in the program created under this section with inmates in the program described by Section 501.0931.

(o) Repealed by Acts 1995, 74th Leg., ch. 321, Sec. 1.113, eff. Sept. 1, 1995.

(p) To the extent funds are available, the Criminal Justice Policy Council, with the assistance of the Texas Commission on Alcohol and Drug Abuse and the department, shall develop methods to evaluate the processes used by the department in providing the program and the level of success achieved by the program.

(q) The department not less often than every two years shall determine whether the department should increase the number of beds provided by the department for the operation of the program for persons required to participate in the program under Section 14, Article 42.12, Code of Criminal Procedure, as amended by Chapter 900, Acts of the 73rd Legislature, Regular Session, 1993.

Added by Acts 1991, 72nd Leg., 2nd C.S., ch. 10, Sec. 19.03, eff. Oct. 1, 1991. Amended by Acts 1993, 73rd Leg., ch. 988, Sec. 3.01, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 321, Sec. 1.004 to 1.006, 1.113, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 165, Sec. 12.08, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1269, Sec. 2, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 892, Sec. 22, eff. Sept. 1, 2003; Acts 2005, 79th Leg., ch. 1139, Sec. 2, eff. June 18, 2005.

Sec. 493.010. CONTRACTS FOR MISCELLANEOUS HOUSING. The board, for the temporary or permanent housing of inmates, may enter into leases or contract with:

- (1) public or private jails; or
- (2) operators of alternative housing facilities.

Added by Acts 1991, 72nd Leg., 2nd C.S., ch. 10, Sec. 19.04, eff. Oct. 1, 1991. Amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.007, eff. Sept. 1, 1995.

Sec. 493.011. CONSULTANT CONTRACTS FOR PRISON CONSTRUCTION. The board may not contract for construction-related consulting services to the board with an individual or firm if that individual or firm is also under contract with the department to provide construction management services for prison unit construction.

Added by Acts 1991, 72nd Leg., 2nd C.S., ch. 10, Sec. 19.05, eff. Oct. 1, 1991. Amended by Acts 1995, 74th Leg., ch. 321, Sec. 1.008, eff. Sept. 1, 1995.

Sec. 493.012. HISTORICALLY UNDERUTILIZED BUSINESSES. (a) The board and the department each shall make a good faith effort to assist historically underutilized businesses to receive at least 30 percent of the total value of:

(1) each construction contract awarded for construction, purchase of supplies, materials, services, and equipment that the board and the department expect to make; and

(2) contracts awarded for operation, maintenance, or management.

(b) The board and the department each shall annually report to the legislature and the governor on the level of historically underutilized business participation in board and department contracts. The report shall include:

(1) names and locations of the historically underutilized businesses participating in contracts;

(2) types of services conducted by the historically

underutilized businesses participating in contracts;

(3) a description of the type of recruitment strategy used to attract historically underutilized businesses; and

(4) recommendations for the improvement of historically underutilized business opportunities with the board and the department.

(c) In this section, "historically underutilized business" means:

(1) a business entity formed for the purpose of making a profit of which at least 51 percent is owned by one or more persons who are socially disadvantaged because of their identification as members of certain groups, including women, African Americans, Hispanic Americans, Native Americans, and Asian Americans, who have suffered the effects of discriminatory practices or similar insidious circumstances over which they have no control; or

(2) a corporation formed for the purpose of making a profit in which at least 51 percent of all classes of the shares of stock or other equitable securities is owned by one or more persons described by Subdivision (1). Those persons must have proportionate interest in the control, operation, and management of the corporation's affairs.

Added by Acts 1991, 72nd Leg., 2nd C.S., ch. 10, Sec. 19.06, eff. Oct. 1, 1991. Amended by Acts 1993, 73rd Leg., ch. 988, Sec. 4.07, eff. Sept. 1, 1993.

Sec. 493.013. FEDERAL FUNDS COMMITTEE. (a) The board shall ensure that the federal funds committee of the department includes representatives of all divisions of the department that may be able to assist the committee in identifying and qualifying for additional federal funds, specifically including the offices of the institutional division that manage agricultural and industrial issues.

(b) The board shall require the committee to:

(1) maximize federal grant and entitlement funding available to the state;

(2) submit biennially to the board a detailed report that includes information on all federal grants and entitlements identified and applied for by the committee and the results of the applications; and

(3) work in conjunction with the Office of State-Federal Relations and the Texas Department of Human Services to investigate the applicability of:

(A) the national school lunch program to inmates who are pursuing a primary or secondary education while confined in the institutional division; and

(B) the food stamp program administered under Chapter 33, Human Resources Code, to inmates who are confined and treated in substance abuse felony punishment facilities.

Added by Acts 1993, 73rd Leg., ch. 238, Sec. 1.01, eff. May 22, 1993.

Sec. 493.014. APPLICABILITY OF CERTAIN GRIEVANCE PROCEDURES. A grievance procedure of the department or a division of the department, including the procedure established under Section 501.008, applies to a grievance of an inmate or other person under the custody or control of the department relating to a rule or internal procedure of the board or department.

Added by Acts 1993, 73rd Leg., ch. 988, Sec. 9.02, eff. Sept. 1, 1993. Renumbered from V.T.C.A., Government Code Sec. 493.013 by Acts 1995, 74th Leg., ch. 76, Sec. 17.01(15), eff. Sept. 1, 1995.

Sec. 493.0145. IDENTIFICATION OF INMATES SUBJECT TO ARREST WARRANT. Before an inmate is discharged or is released on parole or mandatory supervision from the department, the department shall conduct a criminal history record check to determine whether the inmate is the subject of an arrest warrant. In conducting the criminal history record check, the department shall allow sufficient time for compliance with any requirements related to notifying the proper authorities of the inmate's discharge or release and, if necessary, processing a demand for extradition of the inmate.

Added by Acts 1999, 76th Leg., ch. 205, Sec. 1, eff. Sept. 1, 1999.

Sec. 493.015. IDENTIFICATION OF DEPORTABLE ALIENS. (a) In this section, "illegal criminal alien" means an alien who has been convicted of a felony and is in the custody of the state and who:

(1) entered the United States without inspection or at any time or any place other than as designated by the United States Attorney General;

(2) was admitted as a nonimmigrant and, before the date of the commission of the crime, had failed to maintain the nonimmigrant status under which the alien was admitted or to which it was changed under Section 248, Immigration and Nationality Act (8 U.S.C. Section 1258), or to comply with the conditions of the alien's status; or

(3) is a Marielito Cuban as defined in Section 501, Immigration Reform and Control Act of 1986 (8 U.S.C. Section 1365).

(b) The department shall identify those inmates who are imprisoned in the institutional division or confined in a transfer facility, a substance abuse treatment facility, a state jail felony facility, or a county jail awaiting transfer to the institutional division and for whom the department is unable to reasonably ascertain whether or not the person is an illegal criminal alien.

(c) In attempting to ascertain whether an inmate is an illegal criminal alien, the department may take into account a statement of noncitizenship made to the department by the inmate or any information in the criminal history record information maintained on the inmate, including information developed in presentence investigation reports that may reflect place of birth, registration with the Social Security Administration, or work history.

(d) The department shall promptly notify the United States Immigration and Naturalization Service of any inmate determined by the department to be an illegal criminal alien and request the assistance of the Immigration and Naturalization Service, if necessary, in determining whether or not the person is an illegal criminal alien.

(e) The department shall promptly notify the criminal justice division of the governor's office of any inmate determined by the department or by the Immigration and Naturalization Service to be an illegal criminal alien, and the criminal justice division of the governor's office shall apply to the federal government for any funds due the state for criminal justice costs incurred with respect to an illegal criminal alien.

(f) Federal funds received for criminal justice costs incurred with respect to an illegal criminal alien shall be deposited to the credit of the general revenue fund.

(g) The department shall cooperate with the Immigration and Naturalization Service in implementing an efficient system for the deportation of illegal criminal aliens on completion of the inmates' sentences or release of the inmates on parole or mandatory supervision. The department shall consider:

(1) designating facilities or units within the department as central locations to hold inmates who are illegal criminal aliens for the period immediately preceding release on parole or mandatory supervision; and

(2) providing two-way closed circuit communications systems and other technology that will assist the state and the federal government in ensuring the timely and efficient deportation of illegal criminal aliens on the release of those aliens from imprisonment or confinement under the authority of the department. Added by Acts 1995, 74th Leg., ch. 85, Sec. 1, eff. May 16, 1995.

Sec. 493.0155. PROPER IDENTIFICATION OF INMATES USING ALIAS. On receipt of information from the Department of Public Safety under Article 60.19, Code of Criminal Procedure, that a person's identifying information may have been falsely used by an inmate as the inmate's identifying information, regardless of whether the inmate is in the custody of the department, is serving a period of supervised release, or has been discharged, the department shall:

(1) make a reasonable effort to identify the inmate's actual identity; and

(2) take action to ensure that any information maintained in the department's records and files regarding the inmate reflects the inmate's use of the person's identity as a stolen alias and refers to available information concerning the inmate's actual identity.

Added by Acts 2003, 78th Leg., ch. 339, Sec. 6, eff. Sept. 1, 2003.

Sec. 493.016. INFORMATION OF PUBLIC INTEREST; COMPLAINTS. (a) The department shall prepare information of public interest describing the functions of the department and the procedures by which complaints are filed with and resolved by the department. The department shall make the information available to the general public and appropriate state agencies.



(b) The department shall establish methods by which interested persons are notified of the name, mailing address, and telephone number of the department for the purpose of directing complaints to the department.

(c) The department shall keep an information file on each written complaint filed with the department by a member of the general public that relates to the operations of the department. The file must include:

- (1) the name of the person who filed the complaint;
- (2) the date the complaint is received by the department;
- (3) the subject matter of the complaint;
- (4) the name of each person contacted in relation to the complaint;
- (5) a summary of the results of the review or investigation of the complaint; and
- (6) an explanation of the reason the file was closed, if the agency closed the file without taking action other than to investigate the complaint.

(d) The department shall provide a written copy of the department's policies and procedures relating to complaint investigation and resolution to:

- (1) all department employees; and
- (2) each person filing a complaint.

(e) The department, at least quarterly until final disposition of the complaint, shall notify the person filing the complaint of the status of the investigation unless the notice would jeopardize an undercover investigation.

Added by Acts 1995, 74th Leg., ch. 321, Sec. 1.010, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 1188, Sec. 1.11, eff. Sept. 1, 1999.

Sec. 493.017. REPORTS ON SEX OFFENDER TREATMENT. (a) A sex offender correction program that provides counseling sessions for a sex offender under Section 13B, Article 42.12, Code of Criminal Procedure, shall report to the community supervision and corrections department officer supervising the offender, not later than the 15th day of each month, the following information about the offender:

- (1) the total number of counseling sessions attended by the sex offender during the preceding month; and
- (2) if during the preceding month the sex offender terminates participation in the program before completing counseling, the reason for the sex offender's termination of counseling.

(b) A sex offender correction program that provides counseling sessions for a sex offender under Section 508.187 shall report to the parole officer supervising the offender, not later than the 15th day of each month, the following information about the offender:

- (1) the total number of counseling sessions attended by the sex offender during the preceding month; and
- (2) if during the preceding month the sex offender terminates participation in the program before completing counseling, the reason for the sex offender's termination of counseling.

(c) A sex offender correction program that provides counseling sessions for a child under Section 54.0405, Family Code, shall report to the local juvenile probation department supervising the child, not later than the 15th day of each month, the following information about the child:

- (1) the total number of counseling sessions attended by the child during the preceding month; and
- (2) if during the preceding month the child terminates participation in the program before completing counseling, the reason for the child's termination of counseling or that the reason for the termination of counseling is unknown.

(d) A sex offender correction program that provides counseling sessions for a child who is released under supervision under Section 61.0813, Human Resources Code, shall report to the Texas Youth Commission, not later than the 15th day of each month, the following information about the child:

- (1) the total number of counseling sessions attended by the child during the preceding month; and
- (2) if during the preceding month the child terminates participation in the program before completing counseling, the

reason for the child's termination of counseling or that the reason for the termination of counseling is unknown.

Added by Acts 1995, 74th Leg., ch. 256, Sec. 5, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 12.09, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 669, Sec. 4, eff. Sept. 1, 1997.

Sec. 493.018. CARE OF TERMINALLY ILL INMATES. (a) The department may provide direct hospice services for terminally ill inmates and defendants confined in facilities operated by the department or may contract with a licensed hospice for the provision of those services. Hospice services established by the department shall meet licensure standards established under Chapter 142, Health and Safety Code, except for those standards which are determined to be in conflict with security considerations in the institutional setting.

(b) In this section, "hospice" and "hospice services" have the meanings assigned to those terms by Section 142.001, Health and Safety Code.

Added by Acts 1995, 74th Leg., ch. 769, Sec. 1, eff. Sept. 1, 1995. Renumbered from V.T.C.A., Government Code Sec. 493.014 by Acts 1997, 75th Leg., ch. 165, Sec. 31.01(39), eff. Sept. 1, 1997.

Sec. 493.019. ENFORCEMENT OFFICERS. The executive director may appoint employees who are certified by the Commission on Law Enforcement Officer Standards and Education as qualified to be peace officers to serve under the direction of the executive director and assist the executive director in performing the enforcement duties of the department.

Added by Acts 1995, 74th Leg., ch. 321, Sec. 1.009, eff. Sept. 1, 1995. Renumbered from V.T.C.A., Government Code Sec. 493.015 by Acts 1997, 75th Leg., ch. 165, Sec. 31.01(40), eff. Sept. 1, 1997.

Sec. 493.020. SEAL OF DEPARTMENT. (a) The department shall use an official seal to certify documents received by the department under Sections 8(a) and (c), Article 42.09, Code of Criminal Procedure.

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

Added by Acts 1995, 74th Leg., ch. 321, Sec. 1.011, eff. Sept. 1, 1995. Renumbered from V.T.C.A., Government Code Sec. 493.017 by Acts 1997, 75th Leg., ch. 165, Sec. 31.01(41), eff. Sept. 1, 1997.

Sec. 493.021. ELECTRONIC CREATION AND TRANSMISSION OF DOCUMENTS. (a) If a statute requires the department to create a document, the department through electronic means may create and maintain the information that would otherwise be contained in a paper document. If a statute requires the department to provide a receipt, signature, or seal as evidence of creating a document, the department may develop and use an electronic identifier, and when used by the department, the identifier has the same force and effect as the use of a receipt, signature, or seal.

(b) If a statute requires a person to submit a document to the department, the department may accept the document in paper form or may accept an electronic transmission of the information otherwise contained in the paper document.

(c) If a statute requires the department to provide a receipt, signature, or seal as evidence of delivery of a document, and if the department has received an electronic transmission in lieu of accepting the document in paper form, the department may transmit electronically evidence of delivery. The department may use the electronic identifier developed under Subsection (a), and when used by the department, the identifier has the same force and effect as the use of a receipt, signature, or seal.

(d) This section does not authorize the department to require that a person submitting information to the department submit the information electronically.

Added by Acts 1999, 76th Leg., ch. 202, Sec. 1, eff. May 24, 1999.

Sec. 493.022. POLYGRAPH EXAMINATION. An employee of the department who is the subject of a written complaint made by or filed with the department may not be suspended, discharged, or subjected to any other form of employment discrimination by the department because the employee refuses to take a polygraph examination.

Added by Acts 1997, 75th Leg., ch. 367, Sec. 1, eff. Sept. 1, 1997.

Sec. 493.023. CHARITABLE FUND-RAISING. (a) Under policies established by the department, a department employee may participate in fund-raising activities conducted on department property on the employee's own time for the benefit of an eligible

charitable organization. The department shall adopt policies under this section which address:

(1) minimum qualifications of eligible charitable organizations;

(2) limitations on the use of funds;

(3) handling and distribution of the proceeds of fund-raising activity to eligible charitable organizations located in the county where the fund-raising takes place; and

(4) ensuring that participation in fund-raising is voluntary and not coercive.

(b) Funds collected under this section are not subject to Section 404.094.

(c) This section does not affect the department's participation in the state employees charitable campaign under Subchapter H, Chapter 659.

Added by Acts 1999, 76th Leg., ch. 1188, Sec. 1.12, eff. Sept. 1, 1999.

Sec. 493.024. APPLICATION OF LAW RELATING TO FREE EXERCISE OF RELIGION. For purposes of Chapter 110, Civil Practice and Remedies Code, an ordinance, rule, order, decision, or practice that applies to a person in the custody of a jail or other correctional facility operated by or under a contract with the department is presumed to be in furtherance of a compelling governmental interest and the least restrictive means of furthering that interest. The presumption may be rebutted.

Added by Acts 1999, 76th Leg., ch. 399, Sec. 4, eff. Aug. 30, 1999. Renumbered from V.T.C.A., Government Code Sec. 493.023 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(42), eff. Sept. 1, 2001.

Sec. 493.025. NOTIFICATION OF COURT OF RELEASE. On release of an inmate who discharges the inmate's sentence or on release of an inmate on parole or mandatory supervision, the department promptly shall notify the clerk of the court in which the inmate was convicted of that fact.

Added by Acts 1999, 76th Leg., ch. 541, Sec. 1, eff. Sept. 1, 1999. Renumbered from V.T.C.A., Government Code Sec. 493.023 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(43), eff. Sept. 1, 2001.